



General Assembly

January Session, 2007

**Raised Bill No. 1242**

LCO No. 4437

\*04437\_\_\_\_\_JUD\*

Referred to Committee on Judiciary

Introduced by:  
(JUD)

**AN ACT CONCERNING ANTITRUST INVESTIGATIONS AND ENFORCEMENT ACTIONS BY THE ATTORNEY GENERAL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 35-25 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 As used in this chapter, unless the context [indicates] otherwise  
4 requires:

5 [(a)] (1) "Commodity" means any goods, merchandise, wares,  
6 produce, chose in action, patents, trade marks, land or articles of  
7 commerce, or any other tangible or intangible property, real, personal  
8 [,] or mixed, for use, consumption, enjoyment [,] or resale;

9 [(b)] (2) "Person" means any individual, proprietorship, corporation,  
10 limited liability company, firm, partnership, incorporated [and] or  
11 unincorporated association [,] or [any] other legal or commercial  
12 entity;

13 [(c)] (3) "Trade or commerce" means intrastate as well as interstate  
14 trade or commerce; and

15       (4) "Federal antitrust law" means antitrust law, as defined in 15 USC  
16       1311(a), as from time to time amended.

17       Sec. 2. Subsection (d) of section 35-32 of the general statutes is  
18       repealed and the following is substituted in lieu thereof (*Effective*  
19       *October 1, 2007*):

20       (d) The Attorney General may also bring a civil action in the name  
21       of the state in the district courts of the United States under [the] federal  
22       antitrust [laws] law to recover damages and secure such other relief as  
23       provided [for in such laws] in federal antitrust law as: (1) [parens]  
24       Parens patriae for persons residing in the state with respect to  
25       damages sustained by such persons, or, if the court finds in its  
26       discretion that the interests of justice so require, as a representative of a  
27       class or classes consisting of persons residing in the state who have  
28       been damaged; or (2) parens patriae with respect to damages to the  
29       general economy of the state or any political subdivision thereof, [;]  
30       provided [that] such damages shall not be duplicative of those  
31       recoverable under subdivision (1) of this subsection.

32       Sec. 3. Section 35-32a of the general statutes is repealed and the  
33       following is substituted in lieu thereof (*Effective October 1, 2007*):

34       [(a)] All (1) gifts or grants made to the state for antitrust  
35       enforcement purposes, (2) funds awarded to the state or any agency of  
36       the state for the recovery of costs and attorney's fees in an antitrust  
37       action, (3) civil penalties imposed pursuant to section 35-38, as  
38       amended by this act, except as provided in subsection (b) of said  
39       section, and (4) damages collected by the state for injuries to its  
40       business or property pursuant to a judgment or settlement agreement  
41       in an antitrust action, shall be deposited in the General Fund.

42       [(b) Any balance remaining in the Antitrust Revolving Fund in the  
43       custody of the State Treasurer on July 1, 1985, shall be transferred to  
44       the General Fund.]

45 Sec. 4. Section 35-38 of the general statutes is repealed and the  
46 following is substituted in lieu thereof (*Effective October 1, 2007*):

47 (a) In any action instituted by the Attorney General: [, any] (1) Any  
48 individual who has been held to have violated any provision of this  
49 chapter shall forfeit and pay to the state a civil penalty of not more  
50 than [twenty-five] one hundred thousand dollars; [. Any] and (2) any  
51 other person who has been held to have violated any [of the  
52 provisions] provision of this chapter shall forfeit and pay to the state a  
53 civil penalty of not more than [two hundred fifty thousand] one  
54 million dollars.

55 (b) (1) For the purposes of this subsection and subsection (c) of this  
56 section, "individual source" means an individual who has direct and  
57 independent knowledge of information on which allegations of a  
58 violation of any provision of this chapter are based and who  
59 voluntarily provides such information to the Attorney General.

