

HOUSE BILL NO. 14

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-EIGHTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE GRUENBERG

Introduced: 1/16/13

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 "An Act authorizing and relating to certain causes of action for relief for direct or
2 indirect injuries sustained as a result of antitrust violations; repealing the provision
3 limiting to the attorney general the recovery of monetary relief for injury directly or
4 indirectly sustained as a result of an antitrust violation; and relating to remedies,
5 penalties, judgments, aggregate damages, and commencement of actions for antitrust
6 violations."

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

8 * **Section 1.** AS 45.50.576(a) is amended to read:

9 (a) A person **that** [WHO] is injured **directly or indirectly** [IN BUSINESS
10 OR PROPERTY] by a violation of AS 45.50.562 - 45.50.570, or a person **that is** [SO]
11 injured because the person refuses to accede to a proposal for an arrangement that, if
12 consummated, would be a violation of AS 45.50.562 - 45.50.570, may bring a civil
13 action

1 (1) for damages **directly or indirectly** sustained by the person, and, if
 2 the judgment is for the plaintiff, the plaintiff shall be awarded threefold the amount of
 3 damages **directly or indirectly** sustained by the person, plus the costs of the suit,
 4 including reasonable attorney fees; and

5 (2) to enjoin the unlawful practice, and, if the judgment is for the
 6 plaintiff, the plaintiff may be awarded costs of the suit, including reasonable attorney
 7 fees.

8 * **Sec. 2.** AS 45.50.576 is amended by adding new subsections to read:

9 (d) A person commencing an action for a violation of AS 45.50.562 -
 10 45.50.570 shall, simultaneously with the filing of the complaint with the court, mail a
 11 copy of the complaint to the attorney general.

12 (e) In this section, "person" has the meaning given in AS 01.10.060 and
 13 includes the state, a political subdivision of the state, including a home rule or general
 14 law city or borough, and other governmental entities, including the Alaska Railroad
 15 Corporation and the University of Alaska.

16 * **Sec. 3.** AS 45.50.577(a) is amended to read:

17 (a) The attorney general may bring a civil action [IN SUPERIOR COURT] to
 18 secure monetary, **injunctive, and other equitable** relief [AS PROVIDED IN THIS
 19 SECTION] on behalf of the state and its agencies injured [EITHER] directly or
 20 indirectly by reason of **a** [ANY] violation of AS 45.50.562 - 45.50.570.

21 * **Sec. 4.** AS 45.50.577(b) is amended to read:

22 (b) The attorney general may bring a civil action [IN SUPERIOR COURT] in
 23 the name of the state, as parens patriae on behalf of [GOVERNMENTAL ENTITIES
 24 OR] persons doing business or residing in this state, to secure monetary, **injunctive,**
 25 **and other equitable** relief [AS PROVIDED IN THIS SECTION] for injuries directly
 26 or indirectly sustained by persons by reason of **a** [ANY] violation of AS 45.50.562 -
 27 45.50.570.

28 * **Sec. 5.** AS 45.50.577(e) is amended to read:

29 (e) In **an** [ANY] action brought under (b) of this section, the attorney general,
 30 at the times, in the manner, and with the content the court directs, shall cause notice of
 31 the action to be given by publication. **A** [ANY GOVERNMENTAL ENTITY OR]

1 person on whose behalf an action is brought under (b) of this section may elect to
 2 exclude from civil action the portion of the state claim for [MONETARY] relief
 3 attributable to that [GOVERNMENTAL ENTITY OR] person by filing notice of the
 4 election with the court within the time specified in the attorney general's notice given
 5 in accordance with this subsection.

6 * **Sec. 6.** AS 45.50.577(f) is amended to read:

7 (f) The final judgment in an action under (a) or (b) of this section is res
 8 judicata as to any claim under AS 45.50.576 by **a** [ANY GOVERNMENTAL
 9 ENTITY OR] person on whose behalf the action was brought and who fails to give
 10 notice of election to exclude under (e) of this section within the period specified in the
 11 attorney general's notice given under (e) of this section.

