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Code: Section:

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CIVIL CODE - CIV

DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (*Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.*)

PART 1. RELIEF [3274 - 3428] (*Part 1 enacted 1872.*)

TITLE 2. COMPENSATORY RELIEF [3281 - 3361] (*Title 2 enacted 1872.*)

CHAPTER 2. Measure of Damages [[3300.] - 3361] (*Chapter 2 enacted 1872.*)

ARTICLE 3. Penal Damages [3344 - 3346] (*Article 3 enacted 1872.*)

3344. (a) Any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods or services, without such person's prior consent, or, in the case of a minor, the prior consent of his parent or legal guardian, shall be liable for any damages sustained by the person or persons injured as a result thereof. In addition, in any action brought under this section, the person who violated the section shall be liable to the injured party or parties in an amount equal to the greater of seven hundred fifty dollars (\$750) or the actual damages suffered by him or her as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. In establishing such profits, the injured party or parties are required to present proof only of the gross revenue attributable to such use, and the person who violated this section is required to prove his or her deductible expenses. Punitive damages may also be awarded to the injured party or parties. The prevailing party in any action under this section shall also be entitled to attorney's fees and costs.

(b) As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the person is readily identifiable.

(1) A person shall be deemed to be readily identifiable from a photograph when one who views the photograph with the naked eye can reasonably determine that the person depicted in the photograph is the same person who is complaining of its unauthorized use.

(2) If the photograph includes more than one person so identifiable, then the person or persons complaining of the use shall be represented as individuals rather than solely as members of a definable group represented in the photograph. A definable group includes, but is not limited to, the following examples: a crowd at any sporting event, a crowd in any street or public building, the audience at any theatrical or stage production, a glee club, or a baseball team.

(3) A person or persons shall be considered to be represented as members of a definable group if they are represented in the photograph solely as a result of being present at the time the photograph was taken and have not been singled out as individuals in any manner.

(c) Where a photograph or likeness of an employee of the person using the photograph or likeness appearing in the advertisement or other publication prepared by or in behalf of the user is only incidental, and not essential, to the purpose of the publication in which it appears, there shall arise a rebuttable presumption affecting the burden of producing evidence that the failure to obtain the consent of the employee was not a knowing use of the employee's photograph or likeness.

(d) For purposes of this section, a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subdivision (a).

(e) The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subdivision (a) solely because the material containing such use is commercially sponsored or contains paid advertising. Rather it shall be a question of fact whether or not the use of the person's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subdivision (a).

(f) Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit ads, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that such owners or employees had knowledge of the unauthorized use of the person's name, voice, signature, photograph, or likeness as prohibited by this section.

(g) The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

(Amended by Stats. 1984, Ch. 1704, Sec. 2.)

3344.1. (a) (1) (A) Subject to subparagraph (B), a person who uses a deceased personality's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent from the person or persons specified in subdivision (c), shall be liable for any damages sustained by the person or persons injured as a result thereof. In addition, in any action brought under this section, the person who violated the section shall be liable to the injured party or parties in an amount equal to the greater of seven hundred fifty dollars (\$750) or the actual damages suffered by the injured party or parties, as a result of the unauthorized use, and any profits from the unauthorized use that are attributable to the use and are not taken into account in computing the actual damages. In establishing these profits, the injured party or parties shall be required to present proof only of the gross revenue attributable to the use, and the person who violated the section shall prove the person's deductible expenses. Punitive damages may also be awarded to the injured party or parties. The prevailing party or parties in any action under this section shall also be entitled to attorney's fees and costs.

(B) (i) Except as provided in clause (ii), a play, book, magazine, newspaper, musical composition, audiovisual work, radio or television program, single and original work of art, work of political or newsworthy value, or an advertisement or commercial announcement for any of these works, shall not be considered a product, article of merchandise, good, or service if it is fictional or nonfictional entertainment, or a dramatic, literary, or musical work.

