

HB

446

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 9 4 2006
 SENATE FINANCE COMMITTEE

DATE: 4/22/06

FURTHER:

DATE TURNED
 IN TO OFFICE: 5/4/06

Finance Committee considered CS FOR HOUSE BILL NO. 446(JUD)

HB 446 PENALTY FOR UNLAWFUL TRADE PRACTICE

"An Act relating to the amount of a civil penalty for an unlawful act or practice in the conduct of trade or commerce; and eliminating mandatory continuances in these matters after issuance of an injunction."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
CRT	2/21/06			✓	1
H.F.W./Law	3/15/06		✓		3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

REPORTED OUT
MAY 04 2006
SENATE FINANCE COMMITTEE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 446(JUD)
(H) Publish Date: 2/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Penalty for Unlawful Trade Practice RDU Alaska Court System
Component Trial Courts
Sponsor Representative McGuire
Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

POSITIONS	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The court system does not anticipate any fiscal impact from the passage of HB 446.

Prepared by: Doug Wooliver, Administrative Attorney Phone: 463-4750
Division: Alaska Court System Date/Time: 2/21/06 at 2:30 pm
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date: 2/21/2006
Agency: Alaska Court System

FISCAL NOTE

REPORTED OUT
 MAY 04 2006
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 446(JUD)
 (H) Publish Date: 3/17/2006

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to the amount of a civil penalty for RDU CIVIL
an unlawful act or practice in the conduct of trade.. Component: Commercial & Fair Business0
 Sponsor: Representative McGuire
 Requester: House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	*****	*****	*****	*****	*****	*****
-------------------------------	-------	-------	-------	-------	-------	-------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Finance Committee Phone: 465-4945 465-3779
 Rep. Kevin Meyer, Co-Chair Date: 3/15/2006
 Rep. Mike Chenault, Co-Chair

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire

Chair, Judiciary Committee

SPONSOR STATEMENT HB 446

"An Act relating to the amount of a civil penalty for an unlawful act or practice in the conduct of trade or commerce."

The Federal Trade Commission recently reported that *Alaska topped the nation in fraud complaints last year: 249 per 100,000 people*. Unfortunately, Alaska's current consumer protection laws provide one of the lowest allowable civil penalties of any state. To strengthen Alaska's consumer protection law and send a message to those who prey on Alaska consumers, HB 446 seeks to increase the civil penalties authorized under Alaska's Unfair Trade Practices and Consumer Protection Act.

Under current law, when a person or company violates an injunction prohibiting unfair or deceptive business practices, it is subject to a maximum penalty of \$25,000. HB 446 will increase that maximum allowable civil penalty to \$50,000.

The current Act also provides for a \$5,000 civil penalty for each violation of the Act. HB 446 will increase this amount to a range between \$1,000 and \$25,000 per violation. The current \$5,000 penalty in the Act was established in 1970 when the Act was passed. Adjusting for inflation alone, this penalty should be \$20,200 (inflation from January 1970 to January 2005 was 405%). An increase to \$25,000 is a very modest increase.

Obtaining injunctive relief and civil penalties are the tools that enable the Attorney General to protect Alaska consumers against unfair and deceptive trade practices. These changes are vital enforcement tools that strengthen the Act. All civil penalties are assessed by a court only after a violation of the Act has been proven. All penalty payments go directly to the State of Alaska. Your support of this important legislation is appreciated.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FRANK MURKOWSKI, GOVERNOR

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
PHONE: (907)269-5100
FAX: (907)276-8354

February 20, 2006

The Honorable Lesil McGuire
Chair
House Judiciary Committee
State Capitol, Room 118
MS 3100
Juneau, Alaska 99801

Re: HB 446, Civil Penalties in Consumer Protection Cases

Dear Representative McGuire:

Thank you for introducing HB 446. The Department of Law supports this important legislation. It would provide the department with more powerful enforcement tools by ensuring minimum penalties for violators of Alaska's Unfair Trade Practices and Consumer Protection Act (the "Act"), and increase the maximum penalty to a more meaningful amount. The current penalty of \$5,000 per violation is outdated. Several states have maximum penalties of \$100,000 or more, recognizing that in some cases, a single violation can have catastrophic consumer impacts that require severe penalties against larger corporate defendants.

The penalty provision of the Act requires the court to ultimately decide the amount of the penalty. Currently, this amount can range from \$0 to \$5,000. The court typically considers the nature of the alleged conduct, the harm involved, and other factors when considering an appropriate penalty. The amendments proposed by HB 446 will require the court to engage in this same analysis, except that the court must impose at least a \$1,000 penalty if a violation is found and can impose up to \$25,000 per violation in appropriate cases. The proposed amendments will only affect state enforcement efforts because only the state can request penalties.

The Honorable Lesil McGuire
Chair
House Judiciary Committee


February 20, 2006
Page 2

The Act is a critically important law that allows consumers and the department to investigate and prosecute consumer fraud and deception. HB 446 strengthens the Act, and provides a greater deterrent to would-be violators.

If you need additional information, please contact me at (907) 269-5200.

Sincerely,

DAVID W. MÁRQUEZ
ATTORNEY GENERAL

By: 

Clyde E. Sniffen, Jr.
Assistant Attorney General

cc: Kevin Iardell, Legislative Director
Office of the Governor

Randy Ruaro, AAG
Deborah Behr, AAG
Department of Law

CES/sjm

To: Housed Judiciary and Finance Committees

Re: AkPIRG Supports HB 446 - Penalty for Unlawful Trade Practice

AkPIRG urges support for HB 446 – Penalty for Unlawful Trade Practices. This bill is a concrete step toward better protection for Alaskan consumers by modernizing the penalties against those who commit consumer crime.

Alaska leads the nation in fraud complaints, according to the Federal Trade Commission. Alaska's current laws in regard to consumer protection however, provide one of the lowest allowable civil penalties of any state. HB 446 will strengthen the Unfair Trade Practices and Consumer Protection Act, sending the message that crimes against consumers will not be lightly punished.

The current penalty dates back to the 1970s, HB 446 will increase deterrence by increasing the penalties for consumer crimes. In cases involving a person or company violating an injunction prohibiting unfair or deceptive business practices, the maximum allowable civil penalty will be increased from \$25,000 to \$50,000 - for each violation. The bill will also allow a range of \$1,000 to \$25,000 to be employed for civil penalties – again, for each violation of the Act.

The Department of Law needs the proper tools to be able to protect consumers in Alaska. HB 446 is one step toward better protection. The Alaskan Legislature is making great strides in updating consumer protection laws in regard to Identity Theft and other fraud. Increasing the penalties for such crimes will serve as a needed deterrence to better protect Alaskans.

Thank you for your support of this legislation.
Sincerely,

Steve Cleary
AkPIRG Director