

**SB**

**161**

**SFIN**

**FILE**

SB 161

was referred to the  
Senate Finance  
Committee

No hearing was held  
on this bill

FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
JUNEAU, ALASKA 99811-0001  
(907) 465-3500  
FAX (907) 465-3532  
WWW.GOV.STATE.AK.US

March 26, 2003

The Honorable Gene Therriault  
President of the Senate  
Alaska State Legislature  
State Capitol, Room 107  
Juneau, AK 99801-1182

Dear President Therriault:

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 patrie 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.

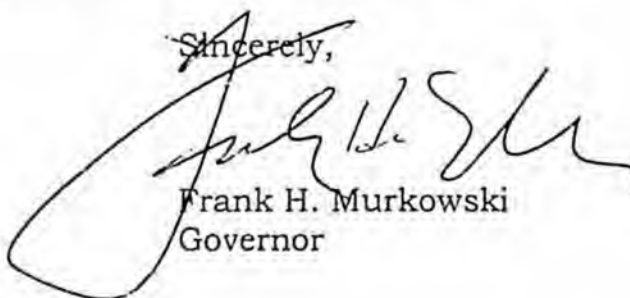
Parens patrie actions typically involve civil actions on behalf of numerous persons and sometimes on behalf of numerous governmental entities. Accordingly, the bill provides for proof of antitrust damages by way of statistical methods consistent with federal law.

The Honorable Gene Therriault  
March 26, 2003  
Page 2

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", is written over the typed name and title.

Frank H. Murkowski  
Governor