

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 447

(SENATE AUTHORS: REST, Carlson, Koran, Klein and Dornink)		
DATE	D-PG	OFFICIAL STATUS
01/21/2025	136	Introduction and first reading Referred to Commerce and Consumer Protection
01/27/2025	199	Author added Dornink
03/03/2025		Comm report: To pass as amended and re-refer to State and Local Government

1.1

A bill for an act

1.2

relating to commerce; establishing a consumer protection restitution account;

1.3

requiring a report; appropriating money; amending Minnesota Statutes 2024,

1.4

sections 8.31, subdivision 2c; 16A.151, subdivision 2; 290.0132, by adding a

1.5

subdivision; proposing coding for new law in Minnesota Statutes, chapter 8.

1.6

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

1.7

Section 1. Minnesota Statutes 2024, section 8.31, subdivision 2c, is amended to read:

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Subd. 2c. **Undistributed money to ~~general fund~~ consumer protection restitution**

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account. If a court of competent jurisdiction finds that a sum recovered under this section

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for the benefit of injured persons cannot reasonably be distributed to the victims, because

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the victims cannot readily be located or identified, or because the cost of distributing the

1.12

money would outweigh the benefit to the victims, then the court ~~may order that the money~~

1.13

~~be paid into the general fund. All sums recovered must be deposited into the state treasury~~

1.14

~~and credited to the general fund~~ or attorney general must deposit the money in the consumer

1.15

protection restitution account under section 8.37. Consumer enforcement public compensation

1.16

that the attorney general attempts to distribute to an eligible consumer, but that is not

1.17

redeemed by the consumer within 120 days, may be redeposited in the account.

1.18

Sec. 2. **[8.37] CONSUMER PROTECTION RESTITUTION ACCOUNT.**

1.19

Subdivision 1. **Creation of account.** The consumer protection restitution account is

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established in the special revenue fund. Money in the account is appropriated annually to

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the attorney general for the purposes provided under subdivision 4.

1.22

Subd. 2. **Definitions.** (a) The definitions in this subdivision apply to this section.

2.1 (b) "Account" means the consumer protection restitution account established under this
2.2 section.

2.3 (c) "Account administrator" means a person appointed by the attorney general as an
2.4 account administrator under this section.

2.5 (d) "Consumer enforcement action" means litigation in any forum, or settlement of a
2.6 matter that could have resulted in litigation, by the attorney general in whole or in part under
2.7 (1) the authority of the attorney general provided in section 8.31, or (2) other authority
2.8 granted to the attorney general by law to obtain the remedies provided in section 8.31.

2.9 (e) "Consumer enforcement public compensation" means money awarded or recovered
2.10 in a consumer enforcement action to vindicate public interests by providing restitution or
2.11 other compensation to persons directly impacted by unlawful acts and practices that are the
2.12 subject of the consumer enforcement action.

2.13 (f) "Court-appointed administrator" means an administrator appointed by a court under
2.14 section 8.31, subdivision 3c.

2.15 (g) "Eligible consumer" means a person who was directly impacted by unlawful acts
2.16 and practices that are the subject of a consumer enforcement action and, as a result, is eligible
2.17 to receive consumer enforcement public compensation under a final order.

2.18 (h) "Final order" means a judgment, assurance of discontinuance, consent order,
2.19 settlement, stipulation, or other order or settlement that is no longer appealable and for
2.20 which no appeals are pending. A final order does not include any judgment, assurance of
2.21 discontinuance, consent order, settlement, stipulation, or other order or settlement entered
2.22 into before July 1, 2023.

2.23 (i) "Identified amount of unpaid consumer enforcement public compensation" means a
2.24 specific amount of consumer enforcement public compensation that the attorney general,
2.25 court-appointed administrator, or fund administrator has determined a specific eligible
2.26 consumer is entitled to receive following a final order in a consumer enforcement action
2.27 and that has not been distributed to the specific eligible consumer.

2.28 Subd. 3. **Money deposited in the account.** 50 percent of all money recovered by the
2.29 attorney general in a consumer enforcement action that is payable to the state and not
2.30 designated as consumer enforcement public compensation or for another specific purpose
2.31 must be deposited into the account. The remaining 50 percent of money recovered by the
2.32 attorney general in a consumer enforcement action that is payable to the state and not

3.1 designated as consumer enforcement public compensation or for another specific purpose
3.2 must be deposited into the general fund.

