

**HOUSE BILL NO. 203**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES DYSON, Croft

Introduced: 3/18/97

Referred: Labor and Commerce, Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to actions for unlawful trade practices."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 45.50.473(c) is amended to read:

4 (c) A violation of this section constitutes an unfair or deceptive act or practice  
5 under AS 45.50.471. **It** [NOTWITHSTANDING AS 45.50.531(a), IT] is presumed  
6 that actual damages to the consumer **under AS 45.50.531(a)** are equal to the cost of  
7 the service provided plus \$200. Additional damages must be proved.

8 \* **Sec. 2.** AS 45.50.531(a) is amended to read:

9 (a) A person who suffers an ascertainable loss of money or property, **or who**  
10 **is otherwise aggrieved,** as a result of another person's act or practice declared  
11 unlawful by AS 45.50.471 may bring a civil action to recover **for each unlawful act**  
12 **or practice three times the** actual damages or **\$500** [\$200], whichever is greater.  
13 [THE COURT MAY, IN CASES OF WILFUL VIOLATION, AWARD UP TO  
14 THREE TIMES THE ACTUAL DAMAGES SUSTAINED.] The court may provide  
15 other relief it considers necessary and proper. **Nothing in this subsection prevents**

1 a person who brings an action under this subsection from pursuing other  
 2 remedies available under other law, including common law.

3 \* **Sec. 3.** AS 45.50.531(f) is amended to read:

4 (f) A person may not commence an action under this section more than two  
 5 years after the person discovers or reasonably should have discovered that the cause  
 6 of action arose [THE LOSS RESULTED] from an act or practice declared unlawful  
 7 by AS 45.50.471.

8 \* **Sec. 4.** AS 45.50 is amended by adding new sections to read:

9 **Sec. 45.50.535. Private injunctive relief.** (a) Subject to (b) of this section  
 10 and in addition to any right to bring an action under AS 45.50.531 or other law, any  
 11 person may bring an action to obtain an injunction prohibiting a seller or lessor from  
 12 continuing to engage in an unlawful act or practice.

13 (b) A person may not bring an action under (a) of this section unless

14 (1) the person first provides written notice to the seller or lessor who  
 15 engaged in the unlawful act or practice that the person will seek an injunction against  
 16 the seller or lessor unless the seller or lessor fails to promptly stop the unlawful act  
 17 or practice; and

18 (2) the seller or lessor fails to promptly stop the unlawful act or  
 19 practice after receiving the notice.

20 (c) It is not necessary that a person suffer damages or otherwise be injured by  
 21 the unlawful act or practice in order to bring an action under (a) of this section.

22 **Sec. 45.50.537. Attorney fees and costs.** Notwithstanding AS 09.60.015, in  
 23 an action brought under AS 45.50.471 - 45.50.561, a prevailing plaintiff, whether the  
 24 state or a private plaintiff, shall be awarded costs as provided by court rule and full  
 25 reasonable attorney fees at the prevailing reasonable rate, and a private plaintiff, who  
 26 is not the prevailing party, may not be required to pay attorney fees or costs to the  
 27 defendant unless the court determines that the cause of action brought by the plaintiff  
 28 is frivolous.

29 \* **Sec. 5.** AS 45.50.531(g) is repealed.