

**Senator Mike Dmitrich** proposes the following substitute bill:

**UNFAIR BUSINESS PRACTICES**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Mike Dmitrich**

Ron Allen

Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill enacts provisions within the Utah Criminal Code related to unfair competition.

**Highlighted Provisions:**

This bill:

- ▶ defines unfair competition; and
- ▶ provides a private right of action for a person injured by unfair competition.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**13-5a-101**, Utah Code Annotated 1953

**13-5a-102**, Utah Code Annotated 1953

**13-5a-103**, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **13-5a-101** is enacted to read:



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**CHAPTER 5a. UNFAIR COMPETITION ACT**

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

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

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

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

As used in this chapter:

(1) "Control" means:

(a) ownership of more than 5% of the voting shares or ownership interests of an entity;

(b) the power to vote more than 5% of the voting shares of an entity; or

(c) the ability to influence the management of an entity.

(2) "Depository institution" is as defined in Section 7-1-103.

(3) (a) Except as provided in Subsection (3)(b), "unfair competition" means a business act or practice that:

(i) is unlawful, unfair, or fraudulent; and

(ii) leads to a material diminution in value of intellectual property.

(b) Notwithstanding Subsection (3)(a), "unfair competition" does not include the departure and hiring of an employee by a competitor.

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

**13-5a-103. Private action for unfair competition.**

(1) (a) Except as provided in Subsection (2), a person injured by unfair competition may bring a private cause of action against a person who engages in unfair competition.

(b) In an action under this Subsection (1), a person injured by unfair competition may recover:

(i) actual damages;

(ii) costs and attorney fees; and

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

(2) A person may not bring an action described in Subsection (1) against:

(a) a depository institution; or

(b) an entity that:

(i) controls a depository institution;

(ii) is controlled by an entity that controls a depository institution; or

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(iii) is controlled by a depository institution.