

1-1 By: Spiller (Senate Sponsor - Hughes) H.B. No. 5214  
 1-2 (In the Senate - Received from the House May 4, 2023;  
 1-3 May 5, 2023, read first time and referred to Committee on State  
 1-4 Affairs; May 10, 2023, reported favorably by the following vote:  
 1-5 Yeas 11, Nays 0; May 10, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			
1-18	X			

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to actions brought by the attorney general on behalf of  
 1-22 certain persons under the Texas Free Enterprise and Antitrust Act  
 1-23 of 1983.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 15.21, Business & Commerce Code, is  
 1-26 amended by adding Subsections (d) and (e) to read as follows:

1-27 (d) The attorney general may bring a civil action against a  
 1-28 person on behalf of an individual or governmental entity for injury  
 1-29 to that individual's or entity's business or property caused,  
 1-30 directly or indirectly, by the person's violation of Section  
 1-31 15.05(a), (b), or (c). An action under this subsection may be  
 1-32 brought in district court in Travis County, or in any county in this  
 1-33 state in which a named defendant resides, does business, or  
 1-34 maintains a principal office, or in which the individual or  
 1-35 governmental entity on whose behalf the action is brought resides  
 1-36 at the time of the cause of action or any part of the cause of action  
 1-37 accrues. If the attorney general prevails in an action under this  
 1-38 subsection, the attorney general shall recover actual damages  
 1-39 sustained by the individual or governmental entity, interest on  
 1-40 actual damages for the period beginning on the date of service of  
 1-41 the attorney general's pleading setting forth a claim under the  
 1-42 antitrust laws and ending on the date of judgment (the rate of such  
 1-43 interest to be in accordance with Texas law regarding postjudgment  
 1-44 interest rates and the amount of interest to be adjusted by the  
 1-45 court if it finds that the award of all or part of such interest is  
 1-46 unjust in the circumstances), and the cost of suit, including a  
 1-47 reasonable attorney's fee, and if applicable, expert witness fees;  
 1-48 provided, however, that if the trier of fact finds that the unlawful  
 1-49 conduct was willful or flagrant, the court shall increase the  
 1-50 recovery to threefold the damages sustained and the cost of suit,  
 1-51 including a reasonable attorney's fee and, if applicable, expert  
 1-52 witness fees; provided that interest on actual damages as  
 1-53 specified above may not be recovered when recovered damages are  
 1-54 increased threefold. In an action under this subsection in which a  
 1-55 claim is asserted against a defendant relating to injury to both  
 1-56 direct and indirect purchasers, the court shall take all steps  
 1-57 necessary to avoid duplicative recovery from that defendant.

1-58 (e) For purposes of this section, "governmental entity"  
 1-59 means:

1-60 (1) this state, including each department, board,  
 1-61 agency, instrumentality, authority, or commission of this state;

2-1                   (2) a political subdivision of this state, including a  
2-2 county, city, municipality, school district, local improvement  
2-3 district, law enforcement authority, or special district,  
2-4 including a water, sanitation, fire protection, metropolitan,  
2-5 irrigation, drainage, or other special district;  
2-6                   (3) a municipal, quasi-municipal, or public  
2-7 corporation organized under the Texas Constitution or other law;  
2-8 and  
2-9                   (4) a department, board, agency, instrumentality,  
2-10 authority, or commission of an entity described by Subdivision (2)  
2-11 or (3).

2-12                   SECTION 2. Sections 15.21(d) and (e), Business & Commerce  
2-13 Code, as added by this Act, apply only to a cause of action that  
2-14 accrues on or after the effective date of this Act.

2-15                   SECTION 3. This Act takes effect September 1, 2023.

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