

1 **SENATE FLOOR VERSION**

2 April 9, 2024

3 ENGROSSED HOUSE
4 BILL NO. 3575

By: Pae, Deck, and Menz of the
House

5 and

6 Jech of the Senate

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

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

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

22 Section 205. A. 1. Any person who is injured, either directly
23 or indirectly, in his or her business or property by a violation of
24 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~~ a civil action in the name

1 of the state, any governmental or public entity, or as parens
2 patriae on behalf of natural persons residing in the state injured,
3 either directly or indirectly, for appropriate injunctive or other
4 equitable relief and to secure monetary damages for injury sustained
5 by such natural persons to their business or property by reason of
6 any violation of this act. The court shall exclude from the amount
7 of the monetary damages awarded in such action any amount of
8 monetary damages:

9 a. which duplicates amounts which have been awarded for
10 the same injury, or

11 b. which is properly allocable to:

12 (1) natural persons who have excluded their claims,
13 and

14 (2) any other persons.

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

1 pleading setting forth a claim under this act and ending on the date
2 of judgment, or for any shorter period therein, if the court finds
3 that the award of such interest for such period is just in the
4 circumstances. The Attorney General may bring an action on behalf
5 of either the state or a political subdivision of the state when
6 either is injured in its business or property by anything forbidden
7 by the provisions of this act.

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

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

21 B. Any person or governmental entity who or which obtains a
22 judgment for damages under 15 U.S.C., Section 15 or any other
23 provision of federal law comparable to this section may not recover

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1 damages in a suit under this section based on substantially the same
2 conduct that was the subject of the federal suit.

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

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

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

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

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

21 Section 206. A. Any person, other than a municipal
22 corporation, who violates Section 3, 4, or 8 of Enrolled Senate Bill
23 No. 1357 of the 2nd Session of the 46th Oklahoma Legislature is
24 guilty of a ~~Schedule G~~ felony, if the offense occurs on or after the

1 effective date of Section 20.1 of Title 21 of the Oklahoma Statutes.
2 If the offense is committed prior to the effective date of Section
3 20.1 of Title 21 of the Oklahoma Statutes, the crime shall be
4 punishable by incarceration in the custody of the Department of
5 Corrections for not more than ten (10) years. A violator shall,
6 upon conviction, be subject to a fine not to exceed Ten Thousand
7 Dollars (\$10,000.00) per violation.

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

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

- 19 1. The nature and extent of the violation;
- 20 2. The number of consumers affected by the violation;
- 21 3. Whether the violation was an isolated incident or a
22 continuous pattern and practice of behavior;
- 23 4. Whether the violation was the result of willful conduct;

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1 5. Whether the defendant took affirmative steps to conceal such
2 violations; and

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
8 April 9, 2024 - DO PASS

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