(ii) If a work described in clause (i) includes within it a use in connection with a product, article of merchandise, good, or service, this use shall not be exempt under this subparagraph, notwithstanding the unprotected use's inclusion in a work otherwise exempt under this subparagraph, if the claimant proves that this use is so directly connected with a product, article of merchandise, good, or service as to constitute an act of advertising, selling, or soliciting purchases of that product, article of merchandise, good, or service by the deceased personality without prior consent from the person or persons specified in subdivision (c).

(2) (A) (i) Notwithstanding paragraph (1) and subject to clause (ii), a person who produces, distributes, or makes available the digital replica of a deceased personality's voice or likeness in an expressive audiovisual work or sound recording without prior consent from a person specified in subdivision (c) shall be liable to any injured party in an amount equal to the greater of ten thousand dollars (\$10,000) or the actual damages suffered by a person controlling the rights to the deceased personality's likeness.

(ii) For purposes of this section, a digital replica may be used without consent if the use of the digital replica meets any of the following criteria:

(I) The use is in connection with any news, public affairs, or sports broadcast or account.

(II) The use is for purposes of comment, criticism, scholarship, satire, or parody.

(III) The use is a representation of the individual as the individual's self in a documentary or in a historical or biographical manner, including some degree of fictionalization, unless the use is intended to create, and does create, the false impression that the work is an authentic recording in which the individual participated.

(IV) The use is fleeting or incidental.

(V) The use is in an advertisement or commercial announcement for a work described in subclauses (I) to (IV), inclusive.

(B) For purposes of this paragraph:

(i) "Audiovisual work" means a work that consists of a series of related images that are intrinsically intended to be shown by the use of machines or devices, including projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, including films or tapes, in which the works are embodied.

(ii) (I) "Digital replica" means a computer-generated, highly realistic electronic representation that is readily identifiable as the voice or visual likeness of an individual that is embodied in a sound recording, image, audiovisual work, or transmission in which the actual individual either did not actually perform or appear, or the actual individual did perform or appear, but the fundamental character of the performance or appearance has been materially altered.

(II) "Digital replica" does not include the electronic reproduction, use of a sample of one sound recording or audiovisual work into another, remixing, mastering, or digital remastering of a sound recording or audiovisual work authorized by the copyright holder.

(b) The rights recognized under this section are property rights, freely transferable or descendible, in whole or in part, by contract or by means of any trust or any other testamentary instrument, executed before or after January 1, 1985. The rights recognized under this section shall be deemed to have existed at the time of death of any deceased personality who died prior to January 1, 1985, and, except as provided in subdivision (o), shall vest in the persons entitled to these property rights under the testamentary instrument of the deceased personality effective as of the date of their death. In the absence of an express transfer in a testamentary instrument of the deceased personality's rights in the deceased personality's name, voice, signature, photograph, or likeness, a provision in the testamentary instrument that provides for the disposition of the residue of the deceased personality's assets shall be effective to transfer the rights recognized under this section in accordance with the terms of that provision. The rights established by this section shall also be freely transferable or descendible by contract, trust, or any other testamentary instrument by any subsequent owner of the deceased personality's rights as recognized by this section. Nothing in this section shall be construed to render invalid or unenforceable any contract entered into by a deceased personality during the deceased personality's lifetime by which the deceased personality assigned the rights, in whole or in part, to use the deceased personality's name, voice, signature, photograph, or likeness, regardless of whether the contract was entered into before or after January 1, 1985.

(c) The consent required by this section shall be exercisable by the person or persons to whom the right of consent, or portion thereof, has been transferred in accordance with subdivision (b), or if no transfer has occurred, then by the person or persons to whom the right of consent, or portion thereof, has passed in accordance with subdivision (d).

(d) Subject to subdivisions (b) and (c), after the death of any person, the rights under this section shall belong to the following person or persons and may be exercised, on behalf of and for the benefit of all of those persons, by those persons who, in the aggregate, are entitled to more than a one-half interest in the rights:

(1) The entire interest in those rights belongs to the surviving spouse of the deceased personality unless there are any surviving children or grandchildren of the deceased personality, in which case one-half of the entire interest in those rights belongs to the surviving spouse.

