IN THE HOUSE BY THE JUDICIARY COMMITTEE

2d 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 or commerce; 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 or commerce is unlawful.

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

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, fish marketing, 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. However, if such organization monopolizes or restrains trade or commerce to the extent that the price of any agricultural product is unduly enhanced, then this Act shall apply.

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

1 year, or both. Whenever a corporation violates Secs. 1 or 2 of
2 this Act, the individual directors, officers, or agents of said
3 corporation who have authorized or ordered the acts constituting
4 such violation, shall be punishable in accordance with this
5 section. Exclusive jurisdiction to enforce this section is vested
6 in the superior courts. No action under this section shall be
7 brought more than four years after the commission of the acts
8 constituting in whole or in part the offense charged.
9 Sec. 5. EQUITABLE RELIEF. The superior courts of this state
10 are granted exclusive jurisdiction to prevent and restrain viola-
11 tions of Secs. 1 and 2 of this Act. When the party complained of
12 shall have been duly notified that an action has been filed against
13 him, the court shall proceed, as soon as possible, to the hearing
14 and determination of the case, and pending trial the court may at
15 any time make temporary restraining orders or prohibitions as
16 shall be deemed just in the premises.
17 Sec. 6. ENFORCEMENT. Exclusive power to enforce Secs. 4 and
18 5 of this Act is vested in the Attorney General or such persons
19 as he may designate.
20 Sec. 7. PRIVATE REMEDIES. Any person injured in his business
21 or property by a violation of Secs. 1 or 2 of this Act, or because
22 he refuses to accede to a proposal for an arrangement which, if
23 consummated, would be in violation of Secs. 1 or 2 of this Act,
24 may bring a civil action in the superior court, to enjoin further
25 violations, to recover at the discretion of the court up to treble
26 damages for his injuries. In computing damages under this section
27 the court may consider reasonable expectation interests. For the
28 purposes of this section, "person injured" shall include the State
29 of Alaska, its agencies and political subdivisions.

1 Sec. 8. LIMITATION OF PRIVATE DAMAGES ACTIONS. Any action
2 to enforce a claim for damages under Sec. 7 shall be forever barred
3 unless commenced within four years after the cause of action
4 accrues. Whenever any action under Secs. 4 or 5 of this Act is
5 brought by the State of Alaska, the running of the foregoing
6 statute of limitations, with respect to every private right of
7 action for damages under Sec. 7 which is based in whole or in part
8 on any matter complained of in the action brought under Secs. 4
9 or 5 shall be suspended during the pendency thereof.
10 Sec. 9. EVIDENTIARY EFFECT OF JUDGMENT IN FAVOR OF STATE.
11 The final judgment or decree rendered in any action brought by the
12 State of Alaska under Secs. 4 or 5 to the effect that defendant
13 has violated Secs. 1 or 2 shall be prima facie evidence against
14 such defendant under Sec. 7 of this Act, as to all matters
15 respecting which the judgment or decree would be an estoppel as
16 between the parties thereto. This section shall not apply to
17 consent judgments or decrees, or judgments entered under a decree
18 of nolo contendere, where the court makes no finding of illegality.
19 This section shall in no way impair any collateral estoppel to
20 which the state is otherwise entitled.
21 Sec. 10. CONTRACTS VOID. Contracts or agreements in
22 violation of this Act are void and unenforceable in law and equity.
23 Sec. 11. PERSONAL SERVICE OUT OF STATE. Personal service
24 of any process in an action under Secs. 5 or 7 may be made upon
25 any person outside the state, (1) if such person has done an act
26 in violation of Secs. 1 or 2 of this Act which has had the impact
27 in this state which such sections reprehend, or (2) if the presence
28 of such person before the court is necessary to the securing of
29 adequate relief. Persons in category (1) shall be deemed to have

1 submitted themselves to the jurisdiction of the courts of this
2 state by doing an act in violation of this Act.
3 Sec. 12. SEVERABILITY. If any section, subsection, or pro-
4 vision of this Act shall be held invalid by any court for any
5 reason, such invalidity shall not in any way affect the validity
6 of the remainder of this Act.
7 Sec. 13. EXEMPTED TRANSACTIONS. Nothing in this Act shall
8 apply to actions or transactions otherwise permitted, prohibited
9 or regulated by any regulatory body or officer acting under
10 statutory authority of this state or the United States.
11 Sec. 14. PURPOSE. It is the intent of the legislature that,
12 in construing this Act, the courts be guided by the interpretation
13 given by the federal courts to the various federal statutes dealing
14 with the same or similar matters and in deciding whether conduct
15 restrains or monopolizes trade or commerce or may substantially
16 lessen competition, determination of the relevant market or
17 effective area of competition shall not be limited by the boundaries
18 of the State of Alaska. This Act shall be broadly construed to
19 accomplish its purposes.
20 Sec. 15. SHORT TITLE. This Act may be known and cited as
21 the "Alaska Anti-trust Act."
22 Sec. 16. EFFECTIVE DATE. This Act takes effect on the day
23 after its passage and approval or on the day it becomes law without
24 such approval.
25
26
27
28
29