
HOUSE BILL 2364

State of Washington

66th Legislature

2020 Regular Session

By Representatives Smith, Hudgins, Young, Wylie, and Pollet

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1 AN ACT Relating to creating the charter of personal data rights;
2 adding a new chapter to Title 19 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that
5 Washingtonians have a right to privacy and that advances in
6 technology make the protection of this vital right a matter of
7 urgency.

8 (2) The legislature further finds that privacy is also the
9 foundation of consumer trust, particularly in electronic commerce,
10 and that people will use advanced data-driven technology only if
11 their privacy rights are respected, their personal information is
12 safeguarded, and their freedom to choose how much personal
13 information to share is unobstructed.

14 (3) Therefore, the legislature declares, in plain language, the
15 new baseline norms and expectations for the protection of personal
16 data by businesses and enacts a lasting charter of personal data
17 rights.

18 **CONSUMER EMPOWERMENT**

1 (e) Act in good faith and with due diligence when responding to
2 requests made pursuant to section 2 of this act; and

3 (f) Not discriminate against individuals who choose to exercise
4 their rights under this chapter, including by denying goods or
5 services, charging different prices or rates, or providing a
6 different level of quality of goods and services.

7 (2)(a) If a business uses a service provider to process personal
8 data on behalf of the business, the business shall require the
9 service provider to process personal data only on documented
10 instructions from the business as to the nature, duration, and
11 purposes of the processing.

12 (b) A business shall use only those service providers that
13 deliver sufficient guarantees that processing meets the requirements
14 of this chapter and ensures the protection of personal data rights.

15 (3) The duties in this chapter are in addition to any other
16 duties imposed on a business by any state or federal law or
17 regulation.

18 **STRONG ENFORCEMENT**

19 NEW SECTION. **Sec. 4.** (1) Any waiver of the provisions of this
20 chapter is contrary to public policy and is void and unenforceable.

21 (2) The legislature finds that the practices covered by this
22 chapter are matters vitally affecting the public interest for the
23 purpose of applying the consumer protection act, chapter 19.86 RCW. A
24 violation of this chapter is not reasonable in relation to the
25 development and preservation of business and is an unfair or
26 deceptive act in trade or commerce and an unfair method of
27 competition for purposes of applying the consumer protection act,
28 chapter 19.86 RCW.

29 (3) The attorney general may bring an action in the name of the
30 state, or as *parens patriae* on behalf of persons residing in the
31 state, to enforce this chapter. In any action brought by the attorney
32 general to enforce this chapter, a violation of this chapter is
33 subject to a civil penalty of not more than ten thousand dollars per
34 violation.

35 (4) Any violation of this chapter constitutes an injury and any
36 individual whose rights under this chapter have been violated or
37 whose personal data has been collected or processed in violation of
38 this chapter may bring a civil action for declaratory relief,

1 injunctive relief, and actual damages, but not less than statutory
2 damages of ten thousand dollars per violation.

3 (5) A court shall award costs and reasonable attorneys' fees to a
4 plaintiff who prevails in an action under this chapter.

5 (6) The provisions of this chapter are not exclusive and are in
6 addition to any other requirements, rights, remedies, and penalties
7 provided by law.

8 **NARROWLY SCOPED EXEMPTIONS**

9 NEW SECTION. **Sec. 5.** Nothing in this chapter applies to
10 information that is collected or used by a business about an
11 individual in the course of the individual's role as a job applicant,
12 employee, or contractor of the business.

13 **DEFINITIONS**

14 NEW SECTION. **Sec. 6.** The definitions in this section apply
15 throughout this chapter unless the context clearly requires
16 otherwise.

17 (1)(a) "Business" means a person or entity that, alone or
18 together with any affiliates:

19 (i) Engages in business in and has a substantial nexus with
20 Washington state;

21 (ii) Has more than ten million dollars in worldwide gross revenue
22 during the immediately preceding calendar year;

23 (iii) Collects or processes personal data of individuals; and

24 (iv) Alone or jointly with others determines the purposes and
25 means of the processing of personal data.

26 (b) For the purposes of this subsection:

27 (i) "Affiliate" means a person that directly or indirectly,
28 through one or more intermediaries, controls, is controlled by, or is
29 under common control with another person;

30 (ii) "Engage in business" means commencing, conducting, or
31 continuing in business and also the exercise of corporate or
32 franchise powers as well as liquidating a business when the
33 liquidators thereof hold themselves out to the public as conducting
34 such a business; and

35 (iii) "Substantial nexus" has the same meaning as in RCW
36 82.04.067.

1 (2) "Individual" means a natural person residing in Washington
2 state.

3 (3) "Personal data" means any information that identifies,
4 relates to, describes, or could reasonably be linked, directly or
5 indirectly, with a particular individual or household.

6 (4) "Process" or "processing" means any collection, use, storage,
7 disclosure, analysis, deletion, or modification of personal data.

8 (5) "Service provider" means a natural or legal person that
9 processes personal data on behalf of a business.

10 **SHORT TITLE**

11 NEW SECTION. **Sec. 7.** This chapter may be known and cited as the
12 Washington state charter of personal data rights.

13 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act
14 constitute a new chapter in Title 19 RCW.

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