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# A BILL FOR AN ACT

RELATING TO CHAPTER 480, HAWAII REVISED STATUTES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 480-2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§480-2 Unfair competition, practices, declared unlawful.**

4           (a) Unfair methods of competition and unfair or deceptive acts  
5 or practices in the conduct of any trade or commerce are  
6 unlawful.

7           (b) In construing this section, the courts and the office  
8 of consumer protection shall give due consideration to the  
9 rules, regulations, and decisions of the Federal Trade  
10 Commission and the federal courts interpreting section 5(a)(1)  
11 as [~~from time to time~~] amended.

12           (c) No showing that the proceeding or suit would be in the  
13 public interest [~~+~~]as these terms are interpreted under section  
14 5(b) of the Federal Trade Commission Act[~~+~~] is necessary in any  
15 action brought under this section.

16           (d) [~~Ne~~] Except as provided in subsection (f), no person  
17 other than a consumer, the attorney general, or the director of

1 the office of consumer protection may bring an action based upon  
2 unfair or deceptive acts or practices declared unlawful by this  
3 section.

4 (e) Any person may bring an action based on unfair methods  
5 of competition declared unlawful by this section.

6 (f) The State or any of its political subdivisions or  
7 governmental agencies may bring an action based on unfair  
8 methods of competition and unfair or deceptive acts or practices  
9 declared unlawful by this section."

10 SECTION 2. Section 480-14, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§480-14 Suits by the State; amount of recovery.**

13 (a) Whenever the State[~~, any county,~~] or any of its political  
14 subdivisions or governmental agencies[~~]~~ is injured, directly or  
15 indirectly, in its business or property by reason of anything  
16 forbidden or declared unlawful by this chapter, it may sue to  
17 recover threefold the actual damages sustained by it[~~-~~

18 ~~(b)]~~, whether direct or indirect. The attorney general may  
19 bring an action on behalf of the State[~~, any county,~~] or any of  
20 its political subdivisions or governmental agencies to recover  
21 the damages provided for by this section, or by any comparable  
22 provisions of federal law.

1           ~~[(e)]~~ (b) The attorney general of the State shall be  
2 authorized to bring a class action for indirect purchasers  
3 asserting claims under this chapter. The attorney general or  
4 the director of the office of consumer protection may bring a  
5 class action on behalf of consumers based on unfair or deceptive  
6 acts or practices declared unlawful by section 480-2. Actions  
7 brought under this subsection shall be brought as parens patriae  
8 on behalf of natural persons residing in the State, to secure  
9 threefold damages for injuries sustained by such natural persons  
10 to their property by reason of any violation of this chapter.

11           ~~[(d)]~~ (c) If judgment is in favor of the State~~[, any~~  
12 ~~county,~~] or any of its political subdivisions or governmental  
13 agencies under any provision of this chapter, the attorney  
14 general or the director of the office of consumer protection  
15 shall be awarded reasonable attorney's fees together with the  
16 cost of suit; provided further that in any class action lawsuit  
17 brought by the attorney general in behalf of indirect  
18 purchasers, the attorney general shall in addition be awarded an  
19 amount commensurate with expenses reasonably expected to be  
20 expended in distribution of damages to the indirect purchasers."

21           SECTION 3. Section 480-21, Hawaii Revised Statutes, is  
22 amended to read as follows:

1           "**§480-21 Court and venue.** (a) Any criminal action or  
2 proceeding[~~, whether civil or criminal,~~] authorized by this  
3 chapter shall be brought in any appropriate court in the circuit  
4 in which the defendant resides, engages in business, or has an  
5 agent[~~, unless otherwise specifically provided herein~~].

6           (b) Any civil action or proceeding authorized by this  
7 chapter may be brought in any appropriate court."

8           SECTION 4. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10          SECTION 5. This Act, upon its approval, shall take effect  
11 retroactive to January 1, 1998.

**Report Title:**

Antitrust; Unfair Competition

**Description:**

Clarifies antitrust and unfair competition law with regard to who can sue in certain instances, including when having made indirect purchases. (SD1)