



General Assembly

January Session, 2011

**Raised Bill No. 6616**

LCO No. 4706

\*04706\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING THE EVIDENTIARY STANDARD FOR  
PUNITIVE DAMAGE AWARDS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4d-39 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) If any person violates any provision of section 4d-36, 4d-37 or 4d-  
4 38, the Attorney General may bring an action against such person in  
5 the superior court for the judicial district of Hartford seeking (1)  
6 damages on behalf of the state for such violation, (2) restitution for  
7 damages suffered by any person as a result of the violation or (3)  
8 imposition and recovery of a civil penalty of not more than fifty  
9 thousand dollars for the violation.

10 (b) In addition to the remedies under subsection (a) of this section,  
11 any person aggrieved by a violation of any provision of section 4d-36,  
12 4d-37 or 4d-38 may bring an action in Superior Court to recover any  
13 damages suffered as a result of such violation.

14 (c) In any action brought under subsection (a) or (b) of this section,  
15 the court may (1) order disgorgement of any profits or other benefits

16 derived as a result of a violation of any provision of section 4d-36, 4d-  
17 37 or 4d-38, (2) award punitive damages, provided the court finds by  
18 clear and convincing evidence that the violation of any provision of  
19 section 4d-36, 4d-37 or 4d-38 was a result of wanton misconduct, (3)  
20 award costs or reasonable attorneys fees, or [(3)] (4) order injunctive or  
21 other equitable relief. Proof of public interest or public injury shall not  
22 be required in any action brought under subsection (a) or (b) of this  
23 section. No action may be brought under subsection (a) or (b) of this  
24 section more than three years after the occurrence of such violation.

25 (d) Any person who knowingly and wilfully violates any provision  
26 of section 4d-36, 4d-37 or 4d-38 shall, for each such violation, be fined  
27 not more than five thousand dollars or imprisoned not less than one  
28 year or more than five years, or be both fined and imprisoned.

29 Sec. 2. Section 16-8d of the general statutes is repealed and the  
30 following is substituted in lieu thereof (*Effective October 1, 2011*):

31 (a) No costs, expenses or judgments associated with any action  
32 brought under the provisions of section 16-8a may be included in the  
33 rates or charge of any public service company, as defined in section 16-  
34 1, until such time as the Department of Public Utility Control or the  
35 Labor Department, in a final decision, finds in favor of the company or  
36 if such action is appealed, until such time as the court finds, in a final  
37 decision, in favor of the company.

38 (b) In any action brought under the provisions of section 16-8a [,  
39 which results in a judgment in favor of the plaintiff, the court shall  
40 award to the plaintiff, in addition to any other relief, costs and a  
41 reasonable attorney's fee based on the work reasonably performed by  
42 an attorney and not on the amount of recovery. [, and] The court may  
43 also award punitive damages, provided the court finds by clear and  
44 convincing evidence that the violation of section 16-8a was the result of  
45 wanton misconduct.

46 (c) The provisions of subsections (a) and (b) of this section shall only

47 apply to an action brought pursuant to section 16-8a by an employee of  
48 a Nuclear Regulatory Commission licensee operating a nuclear power  
49 generating facility in this state or by any person, firm, corporation,  
50 contractor or subcontractor directly or indirectly providing goods or  
51 services to such licensee.

52 Sec. 3. Subsection (e) of section 19a-550 of the general statutes is  
53 repealed and the following is substituted in lieu thereof (*Effective*  
54 *October 1, 2011*):

55 (e) Any facility that negligently deprives a patient of any right or  
56 benefit created or established for the well-being of the patient by the  
57 provisions of this section shall be liable to such patient in a private  
58 cause of action for injuries suffered as a result of such deprivation.  
59 Upon a finding that a patient has been deprived of such a right or  
60 benefit, and that the patient has been injured as a result of such  
61 deprivation, damages shall be assessed in the amount sufficient to  
62 compensate such patient for such injury. The rights or benefits  
63 specified in subsections (b) to (d), inclusive, of this section may not be  
64 reduced, rescinded or abrogated by contract. In addition, where the  
65 deprivation of any such right or benefit is found by clear and  
66 convincing evidence to have been wilful or in reckless disregard of the  
67 rights of the patient, punitive damages may be assessed. A patient may  
68 also maintain an action pursuant to this section for any other type of  
69 relief, including injunctive and declaratory relief, permitted by law.  
70 Exhaustion of any available administrative remedies shall not be  
71 required prior to commencement of suit under this section.