60 (2) The Attorney General may apply to the Superior Court for a  
61 monetary award to an individual source as provided in this subsection  
62 not later than ninety days from the date of a judgment imposing a civil  
63 penalty pursuant to subsection (a) of this section, the date of approval  
64 by the court of a settlement or stipulation regarding an action brought  
65 under this chapter or the effective date of an assurance of voluntary  
66 compliance or other settlement agreement regarding a violation of any  
67 provision of this chapter, as the case may be. Except as provided in  
68 subsection (c) of this section, if (A) a court enters a judgment finding  
69 that a person has violated any provision of this chapter and imposes a  
70 civil penalty pursuant to subsection (a) of this section, (B) a court  
71 approves a settlement agreement or stipulation regarding an action  
72 brought under this chapter and such agreement or stipulation includes  
73 the payment of such civil penalty, or (C) the Attorney General enters  
74 into an assurance of voluntary compliance or other settlement  
75 agreement regarding a violation of any provision of this chapter and  
76 such assurance or agreement includes the payment of such civil

77 penalty, upon application of the Attorney General, the court may  
78 award an individual source, from such civil penalty, an amount that  
79 shall not be less than fifteen per cent or more than twenty-five per cent  
80 of such civil penalty, depending on the extent to which the individual  
81 source substantially contributed to the investigation of the case or the  
82 prosecution of the action, or both.

83 (c) An individual source shall not be eligible for a monetary award  
84 pursuant to subsection (b) of this section if: (1) Such individual source  
85 was employed by the state at the time he or she obtained the  
86 information provided to the Attorney General; (2) such individual  
87 source planned, initiated or materially benefited from the violation of  
88 any provision of this chapter; (3) the information provided to the  
89 Attorney General by such individual source is based on public  
90 disclosure of allegations or transactions in a criminal, civil,  
91 administrative or legislative investigation or proceeding, an audit or  
92 report by the Auditors of Public Accounts, a report by the news media  
93 or any other public document or source; (4) the action brought by the  
94 Attorney General under this chapter, or the investigation conducted by  
95 the Attorney General under this chapter that resulted in an assurance  
96 of voluntary compliance or other settlement agreement, was based on  
97 allegations or transactions that are the subject of another criminal, civil,  
98 administrative or legislative proceeding; or (5) such individual source  
99 did not substantially contribute to the prosecution of the action  
100 brought by the Attorney General under this chapter or to the  
101 investigation conducted by the Attorney General under this chapter  
102 that resulted in an assurance of voluntary compliance or other  
103 settlement agreement.

104 Sec. 5. Section 35-42 of the general statutes is repealed and the  
105 following is substituted in lieu thereof (*Effective October 1, 2007*):

106 (a) Whenever the Attorney General, his or her deputy, or any  
107 assistant attorney general designated by the Attorney General, has  
108 reason to believe that any person has violated any [of the provisions]

109 provision of this chapter [, he] or federal antitrust law, the Attorney  
110 General or such deputy or assistant attorney general may, prior to  
111 instituting any action or proceeding against such person, issue in  
112 writing and cause to be served upon any person, by subpoena duces  
113 tecum, a demand requiring such person to submit to [him] the  
114 Attorney General or such deputy or assistant attorney general  
115 documentary material relevant to the scope of the alleged violation.

116 (b) Such demand shall (1) state the nature of the alleged violation,  
117 [and] (2) describe the class or classes of documentary material to be  
118 reproduced thereunder with such definiteness and certainty as to be  
119 accurately identified, and (3) prescribe a date which would allow a  
120 reasonable time to assemble such [documents] documentary material  
121 for compliance.

122 (c) All [documents] documentary material or other information  
123 furnished voluntarily or pursuant to a demand under this section to  
124 the Attorney General, his or her deputy, or any assistant attorney  
125 general designated by the Attorney General, and the identity of any  
126 person furnishing such documentary material or information, shall be  
127 held in the custody of the Attorney General, or [his] the Attorney  
128 General's designee, and shall not be available to the public. [, and]  
129 Such documentary material shall be returned to the person [at]  
130 furnishing such documentary material upon the termination of the  
131 [attorney general's] Attorney General's investigation or the final  
132 determination of any action or proceeding commenced thereunder.

133 (d) No such demand shall require the submission of any  
134 documentary material, the contents of which would be privileged, or  
135 precluded from disclosure if demanded in a grand jury investigation.