3.3 Subd. 4. **Permissible use of account.** Money in the account must be used only to
3.4 distribute consumer enforcement action public compensation to eligible consumers under
3.5 subdivision 5 and for costs to administer the account. The costs to administer the account
3.6 may include the cost to retain for any permissible purpose an account administrator or
3.7 court-appointed administrator but must not exceed three percent of the total amount of
3.8 money available. The attorney general may pay an account administrator from the account
3.9 if the account contains excess money.

3.10 Subd. 5. **Distributions to eligible consumers.** Money in the account may be distributed
3.11 to any eligible consumer with an identified amount of unpaid consumer enforcement public
3.12 compensation. If the amount of money in the account is insufficient to pay all distributions
3.13 to eligible consumers with an identified amount of unpaid consumer enforcement public
3.14 compensation, the money must be distributed first to consumers eligible for unpaid consumer
3.15 enforcement public compensation based on a consumer enforcement action with a final
3.16 order of the oldest date.

3.17 Subd. 6. **Impractical payments and unreasonable effort as to unpaid**
3.18 **compensation.** (a) The attorney general may deem a distribution to an eligible consumer
3.19 with an identified amount of unpaid consumer enforcement public compensation impractical
3.20 if:

3.21 (1) the distribution to the eligible consumer is too small to justify the cost to locate the
3.22 eligible consumer or make the payment;

3.23 (2) the eligible consumer does not redeem a payment within a reasonable time; or

3.24 (3) other circumstances make distributing the unpaid consumer enforcement compensation
3.25 to the eligible consumer unreasonable.

3.26 (b) The attorney general may deem an attempt to determine an identified amount of
3.27 unpaid consumer enforcement public compensation for some or all eligible consumers
3.28 relating to a consumer enforcement action is unreasonable when the judgment, assurance
3.29 of discontinuance, consent order, settlement, stipulation, or other order or settlement does
3.30 not identify specific amounts of consumer enforcement public compensation for specific
3.31 consumers if:

4.1 (1) the number of likely eligible consumers and the amount of likely unpaid consumer
4.2 enforcement public compensation is too small to justify the cost to determine an identified
4.3 amount of unpaid consumer enforcement public compensation;

4.4 (2) the information needed to identify an amount of unpaid consumer enforcement public
4.5 compensation is unavailable or too costly to obtain; or

4.6 (3) other circumstances make an attempt to determine an identified amount of unpaid
4.7 consumer enforcement public compensation unreasonable.

4.8 Subd. 7. **Concluded distributions.** The attorney general must stop providing distributions
4.9 of unpaid consumer enforcement public compensation relating to a consumer enforcement
4.10 action when the attorney general determines:

4.11 (1) all eligible consumers with an identified amount of unpaid consumer enforcement
4.12 public compensation for the consumer enforcement action have received a distribution
4.13 through the account or the distribution has been deemed impractical under subdivision 6,
4.14 paragraph (a); and

4.15 (2) no additional eligible consumers with unpaid consumer enforcement public
4.16 compensation for the consumer enforcement action exist or the attorney general has deemed
4.17 identifying unpaid compensation under subdivision 6, paragraph (b), unreasonable.

4.18 Subd. 8. **Annual report.** (a) The attorney general must publish on the attorney general's
4.19 website an annual report identifying the following information for the annual period:

4.20 (1) the consumer enforcement actions resulting in payment of money to the account and
4.21 the amount of money paid to the account for each consumer enforcement action;

4.22 (2) the consumer enforcement actions for which distributions were made to eligible
4.23 consumers and the amount of money distributed for each consumer enforcement action;

4.24 (3) the consumer enforcement actions for which there are eligible consumers awaiting
4.25 distribution from the account and the amount of money for which those eligible consumers
4.26 are awaiting distribution for each consumer enforcement action;

4.27 (4) the consumer enforcement actions for which the attorney general has concluded
4.28 account distribution;

4.29 (5) the consumer enforcement actions in which the attorney general determined that
4.30 some or all eligible compensation was impractical to distribute or unreasonable to determine
4.31 under subdivision 6; and

4.32 (6) the cost incurred to administer the account.