72 Sec. 4. Section 22-351a of the general statutes is repealed and the  
73 following is substituted in lieu thereof (*Effective October 1, 2011*):

74 (a) For the purposes of this section, "companion animal" means a  
75 domesticated dog or cat that is normally kept in or near the household  
76 of its owner or keeper and is dependent on a person for food, shelter  
77 and veterinary care, but does not include a dog or cat kept for farming  
78 or biomedical research practices.

79 (b) Any person who intentionally kills or injures a companion  
80 animal, except in defense of such person or another person or as  
81 otherwise authorized by law, shall be liable to the owner of such  
82 companion animal for economic damages sustained by such owner  
83 including, but not limited to, expenses of veterinary care, the fair  
84 monetary value of the companion animal and burial expenses for the  
85 companion animal.

86 (c) In addition to any economic damages awarded pursuant to  
87 subsection (b) of this section, and except as provided in subsection (d)  
88 of this section, the court may award (1) punitive damages in an  
89 amount not to exceed the jurisdictional monetary limit established by  
90 subsection (d) of section 51-15, [together with] provided the court finds  
91 a violation of subsection (b) of this section by clear and convincing  
92 evidence, and (2) a reasonable attorney's fee.

93 (d) The court shall not assess punitive damages and a reasonable  
94 attorney's fee pursuant to subsection (c) of this section against: (1) A  
95 veterinarian licensed pursuant to chapter 384 while following accepted  
96 standards of practice of the profession, (2) the state or any political  
97 subdivision of the state or any employee, officer or agent thereof while  
98 acting within the scope of such employee's, officer's or agent's  
99 employment or official duties, or (3) an employee of or volunteer for a  
100 nonprofit organization or nonprofit corporation organized and  
101 operated exclusively for the prevention of cruelty to animals or the  
102 protection of stray, abandoned or mistreated animals while acting  
103 within the scope of such employee's or volunteer's employment or  
104 duties.

105 Sec. 5. Section 31-51q of the general statutes is repealed and the  
106 following is substituted in lieu thereof (*Effective October 1, 2011*):

107 Any employer, including the state and any instrumentality or  
108 political subdivision thereof, who subjects any employee to discipline  
109 or discharge on account of the exercise by such employee of rights  
110 guaranteed by the first amendment to the United States Constitution

111 or section 3, 4 or 14 of article first of the Constitution of the state,  
112 provided such activity does not substantially or materially interfere  
113 with the employee's bona fide job performance or the working  
114 relationship between the employee and the employer, shall be liable to  
115 such employee for damages caused by such discipline or discharge,  
116 including punitive damages, provided the court may award punitive  
117 damages if it determines by clear and convincing evidence that such  
118 discipline or discharge was the result of wanton misconduct, and for  
119 reasonable attorney's fees as part of the costs of any such action for  
120 damages. If the court determines that such action for damages was  
121 brought without substantial justification, the court may award costs  
122 and reasonable attorney's fees to the employer.

