

HB

225

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 15 2003
SENATE FINANCE
COMMITTEE

DATE: 5/10/03

FURTHER:

DATE TURNED
IN TO OFFICE: 15 May 2003

Finance Committee considered

HOUSE BILL NO. 225

HB 225 MONOPOLY AND RESTRAINT OF TRADE ACTIONS

"An Act relating to certain civil actions brought by the attorney general under monopoly and restraint of trade statutes; relating to the award of damages in actions brought under those statutes; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

adopt previous _____ CS _____ (_____)

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Low	1/27/03	*		#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Chris Heckler</i>	✓			
<i>John ...</i>			✓	
<i>George ...</i>			✓	
<i>J.C. B. Leander</i>	✓			
<i>Ben Stevens</i>	✓			
COCHAIR:				
COCHAIR: <i>Asmy ...</i>	✓			

MAY 15 2003

SENATE FINANCE
17700135

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 225
(H) Publish Date: 3/28/03

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title: "An Act relating to certain civil actions . . . BRU Civil Division
monopoly and restraint of trade statutes; . . . damages . . ." Component Fair Business Practices
Sponsor Rules Committee
Requester Governor Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

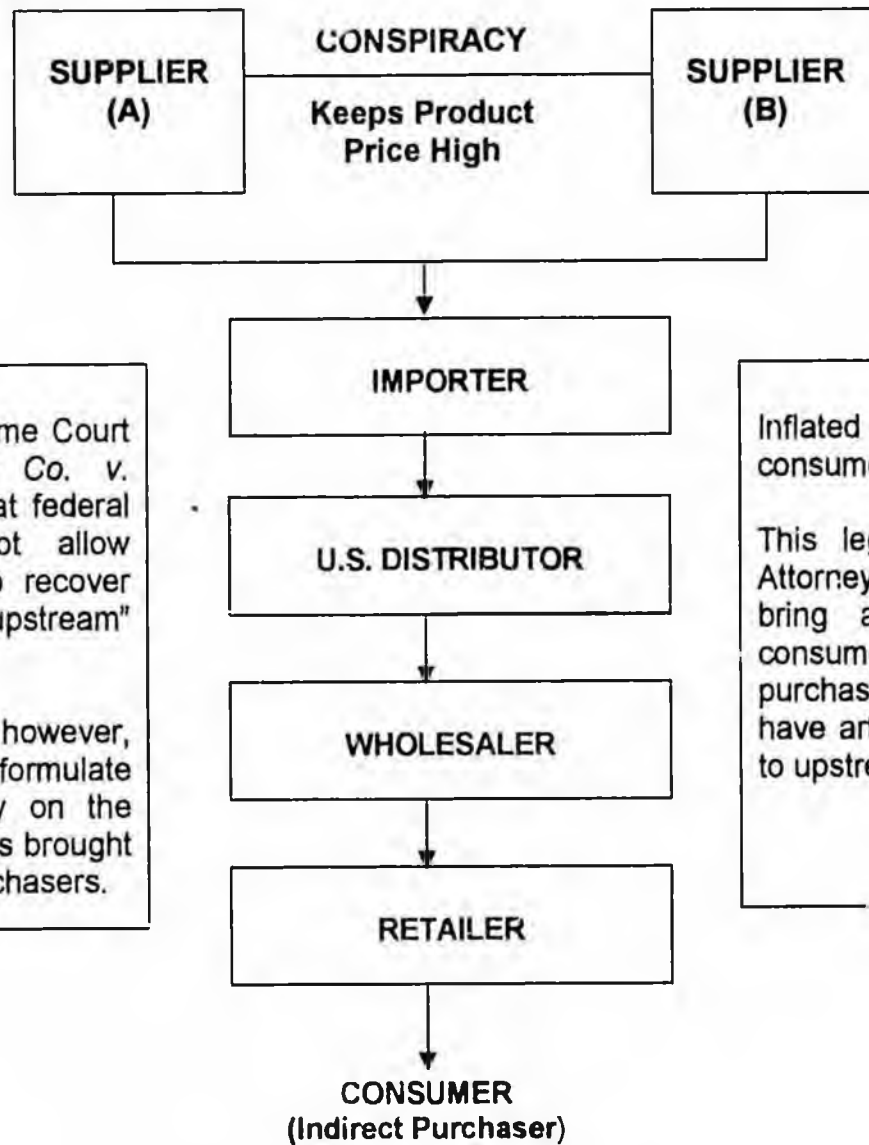
POSITIONS

POSITIONS	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill updates Alaska antitrust statutes consistent with a recent United States Supreme Court precedent to allow the attorney general to bring a cause of action on behalf of both direct and indirect purchasers. Current Alaska statutes allow a cause of action only for purchasers who buy directly from the person or manufacturer that violated antitrust statutes. Because these type of actions typically involve civil actions on behalf of numerous persons and sometimes on behalf of numerous governmental entities, the bill provides for proof of antitrust damages by way of statistical methods consistent with federal law. The bill also removes the current requirement in the antitrust statutes that any antitrust plaintiff must prove willful conduct before a court may award treble damages. Federal law does not have this requirement, encouraging plaintiffs to resolve issues important to Alaska businesses and consumers in federal court, rather than state court.

