

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

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2d CS FOR HOUSE BILL NO. 23

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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SECOND LEGISLATURE - SECOND SESSION

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A BILL

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For an Act entitled: "An Act to curb monopolies and outlaw

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restraints of trade or commerce; and pro-

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viding for an effective date."

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

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Section 1. RESTRAINT OF TRADE. Every contract, combination,

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or conspiracy in unreasonable restraint of trade or commerce is

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unlawful.

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Sec. 2. MONOPOLIZATION. It is unlawful to monopolize,

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attempt to monopolize, or conspire to monopolize trade or

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commerce.

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Sec. 3. LABOR NOT AN ARTICLE OF COMMERCE; MUTUAL, NONPROFIT

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ORGANIZATIONS NOT AFFECTED. The labor of a human being is not a

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commodity or article of commerce. Nothing contained in this Act

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shall be construed to forbid the existence and operation of

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labor, agricultural, or horticultural organizations, instituted

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for the purposes of mutual help, and not having capital stock or

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conducted for profit, or to forbid or restrain individual members

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of such organizations from lawfully carrying out the legitimate

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objects thereof. However, if such organization monopolizes or

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restrains trade or commerce to the extent that the price of any

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agricultural product is unduly enhanced, then this Act shall

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apply.

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Sec. 4. CRIMINAL PENALTIES. Any person who violates Secs.

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1 or 2 of this Act is guilty of a misdemeanor and may be punished

1 by fine not to exceed \$50,000, or imprisonment not to exceed one  
2 year, or both. Whenever a corporation violates Secs. 1 or 2 of  
3 this Act, the individual directors, officers, or agents of said  
4 corporation who have authorized or ordered the acts constituting  
5 such violation, shall be punishable in accordance with this  
6 section. Exclusive jurisdiction to enforce this section is vest-  
7 ed in the superior courts. No action under this section shall be  
8 brought more than four years after the commission of the acts  
9 constituting in whole or in part the offense charged.

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

18 Sec. 6. ENFORCEMENT. Exclusive power to enforce Secs. 4  
19 and 5 of this Act is vested in the Attorney General or such per-  
20 sons as he may designate.

21 Sec. 7. PRIVATE REMEDIES. Any person injured in his busi-  
22 ness or property by a violation of Secs. 1 or 2 of this Act, or  
23 because he refuses to accede to a proposal for an arrangement  
24 which, if consummated, would be in violation of Secs. 1 or 2 of  
25 this Act, may bring a civil action in the superior court, to  
26 enjoin further violations, to recover treble damages for his in-  
27 juries. In computing damages under this section the court may  
28 consider reasonable expectation interests. For the purposes of  
29 this section, "person injured" shall include the State of Alaska,

1 its agencies and political subdivisions.

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

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

22       Sec. 10. CONTRACTS VOID. Contracts or agreements in  
23 violation of this Act are void and unenforceable in law and  
24 equity.

25       Sec. 11. PERSONAL SERVICE OUT OF STATE. Personal service  
26 of any process in an action under Secs. 5 or 7 may be made upon  
27 any person outside the state, (1) if such person has done an act  
28 in violation of Secs. 1 or 2 of this Act which has had the impact  
29 in this state which such sections reprehend, or (2) if the

1 presence of such person before the court is necessary to the  
2 securing of adequate relief. Persons in category (1) shall be  
3 deemed to have submitted themselves to the jurisdiction of the  
4 courts of this state by doing an act in violation of this Act.

5 Sec. 12. SEVERABILITY. If any section, subsection, or pro-  
6 vision of this Act shall be held invalid by any court for any  
7 reason, such invalidity shall not in any way affect the validity  
8 of the remainder of this Act.

9 Sec. 13. EXEMPTED TRANSACTIONS. Nothing in this Act shall  
10 apply to actions or transactions otherwise permitted, prohibited  
11 or regulated by any regulatory body or officer acting under  
12 statutory authority of this state or the United States.

13 Sec. 14. PURPOSE. It is the intent of the legislature that,  
14 in construing this Act, the courts be guided by the interpreta-  
15 tion given by the federal courts to the various federal statutes  
16 dealing with the same or similar matters and in deciding whether  
17 conduct restrains or monopolizes trade or commerce or may sub-  
18 stantially lessen competition, determination of the relevant  
19 market or effective area of competition shall not be limited by  
20 the boundaries of the State of Alaska. This Act shall be broadly  
21 construed to accomplish its purposes.

22 Sec. 15. SHORT TITLE. This Act may be known and cited as  
23 the "Alaska Anti-trust Act."

24 Sec. 16. EFFECTIVE DATE. This Act takes effect on the day  
25 after its passage and approval or on the day it becomes law with-  
26 out such approval.

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