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## Judiciary Committee

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### SSB 5531

**Title:** An act relating to modifying provisions relating to consumer protection act violations.

**Brief Description:** Modifying provisions relating to consumer protection act violations.

**Sponsors:** Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Regala, Keiser, Kohl-Welles, Kauffman, Kline, Oemig, Pridemore, Tom and Franklin).

#### Brief Summary of Substitute Bill

- Changes the maximum amount of treble damages allowed in a Consumer Protection Act claim to \$50,000.
- Establishes factors to determine whether an unfair act or practice is injurious to the public interest.
- Creates a presumption that actions brought by the Attorney General's Office involve an act or practice injurious to the public interest.

**Hearing Date:** 3/25/09

**Staff:** Trudes Tango (786-7384)

#### **Background:**

The Consumer Protection Act (CPA) prohibits unfair or deceptive practices in trade or commerce. The CPA includes prohibitions on anti-competitive behavior and restraints on trade. The Attorney General's Office may bring an action in the name of the state on behalf of persons injured by a violation of the CPA. A private party may also bring an action to enforce the CPA. The action may be brought in superior or district court.

#### Private Actions Under the CPA

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

To prevail on a private CPA claim, a plaintiff must show: (1) an unfair or deceptive act or practice; (2) the act or practice occurred in trade or commerce; (3) a public interest impact; (4) injury to the plaintiff in his or her business or property; and (5) causation. Courts have developed certain factors to consider when determining whether there is a public interest impact and the determination is made based on the specific facts of the case.

### Damages Under the CPA

In an action for a CPA violation, a prevailing plaintiff may recover: (1) the actual damages sustained; (2) the costs of the suit; and (3) a reasonable attorney's fee. Additionally, the court has the discretion to award additional damages in the amount of up to three times the actual damages sustained by the plaintiff. These discretionary treble damages are limited to \$10,000 in superior court. In district court, the limit on treble damages is the district court's civil jurisdictional amount, which is \$75,000.

### **Summary of Bill:**

The maximum amount of treble damages in district and superior court for a violation of the CPA is \$50,000.

In a private action in which an unfair or deceptive act or practice is alleged, a claimant may establish that the act or practice is injurious to the public interest because it:

- violates a statute which incorporates the CPA;
- violates a statute that contains a specific legislative declaration of public interest impact;  
or
- injured other persons, or had or has the capacity to injure other persons.

An action brought by the Attorney General's Office under the CPA is presumed to involve an act or practice injurious to the public interest.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.