

28 **13-5a-101. Title.**

29 This chapter is known as the "Unfair Competition Act."

30 Section 2. Section **13-5a-102** is enacted to read:

31 **13-5a-102. Definitions.**

32 As used in this chapter, "unfair competition" includes:

33 (1) any unlawful, unfair, or fraudulent business act or practice;

34 (2) unfair, deceptive, untrue, or misleading advertising; and

35 (3) any act leading to a diminution in value of intangible property.

36 Section 3. Section **13-5a-103** is enacted to read:

37 **13-5a-103. Action by attorney general.**

38 (1) The attorney general may bring an action against any person who engages, has
39 engaged, or proposes to engage in unfair competition.

40 (2) In an action under Subsection (1), the court may:

41 (a) make any order or judgment necessary to:

42 (i) prevent a person from engaging in unfair competition; and

43 (ii) provide a person actual damages incurred through unfair competition; and

44 (b) impose a civil penalty not to exceed \$5,000 for each act of unfair competition.

45 (3) All civil penalties paid pursuant to this section shall be deposited in the Consumer
46 Protection Education and Training Fund created in Section 13-2-8.

47 Section 4. Section **13-5a-104** is enacted to read:

48 **13-5a-104. Private action.**

49 (1) A person injured by an act of unfair competition may bring an action against a
50 person who engages in an act of unfair competition.

51 (2) In an action under Subsection (1), a person injured by an act of unfair competition
52 may recover:

53 (a) actual damages;

54 (b) costs and attorney fees; and

55 (c) if the court determines that the circumstances are appropriate, punitive damages.

Legislative Review Note

as of 2-13-04 10:33 AM

This bill prohibits business practices that are unfair or lead to a diminution in value of intangible property, raising the issue of the prohibition against restraining trade or commerce in Article XII, Sec. 20 of the Utah Constitution.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0239

Unfair Competition Act

19-Feb-04

4:21 PM

State Impact

Can be handled within existing budgets. This bill has a Legislative Review Note. There may be additional state costs if the bill is challenged in court.

Individual and Business Impact

Enforcement is allowed through private right of action.

Office of the Legislative Fiscal Analyst