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**BUSINESS AND PROFESSIONS CODE - BPC**

**DIVISION 7. GENERAL BUSINESS REGULATIONS [16000 - 18107]** ( *Division 7 added by Stats. 1941, Ch. 61.*  )

**PART 2. PRESERVATION AND REGULATION OF COMPETITION [16600 - 17365]** ( *Part 2 added by Stats. 1941, Ch. 526.*  )

**CHAPTER 2. Combinations in Restraint of Trade [16700 - 16770]** ( *Chapter 2 added by Stats. 1941, Ch. 526.*  )

**ARTICLE 3. Enforcement [16750 - 16761]** ( *Article 3 added by Stats. 1941, Ch. 526.*  )

**16750.** (a) Any person who is injured in his or her business or property by reason of anything forbidden or declared unlawful by this chapter, may sue therefor in any court having jurisdiction in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover three times the damages sustained by him or her, interest on his or her actual damages pursuant to Section 16761, and preliminary or permanent injunctive relief when and under the same conditions and principles as injunctive relief is granted by courts generally under the laws of this state and the rules governing these proceedings, and shall be awarded a reasonable attorneys' fee together with the costs of the suit.

This action may be brought by any person who is injured in his or her business or property by reason of anything forbidden or declared unlawful by this chapter, regardless of whether such injured person dealt directly or indirectly with the defendant.

The amendments to this section adopted at the 1959 Regular Session of the Legislature do not apply to any action commenced prior to September 18, 1959.

(b) The state and any of its political subdivisions and public agencies shall be deemed a person within the meaning of this section.

(c) The Attorney General may bring an action on behalf of the state or of any of its political subdivisions or public agencies to recover the damages provided for by this section, or by any comparable provision of federal law, provided that the Attorney General shall notify in writing any political subdivision or public agency of his or her intention to bring any such action on its behalf, and at any time within 30 days thereafter, such political subdivision or public agency may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the Attorney General to bring the intended action. In any action brought pursuant to this section on behalf of any political subdivision or public agency of the state, the state shall retain for deposit in the Attorney General antitrust account within the General Fund, out of the proceeds, if any, resulting from such action, an amount equal to the expense incurred by the Attorney General in the investigation and prosecution of such action or an amount equal to 10 percent of the total recovery obtained by the Attorney General, whichever is greater.

(d) In any antitrust action brought on behalf of the state in which the Attorney General is the class representative of political subdivisions, public agencies, or citizens of the state who have been affected by the matters set forth in the complaint, the state shall retain for deposit in the Attorney General antitrust account within the General Fund, the proceeds, if any, of any attorneys' fees awarded by the court in which such case is located, to the Attorney General, resulting from such class representation.

(e) In any action brought by the Attorney General pursuant to either state or federal antitrust laws for the recovery of damages by the state or any of its political subdivisions or public agencies, in addition to his or her other powers and authority, the Attorney General may enter into contracts relating to the investigation and the prosecution of such action with any other party plaintiff who has brought a similar action for the recovery of damages and with whom the Attorney General finds it advantageous to act jointly, or to share common expenses or to cooperate in any manner relative to such action. In any such action, notwithstanding the provisions of Section 12520 of the Government Code, the Attorney General may undertake, among other things, either to render legal services as special counsel to, or to obtain the legal services of special counsel from any department or agency of the United States, of this state or any other state or any department or agency thereof, any county, city, public corporation or public district of this state or of any other state, that has brought or intends to bring a similar action for the recovery of damages, or their duly authorized legal representatives in such action. The Attorney General may also enter into any agreement authorized by Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code with any governmental entity enumerated in this subdivision, notwithstanding any provision to the contrary contained in Section 6500 of the Government Code. Every contract or agreement entered into pursuant to this subdivision (e) shall be approved by the Department of General Services.