(2) The entire interest in those rights belongs to the surviving children of the deceased personality and to the surviving children of any dead child of the deceased personality unless the deceased personality has a surviving spouse, in which case the ownership of a one-half interest in rights is divided among the surviving children and grandchildren.

(3) If there is no surviving spouse, and no surviving children or grandchildren, then the entire interest in those rights belongs to the surviving parent or parents of the deceased personality.

(4) The rights of the deceased personality's children and grandchildren are in all cases divided among them and exercisable in the manner provided in Section 240 of the Probate Code according to the number of the deceased personality's children represented. The share of the children of a dead child of a deceased personality can be exercised only by the action of a majority of them.

(e) If any deceased personality does not transfer the deceased personality's rights under this section by contract, or by means of a trust or testamentary instrument, and there are no surviving persons as described in subdivision (d), then the rights set forth in subdivision (a) shall terminate.

(f) (1) A successor in interest to the rights of a deceased personality under this section or a licensee thereof shall not recover damages for a use prohibited by this section that occurs before the successor in interest or licensee registers a claim of the rights under paragraph (2).

(2) Any person claiming to be a successor in interest to the rights of a deceased personality under this section or a licensee thereof may register that claim with the Secretary of State on a form prescribed by the Secretary of State and upon payment of a fee as set forth in subdivision (d) of Section 12195 of the Government Code. The form shall be verified and shall include the name and date of death of the deceased personality, the name and address of the claimant, the basis of the claim, and the rights claimed.

(3) Upon receipt and after filing of any document under this section, the Secretary of State shall post the document along with the entire registry of persons claiming to be a successor in interest to the rights of a deceased personality or a registered licensee under this section upon the Secretary of State's internet website. The Secretary of State may microfilm or reproduce by other techniques any of the filings or documents and destroy the original filing or document. The microfilm or other reproduction of any

document under this section shall be admissible in any court of law. The microfilm or other reproduction of any document may be destroyed by the Secretary of State 70 years after the death of the personality named therein.

(4) Claims registered under this subdivision shall be public records.

(g) An action shall not be brought under this section by reason of any use of a deceased personality's name, voice, signature, photograph, or likeness occurring after the expiration of 70 years after the death of the deceased personality.

(h) As used in this section, "deceased personality" means any natural person whose name, voice, signature, photograph, or likeness has commercial value at the time of that person's death, or because of that person's death, whether or not during the lifetime of that natural person the person used the person's name, voice, signature, photograph, or likeness on or in products, merchandise, or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services. A "deceased personality" shall include, without limitation, any such natural person who has died within 70 years prior to January 1, 1985.

(i) As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the deceased personality is readily identifiable. A deceased personality shall be deemed to be readily identifiable from a photograph if one who views the photograph with the naked eye can reasonably determine who the person depicted in the photograph is.

(j) For purposes of this section, the use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subdivision (a).

(k) The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subdivision (a) solely because the material containing the use is commercially sponsored or contains paid advertising. Rather, it shall be a question of fact whether or not the use of the deceased personality's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subdivision (a).

(l) Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit advertisements, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that the owners or employees had knowledge of the unauthorized use of the deceased personality's name, voice, signature, photograph, or likeness as prohibited by this section.

(m) The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

(n) In the case of an individual who performs music as a profession, an action to enforce this section may be brought by that individual and by any person or entity that has entered into a contract for the individual's exclusive personal services as a recording artist or an exclusive license to distribute sound recordings that capture the individual's audio performances.

(o) This section shall apply to the adjudication of liability and the imposition of any damages or other remedies in cases in which the liability, damages, and other remedies arise from acts occurring directly in this state. For purposes of this section, acts giving rise to liability shall be limited to the use, on or in products, merchandise, goods, or services, or the advertising or selling, or soliciting purchases of, products, merchandise, goods, or services prohibited by this section.