136 (e) The Attorney General, his or her deputy, or any assistant  
137 attorney general designated by the Attorney General, may, during the  
138 course of an investigation of any [violations of the provisions]  
139 violation of any provision of this chapter or federal antitrust law by  
140 any person: (1) [issue] Issue in writing and cause to be served upon

141 any person, by subpoena, a demand that such person appear before  
142 [him] the Attorney General or such deputy or assistant attorney  
143 general and give testimony as to any matters relevant to the scope of  
144 the alleged violations. Such appearance shall be under oath and a  
145 written transcript shall be made of the same, a copy of which shall be  
146 furnished to [said] such person appearing, and shall not be available  
147 for public disclosure; and (2) issue written interrogatories prescribing a  
148 return date which would allow a reasonable time to respond, which  
149 responses shall be under oath and shall not be available for public  
150 disclosure.

151 (f) [In the event any person shall fail] If any person fails to comply  
152 with the provisions of this section, (1) the Attorney General, his or her  
153 deputy, or any assistant attorney general designated by the Attorney  
154 General, may apply to the superior court for the judicial district of  
155 Hartford for compliance, which court may, upon notice to such person,  
156 issue an order requiring such compliance, which shall be served upon  
157 such person; (2) the Attorney General, his or her deputy, or any  
158 assistant attorney general designated by the Attorney General, may  
159 also apply to the superior court for the judicial district of Hartford for  
160 an order, which court may, after notice to such person and hearing  
161 thereon, issue an order requiring the payment of civil penalties to the  
162 state in an amount not to exceed [five hundred] two thousand dollars.

163 (g) The Attorney General shall cooperate with officials of the federal  
164 government and the several states, including, but not limited to, the  
165 sharing and disclosure of information and evidence obtained under  
166 the purview of this chapter.

167 (h) Service of subpoenas ad testificandum, subpoenas duces tecum,  
168 notices of deposition, and written interrogatories, as provided [herein]  
169 in this section, may be made by: (1) Personal service or service at the  
170 usual place of abode; or (2) [by] registered or certified mail, return  
171 receipt requested, a duly executed copy thereof addressed to the  
172 person to be served at [his] such person's principal place of business in

173 this state, or, if [said] such person has no principal place of business in  
174 this state, to [his] such person's principal office, or to [his] such  
175 person's residence.

176 Sec. 6. (NEW) (*Effective October 1, 2007*) (a) No employer shall  
177 discharge, demote, suspend, threaten, harass or in any manner  
178 discriminate against any employee in the terms and conditions of  
179 employment because of any lawful act done by such employee, on  
180 behalf of such employee or others, to provide information, cause  
181 information to be provided, or assist in any manner in an investigation  
182 conducted or an action brought by the Attorney General under chapter  
183 624 of the general statutes, as amended by this act.

184 (b) Any employee who believes that such employee has been  
185 discharged, demoted, suspended, threatened, harassed or otherwise  
186 discriminated against by any person in violation of subsection (a) of  
187 this section may bring an action in the Superior Court for relief as  
188 provided in this subsection. The court may award to an employee who  
189 prevails in such action all appropriate relief, including: (1) Rehiring or  
190 reinstatement to such employee's previous job; (2) payment of two  
191 times the amount of back wages, plus interest; (3) reestablishment of  
192 employee seniority and benefits for which such employee otherwise  
193 would have been eligible if such employee had not been discharged,  
194 demoted, suspended, threatened, harassed or otherwise discriminated  
195 against; and (4) special damages sustained by the employee as a result  
196 of any such discharge, demotion, suspension, threat, harassment or  
197 discrimination. An employee who prevails in such action shall be  
198 awarded reasonable attorney's fees and costs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	35-25
Sec. 2	<i>October 1, 2007</i>	35-32(d)
Sec. 3	<i>October 1, 2007</i>	35-32a
Sec. 4	<i>October 1, 2007</i>	35-38

Sec. 5	<i>October 1, 2007</i>	35-42
Sec. 6	<i>October 1, 2007</i>	New section

***Statement of Purpose:***

To provide monetary incentives for individuals to voluntarily furnish information concerning antitrust law violations to the Attorney General, to protect the confidentiality of such information and the identity of persons furnishing such information, to protect employees who furnish such information from retaliation by their employers, to increase the amount of civil penalties applicable to antitrust law violations and failure to comply with antitrust subpoenas, and to authorize the Attorney General to issue subpoenas for information concerning violations of federal antitrust law.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*