(f) The amounts paid into the Attorney General antitrust account within the General Fund pursuant to subdivisions (c), (d) and (e) arising from the same action or companion actions shall not cumulatively exceed the greater of ten percent (10%) of the total recovery in all actions resulting from the Attorney General's representation or an amount equal to the expenses incurred by the Attorney General in the investigation and prosecution of such actions. Any excess shall be paid into the General Fund.

(g) The district attorney of any county may prosecute any action on behalf of such county or any city or public agency or political subdivision located wholly within such county which the Attorney General is authorized to bring pursuant to subdivision (c) of this section, whenever it appears that the activities giving rise to such prosecution or the effects of such activities occur primarily within such county. The district attorney shall file with the Attorney General at least 30 days prior to the filing of any such action a copy of the proposed complaint together with a confidential memorandum and report explaining the facts giving rise to the proposed prosecution and supporting the filing of the new complaint. Prior to entering into any stipulated or consent judgment or other settlement of any such action, the district attorney shall file with the Attorney General at least 30 days prior to the execution thereof a copy of the proposed settlement together with a memorandum of explanation of the settlement. The Attorney General may waive any time requirements provided in this subdivision. In any investigation or action undertaken or brought by a district attorney pursuant to this section, if the Attorney General deems it necessary and in the public interest, the Attorney General may take full charge of any such investigation or prosecution, and the Attorney General shall have all the powers granted by Section 12550 of the Government Code in respect thereto.

(h) In any action prosecuted pursuant to the provisions of subdivision (g) a district attorney may exercise all of the powers conferred on the Attorney General by subdivision (e) provided that every contract or agreement entered into pursuant to this subdivision by a district attorney shall first be approved by the governing authority of the agency in his or her county.

(i) In any action brought pursuant to subdivision (g) a district attorney may represent any political subdivision located within his or her county directly, in which case he or she shall notify in writing such political subdivision of his or her intention to bring any such action on its behalf, and at any time within 30 days thereafter, that political subdivision may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the district attorney to bring the intended action. In any action in which a district attorney directly represents any political subdivision located within his county, the district attorney shall retain out of the proceeds, if any, resulting from such action, an amount equal to the expense incurred by the district attorney in the investigation and prosecution of such action or an amount equal to 10 percent of the total recovery obtained by the district attorney, whichever is greater. In any action brought pursuant to subdivision (g) in which the county, through the district attorney, is the class representative of political subdivisions located within such county, the district attorney shall retain the proceeds, if any, of any attorneys' fees awarded by the court in which such action is pending to the district attorney, resulting from such class representation. All proceeds retained by a district attorney pursuant to this subdivision shall be deposited in the appropriate account as provided by law.

(j) Nothing in this section shall be construed to authorize any district attorney to exercise the powers conferred upon the Attorney General by an act of Congress of September 30, 1976, (P.L. 94-905; 90 Stat. 1983) also known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, except at the direction of the Attorney General.

*(Amended by Stats. 1987, Ch. 865, Sec. 2.)*

**16750.1.** Any civil action to enforce any cause of action for a violation of this chapter shall be commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of the amendment of this section at the 1977–78 Regular Session of the Legislature shall be revived by such amendment.

*(Amended by Stats. 1977, Ch. 541.)*

**16750.2.** Any person, other than the Attorney General or a district attorney, who commences, by writ or appeal, any proceeding in the Supreme Court of California or a state court of appeal in which a violation of this chapter is alleged or any application of this chapter is in issue shall serve notice thereof upon the Attorney General within three days after the commencement of the proceeding, provided that such time may be extended by the Chief Justice or presiding justice for good cause shown. No relief, temporary or permanent, shall be granted until proof of service of this notice is filed with the court.

*(Added by Stats. 1983, Ch. 765, Sec. 1.)*

**16751.** Whenever it appears to the court before which any proceedings under this chapter are pending that the ends of justice require that other parties shall be brought before the court, the court may cause them to be made parties defendant and summoned, whether or not they reside in the county where such action is pending.

