Summary: This bill would add veterans to the categories of persons who are eligible for treble damages in successful cases to redress unfair or deceptive acts or practices, or unfair methods of competition.

Existing law:

1 Requires the trier of fact, when an action is brought on behalf of or for the benefit of senior citizens or disabled persons to redress unfair or deceptive acts or practices or unfair methods of competition, to consider the factors in (a) through (c) below in addition to other appropriate factors in determining the amount of a fine, civil penalty or other remedy to impose whenever the trier of fact is authorized by statute to impose a fine, penalty, or any other remedy the purpose or effect of which is to punish or deter and the amount of the fine, penalty, or remedy is subject to the trier of fact's discretion. (Civ. Code § 3345.)

a) Whether the defendant knew or should have known that their conduct was directed to one or more senior citizens or disabled persons. (Id. (b)(1).)

b) Whether the defendant’s conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior or disabled person. (Id. (b)(2).)

c) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant’s conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant’s conduct. (Id. (b)(3).)

2) Authorizes the trier of fact, when the trier of fact makes an affirmative finding in regard to the specified factors in 1)a) through c) above, to impose a fine, civil penalty or other penalty, or other remedy in an amount up to three times greater than authorized by the statute, or, where the statute does not authorize a specific amount, up to three
times greater than the amount the trier of fact would impose in the absence of that affirmative finding. (Id. (b).) 

3) Defines “senior citizens” as a person who is 65 years of age or older. (Id. (a).) 

4) Defines “disabled person” as a person who has a physical or mental impairment that substantially limits one or more major life activities. (Id. (a).) 

5) Provides that restitution is not a remedy eligible for potential trebling under 2). (Clark v. Superior Court (2010) 50 Cal. 4th 605, 614.) 

This bill: 

1) Defines “veteran” as having the same meaning that the term has under the State Civil Service Act: a person who has served full time in the armed forces in time of national emergency or state military emergency or during any expedition of the armed forces, and who has not been dishonorably discharged or released from that service. 

2) Provides that the trier of fact may treble certain remedies in an action brought by, on behalf of, or for the benefit of veterans in order to redress unfair or deceptive acts or practices or unfair methods of competition. 

**BACKGROUND** 

According to the Senate Judiciary Committee: 

*Veterans Targeted by Scammers.* According to a recent study by the AARP, which was provided to the Committee by the author and sponsors of the bill, “veterans, military, and their families continue to be significantly targeted more by con-artists and are losing money more than non-military/non-veterans when approached by similar scams or schemes.” The study found that overall members of the military and veterans report receiving more scam attempts than civilians and that they report losing money at higher rates than civilians. 

The AARP report notes that scammers use specific military jargon or veteran-related information, such as the fact that veterans get special benefits from the government, to create effective scams that target veterans in ways that prey on their status as a veteran. The FTC in 2020 launched a website where people can report fraud and other illegal business practices. In the FTC’s 2020 report on data it received from the website, it stated that 114,808 military retirees and/or veterans made a report, that 41,579 reports were for fraud, and that the total fraud loss reported was $66 million. 

- Identity theft, frequently perpetrated by individuals pretending to be from the U.S. Department of Defense or Department of Veterans Affairs. 
- Home loan scams where individuals falsely claim to be affiliated with the government or the Department of Veterans Affairs seeking to persuade veterans with mortgages to obtain loan modifications or mortgage refinancing. 
- Benefits fraud, including improperly inducing veterans to transfer their assets to a third party, sometimes by pretending to assist veterans in securing benefits.
Affinity fraud, through employing salespeople with military backgrounds, the misuse of service organization’s seals, and other means of taking advantage of veterans’ trust in the military.

This bill addresses this issue by expanding existing provisions of law related to the protection of seniors and disabled persons to also apply to veterans. Existing law authorizes a trier of fact to treble the amount of a fine, civil penalty, or other remedy in an action brought to redress unfair or deceptive acts or practices or unfair competition brought by, on behalf of, or for the benefit of a senior citizen or disabled person if certain affirmative findings are made. (Civ. Code § 3345.) Existing case law provides that restitution is not a remedy eligible for potential trebling under these provisions. (Clark v. Superior Court (2010) 50 Cal. 4th 605, 614.) The trier of fact is to consider certain factors, in addition to any other appropriate factors, when making the affirmative findings. (Civ. Code § 3345(b).) These factors include:

a) Whether the defendant knew or should have known that their conduct was directed to one or more senior citizens or disabled persons. (Id. (b)(1).)

b) Whether the defendant’s conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior or disabled person. (Id. (b)(2).)

c) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant’s conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant’s conduct. (Id. (b)(3).)

The bill would additionally apply the existing provisions of Civil Code Section 3345 to veterans. The bill defines veterans by cross-referencing the definition of veterans in Section 18540.4 of the Government Code, which is any person who has served full time in the armed forces in time of national emergency or state military emergency or during any expedition of the armed forces and who has been discharged or released under conditions other than dishonorable. The intent of the bill is to provide both enhanced punishment to those who seek to target veterans and deterrence by potentially trebling damages that could be brought against perpetrators who fraudulently target veterans.

This bill was placed on consent in the Senate Judiciary Committee on 5/31/2022.

COMMENT

Author’s Statement. According to the Author, “The bravest and most courageous members of our community are the women and men of the Armed Forces who dedicate their lives to protecting our country. Unfortunately, there are entities and organizations who take advantage of these patriots. Veterans and their families are prime targets for scams and cons by unscrupulous businesses who prey on these individuals for their rightly-earned benefits. It’s time California cracks down on these entities and ensure we
have the strongest protections and regulations available to protect against fraud and deceit."

Related/Previous Legislation. SB 1311 (Eggman, 2022) would strengthens California’s existing military consumer protection laws by enhancing existing legal and financial protections for service members and their families and veterans by, among other things, making a person who violates a statutory cause of action for unfair competition if the violation is perpetrated against one or more service members or veterans, liable for an additional civil penalty not to exceed $2,500 for each violation, as provided. This bill is currently pending referral in the Assembly.

**POSITIONS**

**Sponsor:** Veterans Legal Clinic, University of San Diego School of Law

**Support:**
- Children’s Advocacy Institute, University of San Diego School of Law
- Consumer Attorneys of California
- Consumer Federation of California
- Consumer Protection Policy Center, University of San Diego School of Law
- Housing and Economic Rights Advocates
- Iraq and Afghanistan Veterans of America
- Public Counsel
- Swords 2 Ploughshares

**Oppose:** None on file.

-- END --