

2 SB 5120 - S AMD - 000258  
3 By Senator A. Smith

4 ADOPTED 3/15/93

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 19.86.090 and 1987 c 202 s 187 are each amended to  
8 read as follows:

9 Any person who is injured in his or her business or property by a  
10 violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or  
11 19.86.060, or any person so injured because he or she refuses to accede  
12 to a proposal for an arrangement which, if consummated, would be in  
13 violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may  
14 bring a civil action in the superior court to enjoin further  
15 violations, to recover the actual damages sustained by him or her, or  
16 both, together with the costs of the suit, including a reasonable  
17 attorney's fee, and the court may in its discretion, increase the award  
18 of damages to an amount not to exceed three times the actual damages  
19 sustained: PROVIDED, That such increased damage award for violation of  
20 RCW 19.86.020 may not exceed (~~ten~~) twenty-five thousand dollars:  
21 PROVIDED FURTHER, That such person may bring a civil action in the  
22 district court to recover his or her actual damages, except for damages  
23 which exceed the amount specified in RCW 3.66.020, and the costs of the  
24 suit, including reasonable attorney's fees. The district court may, in  
25 its discretion, increase the award of damages to an amount not more  
26 than three times the actual damages sustained, but such increased  
27 damage award shall not exceed the amount specified in RCW 3.66.020.  
28 For the purpose of this section "person" shall include the counties,  
29 municipalities, and all political subdivisions of this state.

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

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

4 Proof of injury to the public interest shall not be required in any  
5 action brought under this section, except that the court shall require  
6 proof of injury to the public interest prior to any award above actual  
7 damages relating to an unfair or deceptive act or practice in violation  
8 of RCW 19.86.020. In addition, where injury to the public interest is  
9 not proven, the court shall award to the prevailing party costs of the  
10 suit, including reasonable attorney fees.

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

13 The legislature hereby declares that the purpose of this act is to  
14 complement the body of federal law governing restraints of trade,  
15 unfair competition and unfair, deceptive, and fraudulent acts or  
16 practices in order to protect the public and foster fair and honest  
17 competition. It is the intent of the legislature that, in construing  
18 this act, the courts be guided by final decisions of the federal courts  
19 and final orders of the federal trade commission interpreting the  
20 various federal statutes dealing with the same or similar matters and  
21 that in deciding whether conduct restrains or monopolizes trade or  
22 commerce or may substantially lessen competition, determination of the  
23 relevant market or effective area of competition shall not be limited  
24 by the boundaries of the state of Washington. To this end this act  
25 shall be liberally construed that its beneficial purposes may be  
26 served.

27 It is, however, the intent of the legislature that this act shall  
28 not be construed to prohibit acts or practices which are reasonable in  
29 relation to the development and preservation of business (~~(or which are~~  
30 ~~not injurious to the public interest)~~), nor be construed to authorize  
31 those acts or practices which unreasonably restrain trade or are  
32 unreasonable per se."

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1        On page 1, line 1 of the title, after "protection;" strike the  
2 remainder of the title and insert "and amending RCW 19.86.090 and  
3 19.86.920."

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