

ENROLLED ACT NO. 47, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING
2006 BUDGET SESSION

AN ACT relating to business practices; enhancing damages recoverable for unfair business discrimination; providing for a defense to a claim for damages, as specified; providing for transfer and consolidation of cases; providing authority for apportionment and delay in disbursement of damages; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 40-4-114 is amended to read:

40-4-114. Enjoining violations of W.S. 40-4-106 through 40-4-116; recovery of damages; liability of directors, officers and agents; requiring testimony and production of books and records.

(a) Any person, firm, private corporation or trade association, having a reasonably foreseeable physical and economic causal nexus to the specific act or acts alleged to be a violation, may maintain an action to enjoin a continuance of any act or acts in violation of this act. ~~and, if injured thereby, for the recovery of damages of and from the defendants named in the action.~~

(b) Any injured person, firm, private corporation or trade association may maintain an action against the alleged violator of W.S. 40-4-101(a)(i) to recover three (3) times the actual damages sustained, together with costs, where there is a reasonably foreseeable physical and economic causal nexus between the injury and the violation.

(c) In any action where both direct and indirect purchasers are involved, a defendant shall be entitled to prove as a partial or complete defense to a claim for

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damages that the illegal overcharge has been passed on to others who are themselves entitled to recover to avoid duplication of recovery of damages.

(d) In any case in which claims are asserted by both direct purchasers and indirect purchasers, the court may transfer and consolidate cases, apportion damages and delay disbursement of damages to avoid multiplicity of suits and duplication of recovery of damages, and to obtain substantial fairness.

~~(b)~~(e) Any person who, either as director, officer or agent of any firm or corporation or as agent of any person, violating the provisions of this act, assists or aids, directly or indirectly, in such violation shall be responsible therefor equally with the person, firm or corporation for whom or which he acts.

~~(e)~~(f) In the prosecution of any person as officer, director or agent, it shall be sufficient to allege and prove the unlawful intent of the person, firm or corporation for whom or which he acts.

~~(d)~~(g) Any defendant in an action brought under the provisions of this act may be required to testify under the provisions of the Code of Civil Procedure of this state, and in addition the books and records of any such defendant may be required to be brought into court and introduced, by reference, into evidence; provided, however, that no information so obtained may be used against the defendant as a basis for a misdemeanor prosecution under the provisions of this act.

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Section 2. This act is effective July 1, 2006.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk