

By Senator Aronberg

27-221-06

1                        A bill to be entitled  
2                        An act relating to consumer protection;  
3                        amending ss. 501.203 and 501.204, F.S. ;  
4                        changing obsolete dates; reenacting and  
5                        amending s. 501.207, F.S., relating to remedies  
6                        of the enforcing authority under the Florida  
7                        Deceptive and Unfair Trade Practices Act;  
8                        providing that the court may order actions  
9                        brought under that act on behalf of an  
10                        enterprise; providing an effective date.

12 Be It Enacted by the Legislature of the State of Florida:

14                        Section 1. Subsection (3) of section 501.203, Florida  
15 Statutes, is amended to read:

16                        501.203 Definitions.--As used in this chapter, unless  
17 the context otherwise requires, the term:

18                        (3) "Violation of this part" means any violation of  
19 this act or the rules adopted under this act and may be based  
20 upon any of the following as of July 1, 2006 ~~2001~~:

21                        (a) Any rules promulgated pursuant to the Federal  
22 Trade Commission Act, 15 U.S.C. ss. 41 et seq.;

23                        (b) The standards of unfairness and deception set  
24 forth and interpreted by the Federal Trade Commission or the  
25 federal courts;

26                        (c) Any law, statute, rule, regulation, or ordinance  
27 which proscribes unfair methods of competition, or unfair,  
28 deceptive, or unconscionable acts or practices.

29                        Section 2. Subsection (2) of section 501.204, Florida  
30 Statutes, is amended to read:

31                        501.204 Unlawful acts and practices.--

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

1           (2) It is the intent of the Legislature that, in  
2     construing subsection (1), due consideration and great weight  
3     shall be given to the interpretations of the Federal Trade  
4     Commission and the federal courts relating to s. 5(a)(1) of  
5     the Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of  
6     July 1, 2006 ~~2001~~.

7           Section 3. Subsection (1) of section 501.207, Florida  
8     Statutes, is reenacted, and subsection (3) of that section is  
9     amended to read:

10           501.207 Remedies of enforcing authority.--

11           (1) The enforcing authority may bring:

12           (a) An action to obtain a declaratory judgment that an  
13     act or practice violates this part.

14           (b) An action to enjoin any person who has violated,  
15     is violating, or is otherwise likely to violate, this part.

16           (c) An action on behalf of one or more consumers or  
17     governmental entities for the actual damages caused by an act  
18     or practice in violation of this part. However, damages are  
19     not recoverable under this section against a retailer who has  
20     in good faith engaged in the dissemination of claims of a  
21     manufacturer or wholesaler without actual knowledge that it  
22     violated this part.

23           (3) Upon motion of the enforcing authority or any  
24     interested party in any action brought under subsection (1),  
25     the court may make appropriate orders, including, but not  
26     limited to, appointment of a general or special magistrate or  
27     receiver or sequestration or freezing of assets, to reimburse  
28     consumers or governmental entities found to have been damaged;  
29     to carry out a transaction in accordance with the reasonable  
30     expectations of consumers or governmental entities; to strike  
31     or limit the application of clauses of contracts to avoid an

1 | unconscionable result; to bring actions in the name of and on  
2 | behalf of the defendant enterprise; to order any defendant to  
3 | divest herself or himself of any interest in any enterprise,  
4 | including real estate; to impose reasonable restrictions upon  
5 | the future activities of any defendant to impede her or him  
6 | from engaging in or establishing the same type of endeavor; to  
7 | order the dissolution or reorganization of any enterprise; or  
8 | to grant ~~legal, equitable, or~~ other appropriate relief. The  
9 | court may assess the expenses of a general or special  
10 | magistrate or receiver against a person who has violated, is  
11 | violating, or is otherwise likely to violate this part. Any  
12 | injunctive order, whether temporary or permanent, issued by  
13 | the court shall be effective throughout the state unless  
14 | otherwise provided in the order.

15 |           Section 4. This act shall take effect July 1, 2006.

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18 |                           SENATE SUMMARY

19 |           Authorizes a court to order that an action be brought on  
20 |           behalf of an enterprise under the Florida Deceptive and  
21 |           Unfair Trade Practices Act.  
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