123 Sec. 6. Section 31-76 of the general statutes is repealed and the  
124 following is substituted in lieu thereof (*Effective October 1, 2011*):

125 (a) The Labor Commissioner shall carry out the provisions of section  
126 31-75 either upon complaint or upon the commissioner's own motion.  
127 For this purpose, the commissioner, or the commissioner's authorized  
128 representative, may enter places of employment, inspect payrolls,  
129 investigate work and operations on which employees are engaged,  
130 question employees and take such action as is reasonably necessary to  
131 determine compliance with section 31-75. At the request of any  
132 employee who has received less than the wage to which the employee  
133 is entitled under section 31-75, the commissioner may take an  
134 assignment of such wage claim in trust and may bring any legal action  
135 necessary to collect such claim. In any action brought by the  
136 commissioner, the employer who violates the provisions of section 31-  
137 75 may be found liable to the employee or the employees affected for  
138 the difference between the amount of wages paid and the maximum  
139 wage paid any other employee for equal work, compensatory damages  
140 and, if the violation is found by clear and convincing evidence to be  
141 [intentional or committed with reckless indifference] the result of  
142 wanton misconduct with respect to the employee's or employees'  
143 rights under section 31-75, punitive damages. Any agreement to work

144 for less than the wage to which such employee is entitled under section  
145 31-75 shall not be a defense to such action.

146 (b) Unless and except to the extent that a wage claim has been  
147 assigned to the commissioner pursuant to subsection (a) of this section,  
148 an action to redress a violation of section 31-75 may be maintained in  
149 any court of competent jurisdiction by any one or more employees.  
150 Any agreement to work for less than the wage to which such employee  
151 is entitled under section 31-75 shall not be a defense to such action. An  
152 employer who violates section 31-75 may be found liable for the  
153 difference between the amount of wages paid and the maximum wage  
154 paid any other employee for equal work, compensatory damages,  
155 attorney's fees and costs, punitive damages if the violation is found to  
156 be intentional or committed with reckless indifference to the  
157 employee's or employees' rights under section 31-75 and such legal  
158 and equitable relief as the court deems just and proper.

159 (c) For purposes of this section, discrimination in compensation  
160 under section 31-75 occurs when a discriminatory compensation  
161 decision or practice is adopted, when an individual is subject to a  
162 discriminatory compensation decision or practice, or when an  
163 individual is affected by application of a discriminatory compensation  
164 decision or practice, and shall be deemed to be a continuing violation  
165 each time wages, benefits or other compensation is paid, resulting in  
166 whole or in part from such a decision or practice.

167 (d) No action shall be brought or any prosecution instituted for any  
168 violation of section 31-75 except within two years after such violation  
169 or any act described in subsection (c) of this section, or within three  
170 years if such violation is intentional or committed with reckless  
171 indifference.

172 Sec. 7. Section 31-290a of the general statutes is repealed and the  
173 following is substituted in lieu thereof (*Effective October 1, 2011*):

174 (a) No employer who is subject to the provisions of this chapter

175 shall discharge, or cause to be discharged, or in any manner  
176 discriminate against any employee because the employee has filed a  
177 claim for workers' compensation benefits or otherwise exercised the  
178 rights afforded to him pursuant to the provisions of this chapter.

179 (b) Any employee who is so discharged or discriminated against  
180 may either: (1) Bring a civil action in the superior court for the judicial  
181 district where the employer has its principal office for the  
182 reinstatement of his previous job, payment of back wages and  
183 reestablishment of employee benefits to which he would have  
184 otherwise been entitled if he had not been discriminated against or  
185 discharged and any other damages caused by such discrimination or  
186 discharge. The court may also award punitive damages if the court  
187 finds by clear and convincing evidence that such discharge or  
188 discrimination was the result of wanton misconduct. Any employee  
189 who prevails in such a civil action shall be awarded reasonable  
190 attorney's fees and costs to be taxed by the court; or (2) file a complaint  
191 with the chairman of the Workers' Compensation Commission alleging  
192 violation of the provisions of subsection (a) of this section. Upon  
193 receipt of any such complaint, the chairman shall select a  
194 commissioner to hear the complaint, provided any commissioner who  
195 has previously rendered any decision concerning the claim shall be  
196 excluded. The hearing shall be held in the workers' compensation  
197 district where the employer has its principal office. After the hearing,  
198 the commissioner shall send each party a written copy of his decision.  
199 The commissioner may award the employee the reinstatement of his  
200 previous job, payment of back wages and reestablishment of employee  
201 benefits to which he otherwise would have been eligible if he had not  
202 been discriminated against or discharged. Any employee who prevails  
203 in such a complaint shall be awarded reasonable attorney's fees. Any  
204 party aggrieved by the decision of the commissioner may appeal the  
205 decision to the Appellate Court.

