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ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1503

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State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Smith, Hudgins, and Stanford)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to registration and consumer protection  
2 obligations of data brokers; adding a new chapter to Title 19 RCW;  
3 creating a new section; prescribing penalties; providing an effective  
4 date; and providing an expiration date.

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

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

9 (1) "Business" means a commercial entity, including a sole  
10 proprietorship, partnership, corporation, association, limited  
11 liability company, or other group, however organized and whether or  
12 not organized to operate at a profit, including a financial  
13 institution organized, chartered, or holding a license or  
14 authorization certificate under the laws of Washington state, or any  
15 other state, the United States, or any other country, or the parent,  
16 affiliate, or subsidiary of a financial institution, but it does not  
17 include the state, any political subdivision of the state, or a  
18 vendor acting solely on behalf of, and at the direction of, the  
19 state.

20 (2) "Chief privacy officer" means the person appointed under RCW  
21 43.105.369(2).

1 (3) "Consumer" means an individual residing in this state.

2 (4) (a) "Data broker" means a business, or unit or units of a  
3 business, separately or together, that knowingly collects and sells  
4 or licenses to third parties the personal information of a consumer  
5 with whom the business does not have a direct relationship.

6 (b) The following activities conducted by a business do not  
7 qualify the business as a data broker:

8 (i) Furnishing a consumer credit report, as defined in 15 U.S.C.  
9 Sec. 1681a(d), by a consumer reporting agency, as defined in 15  
10 U.S.C. Sec. 1681a(f);

11 (ii) Collecting or disclosing nonpublic personal information, as  
12 defined in 15 U.S.C. Sec. 6809(4), by a financial institution, as  
13 defined in 15 U.S.C. Sec. 6809(3), in a manner than is regulated  
14 under the federal Gramm Leach Bliley act, P.L. 106-102, and  
15 implementing regulations;

16 (iii) Providing 411 directory assistance or directory information  
17 services, including name, address, and telephone number, on behalf of  
18 or as a function of a telecommunications carrier; or

19 (iv) Providing publicly available information via real-time or  
20 near real-time alert services for health or safety purposes.

21 (5) (a) "Personal information" means information that identifies,  
22 relates to, describes, is reasonably capable of being associated  
23 with, or could reasonably be linked, directly or indirectly, with a  
24 particular consumer or household.

25 (b) "Personal information" does not include publicly available  
26 information to the extent that it is related to a consumer's business  
27 or profession.

28 (6) "Record" means any material on which written, drawn, spoken,  
29 visual, or electromagnetic information is recorded or preserved,  
30 regardless of physical form or characteristic.

31 (7) "Sale," "sell," "selling," or "sold" means selling, renting,  
32 releasing, disclosing, disseminating, making available, transferring,  
33 or otherwise communicating orally, in writing, or by electronic or  
34 other means, a consumer's personal information by the business to  
35 another business or a third party for monetary or other valuable  
36 consideration.

37 NEW SECTION. **Sec. 2.** (1) Annually, on or before January 31st  
38 following a year in which a business meets the definition of data  
39 broker as provided in section 1 of this act, a data broker shall:

1 (a) Register with the chief privacy officer;

2 (b) Pay a registration fee of two hundred fifty dollars to the  
3 chief privacy officer; and

4 (c) Provide the following information to the chief privacy  
5 officer:

6 (i) The name and primary physical, email, and internet addresses  
7 of the data broker;

8 (ii) If the data broker permits a consumer to opt out of the data  
9 broker's collection of personal information, opt out of its  
10 databases, or opt out of certain sales of data:

11 (A) The method for requesting an opt-out;

12 (B) If the opt-out applies to only certain activities or sales, a  
13 statement specifying to which activities or sales the opt-out  
14 applies;

15 (C) Whether the data broker permits a consumer to authorize a  
16 third party to opt out on the consumer's behalf;

17 (D) A statement specifying the data collection, databases, or  
18 sales activities from which a consumer may not opt out;

19 (iii) Whether the data broker implements a purchaser  
20 credentialing process;

21 (iv) Where the data broker has actual knowledge that it possesses  
22 the personal information of minors, a separate statement detailing  
23 the data collection practices, databases, sales activities, and opt-  
24 out policies that are applicable to the personal information of  
25 minors; and

26 (v) Any additional information that the data broker chooses to  
27 provide concerning its data collection practices.

28 (2) The chief privacy officer is authorized to coordinate with a  
29 third party for the purpose of collecting the registration fee under  
30 subsection (1)(b) of this section.

31 (3) A data broker that fails to fulfill the requirements of  
32 subsection (1) of this section is subject to:

33 (a) A civil penalty of fifty dollars for each day, not to exceed  
34 a total of ten thousand dollars for each year it fails to register  
35 pursuant to this section;

36 (b) A fine equal to the fees due under this section during the  
37 period it failed to register pursuant to this section; and

38 (c) Other penalties imposed by law.

1 (4) The attorney general may maintain an action to collect the  
2 penalties imposed in this section and to seek appropriate injunctive  
3 relief.

4 NEW SECTION. **Sec. 3.** (1) A person shall not acquire personal  
5 information through fraudulent means.

6 (2) A person shall not acquire or use personal information for  
7 the purpose of:

8 (a) Stalking or harassing another person;

9 (b) Committing a fraud, including identity theft, financial  
10 fraud, or email fraud; or

11 (c) Engaging in unlawful discrimination, including employment  
12 discrimination and housing discrimination.

13 NEW SECTION. **Sec. 4.** (1) A violation of this chapter is not  
14 reasonable in relation to the development and preservation of  
15 business and is an unfair or deceptive act in trade or commerce and  
16 an unfair method of competition for the purpose of applying the  
17 consumer protection act, chapter 19.86 RCW.

18 (2) This chapter may be enforced solely by the attorney general  
19 under the consumer protection act, chapter 19.86 RCW.

20 NEW SECTION. **Sec. 5.** (1) On or before December 1, 2021, the  
21 chief privacy officer, in consultation with the attorney general,  
22 shall submit a preliminary report concerning the implementation of  
23 this act to the relevant committees of the legislature. The report  
24 must also review and consider the necessity of additional legislative  
25 and regulatory approaches to protecting the data security and privacy  
26 of Washington consumers whose data is subject to data brokers  
27 activities.

28 (2) On or before October 1, 2022, the chief privacy officer, in  
29 consultation with the attorney general, shall update the preliminary  
30 report and provide additional information concerning the  
31 implementation of this act and the necessity of additional  
32 legislative and regulatory approaches to protecting the data security  
33 and privacy of Washington consumers whose data is subject to data  
34 brokers activities.

35 (3) This section expires January 1, 2023.

1        NEW SECTION.    **Sec. 6.**    Sections 1 through 4 of this act  
2    constitute a new chapter in Title 19 RCW.

3        NEW SECTION.    **Sec. 7.**    This act takes effect January 1, 2021.

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