

CHAPTER NO. 394

SENATE BILL NO. 54

INTRODUCED BY TOWE

BY REQUEST OF THE DEPARTMENT OF BUSINESS REGULATION

IN THE SENATE

January 4, 1979	Introduced and referred to Committee on Judiciary.
	On motion Senator Towe was added as author to the prefiled bill.
February 19, 1979	Committee recommend bill do pass as amended. Report adopted.
February 20, 1979	Printed and placed on members' desks.
February 21, 1979	Second reading, do pass.
February 22, 1979	Considered correctly engrossed.
February 23, 1979	Third reading, passed. Transmitted to second house.

IN THE HOUSE

February 27, 1979	Introduced and referred to Committee on Judiciary.
March 19, 1979	Committee recommend bill be concurred in. Report adopted.
March 20, 1979	Motion pass consideration.
March 21, 1979	Second reading, concurred in.
March 23, 1979	Third reading, concurred in.

IN THE SENATE

March 24, 1979

Returned from second house.  
Concurred in. Sent to enrolling.

Reported correctly enrolled.

SENATE BILL NO. 54

INTRODUCED BY \_\_\_\_\_

BY REQUEST OF THE DEPARTMENT OF BUSINESS REGULATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 30-14-111 AND 30-14-142, MCA, TO ALLOW FOR THE USE OF RESTRAINING ORDERS IN THE ENFORCEMENT OF THE MONTANA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT OF 1973."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 30-14-111, MCA, is amended to read:

"30-14-111. Department to restrain unlawful acts. (1) Whenever the department has reason to believe that any person is using, has used, or is about to knowingly use any method, act, or practice declared by 30-14-103 to be unlawful and that proceeding would be in the public interest, the department may bring an action in the name of the state against such person to restrain by temporary or permanent injunction or restraining order the use of such method, act, or practice, upon the giving of appropriate notice to that person.

(2) The notice must state generally the relief sought and be served in accordance with ~~30-14-134~~ 30-14-115 at least 20 days before the hearing of the action where the relief to be sought is a temporary or permanent injunction.

The notice for a restraining order is governed by 27-19-305, MCA.

(3) The action may be brought in the district court in which such person resides or has his principal place of business or, with consent of the parties, may be brought in the district court of Lewis and Clark County.

(4) The courts are authorized to issue temporary or permanent injunctions or restraining orders to restrain and prevent violations of this part, and such injunctions shall be issued without bond."

Section 2. Section 30-14-142, MCA, is amended to read:

"30-14-142. Penalties. (1) Any person who violates the terms of an injunction or restraining order issued under 30-14-111 shall forfeit and pay to the state a civil penalty of not more than \$10,000 per violation. For the purposes of this section, the district court issuing an injunction or restraining order retains jurisdiction and the cause continued, and in such cases the department acting in the name of the state may petition for recovery of civil penalties.

(2) In any action brought under 30-14-111, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by 30-14-103, the department, upon petition to the court, may recover on behalf of the state a civil penalty of not

1 more than \$500 per violation.

2 (3) Any person who engages in a fraudulent course of  
3 conduct declared unlawful by 30-14-103 shall upon conviction  
4 be fined not more than \$2,000, imprisoned for not more than  
5 1 year, or both, in the discretion of the court. Nothing in  
6 this subsection limits any other provision of this part.

7 (4) For purposes of this section, a willful violation  
8 occurs when the party committing the violation knew or  
9 should have known that his conduct was a violation of  
10 30-14-103."

-End-

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17 unlawful and that proceeding would be in the public  
18 interest, the department may bring an action in the name of  
19 the state against such person to restrain by temporary or  
20 permanent injunction or TEMPORARY restraining order the use  
21 of such method, act, or practice, upon the giving of  
22 appropriate notice to that person.

23 (2) The notice must state generally the relief sought  
24 and be served in accordance with ~~30-14-134~~ 30-14-115 at  
25 least 20 days before the hearing of the action ~~where the~~

1 ~~relief to be sought is a temporary or permanent injunction.~~  
2 ~~The notice for a TEMPORARY restraining order is governed by~~  
3 ~~[27-19-305]v-MEA.~~

4 (3) The action may be brought in the district court in  
5 which such person resides or has his principal place of  
6 business or, with consent of the parties, may be brought in  
7 the district court of Lewis and Clark County.

8 (4) The courts are authorized to issue temporary or  
9 permanent injunctions or TEMPORARY restraining orders to  
10 restrain and prevent violations of this part, and such  
11 injunctions shall be issued without bond."

12 Section 2. Section 30-14-142, MCA, is amended to read:

13 "30-14-142. Penalties. (1) Any person who violates the  
14 terms of an injunction or TEMPORARY restraining order issued  
15 under 30-14-111 shall forfeit and pay to the state a civil  
16 penalty of not more than \$10,000 per violation. For the  
17 purposes of this section, the district court issuing an  
18 injunction or TEMPORARY restraining order retains  
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21 recovery of civil penalties.

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7 this subsection limits any other provision of this part.

8 (4) For purposes of this section, a willful violation  
9 occurs when the party committing the violation knew or  
10 should have known that his conduct was a violation of  
11 30-14-103."

12 ~~SECTION 3. CODIFICATION. IF SENATE BILL 243 BECOMES~~  
13 ~~LAW, THE REFERENCE IN SECTION 1, SUBSECTION (2), OF THIS ACT~~  
14 ~~TO 27-19-305 SHALL BE CHANGED BY THE CODE COMMISSIONER TO A~~  
15 ~~REFERENCE TO SECTION 7 OF SENATE BILL 243.~~

-End-

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3 ~~[27-19-305]-MEA.~~

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13 LAW, THE REFERENCE IN SECTION 1, SUBSECTION (2), OF THIS ACT  
14 TO 27-19-305 SHALL BE CHANGED BY THE CODE COMMISSIONER TO A  
15 REFERENCE TO SECTION 7 OF SENATE BILL 243.

-End-