

## THE SHERMAN ACT

### Current version (marked for changes against the 1890 version)

#### Section 1. Trusts, etc., in restraint of trade illegal; penalty

~~Sec. 1.~~ Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is ~~hereby~~ declared to be illegal. Every person who shall make any ~~such~~ contract or engage in any ~~such~~ combination or conspiracy, hereby declared to be illegal shall be deemed guilty of a ~~misdemeanor~~ felony, and, on conviction thereof, shall be punished by fine not exceeding ~~five thousand dollars,~~ \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding ~~one year~~ 10 years, or by both said punishments, ~~at~~ in the discretion of the court.

#### Section 2. Monopolizing trade a felony; penalty

~~Sec. 2.~~ Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a ~~misdemeanor~~ felony, and, on conviction thereof, shall be punished by fine not exceeding ~~five thousand dollars,~~ \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding ~~one year~~ 10 years, or by both said punishments, in the discretion of the court.

#### Section 3. Trusts in Territories or District of Columbia illegal; combination a felony

~~Sec. 3.~~ (a) Every contract, combination in form of trust or otherwise, or conspiracy, in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations, is ~~hereby~~ declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a ~~misdemeanor~~ felony, and, on conviction thereof, shall be punished by fine not exceeding ~~five thousand dollars,~~ \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding ~~one year~~ 10 years, or both said punishments, in the discretion of the court.

(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

**Section 4. Jurisdiction of courts; duty of United States attorneys; procedure**

~~See. 4.~~ The several ~~circuit~~district courts of the United States are ~~hereby~~ invested with jurisdiction to prevent and restrain violations of sections 1 to 7 of this act~~title~~; and it shall be the duty of the several ~~district attorneys of the~~ United States attorneys, in their respective districts, under the direction of the Attorney- General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

**Section 5. Bringing in additional parties**

~~See. 5.~~ Whenever it shall appear to the court before which any proceeding under section ~~four~~4 of this ~~act~~title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

**Section 6. Forfeiture of property in transit**

~~See. 6.~~ Any property owned under any contract or by any combination, or pursuant to any conspiracy (and being the subject thereof) mentioned in section ~~one~~1 of this ~~act~~title, and being in the course of transportation from one State to another, or to a foreign country, shall be- forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

~~Sec. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act, may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover three fold the damages by him sustained, and the costs of suit, including a reasonable attorney's fee.~~

**Section 6a. Conduct involving trade or commerce with foreign nations**

Sections 1 to 7 of this title shall not apply to conduct involving trade or commerce (other than import trade or import commerce) with foreign nations unless-

- (1) such conduct has a direct, substantial, and reasonably foreseeable effect-
  - (A) on trade or commerce which is not trade or commerce with foreign nations, or on import trade or import commerce with foreign nations; or
  - (B) on export trade or export commerce with foreign nations, of a person engaged in such trade or commerce in the United States; and
- (2) such effect gives rise to a claim under the provisions of sections 1 to 7 of this title, other than this section.

If sections 1 to 7 of this title apply to such conduct only because of the operation of paragraph (1)(B), then sections 1 to 7 of this title shall apply to such conduct only for injury to export business in the United States.

**Section 7. “Person” or “persons” defined.**

~~Sec. 8. That the~~ The word “person,” or “ persons,” wherever used in sections 1 to 7 of this title shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

**Amendments**

- 2004: The Antitrust Criminal Penalty Enhancement and Reform Act of 2004, Pub. L. No. 108–237, title II, § 215, 118 Stat. 668 (2004), directed the substitution of “\$100,000,000” for “\$10,000,000”, “\$1,000,000” for “\$350,000”, and “10” for “three” where they appear in Sections 1-3.
- 2002: The 21st Century Department of Justice Appropriations Authorization Act, Pub. L. No. 107–273, div. C, title IV, § 14102(b), 116 Stat. 1921 (2002), designated the existing provision in Section 3 as Subsection 3(a) and added a new Subsection (b).
- 1990: The Antitrust Amendments Act of 1990, Pub. L. No. 101–588, § 4, 104 Stat. 2880 (1990), substituted “\$10,000,000” for “one million dollars” and “\$350,000” for “one hundred thousand dollars” where they appear in Sections 1-3.
- 1982: The Foreign Trade Antitrust Improvements Act of 1982, Pub. L. 97–290, title IV, § 402, 96 Stat. 1246 (1982), added a new Section 6(a).
- 1974: The Antitrust Procedures and Penalties Act, Pub. L. 93–528, § 3, 88 Stat. 1706 (1974), substituted “a felony, and, on conviction thereof, shall be punished by fine not exceeding one million dollars if a corporation, or, if any other person, one hundred thousand dollars, or by imprisonment not exceeding three years” for “a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year” where they appear.
- 1955: The Act of July 7, 1955, Pub. L. No. 84-135, 69 Stat. 282 (1955), substituted “fifty thousand dollars” for “five thousand” where it appears and repealed the original Section 7.
- 1948: The Judicial Code of 1948, ch. 646, 62 Stat. 869 (1948) (codifying Title 28 of the United States Code), substituted “United States attorneys” for “district attorneys of the United States” in Section 4.
- 1911: The Judicial Code of 1911, ch. 231, 36 Stat. 1087 (1911), abolished the U.S. circuits courts and vested jurisdiction in “district” courts in Section 4.