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Judiciary

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1 IN THE HOUSE

2 HOUSE BILL NO. 162

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTH LEGISLATURE - FIRST SESSION

5 A BILL

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

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

10 * Section 1. AS 45 is amended by adding a new chapter to read:

11 CHAPTER 15. ALASKA ANTI-TRUST ACT.

12 Sec. 45.15.010. RESTRAINT OF TRADE. A contract, combination, or
13 conspiracy in unreasonable restraint of trade or commerce is unlawful.

14 Sec. 45.15.020. MONOPOLIZATION. It is unlawful to monopolize,
15 attempt to monopolize, or conspire to monopolize trade or commerce.

16 Sec. 45.15.030. LABOR NOT AN ARTICLE OF COMMERCE AND ORGANIZATIONS
17 NOT AFFECTED. (a) The labor of a human being is not a commodity or
18 article of commerce.

19 (b) This chapter may not be construed to forbid the existence and
20 operation of labor, agriculture, fish marketing, or horticultural
21 organizations, instituted for the purposes of mutual help, and not
22 having capital stock or conducted for profit, or to forbid or restrain
23 individual members of these organizations from lawfully carrying out
24 the legitimate objects thereof.

25 Sec. 45.15.040. CRIMINAL PENALTIES. A person who violates sec.
26 10 or 20 of this chapter is guilty of a misdemeanor and upon conviction
27 is punishable by imprisonment for not more than one year, or by a fine
28 of not more than \$50,000, or by both. If a corporation violates sec.
29 10 or 20 of this chapter, the individual directors, officers, agents,

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1 or other persons exercising actual control over the corporation who
2 have authorized or ordered the acts constituting the violation are
3 punishable in accordance with this section. Exclusive jurisdiction
4 to enforce this section is vested in the superior courts.

5 **Sec. 45.15.050. EQUITABLE RELIEF.** The superior court is granted
6 exclusive jurisdiction to prevent and restrain violations of secs. 10
7 and 20 of this chapter.

8 **Sec. 45.15.060. ENFORCEMENT.** Exclusive power to enforce secs. 40
9 and 50 of this chapter is vested in the attorney general or in persons
10 he may designate.

11 **Sec. 45.15.070. PRIVATE REMEDIES.** A person injured in his
12 business or property by a violation of sec. 10 or 20 of this chapter,
13 or because he refuses to accede to a proposal for an arrangement which,
14 if consummated, would be in violation of sec. 10 or 20 of this chapter,
15 may bring a civil action in the superior court to enjoin further
16 violations and to recover, at the discretion of the court, up to treble
17 damages for his injuries. In computing damages under this section the
18 court may consider reasonable expectation interests. For the purposes
19 of this section, "person injured" includes the state, its agencies and
20 political subdivisions.

21 **Sec. 45.15.080. LIMITATION OF PRIVATE DAMAGES ACTIONS.** An action
22 to enforce a claim for damages under sec. 70 of this chapter is barred
23 unless commenced within four years after the cause of action accrues.
24 If an action under sec. 40 or 50 of this chapter is brought by the
25 state, the running of the foregoing statute of limitations with respect
26 to a private right of action for damages under sec. 70 of this chapter
27 which is based in whole or in part on any matter complained of in the
28 action brought under sec. 40 or 50 of this chapter is suspended until
29 the action by the state is resolved.

1 **Sec. 45.15.090. EVIDENTIARY EFFECT OF JUDGMENT IN FAVOR OF STATE.**

2 A final judgment or decree rendered in an action brought by the state
3 under sec. 40 or 50 of this chapter which holds that the defendant has
4 violated sec. 10 or 20 of this chapter is prima facie evidence in an
5 action against the defendant under sec. 70 of this chapter as to all
6 matters respecting which the judgment or decree would be an estoppel as
7 between the parties. This section does not apply to consent judgments
8 or decrees, or to judgments entered under a decree of nolo contendere,
9 where the court makes no finding of illegality. This section in no way
10 impairs a collateral estoppel to which the state is otherwise entitled.

11 **Sec. 45.15.100. PERSONAL SERVICE OUT OF STATE. (a)** Personal
12 service of process in an action under sec. 50 or 70 of this chapter
13 may be made upon a person outside the state

14 (1) if the person has committed an act in violation of sec.
15 10 or 20 of this chapter which has had the impact in this state which
16 these sections reprehend; or

17 (2) if the presence of the person before the court is
18 necessary to the securing of adequate relief.

19 (b) A person who is served process under (a)(1) of this section
20 is considered to have submitted himself to the jurisdiction of the
21 courts of this state by doing an act in violation of this chapter.

22 **Sec. 45.15.110. EXEMPTED TRANSACTIONS.** This chapter does not
23 apply to actions or transactions otherwise permitted or regulated by
24 a regulatory body or officer acting under statutory authority of this
25 state or the United States.

26 **Sec. 45.15.120. PURPOSE.** It is the intent of the legislature
27 that, in construing this chapter, the courts be guided by the inter-
28 pretation given by the federal courts to the various federal statutes
29 dealing with the same or similar matters and in deciding whether conduct

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restrains or monopolizes trade or commerce or may substantially lessen competition, determination of the relevant market or effective area of competition not be limited by the boundaries of the state. This chapter shall be broadly construed to accomplish its purposes.

Sec. 45.15.130. SHORT TITLE. This chapter may be cited as the Alaska Anti-trust Act.

* Sec. 2. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.