(p) Notwithstanding any provision of this section to the contrary, if an action was taken prior to May 1, 2007, to exercise rights recognized under this section relating to a deceased personality who died prior to January 1, 1985, by a person described in subdivision (d), other than a person who was disinherited by the deceased personality in a testamentary instrument, and the exercise of those rights was not challenged successfully in a court action by a person described in subdivision (b), that exercise shall not be affected by subdivision (b). In that case, the rights that would otherwise vest in one or more persons described in subdivision (b) shall vest solely in the person or persons described in subdivision (d), other than a person disinherited by the deceased personality in a testamentary instrument, for all future purposes.

(q) The rights recognized by this section are expressly made retroactive, including to those deceased personalities who died prior to January 1, 1985.

(Amended by Stats. 2024, Ch. 258, Sec. 2. (AB 1836) Effective January 1, 2025.)

3344.5. (a) Any person whose signature is used in violation of, and any candidate for elective office whose election or defeat is expressly advocated in any campaign advertisement that violates, subdivision (b) of Section 115.1 of the Penal Code, shall have a civil cause of action against any person committing the violation.

(b) If a mass mailing or other printed matter that violates subdivision (b) of Section 115.1 of the Penal Code expressly advocates the election or defeat of more than one candidate only a person whose signature is used and the candidate or candidates to whom the unauthorized signature directly relates shall have a civil cause of action pursuant to this section.

(c) Any person bringing a cause of action pursuant to this section may recover damages in an amount of two times the cost of the communication, but not to exceed fifty thousand dollars (\$50,000), with regard to which the unauthorized signature was used.

(d) As used in this section, "signature" means either of the following:

(1) A handwritten or mechanical signature, or a copy thereof.

(2) Any representation of a person's name, including, but not limited to, a printed or typewritten representation, that serves the same purpose as a handwritten or mechanical signature.

(Amended by Stats. 1993, Ch. 334, Sec. 1. Effective January 1, 1994.)

3344.6. (a) Any candidate for elective office whose election or defeat is expressly advocated in any campaign advertisement which violates subdivision (a) of Section 115.2 of the Penal Code shall have a civil cause of action against any person committing the violation.

(b) If a mass mailing or other printed matter which violates subdivision (a) of Section 115.2 of the Penal Code expressly advocates the election or defeat of more than one candidate, only the candidate or candidates to whom the misstatement or misrepresentation directly relates shall have a civil cause of action pursuant to this section.

(c) Any person bringing a cause of action pursuant to this section may recover damages in an amount of two times the cost of the communication, but not to exceed fifty thousand dollars (\$50,000).

(Added by Stats. 1991, Ch. 1051, Sec. 1.)

3345. (a) This section shall apply only in actions brought by, on behalf of, or for the benefit of those individuals specified in paragraphs (1) to (3), inclusive, to redress unfair or deceptive acts or practices or unfair methods of competition.

(1) Senior citizens, as defined in subdivision (f) of Section 1761.

(2) Disabled persons, as defined in subdivision (g) of Section 1761.

(3) Veterans, as defined in Section 18540.4 of the Government Code.

(b) Whenever a trier of fact is authorized by a statute to impose either a fine, or a civil penalty or other penalty, or any other remedy the purpose or effect of which is to punish or deter, and the amount of the fine, penalty, or other remedy is subject to the trier of fact's discretion, the trier of fact shall consider the factors set forth in paragraphs (1) to (3), inclusive, in addition to other appropriate factors, in determining the amount of fine, civil penalty or other penalty, or other remedy to impose. Whenever the trier of fact makes an affirmative finding in regard to one or more of the factors set forth in paragraphs (1) to (3), inclusive, it may impose a fine, civil penalty or other penalty, or other remedy in an amount up to three times greater than authorized by the statute, or, where the statute does not authorize a specific amount, up to three times greater than the amount the trier of fact would impose in the absence of that affirmative finding.

(1) Whether the defendant knew or should have known that their conduct was directed to one or more senior citizens, disabled persons, or veterans.

