

50-678. Same; factors to consider in imposition of enhanced civil penalty. In determining whether to impose a civil penalty as provided in K.S.A. 50-676 through 50-679, and amendments thereto, and the amount of such civil penalty, the court shall consider the extent to which one or more of the following factors are present:

- (a) Whether the defendant's conduct was in disregard of the rights of the protected consumer;
- (b) whether the defendant knew or should have known that the defendant's conduct was directed to a protected consumer;
- (c) whether the protected consumer was more vulnerable to the defendant's conduct because of age, poor health, infirmity, impaired understanding, restricted mobility or disability than other persons and actually suffered substantial physical, emotional or economic damage resulting from the defendant's conduct;
- (d) whether the defendant's conduct caused a protected consumer to suffer any of the following:
 - (1) Mental or emotional anguish;
 - (2) loss of or encumbrance upon a primary residence of the protected consumer;
 - (3) loss of or encumbrance upon the protected consumer's principal employment or principal source of income;
 - (4) loss of funds received under a pension or retirement plan or a government benefits program;
 - (5) loss of property set aside for retirement or for personal or family care and maintenance; or
 - (6) loss of assets essential to the health and welfare of the protected consumer; or
- (e) any other factors the court deems appropriate.

History: L. 1996, ch. 121, § 3; L. 2010, ch. 129, § 8; July 1.