Costs associated with passage of this bill will depend on the number and complexity of actions brought by the attorney general in any given year, and are too speculative to quantify at this time.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division: Attorney General's Office Date/Time: 1/27/03 8:29 AM
Approved by: Kathryn Daughhelee for Gregg D. Renkes, Attorney General Date: 1/27/2003
Agency: Department of Law



In 1977 the U.S. Supreme Court decided *Illinois Brick Co. v. Illinois*, which states that federal antitrust laws do not allow "indirect purchasers" to recover damages from "upstream" antitrust violators.

The Court further held, however, that states are free to formulate their own public policy on the issue of antitrust lawsuits brought on behalf of indirect purchasers.

Inflated price passed on to consumer.

This legislation will give the Attorney General authority to bring actions on behalf of consumers who are "indirect purchasers" of products that have artificially high prices due to upstream antitrust behavior.

Provided by the Department of Law

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March 26, 2003

The Honorable Pete Kott
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Kott:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to legal action brought by the attorney general on behalf of direct and indirect purchasers under the statutes on monopolies and restraint of trade (antitrust statutes).

This bill updates the Alaska antitrust statutes consistent with recent United States Supreme Court precedent to provide a statutory basis for the attorney general to bring a parens patriae action on behalf of state businesses, residents, and governmental entities as indirect purchasers for violations of our antitrust statutes and to recover damages. In contrast to other states, under current Alaska antitrust statutes, indirect purchasers are without any remedy for antitrust injuries. Indirect purchasers are usually consumers, governmental entities, and small businesses in the wholesale and retail distribution chain of goods and services. Alaska antitrust statutes currently allow a cause of action only for purchasers who buy directly from the person or manufacturer that violated the antitrust statutes. By allowing only the attorney general a cause of action on behalf of both direct and indirect purchasers, Alaska consumers, businesses, and governmental entities will have a remedy for redress of antitrust violations without clogging the courts with multiple lawsuits individually brought by those purchasers.

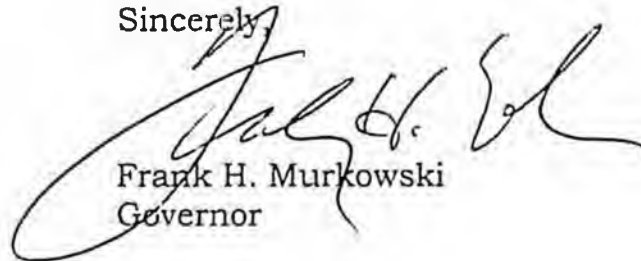
Parens patriae actions typically involve civil actions on behalf of numerous persons and sometimes on behalf of numerous governmental entities. Accordingly, the bill provides for proof of antitrust damages by way of statistical methods consistent with federal law.

The Honorable Pete Kott
March 26, 2003
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The bill also removes the current requirement in the antitrust statutes that any antitrust plaintiff must prove willful conduct before a court may award treble damages. Under federal law, a plaintiff does not have to prove willful conduct to receive treble damages. The current law has the effect of chilling plaintiffs from bringing antitrust cases in Alaska courts, in favor of resolving issues important to Alaska businesses and consumers in the federal courts.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is stylized and cursive, with a large initial "F" and "M".

Frank H. Murkowski
Governor

SENATE FINANCE COMMITTEE

SIGN-IN

HB 225-MONOPOLY AND RESTRAINT OF TRADE ACTIONS

NAME: DAVID MARQUEZ Subject/Bill No: 225
Co./Dept./Title: ASST ATTORNEY GENERAL Phone: 4352132
Address: 4th FLR, DIAMOND COLLEGE Zip: _____

Do you wish to testify? ___ Yes ___ No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? ___ Yes ___ No ___ Respond To Questions

SENATE FINANCE COMMITTEE

SIGN-IN

HB 225-MONOPOLY AND RESTRAINT OF TRADE ACTIONS

NAME: DAVID MARQUEZ Subject/Bill No: HB 225

Co./Dept./Title: ASST ATTORNEY GENERAL Phone: 465-2132

Address: 4th floor Diamond Courthouse Zip: _____

Do you wish to testify? Yes No Respond To Questions

ASST A.G. Ed Sniffen will be on line to present bill

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____

Co./Dept./Title: _____ Phone: _____

Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions