

SENATE BILL REPORT

SHB 2072

As Passed Senate, February 29, 2024

Title: An act relating to the antitrust penalties improvement act.

Brief Description: Concerning penalties relating to antitrust actions.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Farivar, Taylor, Ryu, Reeves, Slatter, Reed, Ormsby, Ramel, Macri, Goodman, Fosse, Riccelli and Hackney; by request of Attorney General).

Brief History: Passed House: 2/8/24, 59-37.

Committee Activity: Law & Justice: 2/16/24, 2/20/24 [DP, DNP, w/oRec].

Floor Activity: Passed Senate: 2/29/24, 29-20.

Brief Summary of Bill

- Revises the maximum civil penalties that may be imposed for violations of certain antitrust provisions of the Consumer Protection Act.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, Pedersen, Salomon and Valdez.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; Torres, Wagoner and Wilson, L..

Minority Report: That it be referred without recommendation.

Signed by Senator McCune.

Staff: Ryan Giannini (786-7285)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: The Consumer Protection Act (CPA) declares a variety of business practices unlawful. These unlawful practices include:

- engaging in unfair methods of competition and unfair or deceptive acts or practices in the conduct of commerce;
- the formation of contracts, combinations, and conspiracies in restraint of trade or commerce; and
- monopolizing or attempting to monopolize trade.

A person injured by a violation of the CPA may bring a civil action to enjoin further violations and to recover actual damages, costs, and attorney's fees. Recovery may also include an increased award of triple the actual damages, up to a maximum of \$25,000.

The Attorney General may bring an action in the name of the state, or on behalf of persons residing in the state, against any person to enjoin violations of the CPA and to obtain restitution for persons injured by the violation. The prevailing party may, in the discretion of the court, recover costs and attorney's fees. The Attorney General may also seek civil penalties up to statutorily authorized maximums against any person who violates the CPA.

A violation of the CPA's prohibitions on monopolies and on contracts, combinations, and conspiracies in restraint of trade or commerce are subject to the following maximum penalties:

- for an individual, a penalty of up to \$180,000; and
- for a person that is not an individual, a penalty of up to \$900,000.

Civil penalties imposed in CPA actions are paid to the state.

Summary of Bill: Every person who violates prohibitions on monopolies or the formation of contracts, combinations, and conspiracies in restraint of trade or commerce must pay a civil penalty of up to three times the unlawful gains or loss avoided as a result of each violation.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: This legislation aims to ensure a fair marketplace for businesses and consumers by updating penalties for antitrust violations like collusion, price fixing, and monopolies to make sure that the costs of these violations match the unlawful behavior. Violators may see the current penalties as nominal since the maximum statutory penalty is only \$900,000. Deterring antitrust conduct will lead to a

stronger and fairer marketplace. It is not enough to punish behavior. Future unlawful behavior must also be deterred. Tying penalties directly to profit will be an effective deterrent. This will ensure that people play by the rules and ensure a fair playing field for everyone.

Persons Testifying: PRO: Representative Darya Farivar, Prime Sponsor; Jonathan Mark, Attorney General's Office.

Persons Signed In To Testify But Not Testifying: No one.