

(d) The average consumer prices for goods and services, commonly known as the cost of living(:);

(e) Changes in any of the foregoing circumstances during the pendency of the proceedings(:); and

(f) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment.

Sec. 5. Section 10, chapter 131, Laws of 1973 and RCW 41.56.905 are each amended to read as follows:

The provisions of this (~~(1973 amendatory act relating to uniformed personnel)~~) chapter are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. Except as provided in section 1 of this 1983 act, if any provision of this (~~(1973 amendatory act)~~) chapter conflicts with any other statute, ordinance, rule or regulation of any public employer (~~(as it relates to uniformed employees)~~), the provisions of this (~~(1973 amendatory act)~~) chapter shall control.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House April 23, 1983.

Passed the Senate April 15, 1983.

Approved by the Governor May 17, 1983.

Filed in Office of Secretary of State May 17, 1983.

CHAPTER 288

[Substitute House Bill No. 458]

ANTITRUST/CONSUMER PROTECTION IMPROVEMENTS ACT

AN ACT Relating to antitrust and unfair and deceptive business practices; amending section 14, chapter 216, Laws of 1961 as amended by section 7, chapter 26, Laws of 1970 ex. sess. and RCW 19.86.140; amending section 9, chapter 216, Laws of 1961 as amended by section 2, chapter 26, Laws of 1970 ex. sess. and RCW 19.86.090; amending section 20, chapter 216, Laws of 1961 as amended by section 25, chapter 3, Laws of 1983 and RCW 19.86.920; amending section 15.66.010, chapter 11, Laws of 1961 as last amended by section 180, chapter 35, Laws of 1982 and RCW 15.66.010; adding a new section to chapter 19.86 RCW; creating a new section; repealing section 1, chapter 221, Laws of 1939 and RCW 19.90.010; repealing section 2, chapter 221, Laws of 1939, section 3, chapter 4, Laws of 1983 and RCW 19.90.020; repealing section 3, chapter 221, Laws of 1939 and RCW 19.90.030; repealing section 4, chapter 221, Laws of 1939 and RCW 19.90.040; repealing section 5, chapter 221, Laws of 1939 and RCW 19.90.050; repealing section 6, chapter 221, Laws of 1939 and RCW 19.90.060; repealing section 7, chapter 221, Laws of 1939 and RCW 19.90.070; repealing section 8, chapter 221, Laws of 1939 and RCW 19.90.080; repealing section 9, chapter 221, Laws of 1939 and RCW 19.90.090; repealing section 10, chapter 221, Laws of 1939 and RCW 19.90.100; repealing section 11, chapter 221, Laws of 1939 and RCW 19.90.110; repealing section 12, chapter 221, Laws of 1939, section 4, chapter 4, Laws of 1983 and RCW 19.90.120; repealing section 13, chapter 221, Laws of 1939 and RCW 19.90.130; repealing section 1, chapter 246, Laws of 1959

and RCW 19.90.140; repealing section 2, chapter 246, Laws of 1959 and RCW 19.90.150; repealing section 3, chapter 246, Laws of 1959 and RCW 19.90.160; repealing section 14, chapter 221, Laws of 1939 and RCW 19.90.900; repealing section 4, chapter 246, Laws of 1959 and RCW 19.90.901; repealing section 15, chapter 221, Laws of 1939 and RCW 19.90.910; repealing section 16, chapter 221, Laws of 1939 and RCW 19.90.920; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. This act may be cited as the antitrust/consumer protection improvements act. Its purposes are to strengthen public and private enforcement of the unfair business practices–consumer protection act, chapter 19.86 RCW, and to repeal the unfair practices act, chapter 19.90 RCW, in order to eliminate a statute which is unnecessary in light of the provisions and remedies of chapter 19.86 RCW. In repealing chapter 19.90 RCW, it is the intent of the legislature that chapter 19.86 RCW should continue to provide appropriate remedies for predatory pricing and other pricing practices which constitute violations of federal antitrust law.

Sec. 2. Section 14, chapter 216, Laws of 1961 as amended by section 7, chapter 26, Laws of 1970 ex. sess. and RCW 19.86.140 are each amended to read as follows:

Every person who shall violate (~~RCW 19.86.030 or 19.86.040 or~~) the terms of any injunction issued as in this chapter provided, shall forfeit and pay a civil penalty of not more than twenty-five thousand dollars.