206 Sec. 8. Section 35-53 of the general statutes is repealed and the  
207 following is substituted in lieu thereof (*Effective October 1, 2011*):

208 (a) In addition to or in lieu of injunctive relief, a complainant may  
209 recover damages for the actual loss caused by misappropriation. A  
210 complainant also may recover for the unjust enrichment caused by  
211 misappropriation that is not taken into account in computing damages  
212 for actual loss.

213 (b) In any action brought pursuant to subsection (a) of this section, if  
214 the court finds [wilful and malicious] by clear and convincing evidence  
215 that such misappropriation was wilful and malicious, the court may  
216 award punitive damages in an amount not exceeding twice any award  
217 made under subsection (a) and may award reasonable attorney's fees  
218 to the prevailing party.

219 Sec. 9. Subsection (k) of section 36a-428n of the general statutes is  
220 repealed and the following is substituted in lieu thereof (*Effective*  
221 *October 1, 2011*):

222 (k) (1) Except as provided in this subsection, the commissioner's  
223 taking possession of the business and property in this state of a foreign  
224 bank shall operate as a stay of and as an injunction against the  
225 following, as of the date the commissioner takes possession: (A) The  
226 commencement or continuation, including the issuance or  
227 employment of process, of a judicial, administrative or other action or  
228 proceeding against the foreign bank that was or could have been  
229 commenced before the taking of possession, or to recover a claim  
230 against the foreign bank that arose before the taking of possession; (B)  
231 the enforcement against the foreign bank or its business and property  
232 in this state of a judgment obtained before the taking of possession; (C)  
233 any act to obtain possession of property of the foreign bank or of  
234 property from the foreign bank or to exercise control over property of  
235 the foreign bank; (D) any act to create, perfect, or enforce any lien  
236 against property of the foreign bank, including any lien that secures a  
237 claim that arose before the taking of possession; and (E) any act to  
238 collect, assess, or recover a claim against the foreign bank that arose  
239 before the taking of possession.

240 (2) The commissioner's taking possession of the business and  
241 property in this state of a foreign bank shall not operate as a stay of or  
242 as injunction against: (A) The filing of a claim pursuant to subsection  
243 (e) of this section in the liquidation of the foreign bank; the making of a  
244 demand upon the commissioner pursuant to subsection (i) of this  
245 section to decide whether to assume or repudiate a contract of the  
246 foreign bank; the exercise of any set-off otherwise permissible under  
247 applicable law except as limited by subdivision (2) of subsection (g) of  
248 this section; the right of any secured creditor with a perfected security  
249 interest or other valid lien or security interest enforceable against third  
250 parties to retain collateral, including any right of such secured creditor  
251 under any security arrangement related to a qualified financial  
252 contract, to retain collateral and to apply such collateral in accordance  
253 with subparagraph (D) of subdivision (2) of subsection (i) of this  
254 section; any automatic termination in accordance with the terms of any  
255 qualified financial contract or any right to cause the termination or  
256 liquidation of any qualified financial contract, in accordance with the  
257 terms thereof; any right to offset or net out any termination value,  
258 payment amount, or other transfer obligation arising under or in  
259 connection with one or more such qualified financial contracts; or the  
260 commencement of an action under subsection (d) of this section or any  
261 other action relating to the liquidation before the Superior Court judge  
262 overseeing the liquidation of the foreign bank; (B) the commencement  
263 or continuation of a criminal action or proceeding against the foreign  
264 bank; (C) the commencement or continuation of an action or  
265 proceeding by a governmental unit to enforce such governmental  
266 unit's police or regulatory power; (D) the enforcement of a judgment,  
267 other than a money judgment, obtained in an action or proceeding by a  
268 governmental unit to enforce such governmental unit's police or  
269 regulatory power; (E) the issuance to the foreign bank by a  
270 governmental unit of a notice of tax deficiency; and (F) the  
271 commencement or continuation of a judicial action or proceeding by a  
272 secured creditor with a perfected security interest, or other valid lien  
273 or security interest enforceable against third parties, including any

274 right of such secured creditor under any security arrangement related  
275 to a qualified financial contract, to enforce such security interest or  
276 lien.

