

1 H.691

2 Introduced by Representative Marek of Newfane

3 Referred to Committee on

4 Date:

5 Subject: Consumer fraud; antitrust violations; collusion

6 Statement of purpose: This bill proposes to provide that collusion—an  
7 agreement, contract, combination in the form of trusts or otherwise, or  
8 conspiracy to engage in price fixing, bid rigging, or market division of  
9 allocation for goods or services—is unlawful and subject to enforcement under  
10 the state consumer fraud act.

11 An act relating to prohibiting collusion as an antitrust violation

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 ~~Sec. 1. 9 V.S.A. § 2451 is amended to read:~~

14 ~~§ 2451. PURPOSE~~

15 ~~The purpose of this chapter is to complement the enforcement of federal~~  
16 ~~statutes and decisions governing unfair methods of competition, and unfair or~~  
17 ~~deceptive acts or practices, and anti-competitive practices in order to protect~~  
18 ~~the public; and to encourage fair and honest competition.~~

1 ~~Sec. 2. 9 V.S.A. § 2451a is amended to read:~~

2 § 2451a. DEFINITIONS

3 For the purposes of this chapter:

4 (a) "Consumer" means any person who purchases, leases, contracts for, or  
5 otherwise agrees to pay consideration for goods or services not for resale in the  
6 ordinary course of his or her trade or business but for his or her use or benefit  
7 or the use or benefit of a member of his or her household, or in connection with  
8 the operation of his or her household or a farm whether or not the farm is  
9 conducted as a trade or business, or a person who purchases, leases, contracts  
10 for, or otherwise agrees to pay consideration for goods or services not for  
11 resale in the ordinary course of his or her trade or business but for the use or  
12 benefit of his or her business or in connection with the operation of his or her  
13 business.

14 (b) "Goods" or "services" shall include any objects, wares, goods,  
15 commodities, work, labor, intangibles, courses of instruction or training,  
16 securities, bonds, debentures, stocks, real estate, or other property or services  
17 of any kind. The term also includes bottled liquified petroleum (LP or propane)  
18 gas.

19 \* \* \*

1 ~~(h) "Collusion" means an agreement, contract, combination in the form of~~  
2 ~~trusts or otherwise, or conspiracy to engage in price fixing, bid rigging, or~~  
3 ~~market division of allocation for goods or services.~~

4 Sec. 3. 9 V.S.A. § 2453a is added to read:

5 § 2453a. PRACTICES PROHIBITED; CRIMINAL ANTITRUST

6 VIOLATIONS

7 (a) Collusion is hereby declared unlawful.

8 (b) It is the intent of the legislature that in construing this section and  
9 section 2451a(h) of this title, the courts of this state will be guided by the  
10 construction of similar terms contained in Sections 1 of the Sherman Act  
11 (15 U.S.C. § 1) as interpreted by the courts of the United States.

12 (c) Nothing in this section limits the power of the attorney general or a  
13 state's attorney to bring civil actions for antitrust violations under section 2453  
14 of this title.

15 (d) A violation of this section shall be punished by a fine of not more than  
16 \$100,000.00 for an individual or \$1,000,000.00 for any other person or by  
17 imprisonment not to exceed 10 years or both.

18 Sec. 4. EFFECTIVE DATE

19 This act shall take effect on passage.

*Sec. 1. 9 V.S.A. § 2451 is amended to read:*

*§ 2451. PURPOSE*

*The purpose of this chapter is to complement the enforcement of federal statutes and decisions governing unfair methods of competition, ~~and~~ unfair or deceptive acts or practices, and anti-competitive practices in order to protect the public; and to encourage fair and honest competition.*

*Sec. 2. 9 V.S.A. § 2451a is amended to read:*

*§ 2451a. DEFINITIONS*

*For the purposes of this chapter:*

*(a) "Consumer" means any person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for his or her use or benefit or the use or benefit of a member of his or her household, or in connection with the operation of his or her household or a farm whether or not the farm is conducted as a trade or business, or a person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of his or her trade or business but for the use or benefit of his or her business or in connection with the operation of his or her business.*

*(b) "Goods" or "services" shall include any objects, wares, goods, commodities, work, labor, intangibles, courses of instruction or training, securities, bonds, debentures, stocks, real estate, or other property or services*

*of any kind. The term also includes bottled liquified petroleum (LP or propane) gas.*

\* \* \*

*(h) "Collusion" means an agreement, contract, combination in the form of trusts or otherwise, or conspiracy to engage in price fixing, bid rigging, or market division or allocation of goods or services between or among persons.*

*Sec. 3. 9 V.S.A. § 2453a is added to read:*

*§ 2453a. PRACTICES PROHIBITED; CRIMINAL ANTITRUST*

*VIOLATIONS*

*(a) Collusion is hereby declared to be a crime.*

*(b) Subsection (a) of this section shall not be construed to apply to activities of or arrangements between or among persons which are permitted, authorized, approved, or required by federal or state statutes or regulations.*

*(c) It is the intent of the general assembly that in construing this section and subsection 2451a(h) of this title, the courts of this state shall be guided by the construction of federal antitrust law and the Sherman Act, as amended (15 U.S.C. § 1), as interpreted by the courts of the United States.*

*(d) Nothing in this section limits the power of the attorney general or a state's attorney to bring civil actions for antitrust violations under section 2453 of this title.*

(e) A violation of this section shall be punished by a fine of not more than \$100,000.00 for an individual or \$1,000,000.00 for any other person or by imprisonment not to exceed 10 years or both.

Sec. 4. 9 V.S.A. § 2453b is added to read:

§ 2453b. RETALIATION PROHIBITED

No person shall retaliate against, coerce, intimidate, threaten, or interfere with any other person who:

(1) has opposed any act or practice of the person which is collusive or in restraint of trade;

(2) has lodged a complaint or has testified, assisted, or participated in any manner with the attorney general or a state's attorney in an investigation of acts or practices which are collusive or in restraint of trade;

(3) is known by the person to be about to lodge a complaint or testify, assist, or participate in any manner in an investigation of acts or practices which are collusive or in restraint of trade; or

(4) is believed by the person to have acted as described in subdivision (1), (2), or (3) of this subsection.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.