

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 2657

(SENATE AUTHORS: DAHLE)

DATE	D-PG	OFFICIAL STATUS
03/14/2016	5027	Introduction and first reading Referred to Commerce
03/24/2016	5268	Comm report: To pass and re-referred to Judiciary
04/01/2016	5440	Comm report: To pass
	5457	Second reading

A bill for an act

1.1 relating to commerce; regulating money transmitters; providing a private right of
 1.2 action for fraud-induced transfers; establishing a duty to warn of potential fraud
 1.3 and investigate fraud; amending Minnesota Statutes 2014, sections 53B.24;
 1.4 53B.27, subdivision 1, by adding subdivisions.
 1.5

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2014, section 53B.24, is amended to read:

1.8 **53B.24 ENFORCEMENT.**

1.9 Subdivision 1. **Commissioner's powers.** Section 45.027 applies to this chapter.

1.10 Subd. 2. **Actions by private persons for fraud-induced transfers.** An individual
 1.11 who sends money pursuant to a fraud-induced money transfer and is not a knowing or
 1.12 intentional party to the fraud or other illegal activity related to the transfer may bring an
 1.13 action in district court against the money transmitter and recover the transmitted amount,
 1.14 including fees and charges accrued, along with costs, disbursements, and reasonable
 1.15 attorney fees, if any of the following circumstances are present:

1.16 (1) the money transmitter or its agent involved in the transfer knew or consciously
 1.17 avoided knowing that the transfer was a fraudulent transfer;

1.18 (2) the money transmitter did not comply with section 53B.27, subdivision 1a, at
 1.19 the time of the transfer or did not comply with section 53B.27, subdivision 1b, within a
 1.20 reasonable amount of time after the transfer;

1.21 (3) the sender or the receiver was or should have been disqualified under section
 1.22 53B.27 at the time of the transfer; or

1.23 (4) the sender or the receiver was or should have been identified on the "No Transmit
 1.24 List" under section 53B.27, subdivision 3, at the time of the transfer.

2.1 Sec. 2. Minnesota Statutes 2014, section 53B.27, subdivision 1, is amended to read:

2.2 Subdivision 1. **Fraud prevention measures required.** Each money transmitter shall:

2.3 (1) provide a clear, concise, and conspicuous consumer fraud warning on all

2.4 transmittal forms used by consumers to send money to an individual;

2.5 (2) provide consumer fraud prevention training for agents involved with transmittals;

2.6 (3) monitor agent activity relating to consumer transmittals; ~~and~~

2.7 (4) establish a toll-free number for consumers to call to report fraud or suspected
2.8 fraud; and

2.9 (5) include on all send-money forms a section reasonably designed by the money
2.10 transmitter to detect whether the purpose of the transfer is fraudulent.

2.11 Sec. 3. Minnesota Statutes 2014, section 53B.27, is amended by adding a subdivision
2.12 to read:

2.13 Subd. 1a. **Duty to warn for potential fraud.** A money transmitter shall have in place
2.14 written and verbal warnings sufficient to adequately warn consumers of recurring, frequent,
2.15 and current fraudulent schemes involving the use of money transfer services, including:

2.16 (1) warnings reasonably adapted to warn against specific types of fraud scams
2.17 and trends in wire-transfer fraud as learned through investigation and review pursuant
2.18 to subdivision 1b;

2.19 (2) written warnings pursuant to subdivision 1 that are updated at least annually to
2.20 address trends in fraud conducted over wire-transfer systems; and

2.21 (3) verbal warnings by agents about specific and known forms of fraud when
2.22 indications of specific fraud are reasonably shown by the consumer's conduct or statements
2.23 leading up to and during the transfer.

2.24 Sec. 4. Minnesota Statutes 2014, section 53B.27, is amended by adding a subdivision
2.25 to read:

2.26 Subd. 1b. **Duty to investigate fraud.** A money transmitter shall:

2.27 (1) investigate all complaints or reports of alleged fraud-induced money transfers or
2.28 fraudulent schemes to induce money transfers from a customer, a person with the legal
2.29 authority to act on behalf of a customer, federal, state, and local law enforcement agencies
2.30 and departments, and any agents or employees of the money transmitter;

2.31 (2) create a report for each completed investigation that identifies the name and
2.32 address of the customer who was allegedly victimized, the send amount, the date of the
2.33 transfer, if completed, the intended recipient, a description of whether and how the customer

3.1 was defrauded, and whether the transfer was identified by an antifraud alert system or other
3.2 electronic system or protocol meant to detect fraudulent transactions as they are occurring;

3.3 (3) use investigation reports to monitor and understand trends and new forms
3.4 of frequently occurring fraudulent schemes, to monitor particular agents and regions
3.5 involving high rates of fraud, and to identify elevated risk factors and current patterns in
3.6 fraud-induced transfers for purposes of assisting law enforcement, developing effective
3.7 warnings, and preventing future fraudulent transfers; and

3.8 (4) designate knowledgeable employees, agents, or attorneys to supervise and
3.9 maintain investigation reports, monitor trends in fraud-induced transfers as provided in
3.10 this section, and provide such reports upon request to the customer who submitted the
3.11 complaint of potential fraud or that person's authorized agent, and federal, state, and local
3.12 law enforcement agencies and departments.