277 (3) Except as otherwise provided in this subsection: (A) The stay or  
278 enjoining of an act against property of the foreign bank under this  
279 subsection shall continue until such property is no longer the property  
280 of the commissioner in possession of the foreign bank; and (B) the stay  
281 or enjoining of any other act under this subsection shall continue until  
282 the commissioner has concluded the liquidation.

283 (4) For good cause shown, on request of a party in interest and after  
284 notice and a hearing, the Superior Court judge overseeing the  
285 liquidation may grant relief from the stay or injunction provided under  
286 this subsection by terminating, annulling, modifying or conditioning  
287 such stay or injunction.

288 (5) In the case of any wilful violation of a stay or injunction  
289 provided in this subsection by any person or entity who has  
290 knowledge of the commissioner taking possession of the business and  
291 property in this state of a foreign bank that is the subject of the stay or  
292 injunction, the commissioner shall recover actual damages, including  
293 costs and reasonable attorneys' fees and, in appropriate circumstances  
294 and based on clear and convincing evidence of a wilful violation, may  
295 recover punitive damages.

296 Sec. 10. Section 36a-618 of the general statutes is repealed and the  
297 following is substituted in lieu thereof (*Effective October 1, 2011*):

298 Any loan broker who violates any provision of sections 36a-615 to  
299 36a-620, inclusive, with respect to any person shall be liable to such  
300 person for actual damages, a reasonable attorney's fee, court costs and  
301 such punitive damages as may be awarded by the Superior Court,  
302 provided such punitive damages may be awarded if the court finds, by  
303 clear and convincing evidence, that such violation was the result of  
304 wanton misconduct. In addition to such remedies, such person shall

305 have a right of rescission of any contract such person may have with  
306 the loan broker.

307 Sec. 11. Section 42-110g of the general statutes is repealed and the  
308 following is substituted in lieu thereof (*Effective October 1, 2011*):

309 (a) Any person who suffers any ascertainable loss of money or  
310 property, real or personal, as a result of the use or employment of a  
311 method, act or practice prohibited by section 42-110b, may bring an  
312 action in the judicial district in which the plaintiff or defendant resides  
313 or has his principal place of business or is doing business, to recover  
314 actual damages. Proof of public interest or public injury shall not be  
315 required in any action brought under this section. The court may, in its  
316 discretion, award punitive damages if the court finds, by clear and  
317 convincing evidence, that the loss of money or property was the result  
318 of wanton misconduct, and may provide such equitable relief as [it]  
319 the court deems necessary or proper.

320 (b) Persons entitled to bring an action under subsection (a) of this  
321 section may, pursuant to rules established by the judges of the  
322 Superior Court, bring a class action on behalf of themselves and other  
323 persons similarly situated who are residents of this state or injured in  
324 this state to recover damages.

325 (c) Upon commencement of any action brought under subsection (a)  
326 of this section, the plaintiff shall mail a copy of the complaint to the  
327 Attorney General and the Commissioner of Consumer Protection and,  
328 upon entry of any judgment or decree in the action, shall mail a copy  
329 of such judgment or decree to the Attorney General and the  
330 Commissioner of Consumer Protection.

331 (d) In any action brought by a person under this section, the court  
332 may award, to the plaintiff, in addition to the relief provided in this  
333 section, costs and reasonable attorneys' fees based on the work  
334 reasonably performed by an attorney and not on the amount of  
335 recovery. In a class action in which there is no monetary recovery, but

336 other relief is granted on behalf of a class, the court may award, to the  
337 plaintiff, in addition to other relief provided in this section, costs and  
338 reasonable attorneys' fees. In any action brought under this section, the  
339 court may, in its discretion, order, in addition to damages or in lieu of  
340 damages, injunctive or other equitable relief.

