



**PA 18-22—sHB 5252**

*Judiciary Committee*

**AN ACT CONCERNING REVISIONS TO THE CONNECTICUT ANTITRUST ACT AND DISCOVERY CONDUCTED BY THE ATTORNEY GENERAL IN WHISTLE-BLOWER AND FALSE CLAIMS ACTIONS**

**SUMMARY:** This act allows purchasers who did not buy directly from a defendant (“indirect purchasers”) to recover for antitrust violations by any type of defendant. Under prior law, this applied only to cases against defendants who sold, distributed, or disposed of drugs or medical devices (“drug manufacturers”). As under prior law for drug manufacturers, the act allows defendants to avoid duplicative liability if they can prove that an alleged overcharge was passed on by someone else.

The act also:

1. expands the allowable methods for service of process when the attorney general issues subpoenas or deposition notices in whistleblower or False Claims Act investigations (see BACKGROUND) and
2. requires the attorney general’s office to return documents it obtains through a False Claims Act subpoena at the conclusion of the investigation or lawsuit.

**EFFECTIVE DATE:** October 1, 2018

**§ 1 — ANTITRUST CASES BY INDIRECT PURCHASERS**

The act makes two related changes concerning antitrust cases. Under prior law, these provisions only applied to antitrust cases against drug manufacturers.

The act allows indirect purchasers to recover against a defendant for an antitrust violation. It does so by prohibiting a defendant from raising the defense that it did not deal directly with the person on whose behalf the case was brought.

But the act allows a defendant, in order to avoid duplicative liability related to an alleged overcharge, to prove that all or part of the overcharge was passed on by someone else in the chain of manufacture, production, or distribution. The defendant may attempt to prove this as a partial or complete defense.

The act applies to antitrust cases brought by the attorney general in the name of the state on behalf of (1) particular state residents (including class actions) or (2) the state as a whole or any of its political subdivisions. It also applies to cases seeking triple damages for alleged antitrust violations that damaged the business or property of the state or any person, including a consumer.

**§ 2 — WHISTLEBLOWER AND FALSE CLAIMS ACT SUBPOENAS**

## OLR PUBLIC ACT SUMMARY

Existing law allows the attorney general, when investigating a suspected violation of the whistleblower law or False Claims Act, to summon witnesses or require someone to produce documents. Under the act, the attorney general may serve such a subpoena to testify or produce documents or a deposition notice in the following ways:

1. personal service or service at the person's usual residence or
2. registered or certified mail, return receipt requested, with a duly executed copy addressed to the person to be served at his or her principal place of business in the state, or, if none, at the person's residence or principal office.

Previously, such documents generally had to be served through personal service at the person's home or place of business.

Under the act, if a person provides the attorney general's office with documentary material and other information through a subpoena related to a False Claims Act investigation, the office must return the documents to the person after the (1) attorney general completes his investigation or (2) final determination of any related action or proceeding.

### BACKGROUND

#### *Whistleblower Law*

The state's primary whistleblower law allows anyone to report specific kinds of state agency, quasi-public agency, or large state contractor misconduct to the auditors of public accounts, for possible investigation by the attorney general (CGS § 4-61dd).

#### *False Claims Act*

Under the False Claims Act, the attorney general may investigate fraud related to certain state-administered health or human services programs (CGS § 4-274 et seq.).