SENATE BILL 5120
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State of Washington   **53rd Legislature**   **1993 Regular Session**

By Senator A. Smith

Read first time 01/13/93. Referred to Committee on Law & Justice.

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
16 the actual damages sustained: PROVIDED, That such increased damage
17 award for violation of RCW 19.86.020 may not exceed ((ten)) twenty-five
18 thousand dollars: PROVIDED FURTHER, That such person may bring a civil
19 action in the district court to recover his or her actual damages,

1 except for damages which exceed the amount specified in RCW 3.66.020,
2 and the costs of the suit, including reasonable attorney's fees. The
3 district court may, in its discretion, increase the award of damages to
4 an amount not more than three times the actual damages sustained, but
5 such increased damage award shall not exceed the amount specified in
6 RCW 3.66.020. For the purpose of this section "person" shall include
7 the counties, municipalities, and all political subdivisions of this
8 state.

9 Whenever the state of Washington is injured, directly or
10 indirectly, by reason of a violation of RCW 19.86.030, 19.86.040,
11 19.86.050, or 19.86.060, it may sue therefor in the superior court to
12 recover the actual damages sustained by it and to recover the costs of
13 the suit including a reasonable attorney's fee.
14 When an action is brought under this section the court shall take
15 all reasonable steps, including transfer and consolidation of actions,
16 to protect against duplicative recoveries for the same injury.
17 Proof of public interest or public injury shall not be required in
18 any action brought under this section, except that the court shall
19 require proof of public interest or public injury prior to any award of
20 treble damages.

21 **Sec. 2.** RCW 19.86.920 and 1985 c 401 s 1 are each amended to read
22 as follows:
23 The legislature hereby declares that the purpose of this act is to
24 complement the body of federal law governing restraints of trade,
25 unfair competition and unfair, deceptive, and fraudulent acts or
26 practices in order to protect the public and foster fair and honest
27 competition. It is the intent of the legislature that, in construing
28 this act, the courts be guided by final decisions of the federal courts
29 and final orders of the federal trade commission interpreting the
30 various federal statutes dealing with the same or similar matters and
31 that in deciding whether conduct restrains or monopolizes trade or
32 commerce or may substantially lessen competition, determination of the
33 relevant market or effective area of competition shall not be limited
34 by the boundaries of the state of Washington. To this end this act
35 shall be liberally construed that its beneficial purposes may be
36 served.
37 It is, however, the intent of the legislature that this act shall
38 not be construed to prohibit acts or practices which are reasonable in

1 relation to the development and preservation of business ((or which are
2 not injurious to the public interest)), nor be construed to authorize
3 those acts or practices which unreasonably restrain trade or are
4 unreasonable per se.

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