341 (e) Any final order issued by the Department of Consumer  
342 Protection and any permanent injunction, final judgment or final order  
343 of the court made under section 42-110d, 42-110m, 42-110o or 42-110p  
344 shall be prima facie evidence in an action brought under this section  
345 that the respondent or defendant used or employed a method, act or  
346 practice prohibited by section 42-110b, provided this section shall not  
347 apply to consent orders or judgments entered before any testimony has  
348 been taken.

349 (f) An action under this section may not be brought more than three  
350 years after the occurrence of a violation of this chapter.

351 (g) In any action brought by a person under this section there shall  
352 be a right to a jury trial except with respect to the award of punitive  
353 damages under subsection (a) of this section or the award of costs,  
354 reasonable attorneys' fees and injunctive or other equitable relief under  
355 subsection (d) of this section.

356 Sec. 12. Section 46a-89 of the general statutes is repealed and the  
357 following is substituted in lieu thereof (*Effective October 1, 2011*):

358 (a) (1) Whenever a complaint is filed with or by the commission  
359 pursuant to section 46a-82 alleging a violation of section 46a-60 or 46a-  
360 81c, and a commissioner believes, upon review and the  
361 recommendation of the investigator assigned, that equitable relief is  
362 required to prevent irreparable harm to the complainant, the  
363 commissioner may bring a petition in equity in the superior court for  
364 the judicial district in which the discriminatory practice which is the  
365 subject of the complaint occurred or the judicial district in which the  
366 respondent resides, provided this subdivision shall not apply to

367 complaints against employers with less than fifty employees.

368 (2) The petition shall seek appropriate temporary injunctive relief  
369 against the respondent pending final disposition of the complaint  
370 pursuant to the procedures set forth in this chapter. The injunctive  
371 relief may include an order temporarily restraining the respondent  
372 from doing any act that would render ineffectual any order a presiding  
373 officer may render with respect to the complaint.

374 (3) Upon service on the respondent of notice pursuant to section  
375 46a-89a, the respondent shall be temporarily restrained from taking  
376 any action that would render ineffectual the temporary injunctive  
377 relief prayed for in the petition, provided nothing in this section shall  
378 be construed to prevent the respondent from having any employment  
379 duties, enjoined under this section and section 46a-89a, from being  
380 carried out by another employee and the notice shall so provide.

381 (b) (1) Whenever a complaint filed pursuant to section 46a-82 alleges  
382 a violation of section 46a-64, 46a-64c, 46a-81d or 46a-81e, and a  
383 commissioner believes that injunctive relief is required or that the  
384 imposition of punitive damages or a civil penalty would be  
385 appropriate, the commission may bring a petition in the superior court  
386 for the judicial district in which the discriminatory practice which is  
387 the subject of the complaint occurred or the judicial district in which  
388 the respondent resides.

389 (2) The petition shall seek: (A) Appropriate injunctive relief,  
390 including temporary or permanent orders or decrees restraining and  
391 enjoining the respondent from selling or renting to anyone other than  
392 the complainant or otherwise making unavailable to the complainant  
393 any dwelling or commercial property with respect to which the  
394 complaint is made, pending the final determination of such complaint  
395 by the commission or such petition by the court; (B) an award of  
396 damages based on the remedies available under subsection (c) of  
397 section 46a-86; (C) an award of punitive damages payable to the  
398 complainant, not to exceed fifty thousand dollars, provided the court

