
ENGROSSED SENATE BILL 5120

State of Washington

53rd Legislature

1993 Regular Session

By Senator A. Smith

Read first time 01/13/93. Referred to Committee on Law & Justice.

1 AN ACT Relating to consumer protection; and amending RCW 19.86.090
2 and 19.86.920.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.86.090 and 1987 c 202 s 187 are each amended to
5 read as follows:

6 Any person who is injured in his or her business or property by a
7 violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or
8 19.86.060, or any person so injured because he or she refuses to accede
9 to a proposal for an arrangement which, if consummated, would be in
10 violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may
11 bring a civil action in the superior court to enjoin further
12 violations, to recover the actual damages sustained by him or her, or
13 both, together with the costs of the suit, including a reasonable
14 attorney's fee, and the court may in its discretion, increase the award
15 of damages to an amount not to exceed three times the actual damages
16 sustained: PROVIDED, That such increased damage award for violation of
17 RCW 19.86.020 may not exceed (~~ten~~) twenty-five thousand dollars:
18 PROVIDED FURTHER, That such person may bring a civil action in the
19 district court to recover his or her actual damages, except for damages

1 which exceed the amount specified in RCW 3.66.020, and the costs of the
2 suit, including reasonable attorney's fees. The district court may, in
3 its discretion, increase the award of damages to an amount not more
4 than three times the actual damages sustained, but such increased
5 damage award shall not exceed the amount specified in RCW 3.66.020.
6 For the purpose of this section "person" shall include the counties,
7 municipalities, and all political subdivisions of this state.

8 Whenever the state of Washington is injured by reason of a
9 violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, it may
10 sue therefor in the superior court to recover the actual damages
11 sustained by it and to recover the costs of the suit including a
12 reasonable attorney's fee.

13 When an action is brought under this section the court shall take
14 all reasonable steps, including transfer and consolidation of actions,
15 to protect against duplicative recoveries for the same injury.

16 Proof of injury to the public interest shall not be required in any
17 action brought under this section, except that the court shall require
18 proof of injury to the public interest prior to any award above actual
19 damages relating to an unfair or deceptive act or practice in violation
20 of RCW 19.86.020. In addition, where injury to the public interest is
21 not proven, the court shall award to the prevailing party costs of the
22 suit, including reasonable attorney fees.

23 **Sec. 2.** RCW 19.86.920 and 1985 c 401 s 1 are each amended to read
24 as follows:

25 The legislature hereby declares that the purpose of this act is to
26 complement the body of federal law governing restraints of trade,
27 unfair competition and unfair, deceptive, and fraudulent acts or
28 practices in order to protect the public and foster fair and honest
29 competition. It is the intent of the legislature that, in construing
30 this act, the courts be guided by final decisions of the federal courts
31 and final orders of the federal trade commission interpreting the
32 various federal statutes dealing with the same or similar matters and
33 that in deciding whether conduct restrains or monopolizes trade or
34 commerce or may substantially lessen competition, determination of the
35 relevant market or effective area of competition shall not be limited
36 by the boundaries of the state of Washington. To this end this act
37 shall be liberally construed that its beneficial purposes may be
38 served.

1 It is, however, the intent of the legislature that this act shall
2 not be construed to prohibit acts or practices which are reasonable in
3 relation to the development and preservation of business (~~(or which are~~
4 ~~not injurious to the public interest)~~), nor be construed to authorize
5 those acts or practices which unreasonably restrain trade or are
6 unreasonable per se.

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