
SUBSTITUTE SENATE BILL 5689

State of Washington

52nd Legislature

1991 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senator Talmadge).

Read first time March 6, 1991.

1 AN ACT Relating to consumer protection; and amending RCW 19.86.090
2 and 19.86.920.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 19.86.090 and 1987 c 202 s 187 are each amended to
5 read as follows:

6 Any person who is injured, directly or indirectly, in his or her
7 business or property by a violation of RCW 19.86.020, 19.86.030,
8 19.86.040, 19.86.050, or 19.86.060, or any person so injured because he
9 or she refuses to accede to a proposal for an arrangement which, if
10 consummated, would be in violation of RCW 19.86.030, 19.86.040,
11 19.86.050, or 19.86.060, may bring a civil action in the superior court
12 to enjoin further violations, to recover the actual damages sustained
13 by him or her, or both, together with the costs of the suit, including
14 a reasonable attorney's fee, and the court may in its discretion,
15 increase the award of damages to an amount not to exceed three times

1 the actual damages sustained: PROVIDED, That such increased damage
2 award for violation of RCW 19.86.020 may not exceed (~~ten~~) twenty-five
3 thousand dollars: PROVIDED FURTHER, That such person may bring a civil
4 action in the district court to recover his or her actual damages,
5 except for damages which exceed the amount specified in RCW 3.66.020,
6 and the costs of the suit, including reasonable attorney's fees. The
7 district court may, in its discretion, increase the award of damages to
8 an amount not more than three times the actual damages sustained, but
9 such increased damage award shall not exceed the amount specified in
10 RCW 3.66.020. For the purpose of this section "person" shall include
11 the counties, municipalities, and all political subdivisions of this
12 state.

13 Whenever the state of Washington is injured, directly or
14 indirectly, by reason of a violation of RCW 19.86.030, 19.86.040,
15 19.86.050, or 19.86.060, it may sue therefor in the superior court to
16 recover the actual damages sustained by it and to recover the costs of
17 the suit including a reasonable attorney's fee.

18 When an action is brought under this section the court shall take
19 all reasonable steps, including transfer and consolidation of actions,
20 to protect against duplicative recoveries for the same injury.

21 Proof of public interest or public injury shall not be required in
22 any action brought under this section, except that the court shall
23 require proof of public interest or public injury prior to any award of
24 treble damages.

25 **Sec. 2.** RCW 19.86.920 and 1985 c 401 s 1 are each amended to read
26 as follows:

27 The legislature hereby declares that the purpose of this act is to
28 complement the body of federal law governing restraints of trade,
29 unfair competition and unfair, deceptive, and fraudulent acts or

1 practices in order to protect the public and foster fair and honest
2 competition. It is the intent of the legislature that, in construing
3 this act, the courts be guided by final decisions of the federal courts
4 and final orders of the federal trade commission interpreting the
5 various federal statutes dealing with the same or similar matters and
6 that in deciding whether conduct restrains or monopolizes trade or
7 commerce or may substantially lessen competition, determination of the
8 relevant market or effective area of competition shall not be limited
9 by the boundaries of the state of Washington. To this end this act
10 shall be liberally construed that its beneficial purposes may be
11 served.

12 It is, however, the intent of the legislature that this act shall
13 not be construed to prohibit acts or practices which are reasonable in
14 relation to the development and preservation of business (~~(or which are~~
15 ~~not injurious to the public interest)~~), nor be construed to authorize
16 those acts or practices which unreasonably restrain trade or are
17 unreasonable per se.