399 finds, by clear and convincing evidence, that the violation was the  
400 result of wanton misconduct; (D) a civil penalty payable to the state  
401 against the respondent to vindicate the public interest: (i) In an amount  
402 not exceeding ten thousand dollars if the respondent has not been  
403 adjudged to have committed any prior discriminatory housing  
404 practice; (ii) in an amount not exceeding twenty-five thousand dollars  
405 if the respondent has been adjudged to have committed one other  
406 discriminatory housing practice during the five-year period prior to  
407 the date of the filing of this complaint; and (iii) in an amount not  
408 exceeding fifty thousand dollars if the respondent has been adjudged  
409 to have committed two or more discriminatory housing practices  
410 during the seven-year period prior to the date of the filing of the  
411 complaint; except that if the acts constituting the discriminatory  
412 housing practice that is the object of the complaint are committed by  
413 the same natural person who has been previously adjudged to have  
414 committed acts constituting a discriminatory housing practice, then the  
415 civil penalties set forth in clauses (ii) and (iii) of this subparagraph may  
416 be imposed without regard to the period of time within which any  
417 subsequent discriminatory housing practice occurred; or (E) two or  
418 more of such remedies.

419 (3) Upon service on the respondent of notice pursuant to section  
420 46a-89a, the respondent shall be temporarily restrained from selling or  
421 renting the dwelling or commercial property which is the subject of the  
422 complaint to anyone other than the complainant, or from otherwise  
423 making such dwelling or commercial property unavailable to the  
424 complainant, until the court or judge has decided the petition for  
425 temporary injunctive relief and the notice shall so provide.

426 Sec. 13. Section 46a-98 of the general statutes is repealed and the  
427 following is substituted in lieu thereof (*Effective October 1, 2011*):

428 (a) In lieu of, but not in addition to, filing a complaint with the  
429 Commission on Human Rights and Opportunities pursuant to section  
430 46a-82, any person claiming to be aggrieved by a violation of section

431 46a-66 or 46a-81f may bring an action under this section against a  
432 creditor, as defined in section 46a-65, in the superior court for the  
433 judicial district in which such aggrieved person resides or in which the  
434 alleged violation took place.

435 (b) Any such creditor who fails to comply with any requirement of  
436 section 46a-66 or 46a-81f or the regulations adopted pursuant to  
437 section 46a-67 shall be liable to an aggrieved person in an amount  
438 equal to the sum of any actual damages sustained by such person.

439 (c) Any such creditor who fails to comply with any requirement of  
440 section 46a-66 or 46a-81f or the regulations adopted pursuant to  
441 section 46a-67 shall be liable to an aggrieved person for punitive  
442 damages in an amount not greater than one thousand dollars, as  
443 determined by the court, in addition to any actual damages provided  
444 in subsection (b) of this section.

445 (d) Any such creditor who fails to comply with any requirement of  
446 section 46a-66 or 46a-81f or the regulations adopted pursuant to  
447 section 46a-67 may be liable for punitive damages in the case of a class  
448 action in such amount as the court may allow, provided (1) the court  
449 finds, by clear and convincing evidence, that the failure to comply with  
450 such requirements was the result of wanton misconduct, and (2) the  
451 total recovery of punitive damages shall not exceed the lesser of five  
452 thousand dollars or one per cent of the net worth of the creditor. In  
453 determining the amount of award in any class action, the court shall  
454 consider, among other relevant factors, the amount of any actual  
455 damages awarded, the frequency and persistence of failures of  
456 compliance by the creditor, the resources of the creditor, the number of  
457 persons adversely affected, and the extent to which the creditor's  
458 failure of compliance was intentional.

459 (e) No action may be brought under this section except within one  
460 year from the date of the occurrence of the violation.

461 Sec. 14. Section 52-240b of the general statutes is repealed and the

462 following is substituted in lieu thereof (*Effective October 1, 2011*):

463 Punitive damages may be awarded if the claimant proves by clear  
464 and convincing evidence that the harm suffered was the result of the  
465 product seller's [reckless] wanton disregard for the safety of product  
466 users, consumers or others who were injured by the product. If the  
467 trier of fact determines by clear and convincing evidence that punitive  
468 damages should be awarded, the court shall determine the amount of  
469 such damages not to exceed an amount equal to twice the damages  
470 awarded to the plaintiff.

