

SENATE BILL No. 559

June 26, 2001, Introduced by Senators LELAND, YOUNG, SMITH, MURPHY, DINGELL, SCOTT, DE BEAUSSAERT, CHERRY, EMERSON, MILLER, HART and BYRUM and referred to the Committee on Judiciary.

A bill to amend 1984 PA 274, entitled
"Michigan antitrust reform act,"
by amending section 6 (MCL 445.776).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) If the attorney general or a prosecuting attor-
2 ney has reasonable cause to believe that a person has information
3 or is in possession, custody, or control of any document or other
4 tangible object relevant to an investigation for violation of
5 this act OR A FEDERAL ANTITRUST OR UNFAIR COMPETITION LAW, the
6 attorney general or a prosecuting attorney, with the permission
7 of, or at the request of, the attorney general, may serve upon
8 the person, before bringing ~~any~~ A COURT action, ~~in the circuit~~
9 ~~court,~~ a written demand to appear and be examined under oath,
10 and to produce the document or object for inspection and
11 copying. The demand shall include all of the following:

1 (a) Be served upon the person in the manner required for
2 service of process in this state.

3 (b) Describe the nature of the conduct constituting the vio-
4 lation under investigation.

5 (c) Describe the document or object with sufficient defi-
6 niteness to permit it to be fairly identified.

7 (d) If demanded, contain a copy of the written
8 interrogatories.

9 (e) Prescribe a reasonable time at which the person must
10 appear to testify, within which to answer the written interroga-
11 tories, and within which the document or object must be produced,
12 and advise the person that objections to or reasons for not com-
13 plying with the demand may be filed with the attorney general or
14 prosecuting attorney, with the permission of, or at the request
15 of, the attorney general, on or before that time.

16 (f) Specify a place for the taking of testimony or for pro-
17 duction and designate the person who shall be custodian of the
18 document or object.

19 (g) Contain a copy of subsection (2).

20 (2) If a person objects to or otherwise fails to comply with
21 the written demand served upon him or her under subsection (1),
22 the attorney general or a prosecuting attorney, with the permis-
23 sion of, or at the request of, the attorney general, may file in
24 the circuit court of the county in which the person resides or in
25 which the person maintains a principal place of business within
26 this state an action to enforce the demand. Notice of hearing
27 the action and a copy of all pleadings shall be served upon the

1 person, who may appear in opposition. If the court finds that
2 the demand is proper, that there is reasonable cause to believe
3 that there may have been or is presently occurring a violation of
4 this act OR A FEDERAL ANTITRUST OR UNFAIR COMPETITION LAW, and
5 that the information sought or document or object demanded is
6 relevant to the investigation, the court shall order the person
7 to comply with the demand, subject to modification the court may
8 prescribe. Upon motion by the person and for good cause shown,
9 the court may make any further order in the proceedings that jus-
10 tice requires to protect the person from unreasonable annoyance,
11 embarrassment, oppression, burden, or expense.

12 (3) Any procedure, testimony taken, or material produced
13 shall be kept confidential by the attorney general or a prosecut-
14 ing attorney before bringing an action against a person under
15 this act OR A FEDERAL ANTITRUST OR UNFAIR COMPETITION LAW for the
16 violation under investigation, unless confidentiality is waived
17 by the person being investigated and the person who has testi-
18 fied, answered interrogatories, or produced material, or disclo-
19 sure is authorized by the court.