

1-1 By: West S.B. No. 1465  
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 May 4, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; May 4, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1465 By: Watson

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the authority of the attorney general to bring suit on  
1-11 behalf of individuals injured by unlawful practices in restraint of  
1-12 trade.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter C, Chapter 15, Business & Commerce  
1-15 Code, is amended by adding Section 15.211 to read as follows:

1-16 Sec. 15.211. ATTORNEY GENERAL MAY BRING SUIT ON BEHALF OF  
1-17 INJURED PERSONS. (a) The attorney general may bring suit under  
1-18 Section 15.21(a) on behalf of a governmental entity and, as parens  
1-19 patriae, on behalf of an individual residing in this state for  
1-20 damages incurred directly or indirectly because of a violation of  
1-21 Section 15.05(a), (b), or (c).

1-22 (b) In any suit brought by the attorney general as parens  
1-23 patriae under Subsection (a):

1-24 (1) the attorney general shall give the best  
1-25 practicable notice through any means necessary to give due process  
1-26 of law to the affected individuals, as required by the court, and  
1-27 shall include in the notice the date by which the individual must  
1-28 elect to be excluded from the suit under Subdivision (2);

1-29 (2) an individual on whose behalf the attorney general  
1-30 brings suit may elect to be excluded from the suit by filing, not  
1-31 later than the date specified in the notice provided under  
1-32 Subdivision (1):

1-33 (A) notice of the individual's election with the  
1-34 court; or

1-35 (B) a separate action in a district court in  
1-36 Travis County or a district court in the county in which the  
1-37 attorney general's suit is pending;

1-38 (3) the final judgment is res judicata for the matters  
1-39 alleged or proven in the suit as to any claim under this Act on  
1-40 behalf of an individual:

1-41 (A) on whose behalf the attorney general brought  
1-42 the action; and

1-43 (B) who fails to comply with Subdivision (2); and

1-44 (4) the damages awarded shall be distributed to ensure  
1-45 that each individual has a reasonable opportunity to secure a fair  
1-46 share of the damages.

1-47 (c) If claims based on substantially the same conduct are  
1-48 asserted against a defendant by the attorney general on behalf of  
1-49 indirect purchasers and by direct purchasers, the court shall avoid  
1-50 imposing duplicate damages for the same injury.

1-51 (d) The right to sue under Subsection (a) applies only to  
1-52 the attorney general and does not create or abolish a right of  
1-53 another person, including another governmental entity, to sue on  
1-54 its own behalf for damages incurred indirectly because of a  
1-55 violation of Section 15.05(a), (b), or (c).

1-56 SECTION 2. The change in law made by this Act applies only  
1-57 to a suit arising out of an injury that an individual suffers on or  
1-58 after the effective date of this Act. A suit arising out of an  
1-59 injury suffered by an individual before the effective date of this  
1-60 Act is governed by the law in effect at the time the individual  
1-61 suffered the injury, and the former law is continued in effect for  
1-62 that purpose.

1-63 SECTION 3. This Act takes effect immediately if it receives

2-1 a vote of two-thirds of all the members elected to each house, as  
2-2 provided by Section 39, Article III, Texas Constitution. If this  
2-3 Act does not receive the vote necessary for immediate effect, this  
2-4 Act takes effect September 1, 2007.

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