

By: Eiland

H.B. No. 1639

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the authority of the attorney general to bring suit on  
3 behalf of individuals injured by unlawful practices in restraint of  
4 trade.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter C, Chapter 15, Business & Commerce  
7 Code, is amended by adding Section 15.211 to read as follows:

8 Sec. 15.211. ATTORNEY GENERAL MAY BRING SUIT ON BEHALF OF  
9 INJURED PERSONS. (a) Subject to this section, the attorney general  
10 may bring suit under Section 15.21 of this Act on behalf of a  
11 governmental entity and, as parens patriae, on behalf of an  
12 individual residing in this state for damages incurred directly or  
13 indirectly because of a violation of Subsection (a), (b), or (c) of  
14 Section 15.05 of this Act.

15 (b) In any suit brought under Subsection (a), the attorney  
16 general shall:

17 (1) give notice of the suit by publication as directed  
18 by the court; or

19 (2) give notice through any means necessary to afford  
20 due process of law to the affected individuals, as required by the  
21 court.

22 (c) An individual on whose behalf the attorney general  
23 brings suit may elect to exclude from adjudication the portion of  
24 damages attributable to the individual by filing notice of the

1 individual's election with the court not later than the date  
2 specified in the notice provided under Subsection (b).

3 (d) An individual who does not comply with Subsection (c)  
4 may not file suit in the individual's own name for the injury  
5 alleged in the suit filed by the attorney general while that suit is  
6 pending.

7 (e) The final judgment in a suit filed by the attorney  
8 general on behalf of an individual who does not comply with  
9 Subsection (c) is res judicata as to any claim that could be brought  
10 by the individual based on the facts alleged or proven in the suit.

11 (f) The damages awarded in a suit brought by the attorney  
12 general on behalf of an individual shall be distributed to ensure  
13 that each individual has a reasonable opportunity to secure a fair  
14 share of the damages.

15 (g) In any suit in which claims are asserted against a  
16 defendant by both the attorney general on behalf of indirect  
17 purchasers and by direct purchasers, the court, on the defendant's  
18 motion, shall take all necessary steps to avoid duplicate liability  
19 for the same injury.

20 SECTION 2. The change in law made by this Act applies only  
21 to a suit arising out of an injury that an individual suffers on or  
22 after the effective date of this Act. A suit arising out of an  
23 injury suffered by an individual before the effective date of this  
24 Act is governed by the law in effect at the time the individual  
25 suffered the injury, and the former law is continued in effect for  
26 that purpose.

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2005.