

SB 1424

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THE STATE SENATE
Tuesday, February 26, 2002

Senate Bill No. 1424

SENATE BILL NO. 1424 - By: MORGAN of the Senate and BRADDOCK of the House.

An Act relating to trusts and pools; amending 79 O.S. 2001, Section 205, which relates to the Oklahoma Antitrust Reform Act; specifying parties who may obtain certain relief; deleting requirement for court to exclude certain amount from monetary award; requiring court to avoid duplicate liability in certain claims; entitling parties to assert specified defense; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 79 O.S. 2001, Section 205, is amended to read as follows:

Section 205. A. 1. Any person who is injured either directly or indirectly in his or her business or property by a violation of this act, may obtain appropriate injunctive or other equitable relief and monetary damages and shall recover threefold the damages sustained, and the cost of suit, including a reasonable attorney fee. The Attorney General may bring an action in the name of the state, as parens patriae on behalf of natural persons injured either directly or indirectly and residing in ~~the~~ this state, for appropriate injunctive or other equitable relief and to secure monetary damages for injury sustained by ~~such~~ the natural persons to their business or property by reason of any violation of this act.

1 ~~The court shall exclude from the amount of the monetary damages~~
2 ~~awarded in such action any amount of monetary damages:~~

3 ~~a. which duplicates amounts which have been awarded for~~
4 ~~the same injury, or~~

5 ~~b. which is properly allocable to:~~

6 ~~(1) natural persons who have excluded their claims,~~
7 ~~and~~

8 ~~(2) any other persons.~~

9 The court shall award the state as parens patriae threefold the
10 total damages sustained and the cost of suit, including a reasonable
11 attorney fee. Whenever the state is hereafter injured either
12 directly or indirectly in its business or property by anything
13 forbidden in this act, it may obtain appropriate injunctive or other
14 equitable relief and monetary damages therefor and shall recover
15 actual damages by it sustained and the cost of suit including a
16 reasonable attorney fee. The court may award under this section,
17 pursuant to a motion by such person or the state, simple interest on
18 actual damages for the period beginning on the date of service of
19 such person's or the state's pleading setting forth a claim under
20 this act and ending on the date of judgment, or for any shorter
21 period therein, if the court finds that the award of such interest
22 for such period is just in the circumstances. The Attorney General
23 may bring an action on behalf of either the state or a political

1 subdivision of the state when either is injured either directly or
2 indirectly in its business or property by anything forbidden by the
3 provisions of this act.

4 2. In any civil action brought by the Attorney General as
5 parens patriae, the Attorney General shall, at such times, in such
6 manner, and with such content as the court may direct, cause notice
7 thereof to be given by publication. Any person on whose behalf an
8 action is brought may elect to exclude from adjudication the portion
9 of the claim for monetary damages attributable to him or her by
10 filing notice of this election with the court within the time
11 specified in the notice given pursuant to this paragraph.

12 3. In a civil action brought by the Attorney General as parens
13 patriae, the final judgment shall be res judicata as to any claim
14 under this section by any person on behalf of whom the action was
15 brought and who fails to give notice within the period specified in
16 the notice given pursuant to paragraph 2 of this subsection.

17 4. In any action brought pursuant to this section, in which
18 claims are asserted against a party by both direct and indirect
19 purchasers, the court shall take all steps necessary to avoid
20 duplicate liability, including, but not limited to, the transfer and
21 consolidation of all related actions. In actions where both direct
22 and indirect purchasers are parties, any party shall be entitled to
23 assert as a partial or complete defense to a claim for damages that

1 the illegal overcharge has been passed on to others who are
2 themselves entitled to recover so as to avoid duplication of
3 recovery of damages.

4 B. Any person or governmental entity who or which obtains a
5 judgment for damages under 15 U.S.C., Section 15 or any other
6 provision of federal law comparable to this section may not recover
7 damages in a suit under this section based on substantially the same
8 conduct that was the subject of the federal suit.

9 C. Any action to recover damages under this section is barred
10 unless commenced within four (4) years after the claim accrued or
11 was discovered, whichever is later.

12 SECTION 2. This act shall become effective November 1, 2002.

13 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-12-02 - DO
14 PASS, As Coauthored.