471 Sec. 15. Section 52-564a of the general statutes is repealed and the  
472 following is substituted in lieu thereof (*Effective October 1, 2011*):

473 (a) Any person eighteen years of age or older or an emancipated  
474 minor who takes possession of goods or merchandise displayed or  
475 offered for sale by any mercantile establishment, or who takes from  
476 any real property any agricultural produce kept, grown or raised on  
477 the property for purposes of sale, without the consent of the owner  
478 and with the intention of converting such goods, merchandise or  
479 produce to his own use without having paid the purchase price  
480 thereof, or who alters the price indicia of such goods or merchandise,  
481 shall be liable in a civil action to the owner of the goods, merchandise  
482 or produce for (1) the actual and reasonable costs of maintaining the  
483 action, including court costs and a reasonable attorney's fee, (2) the  
484 retail value of the goods, merchandise or produce taken, if not  
485 recovered by the time of the commencement of the action or if  
486 recovered in an unmerchantable condition, and (3) punitive damages  
487 in an amount not to exceed three hundred dollars, provided the court  
488 finds by clear and convincing evidence that such violation was the  
489 result of wanton misconduct.

490 (b) A conviction of larceny by shoplifting, as defined in subdivision  
491 (9) of section 53a-119, shall not be a condition precedent to the  
492 maintenance of a civil action under this section.

493 (c) In any action brought pursuant to subsection (a) of this section, if  
494 the plaintiff does not prevail, the court may award to the defendant his  
495 costs, including a reasonable attorney's fee, and damages not to exceed  
496 three hundred dollars.

497 (d) No action shall be brought pursuant to subsection (a) of this  
498 section but within two years from the date of the act complained of.

499 Sec. 16. Section 54-41r of the general statutes is repealed and the  
500 following is substituted in lieu thereof (*Effective October 1, 2011*):

501 Any person whose wire communication is intercepted, disclosed or  
502 used in violation of this chapter or of sections 53a-187 to 53a-189,  
503 inclusive, shall (1) have a civil cause of action against any person who  
504 intercepts, discloses or uses, or procures any other person to intercept,  
505 disclose or use, such communication, and (2) be entitled to recover  
506 from any such person actual damages but not less than liquidated  
507 damages computed at the rate of one hundred dollars per day for each  
508 day of violation or one thousand dollars, whichever is higher; punitive  
509 damages, provided the court finds, by clear and convincing evidence,  
510 that such interception, disclosure or use was the result of wanton  
511 misconduct; and a reasonable attorney's fee and other litigation costs  
512 reasonably incurred. A good faith reliance on a court order shall  
513 constitute a complete defense to any civil or criminal action brought in  
514 accordance with the provisions of this chapter or any other law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	4d-39
Sec. 2	<i>October 1, 2011</i>	16-8d
Sec. 3	<i>October 1, 2011</i>	19a-550(e)
Sec. 4	<i>October 1, 2011</i>	22-351a
Sec. 5	<i>October 1, 2011</i>	31-51q
Sec. 6	<i>October 1, 2011</i>	31-76
Sec. 7	<i>October 1, 2011</i>	31-290a
Sec. 8	<i>October 1, 2011</i>	35-53

Sec. 9	<i>October 1, 2011</i>	36a-428n(k)
Sec. 10	<i>October 1, 2011</i>	36a-618
Sec. 11	<i>October 1, 2011</i>	42-110g
Sec. 12	<i>October 1, 2011</i>	46a-89
Sec. 13	<i>October 1, 2011</i>	46a-98
Sec. 14	<i>October 1, 2011</i>	52-240b
Sec. 15	<i>October 1, 2011</i>	52-564a
Sec. 16	<i>October 1, 2011</i>	54-41r

***Statement of Purpose:***

To establish a prerequisite for the recovery of punitive damages that a plaintiff demonstrate, by clear and convincing evidence, that a defendant acted in a wanton manner, or, alternatively, in a wilful, intentional or malicious manner where such standard is currently applicable.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*