*(Added by Stats. 1941, Ch. 526.)*

**16752.** Upon a violation of this chapter by any corporation or association the Attorney General or the district attorney of the proper county may institute proper proceedings in a court of competent jurisdiction for the forfeiture of charter rights, franchises or privileges and powers exercised by such corporation or association, and for the dissolution of the corporation or association.

*(Amended by Stats. 1959, Ch. 2079.)*

**16753.** Every foreign corporation or association, exercising any of the powers, franchises or functions of a corporation in this state, which violates this chapter, is subject to revocation of those powers, franchises or functions and upon such revocation is prohibited from doing any business in this state. The Attorney General, or a district attorney of a county where the offense or any part thereof is committed, may enforce this provision by bringing proper proceedings by injunction or otherwise. Upon receipt of a certified copy of the judgment and decree of any court of competent jurisdiction finding any foreign corporation or association guilty of violating this chapter and ordering a revocation of its powers, franchises or functions of a corporation in this state, the Secretary of State shall revoke the license of any such corporation or association heretofore authorized to do business in this state.

*(Amended by Stats. 1977, Ch. 540.)*

**16754.** The Attorney General, or the district attorney of any county, subject to the notice requirements of subdivision (g) of Section 16750, shall initiate civil actions or criminal proceedings for violation of this chapter. Civil actions and criminal proceedings for violation of this chapter initiated by the Attorney General or district attorney may be brought in the superior court in and for any county where the offense or any part thereof is committed or where any of the offenders reside or where any corporate defendant does business. In any civil action or criminal proceeding brought by a district attorney pursuant to this section, the Attorney General shall have all of the powers set forth in Section 12550 of the Government Code.

*(Amended by Stats. 1977, Ch. 540.)*

**16754.5.** In any civil action brought by the Attorney General or a district attorney under this chapter, the court may, in addition to granting such prohibitory injunctions and other restraints as it may deem expedient to deter the defendant from, and insure against, his committing a future violation of this chapter, grant such mandatory injunctions as may be reasonably necessary to restore and preserve fair competition in the trade or commerce affected by the violation.

*(Amended by Stats. 1977, Ch. 540.)*

**16755.** (a) Any violation of this chapter is a conspiracy against trade, and any person who engages in any such conspiracy or takes part therein, or aids or advises in its commission, or who as principal, manager, director, agent, servant or employee, or in any other capacity, knowingly carries out any of the stipulations, purposes, prices, rates, or furnishes any information to assist in carrying out such purposes, or orders thereunder or in pursuance thereof, is punishable, as follows:

(1) If the violator is a corporation, by a fine of not more than one million dollars (\$1,000,000) or the applicable amount under paragraph (3), whichever is greater.

(2) If the violator is an individual, by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for one, two, or three years, by imprisonment for not more than one year in a county jail, by a fine of not more than the greater of two hundred fifty thousand dollars (\$250,000), a fine of the applicable amount under paragraph (3), or by both a fine and imprisonment.

(3) If any person derives pecuniary gain from a violation of this chapter, or the violation results in pecuniary loss to a person other than the violator, the violator may be fined not more than an amount equal to the amount of the gross gain multiplied by two or an amount equal to the amount of the gross loss multiplied by two, whichever is applicable.

(b) Any action pursuant to this section may be commenced at any time within four years after the commission of the last act comprising a part of any violation. No cause of action barred under existing law on the effective date of the amendment of this section at the 1977–78 Regular Session of the Legislature shall be revived by such amendment.

(c) Subject to Section 13521 of the Penal Code, all moneys received by any court in payment of any fine or civil penalty imposed pursuant to this section shall, as soon as practicable after receipt thereof, be deposited with the county treasurer of the county in which the court is situated. Amounts so deposited shall be paid as soon as practicable as follows: 100 percent to the Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of said court to be deposited in the State Treasury on order of the Controller if the moneys received resulted from an action initiated and prosecuted by the Attorney General. If the action was initiated and prosecuted by a district attorney then 100 percent shall be paid as soon as practicable to the treasurer of the county in which the prosecution is conducted. If the action was initiated and prosecuted jointly by the Attorney General and a district attorney or jointly by more than one district attorney, such amounts shall be paid to the State Treasurer and to the treasurer(s) of the county or counties participating in the prosecution in a proportion agreed upon by the agencies jointly prosecuting such case and as approved by the court.