12 * **Sec. 7.** AS 45.50.577(h) is amended to read:

13 (h) Monetary relief recovered in an action under this section shall be (1)
 14 distributed in the manner the court, in its discretion, authorizes; or (2) **considered**
 15 [DEEMED] a civil penalty by the court and deposited in the general fund [,] and may
 16 be appropriated to the Alaska permanent fund (AS 37.13.010(a)) or for any other
 17 public purpose. A distribution procedure authorized by the court under this subsection
 18 must afford each [GOVERNMENTAL ENTITY OR] person participating in the civil
 19 action a reasonable opportunity to secure that [ENTITY'S OR] person's appropriate
 20 portion of the net monetary relief.

21 * **Sec. 8.** AS 45.50.577 is amended by adding a new subsection to read:

22 (j) In this section, "person" has the meaning given in AS 01.10.060 and
 23 includes the state, a political subdivision of the state, including a home rule or general
 24 law city or borough, and other governmental entities, including the Alaska Railroad
 25 Corporation and the University of Alaska.

26 * **Sec. 9.** AS 45.50.579 is amended to read:

27 **Sec. 45.50.579. Proof of aggregate damages.** In a civil action brought [BY
 28 THE ATTORNEY GENERAL] under **AS 45.50.562 - 45.50.596** [AS 45.50.577], the
 29 **plaintiff** [ATTORNEY GENERAL] may recover aggregate damages by using
 30 statistical sampling or sampling methods, by the computation of illegal overcharges, or
 31 by a similar, reasonable system of estimating aggregate damages that the court, in its

1 discretion, permits, without the necessity of separately proving the individual claim or
 2 amount of damage to **a person** [GOVERNMENTAL ENTITIES OR PERSONS] on
 3 whose behalf the civil action was brought. **In this section, "person" has the**
 4 **meaning given in AS 01.10.060 and includes the state, a political subdivision of**
 5 **the state, including a home rule or general law city or borough, and other**
 6 **governmental entities, including the Alaska Railroad Corporation and the**
 7 **University of Alaska.**

8 * **Sec. 10.** AS 45.50.580(b) is amended to read:

9 (b) The court may **enter an order or judgment** [MAKE ADDITIONAL
 10 ORDERS OR JUDGMENTS AS MAY BE NECESSARY] to restore to a person in
 11 interest any money or property, real or personal, that may have been acquired by an
 12 act prohibited by AS 45.50.562 - 45.50.596 [,] and [AS] may **enter an order or**
 13 **judgment** [BE NECESSARY] to prevent continuing or future violations of
 14 AS 45.50.562 - 45.50.596. **In this subsection, "person" has the meaning given in**
 15 **AS 01.10.060 and includes the state, a political subdivision of the state, including**
 16 **a home rule or general law city or borough, and other governmental entities,**
 17 **including the Alaska Railroad Corporation and the University of Alaska.**

18 * **Sec. 11.** AS 45.50.580 is amended by adding a new subsection to read:

19 (c) If the court finds that a business organization, including a corporation,
 20 limited liability company, limited partnership, or partnership organized or operating
 21 under the law of the state has violated AS 45.50.562 - 45.50.570, the court may order
 22 the revocation, forfeiture, or suspension of the business organization's charter,
 23 franchise, certificate of authority, privilege, or license, or any combination of them,
 24 and may order the dissolution of the business organization or the divestiture of any
 25 asset.

26 * **Sec. 12.** AS 45.50.586 is amended to read:

27 **Sec. 45.50.586. Judgment [IN FAVOR OF THE STATE] as evidence in**
 28 **another action.** A final **order or** judgment rendered in a civil or criminal action
 29 brought [BY THE STATE] under AS 45.50.562 - 45.50.596 is prima facie evidence **of**
 30 **liability** [AGAINST THE DEFENDANT] in **another** [ANY OTHER] action under
 31 AS 45.50.562 - 45.50.596 brought by another **person** [PARTY, OR BY THE STATE,

1 A CITY, A BOROUGH, OR OTHER GOVERNMENTAL ENTITY]; however, this
2 section does not apply to consent judgments or decrees entered under AS 45.50.584.
3 **In this section, "person" has the meaning given in AS 01.10.060 and includes the**
4 **state, a political subdivision of the state, including a home rule or general law city**
5 **or borough, and other governmental entities, including the Alaska Railroad**
6 **Corporation and the University of Alaska.**

7 * **Sec. 13.** AS 45.50.576(b), 45.50.577(i), and 45.50.580(a) are repealed.