(2) Whether the defendant's conduct caused one or more senior citizens, disabled persons, or veterans to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen, disabled person, or veteran.

(3) Whether one or more senior citizens, disabled persons, or veterans are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(Amended by Stats. 2022, Ch. 78, Sec. 1. (AB 1730) Effective January 1, 2023.)

3345.1. (a) This section shall apply only in a civil action brought by, or on behalf of, or for the benefit of, a person who is a minor or nonminor dependent and is a victim of commercial sexual exploitation committed by a person who is over 18 years of age or facilitated, aided, or abetted by a social media platform in violation of subdivision (g). For purposes of this section, the age of the victim, the status of the victim as a minor or nonminor dependent, and the age of the defendant is determined at the time of the defendant's act of commercial sexual exploitation of the victim.

(b) In a civil action brought by, on behalf of, or for the benefit of a minor, or nonminor dependent, against a person who engaged in any act of commercial sexual exploitation of a minor or nonminor dependent, whenever a trier of fact is authorized by a statute, other than subdivision (c), to impose either a fine, or a civil penalty or other penalty, or any other remedy the purpose or effect of which is to punish or deter, and the amount of the fine, penalty, or other remedy is subject to the trier of fact's discretion, the trier of fact shall consider all of the following factors, in addition to other appropriate factors, in determining the amount of fine, civil penalty, or other penalty, or other remedy to impose. If the trier of fact makes an affirmative finding in regard to one or more of the following factors, it may impose a fine, civil penalty, or other penalty, or other remedy in an amount up to three times greater than authorized by the statute, or, if the statute does not authorize a specific amount, up to three times greater than the amount the trier of fact would impose in the absence of that affirmative finding:

(1) Whether the defendant's conduct was directed to more than one minor or nonminor dependent.

(2) Whether one or more minors or nonminor dependents suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(3) Whether the defendant knew or reasonably should have known that the victim was a minor or nonminor dependent. It shall not be a defense to imposition of fines, penalties, or other remedies pursuant to this paragraph that the defendant was unaware of the victim's age or status as a nonminor dependent at the time of the act.

(c) If the trier of fact is not authorized by statute to impose a civil penalty in an action described in subdivision (b), the court may award a civil penalty not exceeding fifty thousand dollars (\$50,000), and not less than ten thousand dollars (\$10,000), for each act of commercial sexual exploitation committed by the defendant upon making an affirmative finding in regard to one or more of the factors set forth in paragraphs (1) to (3), inclusive, of subdivision (b). This penalty may be imposed in addition to any other remedy available in law or in equity.

(d) Any penalty imposed pursuant to this section shall be paid to the victim of the act of sexual exploitation.

(e) It shall not be a defense to the imposition of fines or penalties pursuant to this section that the victim consented to the act of commercial sexual exploitation.

(f) If the victim is under 18 years of age, the court, in its discretion, may order that any penalty imposed pursuant to this section be held in trust for the victim and used exclusively for the benefit and well-being of the victim. When the victim reaches 18 years of age or is emancipated, the trust shall expire and any unspent remainder shall be the sole property of the victim.

(g) (1) A social media platform shall not knowingly facilitate, aid, or abet commercial sexual exploitation.

(2) For a violation of this subdivision, a court shall award statutory damages not exceeding four million dollars (\$4,000,000) and not less than one million dollars (\$1,000,000) for each act of commercial sexual exploitation facilitated, aided, or abetted by the social media platform.

(3) A social media platform shall not be deemed to be in violation of this subdivision if it demonstrates all of the following:

(A) The social media platform instituted and maintained a program of at least biannual audits of its designs, algorithms, practices, affordances, and features to detect designs, algorithms, practices, affordances, or features that have the potential to cause or contribute to violations of this subdivision.

(B) The social media platform took action, within 30 days of the completion of an audit described in subparagraph (A), designed to mitigate or eliminate the reasonably foreseeable risk that a design, algorithm, practice, affordance, or feature violates, or contributes to a violation of, this subdivision.

