6281-S2 AMH DUFA MORI 250

**2SSB 6281** - H AMD TO ITED COMM AMD (H-5242.1/20) **2134**

By Representative Dufault

**OUT OF ORDER 03/06/2020**

On page 21, beginning on line 16 of the striking amendment, strike all of section 11 and insert the following:

"NEW SECTION. **Sec.**  LIABILITY. (1) Any violation of this chapter shall not serve as the basis for, or be subject to, a private right of action under this chapter or any other law or serve as the basis for a violation of chapter 19.86 RCW or under any other law. This chapter does not relieve any party from any duty or obligation imposed, or alter any right, burden, or obligation that a consumer has under other laws, including without limitation chapter 19.86 RCW, the Washington State Constitution, or the United States Constitution.

(2) In the event that a consumer institutes a civil action under chapter 19.86 RCW arising out of conduct that independently violates chapter 19.86 RCW, such civil action shall continue to be permitted solely under chapter 19.86 RCW, even if such conduct is regulated by this chapter. For purposes of RCW 19.86.093, this chapter does not incorporate chapter 19.86 RCW.

(3) Where more than one controller or processor, or both a controller and a processor, involved in the same processing, is in violation of this chapter, the liability must be allocated among the parties according to principles of comparative fault.

NEW SECTION. **Sec.**  ENFORCEMENT. (1) The attorney general has exclusive authority to enforce this chapter. The attorney general shall exercise such authority by bringing an action either in the name of the state or as parens patriae on behalf of persons residing in the state. For the purposes of this chapter the attorney general has the same authority to investigate alleged violations as he or she does in RCW 19.86.110.

(2) Any controller or processor that violates this chapter is subject to an injunction and liable for a civil penalty of not more than seven thousand five hundred dollars for each violation.

(3) In the event that a legal entity subject to this chapter is held liable in any action arising out of conduct governed under this chapter, such legal entity shall not be made to defend against, and shall not be held liable, against causes of action or claims arising of the same conduct in any other proceeding."

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 26, line 4 of the striking amendment, after "through" strike "18 and 20" and insert "19 and 21"

|  |  |
| --- | --- |
|  | EFFECT:  Removes enforcement under the Consumer Protection Act (CPA) and instead provides that the Attorney General has exclusive enforcement authority. Gives the Attorney General the same authority to investigate violations of this chapter that it has to investigate alleged violations under the CPA. Provides that nothing in the bill is to be construed to diminish the rights and remedies that consumers have under other law and that consumers retain their existing rights to bring a civil action under the CPA for conduct relating to the processing of personal data. Requires a civil action for the conduct that independently violates the CPA to be permitted solely under the CPA and specifies that the bill does not incorporate the CPA. Specifies that liability among multiple controllers and processors is to be allocated based on comparative fault. |

**--- END ---**