SUBSTITUTE HOUSE BILL 2072

State of Washington   **68th Legislature**   **2024 Regular Session**

By House Civil Rights & Judiciary (originally sponsored by Representatives Farivar, Taylor, Ryu, Reeves, Slatter, Reed, Ormsby, Ramel, Macri, Goodman, Fosse, Riccelli, and Hackney; by request of Attorney General)

READ FIRST TIME 01/23/24.

1   AN ACT Relating to the antitrust penalties improvement act;
2 amending RCW 19.86.140; and creating new sections.

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

4   NEW SECTION. **Sec. 1.** The legislature finds that:
5   (1) Strong penalties for antitrust violations are critical to
6 protecting consumers;
7   (2) Strong penalties for antitrust violations ensure
8 accountability, deter violations, and provide a level playing field
9 and a fair marketplace for businesses;
10   (3) As of the effective date of this section, Washington does not
11 provide strong enough penalties to adequately deter unlawful
12 anticompetitive business practices;
13   (4) Washington's penalty for antitrust violations has also not
14 kept pace with inflation;
15   (5) Washington's civil penalties for antitrust violations are
16 much lower than the harm antitrust violations may cause;
17   (6) Washington's weak penalties place Washington consumers and
18 businesses at greater risk; and
19   (7) Washingtonians deserve strong antitrust penalties to ensure
20 entities that unlawfully engage in anticompetitive behavior are held
21 accountable.

Sec. 2.　RCW 19.86.140 and 2021 c 228 s 2 are each amended to read as follows:

Every person who shall violate the terms of any injunction issued as in this chapter provided, shall forfeit and pay a civil penalty of not more than $125,000.

((Every individual who violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than $180,000.)) Every person((, other than an individual,)) who violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of ((not more than $900,000)) up to three times the unlawful gains or loss avoided as a result of each violation.

Every person who violates RCW 19.86.020 shall forfeit and pay a civil penalty of not more than $7,500 for each violation: PROVIDED, That nothing in this paragraph shall apply to any radio or television broadcasting station which broadcasts, or to any publisher, printer or distributor of any newspaper, magazine, billboard or other advertising medium who publishes, prints or distributes, advertising in good faith without knowledge of its false, deceptive or misleading character.

For unlawful acts or practices that target or impact specific individuals or communities based on demographic characteristics including, but not limited to, age, race, national origin, citizenship or immigration status, sex, sexual orientation, presence of any sensory, mental, or physical disability, religion, veteran status, or status as a member of the armed forces, as that term is defined in 10 U.S.C. Sec. 101, an enhanced penalty of $5,000 shall apply.

For the purpose of this section the superior court issuing any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

With respect to violations of RCW 19.86.030 and 19.86.040, the attorney general, acting in the name of the state, may seek recovery of such penalties in a civil action.

By December 1, 2022, and every five years thereafter, the office of the attorney general shall evaluate the efficacy of the maximum civil penalty amounts established in this section in deterring violations of the consumer protection act and the difference, if any, between the current penalty amounts and the penalty amounts adjusted

1 for inflation, and provide the legislature with a report of its
2 findings and any recommendations in compliance with RCW 43.01.036.

3   NEW SECTION. **Sec. 3.** This act shall be known and cited as the
4 antitrust penalties improvement act.

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