*(Amended by Stats. 2011, Ch. 15, Sec. 26. (AB 109) Effective April 4, 2011. Operative October 1, 2011, by Sec. 636 of Ch. 15, as amended by Stats. 2011, Ch. 39, Sec. 68.)*

**16756.** In any indictment, information or complaint for any offense named in this chapter, it is sufficient to state the purpose or effects of the trust or combination, and that the accused is a member of, acted with, or in pursuance of it, or aided or assisted in carrying out its purposes, without giving its name or description, or how, when and where it was created.

*(Added by Stats. 1941, Ch. 526.)*

**16757.** (a) In prosecutions under this chapter, it is sufficient to prove that a trust or combination exists, and that the defendant belonged to it, or acted for or in connection with it, without proving all the members belonging to it, or proving or producing any article of agreement, or any written instrument on which it may have been based, or that it was evidenced by any written instrument at all.

(b) The character of the trust or combination alleged may be established by proof of its general reputation as such.

*(Added by Stats. 1941, Ch. 526.)*

**16758.** In any action or proceeding brought by the Attorney General or any district attorney for the violation of this chapter no person shall be excused from attending, testifying or producing books, papers, or documents in obedience to subpoena or under order of court on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to any penalty.

No individual shall be prosecuted or subjected to any penalty for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence in any action or proceeding brought by the Attorney General or a district attorney under this chapter.

*(Added by Stats. 1941, Ch. 526.)*

**16759.** (a) All those powers granted to the Attorney General as a head of a department under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code shall be granted to the district attorney of any county when that district attorney reasonably believes that there may have been a violation of Article 2 (commencing with Section 16720) or Article 3 (commencing with Section 16750) of this chapter, or a violation of Chapter 4 (commencing with Section 17000) of this part, or a violation of Chapter 5 (commencing with Section 17200) of this part, and shall be subject to the provisions of Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code.

(b) All those powers granted to the Attorney General as head of a department under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code shall be granted to the city attorney of any city having a population in excess of 750,000, to the county counsel of any county within which a city has a population in excess of 750,000, or to a city attorney of a city and county, when the city attorney or county counsel reasonably believes that there may have been a violation of Chapter 5 (commencing with Section 17200) of this part and shall be subject to the provisions of Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code.

(c) Any investigation pursuant to these powers shall be conducted in accordance with the procedures set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code, including all applicable principles relating to immunity from self-incrimination. However, Section 16758 shall not be construed as providing automatic immunity with respect to the subject of a subpoena issued in connection with that investigation. Court orders sought pursuant to this section shall be sought in the superior court of the county in which the district attorney, authorized pursuant to subdivision (a), or the city attorney or county counsel, authorized pursuant to subdivision (b), seeking the order holds office.

(d) Should the recipient of such subpoena issued pursuant to the powers granted in subdivision (b) object to the request in whole or in part, the recipient must serve objections and meet and confer with the issuer of the subpoena in an attempt to address those objections. If after meeting and conferring, the issuer and recipient cannot reach agreement, the recipient may petition the superior court for an order quashing or modifying the subpoena in whole or in part.

*(Amended by Stats. 2022, Ch. 698, Sec. 1. (AB 2766) Effective January 1, 2023.)*

**16760.** (a) (1) The Attorney General may bring a civil action in the name of the people of the State of California, as *parens patriae* on behalf of natural persons residing in the state, in the superior court of any county which has jurisdiction of a defendant, to secure monetary relief as provided in this section for injury sustained by those natural persons to their property by reason of any violation of this chapter. The court shall exclude from the amount of monetary relief awarded in the action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to paragraph (2) of subdivision (b), and (ii) any business entity.

