

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 HOUSE BILL 3575

By: Pae

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6 AS INTRODUCED

7 An Act relating to trusts and pools; amending 79 O.S.
8 2021, Sections 205 and 206, which relate to civil
9 actions for enforcement of the Oklahoma Antitrust
10 Reform Act; authorizing enforcement by Attorney
11 General; prescribing conditions with respect to
12 accrual of causes of action; authorizing imposition
13 of civil penalty; prescribing maximum amount;
14 providing for determinations by court with respect to
15 imposition of civil penalties; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 79 O.S. 2021, Section 205, is
19 amended to read as follows:

20 Section 205. A. 1. Any person who is injured, either directly
21 or indirectly, in his or her business or property by a violation of
22 this act, may obtain appropriate injunctive or other equitable
23 relief and monetary damages and shall recover threefold the damages
24 sustained, and the cost of suit, including a reasonable attorney
-- fee. The Attorney General may bring ~~an~~ a civil action in the name
of the state, any governmental or public entity, or as parens
patriae on behalf of natural persons residing in the state injured,

1 either directly or indirectly, for appropriate injunctive or other
2 equitable relief and to secure monetary damages for injury sustained
3 by such natural persons to their business or property by reason of
4 any violation of this act. The court shall exclude from the amount
5 of the monetary damages awarded in such action any amount of
6 monetary damages:

7 a. which duplicates amounts which have been awarded for
8 the same injury, or

9 b. which is properly allocable to:

10 (1) natural persons who have excluded their claims,
11 and

12 (2) any other persons.

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

1 that the award of such interest for such period is just in the
2 circumstances. The Attorney General may bring an action on behalf
3 of either the state or a political subdivision of the state when
4 either is injured in its business or property by anything forbidden
5 by the provisions of this act.

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

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

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

1 C. Any action to recover damages under this section is barred
2 unless commenced within four (4) years after the claim accrued or
3 was discovered, whichever is later. For purposes of the Oklahoma
4 Antitrust Reform Act, a cause of action accrues:

5 1. When the circumstances giving rise to the cause of action
6 are discovered or should have been discovered in the exercise of
7 reasonable diligence; or

8 2. On the date that the last in a series of acts or practices
9 in violation of the Oklahoma Antitrust Reform Act occurred,
10 including any acquisitions or series of acquisitions that, in the
11 aggregate may constitute a violation of the Oklahoma Antitrust
12 Reform Act.

13 D. Except as expressly provided in paragraphs 1 and 2 of
14 subsection C of this section, no other limitation terminates the
15 period within which the Attorney General may file an action for a
16 violation of the Oklahoma Antitrust Reform Act.

17 SECTION 2. AMENDATORY 79 O.S. 2021, Section 206, is
18 amended to read as follows:

19 Section 206. A. Any person, other than a municipal
20 corporation, who violates Section 3, 4, or 8 of Enrolled Senate Bill
21 No. 1357 of the 2nd Session of the 46th Oklahoma Legislature is
22 guilty of a ~~Schedule G~~ felony, if the offense occurs on or after the
23 effective date of Section 20.1 of Title 21 of the Oklahoma Statutes.
24 If the offense is committed prior to the effective date of Section
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1 20.1 of Title 21 of the Oklahoma Statutes, the crime shall be
2 punishable by incarceration in the custody of the Department of
3 Corrections for not more than ten (10) years. A violator shall,
4 upon conviction, be subject to a fine not to exceed Ten Thousand
5 Dollars (\$10,000.00) per violation.

6 B. The Attorney General or any district attorney may file a
7 criminal information or seek a criminal indictment to enforce the
8 provisions of subsection A of this section.

9 C. The Attorney General may bring a civil action on behalf of
10 the state to seek the imposition of a civil penalty for any
11 violation of the Oklahoma Antitrust Reform Act. The court, upon
12 finding a violation of the Oklahoma Antitrust Reform Act, shall
13 impose a civil penalty to be paid to the General Revenue Fund of the
14 state in an amount not to exceed One Million Dollars (\$1,000,000.00)
15 for each such violation. In determining the amount of a civil
16 penalty, the court shall consider, among other things:

- 17 1. The nature and extent of the violation;
- 18 2. The number of consumers affected by the violation;
- 19 3. Whether the violation was an isolated incident or a
20 continuous pattern and practice of behavior;
- 21 4. Whether the violation was the result of willful conduct;
- 22 5. Whether the defendant took affirmative steps to conceal such
23 violations; and

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6. Whether, given the size and wealth of the defendant, the civil penalty will be an effective deterrent against future violations.

SECTION 3. This act shall become effective November 1, 2024.

59-2-9031 MAH 12/29/23