

SENATE BILL NO. 252

1/25 Introduced
1/26 Referred to Business & Industry
2/05 Hearing
2/15 Tabled in Committee

SENATE BILL NO. 252

1 INTRODUCED BY Senate BILL NO. 252
2 Fuller Hager Pinchard
3 BY REQUEST OF THE DEPARTMENT OF COMMERCE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE
6 DEPARTMENT OF COMMERCE AND COUNTY ATTORNEYS TO ISSUE CEASE
7 AND DESIST ORDERS TO STOP UNFAIR AND DECEPTIVE TRADE
8 PRACTICES PENDING A HEARING; ESTABLISHING PENALTIES AND
9 RULEMAKING AUTHORITY; ESTABLISHING AN INVESTIGATIVE FUND;
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
11

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

13 Section 1. Authority to issue cease and desist orders
14 -- hearings -- penalty. Whenever it reasonably appears that
15 a person is engaged in any course of conduct declared
16 unlawful by 30-14-103, the department or a county attorney,
17 at the department's request, may issue a temporary order,
18 effective immediately, directing the person to cease and
19 desist from continuing the act or practice pending a
20 hearing. Notice of opportunity for hearing must be attached
21 to any cease and desist order. The order may be served in
22 person or by mail and remains in effect until 10 days after
23 a hearing is held. It becomes final if the person to whom
24 the notice and order is addressed fails to request a hearing
25 within 15 days after receipt of the notice and order. For

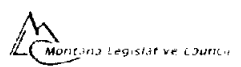
1 purposes of this section, service by mail is complete on the
2 date of mailing. The department shall conduct any requested
3 hearing within 10 days from the date of request in
4 accordance with rules adopted for that purpose.

5 Section 2. Interest and penalties. Interest and
6 penalties collected pursuant to 30-14-142 or in accordance
7 with an assurance of voluntary compliance must be paid into
8 an account in the special revenue fund created to receive
9 investigative funds and must be used exclusively to offset
10 costs of state and local investigation of unfair and
11 deceptive acts and practices. The department has exclusive
12 control over investigative funds and may assist local
13 investigations into unfair and deceptive acts.

14 Section 3. Rulemaking authority. The department shall
15 promulgate rules prescribing forms and procedures required
16 to implement [sections 1 and 2].

17 Section 4. Penalty. Any person who willfully and
18 knowingly violates any cease and desist order is upon
19 conviction subject to the penalties contained in
20 30-14-142(3).

21 Section 5. Severability. If a part of this act is
22 invalid, all valid parts that are severable from the invalid
23 part remain in effect. If a part of this act is invalid in
24 one or more of its applications, the part remains in effect
25 in all valid applications that are severable from the



-2- INTRODUCED BILL
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LC 0909/01

1 invalid applications.

2 Section 6. Effective date. This act is effective on

3 passage and approval.

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