IN THE HOUSE BY COMMERCE AND LABOR COMMITTEE

CS FOR HOUSE BILL NO. 23

IN THE LEGISLATURE OF THE STATE OF ALASKA

SECOND LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act to curb monopolies and outlaw restraints of trade; and providing for an effective date."

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

Section 1. RESTRAINT OF TRADE. Every contract, combination, or conspiracy in unreasonable restraint of trade is unlawful.

Sec. 2. MONOPOLIZATION . It is unlawful to monopolize, attempt to monopolize, or conspire to monopolize trade.

Sec. 3. LABOR NOT AN ARTICLE OF COMMERCE; MUTUAL, NONPROFIT ORGANIZATIONS NOT AFFECTED. The labor of a human being is not a commodity or article of commerce. Nothing contained in this Act shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof.

Sec. 4. CRIMINAL PENALTIES. Any person who violates Secs. 1 or 2 of this Act is guilty of a misdemeanor and may be punished by fine not to exceed $50,000, or imprisonment not to exceed one year, or both. Whenever a corporation violates Secs. 1 or 2 of this Act, the individual directors, officers, or agents of said corporation who have authorized or ordered the acts constituting such violation, shall be punishable in

accordance with this section. Exclusive jurisdiction to enforce this section is vested in the superior courts. No action under this section shall be brought more than four years after the commission of the acts constituting in whole or in part the offense charged.

Sec. 5. EQUITABLE RELIEF. The superior courts of this state are granted exclusive jurisdiction to prevent and restrain violations of Secs. 1 and 2 of this Act. When the party complained of shall have been duly notified that an action has been filed against him, the court shall proceed, as soon as possible, to the hearing and determination of the case, and pending trial the court may at any time make temporary restraining orders or prohibitions as shall be deemed just in the premises.

Sec. 6. ENFORCEMENT. Exclusive power to enforce Secs. 4 and 5 of this Act is vested in the Attorney General or such persons as he may designate.

Sec. 7. PRIVATE REMEDIES. Any person injured in his business or property by a violation of Secs. 1 or 2 of this Act, or because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of Secs. 1 or 2 of this Act, may bring a civil action in the superior court, to enjoin further violations, to recover damages for his injuries, which may be doubled or trebled at the discretion of the court and to recover cost of the suit including a reasonable fee for the services of his attorney. In computing damages under this section the court may consider reasonable expectation interests. For the purposes of this section, "person injured" shall include the State of Alaska, its

agencies and political subdivisions.

Sec. 8. LIMITATION OF PRIVATE DAMAGES ACTIONS. Any action to enforce a claim for treble damages under Sec. 7 shall be forever barred unless commenced within four years after the cause of action accrues: Provided, Whenever any action under Secs. 4 or 5 of this Act is brought by the State of Alaska, the running of the foregoing statute of limitations, with respect to every private right of action for damages under Sec. 7 which is based in whole or in part on any matter complained of in the action brought under Secs. 4 or 5 shall be suspended during the pendency thereof.

Sec. 9. EVIDENTIARY EFFECT OF JUDGMENT IN FAVOR OF STATE. The final judgment or decree rendered in any action brought by the State of Alaska under Secs. 4 or 5 to the effect that defendant has violated Secs. 1 or 2 shall be prima facie evidence against such defendant under Sec. 7 of this Act, as to all matters respecting which the judgment or decree would be an estoppel as between the parties thereto. Provided, That this section shall not apply to consent judgments or decrees, or judgments entered under a decree of nolo contendere, where the court makes no finding of illegality. This section shall in no way impair any collateral estoppel to which the state is otherwise entitled.

Sec. 10. SEVERABILITY. If any section, subsection, or provision of this Act shall be held invalid by any court for any reason, such invalidity shall not in any way affect the validity of the remainder of this Act.

Sec. 11. EXEMPTED TRANSACTIONS. Nothing in this Act shall apply to actions or transactions otherwise permitted, prohibited

or regulated by any regulatory body or officer acting under statutory authority of this state or the United States.

Sec. 12. PURPOSE. It is the intent of the legislature that, in construing this Act, the courts be guided by the interpretation given by the federal courts to the various federal statutes dealing with the same or similar matters and in deciding whether conduct restrains or monopolizes trade or commerce or may substantially lessen competition, determination of the relevant market or effective area of competition shall not be limited by the boundaries of the State of Alaska.

Sec. 13. SHORT TITLE. This Act may be known and cited as the "Alaska Anti-trust Act."

Sec. 14. EFFECTIVE DATE. This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.