

**Introduced by Senators Johnson, Aanestad, Battin, Denham,
Hollingsworth, and Margett**

(Coauthors: Assembly Members Benoit, Cox, Harman, Haynes,
Leslie, and Plescia)

February 21, 2003

An act to amend Section 17204 of, and to add Chapter 6 (commencing with Section 17300) to Part 2 of Division 7 of, the Business and Professions Code, relating to unfair competition.

LEGISLATIVE COUNSEL'S DIGEST

SB 890, as introduced, Johnson. Unfair competition.

Under existing law, unfair competition is defined to include an unlawful, unfair, or fraudulent business act or practice, unfair, deceptive, untrue, or misleading advertising, and any false representations to the public. Existing law authorizes an action for relief from this prohibited conduct to be brought by the Attorney General, a district attorney, a county counsel, or a city attorney, or by any person acting for the interests of itself, its members, or the general public, and provides various remedies, including injunctive relief, restitution, and civil penalties.

This bill would define an unfair competition action that is brought by a person other than the Attorney General, a district attorney, a county counsel, or a city attorney as a "representative civil action."

This bill, in the case of a representative civil action that is brought by a plaintiff who has not suffered a distinct and palpable injury as a result of unfair business acts or practices, would require that an amount equal to 85% of any judgment obtained in the action or in settlement thereof shall be deposited in the Restitution Fund in the State Treasury for

allocation to crime victims by the California Victim Compensation and Government Claims Board upon appropriation by the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17204 of the Business and Professions
2 Code is amended to read:

3 17204. (a) Actions for any relief pursuant to this chapter
4 shall be prosecuted exclusively in a court of competent jurisdiction
5 by the Attorney General or any district attorney or by any county
6 counsel authorized by agreement with the district attorney in
7 actions involving violation of a county ordinance, or any city
8 attorney of a city, or city and county, having a population in excess
9 of 750,000, and, with the consent of the district attorney, by a city
10 prosecutor in any city having a full-time city prosecutor or, with
11 the consent of the district attorney, by a city attorney in any city and
12 county in the name of the people of the State of California upon
13 their own complaint or upon the complaint of any board, officer,
14 person, corporation or association or by any person acting for the
15 interests of itself, its members or the general public.

16 (b) *An action for relief pursuant to this chapter by a person,*
17 *other than by the Attorney General, a district attorney, a county*
18 *counsel, or a city attorney, acting for the interests of the general*
19 *public shall be subject to Chapter 6 (commencing with Section*
20 *17300) and shall be known as a “representative civil action.”*

21 SEC. 2. Chapter 6 (commencing with Section 17300) is added
22 to Part 2 of Division 7 of the Business and Professions Code, to
23 read:

24

25 CHAPTER 6. REPRESENTATIVE CIVIL ACTIONS BY PRIVATE
26 PLAINTIFFS

27

28 17300. In the case of a representative civil action that is
29 brought by a plaintiff who has not suffered a distinct and palpable
30 injury as a result of the acts or practices prohibited by Chapter 5
31 (commencing with Section 17200), an amount equal to 85 percent
32 of any judgment obtained in the action or in settlement thereof
33 shall be deposited in the Restitution Fund in the State Treasury for



1 allocation to crime victims by the California Victim Compensation
2 and Government Claims Board pursuant to Chapter 5
3 (commencing with Section 13960) of Part 4 of Division 3 of Title
4 2 of the Government Code. Notwithstanding Section 13967 of the
5 Government Code, the funds deposited pursuant to this section
6 shall be available for allocation upon appropriation by the
7 Legislature.

O

