



ISSUE ALERT

To: ALEC Members on the Senate Judiciary and Public Safety Committee
From: ALEC's Civil Justice Task Force
Re: SB 149 - Civil Actions
Date: April 27, 2011

We understand that the Minnesota Senate Judiciary and Public Safety Committee will hold a hearing tomorrow, April 28 regarding legislation amending your state's class action rules and consumer protection laws. **The American Legislative Exchange Council (ALEC) strongly supports this legislation, which is based on the same principles as its own model legislation, the *Class Action Improvements Act* and the *Private Enforcement of Consumer Protection Statutes Act*.**

The startling increase in the number of class action suits filed in recent years places great significance on the right of a defendant to appeal the certification of a class—that is the decision by the courts to allow a group of plaintiffs to proceed collectively rather than individually. The cost of defending a prolonged suit and the potential of losing to a large group of plaintiffs heavily incentivizes a defendant to settle a case, sometimes even despite facts to their advantage.

SB 149 guarantees the right of immediate interlocutory appeal of class certification, a reform already enacted in many states, including Arkansas, Connecticut, Florida, Ohio, Oklahoma, and Texas. If a class is certified erroneously, the decision is corrected before the case goes to trial, before the defendant has to face the decision of whether to costly defend itself or settle, and before the plaintiffs and their attorneys spend time and money litigating cases whose certification may later be overturned. This reform serves the interest of both parties to a case, and it alleviates a serious burden weighing on the court system.

Moreover, SB 149 clarifies the standards under which consumer protection claims may be brought. Like ALEC's model legislation, this bill codifies the proper balance in the state's consumer protection statutes in that it holds businesses accountable for worrisome practices while keeping frivolous claims from crippling fair business practice. It requires claimants under the Unlawful Trade Practices Act to have actually experienced an out-of-pocket loss and to have relied on the alleged fraudulent activity in order to bring the claim under the consumer protection statute. This serves to filter out claims with little merit and enforce the punishment of clear wrongdoing while not punishing innocent companies.

Thank you for your consideration. If you have any questions or comments, **please do not hesitate to contact Amy Kjose, ALEC's Civil Justice Task Force Director, at 202/742-8510 or via email at akjose@alec.org.**

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