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**Consumer Protection & Business  
Committee**

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**HB 1152**

**Brief Description:** Addressing consumer gender discrimination.

**Sponsors:** Representatives Mena, Reed, Berry, Ramel, Macri, Simmons, Reeves, Fosse, Farivar and Ormsby.

**Brief Summary of Bill**

- Amends the Consumer Protection Act to prohibit persons, entities, or businesses from charging different prices for two substantially similar goods when they are priced differently based on the gender of the persons to whom they are marketed, subject to exceptions.
- Provides for enforcement by the Attorney General and establishes new civil penalties.

**Hearing Date:** 1/17/23

**Staff:** Michelle Rusk (786-7153).

**Background:**

Gender-Related Price Differences.

In 2018 the United States Government Accountability Office (GAO) described gender-related price differences as situations where consumers are charged different prices for the same or similar goods and services because of factors related to gender. The GAO explained that firms might differentiate consumer products to appeal separately to men and women by slightly altering product attributes like color or scent.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

### Washington's Law Against Discrimination.

Washington's Law Against Discrimination establishes that it is a civil right to be free from discrimination based on race, color, creed, national origin, sex, sexual orientation, age, or the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal. This right applies to employment; places of public resort, accommodation, assemblage, or amusement; and real estate, credit, and insurance transactions. To effectuate the right to be free from discrimination, the law defines certain practices as being unfair.

### Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair or deceptive acts or practices in trade or commerce, the formation of contracts, combinations, and conspiracies in restraint of trade or commerce, and monopolies. Persons injured by violations of the CPA may bring a civil action to enjoin further violations and recover actual damages, costs, and attorney's fees.

The Attorney General may bring an action in the name of the State, or as *parens patriae* on behalf of persons residing in the State, against any person to enjoin violations of the CPA and obtain restitution. The prevailing party may, in the discretion of the court, recover costs and attorney's fees. The Attorney General may also seek civil penalties up to the statutorily authorized maximums against any person who violates the CPA. Civil penalties are paid to the State.

### **Summary of Bill:**

#### Prohibition.

The CPA is amended to provide that no person, entity, or business may charge a different price for two substantially similar goods if they are priced differently based on the gender of the persons to whom they are marketed and intended. The following definitions apply:

- "Goods" include any consumer products used, bought, or rendered primarily for personal, family, or household purposes.
- "Substantially similar" means two goods that exhibit no substantial difference in production materials, intended use, functional design and features, and either the brand is the same or the brands share ownership. A difference in coloring must not be construed as a substantial difference.
- "Business" means any business acting within the state that sells goods to individuals or entities, including but not limited to retailers, suppliers, manufacturers, and distributors.

#### Exceptions to Prohibition.

It is not prohibited to price goods or services differently based upon the amount of time, difficulty, cost, or labor used in manufacturing, or any other gender-neutral reason.

#### Enforcement and Penalties.

The Attorney General may seek to enjoin a violation of the prohibition on gender-based price differences upon cause to believe a violation has occurred. In connection with seeking an injunction, the Attorney General may conduct investigations and make determinations of

relevant facts.

Upon a finding of a violation, a court may issue an injunction without requiring proof that any person has, in fact, been injured or damaged from the violation, and may also order direct restitution.

The following penalties are added to the CPA for violations of the prohibition on gender-based price differences: \$10,000 for a first violation; and \$1,000 for each subsequent violation. The total penalty imposed shall not exceed \$100,000.

Courts may impose additional civil penalties exceeding \$100,000 under certain circumstances. Each instance of charging a different price in violation of this prohibition constitutes a single violation.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.