

SENATE BILL REPORT

ESB 5120

AS PASSED SENATE, MARCH 15, 1993

Brief Description: Changing provisions relating to consumer protection.

SPONSORS: Senator A. Smith

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, Rinehart, and Spanel.

Staff: Susan Carlson (786-7418)

Hearing Dates: February 5, 1993; February 25, 1993

BACKGROUND:

The Washington Supreme Court has held that in order to prevail in a private consumer protection action, a plaintiff must, among other factors, establish that a public interest would be served by the lawsuit. Washington is one of only a handful of states that have adopted this restriction on private consumer protection lawsuits.

In a civil action under the Consumer Protection Act, the court has discretion to order treble damages. In the case of unfair trade practices, treble damages may not exceed \$10,000. It has been suggested that this amount should be increased.

SUMMARY:

Proof of injury to the public interest is not required in a consumer protection lawsuit. Public interest or injury is required to be proven prior to any award above actual damages relating to an unfair or deceptive act or practice. If injury to the public interest is not proven, the prevailing party is entitled to recover costs and reasonable attorney fees.

In an unfair trade practices case, treble damages may not exceed \$25,000.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The bill would improve the Consumer Protection Act by allowing private parties to bring actions without the necessity of showing a public interest.

TESTIMONY AGAINST:

These amendments to the Consumer Protection Act could result in double or inconsistent recovery of damages and will make these types of cases more complicated.

TESTIFIED: Rob Manifold, Attorney General's office (pro); Rick Ockerman, attorney (pro); Peter Maier, attorney (pro); Larry Shannon, Washington State Trial Lawyers Association (pro); Clif Finch, Association of Washington Business (con); Janet Lim, Washington Auto Dealers (con); Jan Gee, Washington Retail Association (con)