

# SENATE BILL REPORT

## SB 6405

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As Reported By Senate Committee On:  
Commerce, Trade, Housing & Financial Institutions, January 28, 2000

**Title:** An act relating to damage awards for unfair business practices.

**Brief Description:** Increasing limits for damage awards for unfair business practices.

**Sponsors:** Senators Kline, Brown, Thibaudeau, Bauer, Franklin, Kohl-Welles and Benton.

**Brief History:**

**Committee Activity:** Commerce, Trade, Housing & Financial Institutions: 1/27/2000, 1/28/2000 [DP, DNP].

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### SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Shin, Vice Chair; Gardner, Heavey, Rasmussen, T. Sheldon and Winsley.

**Minority Report:** Do not pass.

Signed by Senator Hale.

**Staff:** Susan Jones (786-7784)

**Background:** The Consumer Protection Act makes unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce unlawful. The intent of the act is to protect the public and foster fair and honest competition.

To establish a violation of the Consumer Protection Act, a plaintiff must establish these elements: (a) an unfair or deceptive act or practice; (b) occurring in trade or commerce; (c) an impact on the public interest; (d) injury to the plaintiff's business or property; and (e) a causal connection between the act or practice and the injury. An act or practice is unfair or deceptive if it has the capacity to deceive a substantial portion of the public.

A person who is injured by a violation of the Consumer Protection Act may bring a civil action in superior court to enjoin further violations and recover actual damages, costs, and reasonable attorneys' fees. In cases of unfair methods of competition and unfair or deceptive acts or practices in trade or commerce, the superior court may increase the award of damages to an amount not to exceed three times the actual damages, up to \$10,000.

The same statute also allows a person to bring a civil action for a violation of the Consumer Protection Act in district court to recover actual damages that do not exceed the district court's jurisdictional limit. The district court may increase the award of damages to an amount not to exceed three times the actual damages, up to the amount specified in RCW

3.66.020. RCW 3.66.020 establishes the district court's jurisdictional limit, currently \$35,000.

**Summary of Bill:** In cases of unfair methods of competition and unfair or deceptive acts or practices in trade or commerce, the superior court may increase the award of damages to an amount not to exceed three times the actual damages, up to \$35,000.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This is a good idea and provides a greater deterrent by providing the greater amount in superior court, which is currently available in district court. A Consumer Protection Act violation is not an easy action to prove and it is important that this remain a strong statute.

**Testimony Against:** This is not a small change. Punitive damages are not favored by the courts. The Insurance Commissioner may take action against insurance companies that are committing unfair or deceptive acts.

**Testified:** Larry Shannon, WA Trial Lawyers Association (pro); Jean Leonard, State Farm, Alliance of American Insurers, WA Insurers (con).