COMMITTEE REPORT

March 14, 2018

**S. 1041**

Introduced by Senator Davis

S. Printed 3/14/18--S.

Read the first time February 22, 2018.

**THE COMMITTEE ON BANKING AND INSURANCE**

To whom was referred a Bill (S. 1041) to amend Part 1, Chapter 6, Title 37 of the 1976 Code, by adding Section 37‑6‑119, to define and prohibit unfair practices targeting vulnerable adults, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

RONNIE W. CROMER for Committee.

**A** **BILL**

TO AMEND PART 1, CHAPTER 6, TITLE 37 OF THE 1976 CODE, BY ADDING SECTION 37‑6‑119, TO DEFINE AND PROHIBIT UNFAIR PRACTICES TARGETING VULNERABLE ADULTS BY OBTAINING MONEY, PROPERTY, OR PERSONALLY IDENTIFYING INFORMATION THROUGH DECEPTION, INTIMIDATION, UNDUE INFLUENCE, OR FALSE MISLEADING, OR DECEPTIVE ACTS OR PRACTICES; TO PROVIDE A RIGHT OF ACTION, RECOVERY AMOUNTS, AND PENALTIES; AND TO PROVIDE THAT THE REMEDIAL PROVISIONS OF THIS CHAPTER ARE CUMULATIVE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Part 1, Chapter 6, Title 37 of the 1976 Code is amended by adding:

“Section 37‑6‑119. (A) For the purpose of this section:

(1) ‘Personal identifying information’ has the same meaning as provided in Section 16‑13‑510(D).

(2) ‘Vulnerable adult’ has the same meaning as provided in Section 43‑35‑10(11).

(B) A person shall not knowingly or willfully solicit or obtain by deception; intimidation; undue influence; or false, misleading, or deceptive acts or practices:

(1) the money or property of a vulnerable adult; or

(2) the personal identifying information of a vulnerable adult for the purposes of committing financial identity fraud or identity fraud as defined in Section 16‑13‑510.

(C) A vulnerable adult, a person legally authorized, or the estate of an injured vulnerable adult may file a civil action to enforce the provisions of this section and may recover three times the amount of actual damages or three thousand dollars for each violation, whichever is greater, as well as reasonable attorney’s fees and court costs. In addition, a person seeking damages pursuant to this section may pursue a civil action to enjoin and restrain future acts constituting a violation of this statute.

(D) For violations of this section, the administrator may issue an administrative order to cease and desist, to return property or money received in violation of this section, and to impose penalties of up to ten thousand dollars per violation. The administrator may bring a civil action seeking equitable relief. Penalties received shall be retained by the administrator for administration of this title.

(E) Upon conviction, a person violating this section is guilty of:

(1) a misdemeanor, if the total value of the money or property obtained or sought to be obtained is two thousand dollars or less. The person must be fined not less than one thousand dollars, or imprisoned for not more than thirty days, or both;

(2) a felony, if the total value of money or property obtained or sought to be obtained is more than two thousand dollars but less than ten thousand dollars. The person must be fined in the discretion of the court or imprisoned for not more than five years, or both; or

(3) a felony, if the total value of the money or property obtained or sought to be obtained is ten thousand dollars or more. The person must be fined in the discretion of the court or imprisoned for not more than ten years, or both.

(F) Violations of this section may be considered grounds for revocation, suspension, or non‑renewal of a professional license or registration issued by an agency of this State.

(G) A violation of this section is considered a violation of Section 39‑5‑20.

(H) The remedial provisions of this chapter are cumulative of and in addition to any action at law or equity taken by the administrator.”

SECTION 2. This act takes effect upon approval by the Governor.

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