Every person, other than a corporation, who violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than one hundred thousand dollars. Every corporation which violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than five hundred thousand dollars.

Every person who violates RCW 19.86.020 shall forfeit and pay a civil penalty of not more than two thousand dollars 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 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.

Sec. 3. Section 9, chapter 216, Laws of 1961 as amended by section 2, chapter 26, Laws of 1970 ex. sess. and RCW 19.86.090 are each amended to read as follows:

Any person who is injured in his business or property by a violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or any person so injured because he refuses to accede to a proposal for an arrangement which, if consummated, would be in violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may bring a civil action in the superior court to enjoin further violations, to recover the actual damages sustained by him, or both, together with the costs of the suit, including a reasonable attorney's fee, and the court may in its discretion, increase the award of damages to an amount not to exceed three times the actual damages sustained: PROVIDED, That such increased damage award for violation of RCW 19.86.020 may not exceed ((one)) ten thousand dollars: PROVIDED FURTHER, That such person may bring a civil action in the justice court to recover his actual damages, except for damages which exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorney's fees. The justice court may, in its discretion, increase the award of damages to an amount not more than three times the actual damages sustained, but such increased damage award shall not exceed the amount specified in RCW 3.66.020. For the purpose of this section "person" shall include the counties, municipalities, and all political subdivisions of this state.

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

Sec. 4. Section 20, chapter 216, Laws of 1961 as amended by section 25, chapter 3, Laws of 1983 and RCW 19.86.920 are each amended to read as follows:

The legislature hereby declares that the purpose of this act is to complement the body of federal law governing restraints of trade, unfair competition and unfair, deceptive, and fraudulent acts or practices in order to protect the public and foster fair and honest competition. It is the intent of the legislature that, in construing this act, the courts be guided by ((the interpretation given by)) final decisions of the federal courts ((to)) and final orders of the federal trade commission interpreting the various federal statutes dealing with the same or similar matters and that in deciding whether conduct restrains or monopolizes trade or commerce or may substantially lessen competition, determination of the relevant market or effective area of competition shall not be limited by the boundaries of the state of Washington. To this end this act shall be liberally construed that its beneficial purposes may be served.

It is, however, the intent of the legislature that this act shall not be construed to prohibit acts or practices which are reasonable in relation to the development and preservation of business or which are not injurious to the public interest.

NEW SECTION. Sec. 5. There is added to chapter 19.86 RCW a new section to read as follows:

In any proceeding in which there is a request for injunctive relief under RCW 19.86.090, the attorney general shall be served with a copy of the initial pleading alleging a violation of this chapter. In any appellate proceeding in which an issue is presented concerning a provision of this chapter, the attorney general shall, within the time provided for filing the brief with the appellate court, be served with a copy of the brief of the party presenting such issue.

Sec. 6. Section 15.66.010, chapter 11, Laws of 1961 as last amended by section 180, chapter 35, Laws of 1982 and RCW 15.66.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him concerning some matter under this chapter.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Agricultural commodity" means any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product within its natural or processed state, including bees and honey but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity. For the purposes of RCW 15.66.060, 15.66.090, and 15.66.120, as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Affected producer" means any producer of an affected commodity.

(7) "Affected commodity" means any agricultural commodity for which the director has established a list of producers pursuant to RCW 15.66.060.

(8) "Commodity commission" or "commission" means a commission formed to carry out the purposes of this chapter under a particular marketing order concerning an affected commodity.

(9) "Unit" means a unit of volume, quantity or other measure in which an agricultural commodity is commonly measured.

(10) "Unfair trade practice" means any practice which is unlawful or prohibited under the laws of the state of Washington including but not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77, 19.80, 19.84,

((19.90;)) and 19.83 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the provisions of the act of Congress of the United States, September 26, 1914, chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known as the "Federal Trade Commission Act of 1914", or the violation of or failure accurately to label as to grades and standards in accordance with any lawfully established grades or standards or labels.