(b) The attorney general must provide the report to the chairs and ranking minority members of the legislative committees with jurisdiction over the consumer protection restitution account.

Subd. 9. **Account administrator.** (a) The attorney general may appoint an administrator for any of the following purposes:

(1) determining identified amounts of unpaid consumer enforcement public compensation for eligible consumers;

(2) collecting money that can be deposited, in whole or in part, to the account;

(3) distributing money to eligible consumers; or

(4) any other costs to administer the account.

(b) The attorney general may appoint more than one account administrator.

Subd. 10. **No private right of action.** A person does not have a private right of action with respect to a payment from the account or administration of the account.

Subd. 11. **Collection efforts unaffected.** The distribution of money from the account to eligible consumers does not affect the attorney general's authority to collect, satisfy, or enforce final orders against persons ordered to pay consumer enforcement public compensation to eligible consumers in the final order. To the extent the attorney general collects consumer enforcement public compensation pursuant to a final order after money has been distributed from the account to eligible consumers that are the subject of that final order, the collected consumer enforcement public compensation must be deposited in the account in an amount equal to the prior account distribution.

Sec. 3. Minnesota Statutes 2024, section 16A.151, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** (a) If a state official litigates or settles a matter on behalf of specific injured persons or entities, this section does not prohibit distribution of money to the specific injured persons or entities on whose behalf the litigation or settlement efforts were initiated. If money recovered on behalf of injured persons or entities cannot reasonably be distributed to those persons or entities because they cannot readily be located or identified or because the cost of distributing the money would outweigh the benefit to the persons or entities, the money must be paid into the general fund.

(b) Money recovered on behalf of a fund in the state treasury other than the general fund may be deposited in that fund.

(c) This section does not prohibit a state official from distributing money to a person or entity other than the state in litigation or potential litigation in which the state is a defendant or potential defendant.

(d) State agencies may accept funds as directed by a federal court for any restitution or monetary penalty under United States Code, title 18, section 3663(a)(3), or United States Code, title 18, section 3663A(a)(3). Funds received must be deposited in a special revenue account and are appropriated to the commissioner of the agency for the purpose as directed by the federal court.

~~(e) Tobacco settlement revenues as defined in section 16A.98, subdivision 1, paragraph (t), may be deposited as provided in section 16A.98, subdivision 12.~~

~~(f)~~ (e) Any money received by the state resulting from a settlement agreement or an assurance of discontinuance entered into by the attorney general of the state, or a court order in litigation brought by the attorney general of the state, on behalf of the state or a state agency, related to alleged violations of consumer fraud laws in the marketing, sale, or distribution of opioids in this state or other alleged illegal actions that contributed to the excessive use of opioids, must be deposited in the settlement account established in the opiate epidemic response fund under section 256.043, subdivision 1. This paragraph does not apply to attorney fees and costs awarded to the state or the Attorney General's Office, to contract attorneys hired by the state or Attorney General's Office, or to other state agency attorneys.

~~(g)~~ (f) Notwithstanding paragraph ~~(f)~~ (e), if money is received from a settlement agreement or an assurance of discontinuance entered into by the attorney general of the state or a court order in litigation brought by the attorney general of the state on behalf of the state or a state agency against a consulting firm working for an opioid manufacturer or opioid wholesale drug distributor, the commissioner shall deposit any money received into the settlement account established within the opiate epidemic response fund under section 256.042, subdivision 1. Notwithstanding section 256.043, subdivision 3a, paragraph (a), any amount deposited into the settlement account in accordance with this paragraph shall be appropriated to the commissioner of human services to award as grants as specified by the opiate epidemic response advisory council in accordance with section 256.043, subdivision 3a, paragraph (e).

