

**CS FOR HOUSE BILL NO. 203(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 5/6/97

Referred: Judiciary

Sponsor(s): REPRESENTATIVES DYSON, Cowdery, Porter

**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 as a result  
10 of another person's act or practice declared unlawful by AS 45.50.471 may bring a  
11 civil action to recover **for each unlawful act or practice three times the** actual  
12 damages or **\$500** [\$200], whichever is greater. [THE COURT MAY, IN CASES OF  
13 WILFUL VIOLATION, AWARD UP TO THREE TIMES THE ACTUAL DAMAGES  
14 SUSTAINED.] The court may provide other relief it considers necessary and proper.

15 **Nothing in this subsection prevents a person who brings an action under this**

**subsection from pursuing other remedies available under other law, including common law.**

\* **Sec. 3.** AS 45.50 is amended by adding new sections to read:

**Sec. 45.50.535. Private injunctive relief.** (a) Subject to (b) of this section and in addition to any right to bring an action under AS 45.50.531 or other law, any person may bring an action to obtain an injunction prohibiting a seller or lessor from continuing to engage in an act or practice declared unlawful under AS 45.50.471.

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

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

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

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

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

(b) In an action brought under AS 45.50.471 - 45.50.561, the court shall award the defendant costs as provided by court rule and full reasonable attorney fees at the prevailing reasonable rate if the action is found to be frivolous.

(c) In an action brought under AS 45.50.471 - 45.50.561, if the court finds that the action was brought by the plaintiff to obtain a competitive business advantage and the plaintiff is not the prevailing party, the court shall award the defendant costs as provided by court rule, full reasonable attorney fees at the prevailing reasonable rate, and any damages suffered by the defendant as a result of the plaintiff's allegations.

**1** \* **Sec. 4.** AS 45.50.531(g) is repealed.