

BILL ANALYSIS

Senate Research Center

C.S.S.B. 542
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Business & Commerce
5/12/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Texas attorney general has requested an amendment to the Texas Free Enterprise and Antitrust Act to permit indirect purchasers to recover damages in antitrust actions, and vesting exclusive authority to bring such actions to the Office of the Attorney General (OAG). Failure to enact such an amendment will result in the OAG continuing to recover less for Texas consumers than is recovered by attorneys general in similarly situated and less populous states that have adopted such legislation. C.S.S.B. 542 permits indirect purchasers to recover for violations of state antitrust law.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 15, Business & Commerce Code, by adding Section 15.211, as follows:

Sec. 15.211. ATTORNEY GENERAL MAY BRING SUIT ON BEHALF OF INJURED PERSONS. (a) Authorizes the attorney general to bring suit under Section 15.21(a) (Suits by Injured Persons or Governmental Entities) of this Act on behalf of a governmental entity and, as *parens patriae*, on behalf of an individual residing in this state for damages incurred directly or indirectly because of a violation of Subsection (a), (b), or (c), of Section 15.05 (Unlawful Practices) of this Act.

(b) Sets forth requirements for any suit brought by the attorney general as *parens patriae* under Subsection (a).

(c) Requires the court to avoid imposing duplicate liability for the same injury if claims based on substantially the same conduct are asserted against a defendant by the attorney general on behalf of indirect purchasers and by direct purchasers.

(d) Provides that the right to sue under Subsection (a) applies only to the attorney general and does not create a right of another person, including another governmental entity, to sue on its own behalf for damages incurred indirectly because of a violation of Subsection (a), (b), or (c) of Section 15.05 of this Act.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2005.