~~(h)~~ (g) If the Minnesota Pollution Control Agency, through litigation or settlement of a matter that could have resulted in litigation, recovers \$250,000 or more in a civil penalty from violations of a permit issued by the agency, then 40 percent of the money recovered

7.1 must be distributed to the community health board, as defined in section 145A.02, where
7.2 the permitted facility is located. Within 30 days of a final court order in the litigation or the
7.3 effective date of the settlement agreement, the commissioner of the Minnesota Pollution
7.4 Control Agency must notify the applicable community health board that the litigation has
7.5 concluded or a settlement has been reached. The commissioner must collect the money and
7.6 transfer it to the applicable community health board. The community health board must
7.7 meet directly with the residents potentially affected by the pollution that was the subject of
7.8 the litigation or settlement to identify the residents' concerns and incorporate those concerns
7.9 into a project that benefits the residents. The project must be implemented by the community
7.10 health board and funded as directed in this paragraph. The community health board may
7.11 recover the reasonable costs it incurs to administer this paragraph from the funds transferred
7.12 to the board under this paragraph. This paragraph directs the transfer and use of money only
7.13 and does not create a right of intervention in the litigation or settlement of the enforcement
7.14 action for any person or entity. A supplemental environmental project funded as part of a
7.15 settlement agreement is not part of a civil penalty and must not be included in calculating
7.16 the amount of funds required to be distributed to a community health board under this
7.17 paragraph. For the purposes of this paragraph, "supplemental environmental project" means
7.18 a project that benefits the environment or public health that a regulated facility agrees to
7.19 undertake, though not legally required to do so, as part of a settlement with respect to an
7.20 enforcement action taken by the Minnesota Pollution Control Agency to resolve
7.21 noncompliance.

7.22 ~~(h)~~ (h) A community health board receiving a transfer of funds under paragraph ~~(h)~~ (g)
7.23 must, no later than one year after receiving the funds, submit a report to the chairs and
7.24 ranking minority members of the senate and house of representatives committees with
7.25 primary jurisdiction over environment policy and natural resources that describes:

7.26 (1) the process of community engagement employed to solicit community input regarding
7.27 the use of the funds;

7.28 (2) the purposes and activities for which the funds were used; and

7.29 (3) an account of expenditures.

7.30 ~~(i)~~ (i) The commissioner of the Minnesota Pollution Control Agency must submit a
7.31 report in September each even-numbered year, beginning in 2024, to the chairs and ranking
7.32 minority members of the senate and house of representatives committees with primary
7.33 jurisdiction over environmental policy and natural resources that includes:

8.1 (1) the amount transferred under paragraph ~~(h)~~ (g) to each community health board
8.2 during the previous two years; and

8.3 (2) any agency services provided to the community health board or community residents
8.4 during the duration of the project funded by the transfer, and the cost of those agency
8.5 services, for consideration by the legislature for future appropriations that address
8.6 reimbursement of the amount of the transfers and the cost of services provided by the agency.

8.7 ~~(k)~~ (j) Any money received by the state resulting from a settlement agreement or an
8.8 assurance of discontinuance entered into by the attorney general of the state, or a court order
8.9 in litigation brought by the attorney general of the state on behalf of the state or a state
8.10 agency related to alleged violations of consumer fraud laws in the marketing, sale, or
8.11 distribution of electronic nicotine delivery systems in this state or other alleged illegal
8.12 actions that contributed to the exacerbation of youth nicotine use, must be deposited in the
8.13 tobacco use prevention account under section 144.398. This paragraph does not apply to:
8.14 (1) attorney fees and costs awarded or paid to the state or the Attorney General's Office; (2)
8.15 contract attorneys hired by the state or Attorney General's Office; or (3) other state agency
8.16 attorneys. The commissioner of management and budget must transfer to the tobacco use
8.17 prevention account, any money subject to this paragraph that is received by the state before
8.18 May 24, 2023.

8.19 (k) This section does not apply to money deposited in the consumer protection restitution
8.20 account under section 8.37.

8.21 Sec. 4. Minnesota Statutes 2024, section 290.0132, is amended by adding a subdivision
8.22 to read:

8.23 Subd. 36. **Consumer enforcement public compensation payments.** The amount of
8.24 consumer enforcement public compensation received as a distribution to an eligible consumer
8.25 under section 8.37, subdivision 5, is a subtraction.

8.26 **EFFECTIVE DATE.** This section is effective retroactively for taxable years beginning
8.27 after December 31, 2023.