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**HOUSE BILL 2107**

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**State of Washington                      67th Legislature                      2022 Regular Session**

**By** Representatives Kloba, Donaghy, Pollet, Chase, and Ramel

Read first time 01/28/22. Referred to Committee on Finance.

1            AN ACT Relating to creating an excise tax on the collection of  
2 consumer data by commercial data collectors; adding a new chapter to  
3 Title 82 RCW; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5            NEW SECTION.    **Sec. 1.**    The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

8            (1) "Commercial data collector" means a for-profit entity that:

9            (a) Collects, maintains, uses, processes, sells, or shares  
10 consumer data in support of its business activities; and

11            (b) Collects consumer data, other than consumer contact  
12 information, on more than 500,000 individual Washington consumers in  
13 a month within the calendar year.

14            (2) "Consumer" means an individual who purchases goods or  
15 services from a commercial data collector, whether the individual is  
16 charged for those services or not.

17            (3) "Consumer contact information" means:

18            (a) A consumer's email address, telephone number, telefax number,  
19 home address, or mailing address; and

20            (b) Credit card information necessary to engage in a sales  
21 transaction.

1 (4) "Consumer data" means any information that identifies,  
 2 relates to, describes, is capable of being associated with, or could  
 3 reasonably be linked with a consumer, whether directly submitted to  
 4 the commercial data collector by the consumer or derived from other  
 5 sources.

6 (5) "Washington consumer" means a consumer whose primary  
 7 residence is in Washington state.

8 NEW SECTION. **Sec. 2.** (1) There is hereby imposed a monthly  
 9 excise tax on the collection of the consumer data of individual  
 10 Washington consumers by commercial data collectors. The tax applies  
 11 regardless of the format, electronic or otherwise, in which the  
 12 consumer data is collected by the commercial data collector.

13 (2) The tax under this chapter is imposed on commercial data  
 14 collectors based on the number of Washington consumers a commercial  
 15 data collector collects data on within the month. The amount of the  
 16 tax is the amount provided in the following table:

If the number of Washington consumers is over:	But not more than:	The amount of the tax equals the initial tax amount of:	Plus the per consumer tax rate of:
0	500,000	\$0	\$0
500,000	1,000,000	\$0	5 cents per month on the number of Washington consumers over 500,000 but not more than 1,000,000
1,000,000	1,500,000	\$20,000 per month	10 cents per month on the number of Washington consumers over 1,000,000 but not more than 1,500,000
1,500,000	2,000,000	\$60,000 per month	15 cents per month on the number of Washington consumers over 1,500,000 but not more than 2,000,000
2,000,000	2,500,000	\$120,000 per month	20 cents per month on the number of Washington consumers over 2,000,000 but not more than 2,500,000

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2,500,000	3,000,000	\$200,000 per month	25 cents per month on the number of Washington consumers over 2,500,000 but not more than 3,000,000
3,000,000	3,500,000	\$280,000 per month	30 cents per month on the number of Washington consumers over 3,000,000 but not more than 3,500,000
3,500,000	4,000,000	\$420,000 per month	35 cents per month on the number of Washington consumers over 3,500,000 but not more than 4,000,000
4,000,000	4,500,000	\$560,000 per month	40 cents per month on the number of Washington consumers over 4,000,000 but not more than 4,500,000
4,500,000	5,000,000	\$720,000 per month	45 cents per month on the number of Washington consumers over 4,500,000 but not more than 5,000,000
5,000,000		\$800,000 per month	50 cents per month on the number of Washington consumers over 5,000,000

24 NEW SECTION. **Sec. 3.** (1) There is a rebuttal presumption that a  
25 consumer whose information on record with or available to a  
26 commercial data collector indicates a Washington home address, a  
27 Washington mailing address, or an internet protocol address connected  
28 with a Washington location is a Washington consumer for purposes of  
29 this chapter. The presumption may be rebutted by evidence that a  
30 consumer's primary residence is outside Washington in a form or  
31 manner determined by the department.

32 (2) A Washington consumer must be counted only once in the  
33 calculation of the monthly excise tax imposed on a commercial data  
34 collector.

35 (3) Business entities having common ownership as defined in 26  
36 U.S.C. Sec. 1563(a) of the internal revenue code, as amended, are a  
37 single taxpayer for purposes of meeting the definition of commercial

1 data collector under this chapter. The entities constituting the  
2 single taxpayer are jointly and severally liable for any tax due.

3 (4) The single member of a single member limited liability  
4 company shall be treated as a consumer under this chapter.

5 (5)(a) A commercial data collector and the department may agree  
6 on a methodology for determining the number of Washington consumers  
7 for the purpose of calculating the tax.

8 (b) If an agreement is not reached as provided in (a) of this  
9 subsection, the department shall determine an acceptable estimation  
10 methodology for determining the number of Washington consumers for  
11 the purpose of calculating the tax.

12 NEW SECTION. **Sec. 4.** A commercial data collector that has paid  
13 tax under this section may claim a credit against the tax paid with  
14 respect to a Washington consumer when another state imposes an excise  
15 tax identical to the tax imposed under this section with respect to  
16 the same consumer.

17 NEW SECTION. **Sec. 5.** (1) A commercial data collector shall  
18 maintain records as required by the department.

19 (2)(a) A commercial data collector shall file a monthly return as  
20 required by the department.

21 (b) A commercial data collector that pays the tax imposed under  
22 section 2 of this act in a given month must file a return in  
23 subsequent months until it reports no tax liability for 12  
24 consecutive months.

25 (3) The department may prescribe rules as may be necessary to  
26 carry out this chapter.

27 NEW SECTION. **Sec. 6.** Chapter 82.32 RCW applies to the  
28 administration of this act.

29 NEW SECTION. **Sec. 7.** Sections 1 through 6 and 8 of this act  
30 constitute a new chapter in Title 82 RCW.

31 NEW SECTION. **Sec. 8.** This act takes effect January 1, 2023.

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