AN ACT to amend the general business law, in relation to actions or practices
that establish or maintain a monopoly or restraint of trade, and in relation to
authorizing a class action lawsuit in the state anti-trust law

The People of the State of New York, represented in Senate and Assembly,
do enact as follows:

Section 1. This act shall be known and may be cited as the "Twenty-
First Century Anti-Trust Act".

§ 2. Legislative findings. The legislature hereby finds and declares
that there is great concern for the growing accumulation of power in the
hands of large corporations. While technological advances have improved
society, these companies possess great and increasing power over all
aspects of our lives. Over one hundred years ago, the state and federal
governments identified these same problems as big businesses blossomed
after decades of industrialization. Seeing those problems, the state
and federal governments enacted transformative legislation to combat
cartels, monopolies, and other anti-competitive business practices. It
is time to update, expand and clarify our laws to ensure that these
large corporations are subject to strict and appropriate oversight by
the state. The legislature further finds and declares that unilateral
actions which seek to create a monopoly are as harmful as contracts or
agreements of multiple parties to do the same and should be treated
similarly under the law. After monopolies have been established, it is
typically too late to repair or mitigate the damage which has been done.
Accordingly, mere attempts to create monopolies should also be treated
as actions contrary to the interests of the people of the state of New
York and should be penalized accordingly. The legislature further finds
and declares that anti-competitive practices harm great numbers of citi-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.
zens and therefore must ensure that class actions may be raised in anti-
trust suits.

§ 3. Section 340 of the general business law, as amended by chapter 12
of the laws of 1935, subdivision 1 as amended by chapter 893 of the laws
of 1957, subdivision 2 as amended by chapter 805 of the laws of 1984,
subdivisions 3 and 4 as renumbered by chapter 502 of the laws of 1948,
subdivision 5 as amended by chapter 333 of the laws of 1975 and subdivi-
sion 6 as amended by chapter 31 of the laws of 1999, is amended to read
as follows:

§ 340. Contracts or agreements for monopoly or in restraint of trade
illegal and void. 1. Every contract, agreement, arrangement or combina-
tion thereof whereby

A monopoly in the conduct of any business, trade or commerce or in the
furnishing of any service in this state, is or may be established or
maintained, or whereby

Competition or the free exercise of any activity in the conduct of any
business, trade or commerce or in the furnishing of any service in this
state is or may be restrained or whereby

For the purpose of [establishing or maintaining any such monopoly or
unlawfully interfering with the free exercise of any activity in the
conduct of any business, trade or commerce or in the furnishing of any
service in this state] engaging in the conduct specified in this section
any business, trade or commerce or the furnishing of any service is or
may be restrained, is hereby declared to be against public policy, ille-
gal and void.

2. It shall be unlawful: (a) for any person or persons to monopolize,
or attempt to monopolize, or combine or conspire with any other person
or persons to monopolize any business, trade or commerce or the furnish-
ing of any service in this state; (b) for any person or persons with a
dominant position in the conduct of any business, trade or commerce or
in the furnishing of any service in this state to abuse that dominant
position.

3. Subject to the exceptions hereinafter provided in this section, the
provisions of this article shall apply to licensed insurers, licensed
insurance agents, licensed insurance brokers, licensed independent
adjusters and other persons and organizations subject to the provisions
of the insurance law, to the extent not regulated by provisions of arti-
cle twenty-three of the insurance law; and further provided, that noth-
ing in this section shall apply to the marine insurances, including
marine protection and indemnity insurance and marine reinsurance,
exempted from the operation of article twenty-three of the insurance
law.

[9-] 4. The provisions of this article shall not apply to cooperative
associations, corporate or otherwise, of farmers, gardeners, or dairy-
men, including live stock farmers and fruit growers, nor to contracts,
agreements or arrangements made by such associations, nor to bona fide
labor unions.

[4-] 5. The labor of human beings shall not be deemed or held to be a
commodity or article of commerce as such terms are used in this section
and nothing herein contained shall be deemed to prohibit or restrict the
right of workingmen to combine in unions, organizations and associ-
ations, not organized for the purpose of profit.

[5-] 6. An action to recover damages caused by a violation of this
section must be commenced within four years after the cause of action
has accrued. The state, or any political subdivision or public authority
of the state, or any person who shall sustain damages by reason of any
violation of this section, shall recover three-fold the actual damages
sustained thereby, as well as costs not exceeding ten thousand dollars,
and reasonable attorneys' fees. At or before the commencement of any
civil action by a party other than the attorney-general for a violation
of this section, notice thereof shall be served upon the attorney-gener-
al. Where the aggrieved party is a political subdivision or public
authority of the state, notice of intention to commence an action under
this section must be served upon the attorney-general at least ten days
prior to the commencement of such action. This section shall not apply
to any action commenced prior to the effective date of this act.

[6.] 7. In any action pursuant to this section, the fact that the
state, or any political subdivision or public authority of the state, or
any person who has sustained damages by reason of violation of this
section has not dealt directly with the defendant shall not bar or
otherwise limit recovery; provided, however, that in any action in which
claims are asserted against a defendant by both direct and indirect
purchasers, the court shall take all steps necessary to avoid duplicate
liability, including but not limited to the transfer and consolidation
of all related actions. In actions where both direct and indirect
purchasers are involved, a defendant shall be entitled to prove as a
partial or complete defense to a claim for damages that the illegal
overcharge has been passed on to others who are themselves entitled to
recover so as to avoid duplication of recovery of damages.

8. Any damages recoverable pursuant to this section may be recovered
in any action which a court may authorize to be brought as a class
action pursuant to article nine of the civil practice law and rules.

9. An arrangement, as this term is used in this article, includes, but
is not limited to, a contract, combination, agreement or conspiracy.
§ 4. Section 341 of the general business law, as amended by chapter
333 of the laws of 1975, is amended to read as follows:
§ 341. Penalty. Every person or corporation, or any officer or agent
thereof, who shall [make or attempt to make or enter into any such
contract, agreement, arrangement or combination or who within this state
shall do or attempt to do, within this state, any act [pursuant there-
to] declared unlawful under this article, or in, toward or for the
consummation thereof[, wherever the same may have been made], is guilty
of a class [E] felony, and on conviction thereof shall, if a natural
person, be punished by a fine not exceeding one [hundred thousand]
million dollars, or by imprisonment for not longer than [four] fifteen
years, or by both such fine and imprisonment; and if a corporation, by a
fine of not exceeding one hundred million dollars. An indictment or
information based on a violation of any of the provisions of this
section must be found within [three] five years after its commission. No
criminal proceeding barred by prior limitation shall be revived by this
act.

§ 5. This act shall take effect immediately.