

Tenn. Code Ann. § 47-18-2105

Current through Chapter 900, with the exception of Chapter 688 secs 79, 80, and 83, of the 2024 Regular Session. The commission may make editorial changes to this version and may relocate or redesignate text.

Those changes will appear on Lexis Advance after the publication of the certified volumes and supplements. Pursuant to TCA sections 1-1-110, 1-1-111, and 1-2-114, the Tennessee Code Commission certifies the final, official version of the Tennessee Code. Until the annual issuance of the certified volumes and supplements, references to the updates made by the most recent legislative session should be to the Public Chapter and not TCA.

TN - Tennessee Code Annotated > Title 47 Commercial Instruments And Transactions > Chapter 18 Consumer Protection > Part 21 Identity Theft Deterrence

47-18-2105. Civil penalties and remedies.

(a)

(1) Whenever the attorney general has reason to believe that a person has engaged in, is engaging in, or based upon information received from another law enforcement agency, is about to engage in any unlawful act or practice under this part and that proceedings would be in the public interest, the attorney general may bring an action in the name of the state against the person to restrain by temporary restraining order, temporary injunction, or permanent injunction the use of such act or practice. Additionally, the state may request an asset freeze or any other appropriate and necessary orders against such person.

(2) As part of any action brought pursuant to subdivision (a)(1), the attorney general shall certify that the division of consumer affairs complied with § 47-18-5002(2) unless the attorney general determines that the purposes of this part will be substantially impaired by delaying legal proceedings.

(b) The action may be brought in the chancery or circuit court in Davidson County or in a court of competent jurisdiction where the alleged violation of this part, identity theft, unfair, misleading or deceptive act or practice took place or is about to take place or in the county in which the person resides, has the person's principal place of business, conducts, transacts or has transacted business or, if the person cannot be found, in any of the locations listed in this subsection (b), in the county in which the person can be found.

(c) The courts are authorized to issue orders and injunctions to restrain and prevent violations of this part or issue any other necessary or appropriate relief or orders. Such orders and injunctions shall be issued without bond to the state of Tennessee.

(d) Notwithstanding any other law, a violation of this part shall be punishable by a civil penalty of whichever of the following is greater: ten thousand dollars (\$10,000), five thousand dollars (\$5,000) per day for each day that a person's identity has been assumed or ten (10) times the amount obtained or attempted to be obtained by the person using the identity theft. This civil

penalty is supplemental, cumulative and in addition to any other penalties and relief available under the Tennessee Consumer Protection Act, or other laws, regulations or rules.

(e) In any successful action commenced under this part, any ascertainable loss that a person has incurred as a result of a violation of this part, including, but not limited to, the identity theft or misleading, deceptive or unfair practices used to engage in violations of this part shall be recovered as restitution for each such person. The person shall also be awarded statutory interest on that ascertainable loss.

(f) In any successful action commenced by the attorney general under this part, the court shall also order reimbursement to the attorney general of the reasonable attorneys' fees, costs and expenses of the investigation and prosecution under this part.

(g) No court costs, litigation costs, discretionary costs or attorneys' fees shall be taxed or awarded against the state in an action commenced under this part or under the Tennessee Consumer Protection Act.

(h) Any knowing or willful violation of the terms of an injunction or order issued pursuant to this part in an action commenced by the attorney general shall be punishable by a civil penalty of not more than five thousand dollars (\$5,000) for each and every violation of the order recoverable by the state, in addition to any other appropriate relief, including, but not limited to, contempt sanctions and the awarding of attorneys' fees and costs to the state for any filings relating to violations of any order under this part.

(i) An order or judgment issued as a result of an action commenced by the attorney general shall in no way affect individual rights of action which may exist independent of the recovery of money or property received under such order or judgment. If a particular person receives restitution as a result of an action commenced by the attorney general, those funds shall act only as a set-off against any award of money received in the person's private right of action proceedings.

History

Acts 1999, ch. 201, § 6; 2007, ch. 170, §§ 7-9; 2019, ch. 459, §§ 39-41.

TENNESSEE CODE ANNOTATED

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