(C) The social media platform provided to each member of the social media platform's board of directors a true and correct copy of each audit within 90 days of the audit being completed accompanied by a description of any action taken pursuant to subparagraph (B).

(4) Without in any way limiting the application of the term "knowingly" under paragraph (1), for purposes of this subdivision, a social media platform shall be deemed to have knowledge under paragraph (1) if all of the following are true:

(A) Material was reported to a social media platform using the mechanism required under subdivision (a) of Section 3273.66 for four consecutive months.

(B) The criteria set forth in paragraphs (1) to (3), inclusive, subdivision (a) of Section 3273.66 are established with respect to that reported material.

(C) The reported material was first displayed, stored, or hosted on the platform after January 1, 2025.

(5) As used in this subdivision, "facilitate, aid, or abet" means to deploy a system, design, feature, or affordance that is a substantial factor in causing minor users to be victims of commercial sexual exploitation.

(h) As used in this section:

(1) "Commercial sexual exploitation" means an act committed for the purpose of obtaining property, money, or anything else of value in exchange for, or as a result of, a sexual act of a minor or nonminor dependent, including, but not limited to, an act that would constitute a violation of any of the following:

(A) Sex trafficking of a minor in violation of subdivision (c) of Section 236.1 of the Penal Code.

(B) Pimping of a minor in violation of Section 266h of the Penal Code.

(C) Pandering of a minor in violation of subdivision (b) of Section 266i of the Penal Code.

(D) Procurement of a child under 16 years of age for lewd and lascivious acts in violation of Section 266j of the Penal Code.

(E) Solicitation of a child for a purpose that is either in violation of subparagraph (A) or pursuant to paragraph (3) of subdivision (b) of Section 647 of the Penal Code.

(F) An act of sexual exploitation described in subdivision (c) or (d) of Section 11165.1 of the Penal Code.

(2) "Nonminor dependent" has the same meaning as in subdivision (v) of Section 11400 of the Welfare and Institutions Code.

(3) (A) "Social media platform" has, except as provided in subparagraph (B), the same meaning as defined in Section 22675 of the Business and Professions Code.

(B) "Social media platform" does not include either of the following:

(i) A stand-alone direct messaging service that provides end-to-end encrypted communication or the portion of a multiservice platform that uses end-to-end encrypted communication.

(ii) An internet-based service or application owned or operated by a nonprofit organization exempt from federal income tax pursuant to Section 501(c)(3) of the Internal Revenue Code.

(i) A waiver of the provisions of this section is contrary to public policy and is void and unenforceable.

(Amended by Stats. 2023, Ch. 579, Sec. 3. (AB 1394) Effective January 1, 2024. Operative January 1, 2025, as prescribed by Stats. 2023, Ch. 579, Sec. 5.)

3346. (a) For wrongful injuries to timber, trees, or underwood upon the land of another, or removal thereof, the measure of damages is three times such sum as would compensate for the actual detriment, except that where the trespass was casual or involuntary, or that the defendant in any action brought under this section had probable cause to believe that the land on which the trespass was committed was his own or the land of the person in whose service or by whose direction the act was done, the measure of damages shall be twice the sum as would compensate for the actual detriment, and excepting further that where the wood was taken by the authority of highway officers for the purpose of repairing a public highway or bridge upon the land or adjoining it, in which case judgment shall only be given in a sum equal to the actual detriment.

(b) The measure of damages to be assessed against a defendant for any trespass committed while acting in reliance upon a survey of boundary lines which improperly fixes the location of a boundary line, shall be the actual detriment incurred if both of the following conditions exist:

(1) The trespass was committed by a defendant who either himself procured, or whose principal, lessor, or immediate predecessor in title procured the survey to be made; and

(2) The survey was made by a person licensed under the laws of this State to practice land surveying.

(c) Any action for the damages specified by subdivisions (a) and (b) of this section must be commenced within five years from the date of the trespass.

(Repealed and added by Stats. 1957, Ch. 2346.)