

Senate Study Bill 3086 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
TECHNOLOGY BILL BY
CHAIRPERSON McCLINTOCK)

A BILL FOR

1 An Act relating to consumer fraud and unlawful practices,
2 including digital financial asset transaction kiosks, and
3 providing civil penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 533C.1004, subsection 10, paragraphs a and
2 b, Code 2026, are amended to read as follows:

3 ~~a. If the attorney general has reasonable belief that an~~
4 ~~operator is in violation of this section, the attorney general~~
5 ~~has the sole authority to bring civil action to provide for all~~
6 ~~of the following:~~

7 ~~(1) Enjoin further violations by the operator.~~

8 ~~(2) Enforce compliance with this section.~~

9 ~~(3) Civil penalties in an amount not more than ten thousand~~
10 ~~dollars for each violation of this section.~~

11 ~~(4) Other remedies permitted under law~~ A violation of this
12 section is an unlawful practice under section 714.16.

13 b. If Notwithstanding the civil penalty limit under section
14 714.16, subsection 7, paragraph "b", if the attorney general has
15 reasonable belief that a person is in violation of an injunction
16 issued under this subsection section 714.16, subsection 2,
17 paragraph "t", the attorney general has the sole authority to
18 bring a civil action to provide for a civil penalties penalty
19 for violation of the injunction in an amount not more than one
20 hundred thousand dollars.

21 Sec. 2. Section 714.16, subsection 2, Code 2026, is amended
22 by adding the following new paragraph:

23 NEW PARAGRAPH. t. It shall be an unlawful practice for a
24 person to violate section 533C.1004.

25 Sec. 3. Section 714.16, subsection 7, Code 2026, is amended
26 to read as follows:

27 7. a. A civil action pursuant to this section shall be by
28 equitable proceedings. If it appears to the attorney general
29 that a person has engaged in, is engaging in, or is about to
30 engage in a practice declared to be unlawful by this section, the
31 attorney general may seek and obtain in an action in a district
32 court a temporary restraining order, preliminary injunction,
33 or permanent injunction prohibiting the person from continuing
34 the practice or engaging in the practice or doing an act in
35 furtherance of the practice. The court may make orders or

1 judgments as necessary to prevent the use or employment by
2 a person of any prohibited practices, or which are necessary
3 to restore to any person in interest any moneys or property,
4 real or personal, which have been acquired by means of a
5 practice declared to be unlawful by this section, including the
6 appointment of a receiver in cases of substantial and willful
7 violation of this section. If a person has acquired moneys or
8 property by any means declared to be unlawful by this section
9 and if the cost of administering reimbursement outweighs the
10 benefit to consumers or consumers entitled to the reimbursement
11 cannot be located through reasonable efforts, the court may order
12 disgorgement of moneys or property acquired by the person by
13 awarding the moneys or property to the state to be used by
14 the attorney general for the administration and implementation
15 of this section. Except in an action for the concealment,
16 suppression, or omission of a material fact with intent that
17 others rely upon it, it is not necessary in an action for
18 reimbursement or an injunction, to allege or to prove reliance,
19 damages, intent to deceive, or that the person who engaged in
20 an unlawful act had knowledge of the falsity of the claim or
21 ignorance of the truth. A claim for reimbursement may be proved
22 by any competent evidence, including evidence that would be
23 appropriate in a class action.

24 b. In addition to the remedies otherwise provided for in
25 this subsection, the attorney general may request and the court
26 may impose a civil penalty not to exceed forty thousand dollars
27 per violation against a person found by the court to have
28 engaged in a method, act, or practice declared unlawful under
29 this section; ~~provided, however, a course of conduct shall not~~
30 ~~be considered to be separate and different violations merely~~
31 ~~because the conduct is repeated to more than one person.~~ In
32 addition, on the motion of the attorney general or its own
33 motion, the court may impose a civil penalty of not more than
34 five thousand dollars for each day of intentional violation of a
35 temporary restraining order, preliminary injunction, or permanent

1 injunction issued under authority of this section. A penalty
2 imposed pursuant to this subsection is in addition to any penalty
3 imposed pursuant to section 537.6113. Civil penalties ordered
4 pursuant to this subsection shall be paid to the treasurer of
5 state to be deposited in the general fund of the state.

6

EXPLANATION

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The inclusion of this explanation does not constitute agreement with

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the explanation's substance by the members of the general assembly.

9 This bill relates to consumer fraud and unlawful practices,
10 including digital financial asset transaction kiosks, and
11 provides civil penalties.

12 The bill strikes existing enforcement and civil penalty
13 provisions that authorize the attorney general to bring civil
14 actions, seek injunctions and civil penalties, and enforce
15 compliance for violations of Code section 533C.1004 (digital
16 financial asset transaction kiosks). Instead, the bill provides
17 that a violation of Code section 533C.1004 constitutes an
18 unlawful practice under Code section 714.16 (consumer frauds),
19 and subjects such violations to the remedies and enforcement
20 provisions available under that section.

21 The bill specifies that, notwithstanding the civil penalty
22 limits in Code section 714.16, if the attorney general has
23 reasonable belief that a person is in violation of an injunction
24 issued under Code section 714.16, the attorney general may bring
25 a civil action to seek a civil penalty of up to \$100,000 for a
26 violation of the injunction.

27 Under current law, the attorney general may request and the
28 court may impose a civil penalty not to exceed \$40,000 per
29 violation for unlawful methods, acts, or practices under Code
30 section 714.16, but a course of conduct affecting more than one
31 person is not treated as separate violations. The bill strikes
32 this limitation regarding the treatment of a course of conduct
33 affecting more than one person.