(2) The court shall award the state as monetary relief three times the total damage sustained as described in paragraph (1), the interest on the total damages pursuant to Section 16761, and the costs of suit, including a reasonable attorney's fee.

(3) The court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the Attorney General or district attorney has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

(b) (1) In any action brought under this section, the Attorney General shall, at any time, in any manner, and with any content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to the person or persons according to the circumstances of the case.

(2) Any person on whose behalf an action is brought under paragraph (1) of subdivision (a) may elect to exclude from adjudication the portion of the claim for monetary relief attributable to him or her by filing notice of that election with the court within the time as specified in the notice given pursuant to paragraph (1).

(3) The final judgment in an action under paragraph (1) of subdivision (a) shall be res judicata as to any claim under this section by any person on behalf of whom the action was brought and who fails to give notice within the period specified in the notice given pursuant to paragraph (1).

(c) An action under paragraph (1) of subdivision (a) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in any manner as the court directs.

(d) In any action under this chapter, where there has been a determination that a defendant agreed to fix prices, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the pro rata allocation of illegal overcharges or of excess profits, or by any other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

(e) Monetary relief recovered by the Attorney General under this section shall be distributed as follows:

(1) In any manner as the superior court having jurisdiction over the action in its discretion may authorize to insure, to the extent possible, that each person be afforded a reasonable opportunity to secure his or her appropriate portion of the monetary relief. In exercising its discretion, the court may employ cy pres or fluid recovery mechanisms as a way of providing value to persons injured as a result of a violation of this chapter.

(2) The Attorney General shall retain that portion of the monetary relief awarded by the court as costs of suit and attorney's fee for deposit in the Attorney General Antitrust Account within the General Fund.

(3) To the extent that the monetary relief awarded by the court is not exhausted by distribution under paragraphs (1) and (2), the remaining funds shall be treated under the provisions of Article 3 (commencing with Section 1530) and Article 4 (commencing with Section 1540) of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure as if it were unclaimed property, as defined in Section 1300 of the Code of Civil Procedure.

(f) The powers granted in this section are in addition to and not in derogation of the powers granted to the Attorney General by common law in respect to bringing actions parens patriae.

(g) The district attorney of any county may prosecute any action on behalf of the natural persons residing in the county which the Attorney General is authorized to bring pursuant to subdivision (a), whenever it appears that the activities giving rise to the prosecution or the effects of the activities occur primarily within that county. Prior to bringing the action, a district attorney shall comply with the notice requirements provided in subdivision (g) of Section 16750. In any action brought pursuant to this subdivision, the provisions of subdivisions (a) to (e), inclusive, shall be applicable, except that the portion of monetary relief awarded by the court as attorney's fee and costs shall be retained by the district attorney for deposit in the appropriate account as provided by law.

*(Amended by Stats. 2001, Ch. 74, Sec. 1. Effective January 1, 2002.)*

**16761.** The court may award, pursuant to a motion by a person who has recovered damages pursuant to Section 16750, or by the Attorney General who has secured monetary relief pursuant to Section 16760, interest on actual damages at the rate of 10 percent per annum for the period beginning on the date of service of such person's or the Attorney General's complaint setting forth a claim for violation of this chapter and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only the following:

(a) Whether the person, the Attorney General, or the opposing party, or the representative of any of those parties, made motions or asserted claims or defenses so lacking in merit as to show that the party or representative acted intentionally for delay, or otherwise acted in bad faith.

(b) Whether, in the course of the action involved, the person, the Attorney General, or the opposing party, or the representative of any of those parties, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings.

(c) Whether the person, the Attorney General, or the opposing party, or the representative of any of those parties, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.

*(Added by Stats. 1983, Ch. 1069, Sec. 3.)*