(11) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(13) "Member of a cooperative association" or "member" means any producer of an agricultural commodity who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is under a marketing agreement with such cooperative association with respect to such product.

NEW SECTION. Sec. 7. The following acts or parts of acts are each repealed:

- (1) Section 1, chapter 221, Laws of 1939 and RCW 19.90.010;
- (2) Section 2, chapter 221, Laws of 1939, section 3, chapter 4, Laws of 1983 and RCW 19.90.020;
- (3) Section 3, chapter 221, Laws of 1939 and RCW 19.90.030;
- (4) Section 4, chapter 221, Laws of 1939 and RCW 19.90.040;
- (5) Section 5, chapter 221, Laws of 1939 and RCW 19.90.050;
- (6) Section 6, chapter 221, Laws of 1939 and RCW 19.90.060;
- (7) Section 7, chapter 221, Laws of 1939 and RCW 19.90.070;
- (8) Section 8, chapter 221, Laws of 1939 and RCW 19.90.080;
- (9) Section 9, chapter 221, Laws of 1939 and RCW 19.90.090;
- (10) Section 10, chapter 221, Laws of 1939 and RCW 19.90.100;
- (11) Section 11, chapter 221, Laws of 1939 and RCW 19.90.110;
- (12) Section 12, chapter 221, Laws of 1939, section 4, chapter 4, Laws of 1983 and RCW 19.90.120;
- (13) Section 13, chapter 221, Laws of 1939 and RCW 19.90.130;
- (14) Section 1, chapter 246, Laws of 1959 and RCW 19.90.140;
- (15) Section 2, chapter 246, Laws of 1959 and RCW 19.90.150;
- (16) Section 3, chapter 246, Laws of 1959 and RCW 19.90.160;
- (17) Section 14, chapter 221, Laws of 1939 and RCW 19.90.900;
- (18) Section 4, chapter 246, Laws of 1959 and RCW 19.90.901;

(19) Section 15, chapter 221, Laws of 1939 and RCW 19.90.910; and
 (20) Section 16, chapter 221, Laws of 1939 and RCW 19.90.920.

Passed the House April 22, 1983.

Passed the Senate April 15, 1983.

Approved by the Governor May 17, 1983.

Filed in Office of Secretary of State May 17, 1983.

CHAPTER 289

[Engrossed House Bill No. 479]

SAFE DEPOSIT COMPANIES—DUTIES MODIFIED—UNCLAIMED PROPERTY

AN ACT Relating to safe deposit companies; amending section 4, chapter 186, Laws of 1923 and RCW 22.28.040; and amending section 5, chapter 186, Laws of 1923 and RCW 22.28.060.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 4, chapter 186, Laws of 1923 and RCW 22.28.040 are each amended to read as follows:

If the amount due for the rental of any safe or box in the vaults of any safe deposit company shall not have been paid for one year, it may, at the expiration thereof, send to the person in whose name such safe or box stands on its books a notice in writing in ~~((a))~~ securely closed, postpaid and ~~((registered letter))~~ certified mail, return receipt requested, directed to such person at his post office address, as recorded upon the books of the safe deposit company, notifying such person that if the amount due for the rental of such safe or box is not paid within thirty days from date, the safe deposit company will then cause such safe or box to be opened, and the contents thereof to be inventoried, sealed, and placed in one of its general safes or boxes.

Upon the expiration of thirty days from the date of mailing such notice, and the failure of the person in whose name the safe or box stands on the books of the company to pay the amount due for the rental thereof to the date of notice, the corporation may, in the presence of ~~((a notary public and of its president or secretary, cashier or treasurer))~~ two officers of the corporation, cause such safe or box to be opened, and the contents thereof, if any, to be removed, inventoried and sealed ~~((up by such notary public))~~ in a package, upon which the ~~((notary public))~~ officers shall distinctly mark the name of the person in whose name the safe or box stood on the books of the company, and the date of removal of the property, and when such package has been so marked for identification by the ~~((notary public))~~ officers, it shall ~~((, in the presence of the president, secretary, treasurer or cashier of the company,))~~ be placed ~~((by the notary public))~~ in one of the general safes or boxes of the company at a rental not to exceed the original rental of the safe or box which was opened, and shall remain in such general safe or