
ENGROSSED SUBSTITUTE SENATE BILL 5449

State of Washington

62nd Legislature

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By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Brown, Pflug, Carrell, Harper, Murray, Hobbs, Fain, Delvin, Roach, Ericksen, Shin, Tom, Kohl-Welles, and Kilmer)

READ FIRST TIME 02/21/11.

1 AN ACT Relating to the unfair competition that occurs when stolen
2 or misappropriated information technology is used to manufacture
3 products sold or offered for sale in this state; adding a new chapter
4 to Title 19 RCW; and prescribing penalties.

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 otherwise.

8 (1) "Article or product" means any tangible article or product, but
9 excludes: (a) Any services sold, offered for sale, or made available
10 in this state, including free services and online services; (b) any
11 product subject to regulation by the United States food and drug
12 administration and that is primarily used for medical or medicinal
13 purposes; (c) food and beverages; and (d) restaurant services.

14 (2) "Copyrightable end product" means a work within the subject
15 matter of copyright as specified by section 102 of the United States
16 copyright act.

17 (3) "Essential component" means a component of an article or
18 product provided or to be provided to a third party pursuant to a
19 contract, including a purchase order, without which the article or

1 product will not perform as intended and for which there is no
2 substitute component available that offers a comparable range and
3 quality of functionalities and is available in comparable quantities
4 and at a comparable price.

5 (4) "Manufacture" means to directly manufacture, produce, or
6 assemble an article or product subject to section 2 of this act, in
7 whole or substantial part, but does not include contracting with or
8 otherwise engaging another person, or that person engaging another
9 person, to develop, manufacture, produce, or assemble an article or
10 product subject to section 2 of this act.

11 (5) "Material competitive injury" means at least a three percent
12 retail price difference between the article or product made in
13 violation of section 2 of this act designed to harm competition and a
14 directly competing article or product that was manufactured without the
15 use of stolen or misappropriated information technology, with such a
16 price difference occurring over a four-month period of time.

17 (6) "Retail price" means the retail price of stolen or
18 misappropriated information technology charged at the time of, and in
19 the jurisdiction where, the alleged theft or misappropriation occurred,
20 multiplied by the number of stolen or misappropriated items used in the
21 business operations of the person alleged to have violated section 2 of
22 this act.

23 (7)(a) "Stolen or misappropriated information technology" means
24 hardware or software that the person referred to in section 2 of this
25 act acquired, appropriated, or used without the authorization of the
26 owner of the information technology or the owner's authorized licensee
27 in violation of applicable law, but does not include situations in
28 which the hardware or software alleged to have been stolen or
29 misappropriated was not available for retail purchase on a stand-alone
30 basis at or before the time it was acquired, appropriated, or used by
31 such a person.

32 (b) Information technology is considered to be used in a person's
33 business operations if the person uses the technology in the
34 manufacture, distribution, marketing, or sales of the articles or
35 products subject to section 2 of this act.

36 NEW SECTION. **Sec. 2.** Any person who manufactures an article or
37 product while using stolen or misappropriated information technology in

1 its business operations after notice and opportunity to cure as
2 provided in section 5 of this act and, with respect to remedies sought
3 under section 6(6) or 7 of this act, causes a material competitive
4 injury as a result of such use of stolen or misappropriated information
5 technology, is deemed to engage in an unfair act where such an article
6 or product is sold or offered for sale in this state, either separately
7 or as a component of another article or product, and in competition
8 with an article or product sold or offered for sale in this state that
9 was manufactured without violating this section. A person who engages
10 in such an unfair act, and any articles or products manufactured by the
11 person in violation of this section, is subject to the liabilities and
12 remedial provisions of this chapter in an action by the attorney
13 general or any person described in section 6(5) of this act, except as
14 provided in sections 3 through 9 of this act.

15 NEW SECTION. **Sec. 3.** No action may be brought under this chapter,
16 and no liability results, where:

17 (1) The end article or end product sold or offered for sale in this
18 state and alleged to violate section 2 of this act is:

19 (a) A copyrightable end product;

20 (b) Merchandise manufactured by or on behalf of, or pursuant to a
21 license from, a copyright owner and which displays or embodies a name,
22 character, artwork, or other indicia of or from a work that falls
23 within (a) of this subsection, or merchandise manufactured by or on
24 behalf of, or pursuant to a license from, a copyright or trademark
25 owner and that displays or embodies a name, character, artwork, or
26 other indicia of or from a theme park, theme park attraction, or other
27 facility associated with a theme park; or

28 (c) Packaging, carrier media, or promotional or advertising
29 materials for any end article, end product, or merchandise that falls
30 within (a) or (b) of this subsection;

31 (2) The allegation that the information technology is stolen or
32 misappropriated is based on a claim that the information technology or
33 its use infringes a patent or misappropriates a trade secret under
34 applicable law or that could be brought under any provision of Title 35
35 of the United States Code;

36 (3) The allegation that the information technology is stolen or
37 misappropriated is based on a claim that the defendant's use of the

1 information technology violates the terms of a license that allows
2 users to modify and redistribute any source code associated with the
3 technology free of charge; or

4 (4) The allegation is based on a claim that the person violated
5 section 2 of this act by aiding, abetting, facilitating, or assisting
6 someone else to acquire, appropriate, use, sell, or offer to sell, or
7 by providing someone else with access to, information technology
8 without authorization of the owner of the information technology or the
9 owner's authorized licensee in violation of applicable law.

10 NEW SECTION. **Sec. 4.** No injunction may issue against a person
11 other than the person adjudicated to have violated section 2 of this
12 act, and no attachment order may issue against articles or products
13 other than articles or products in which the person alleged to violate
14 section 2 of this act holds title. A person other than the person
15 alleged to violate section 2 of this act includes any person other than
16 the actual manufacturer who contracts with or otherwise engages another
17 person to develop, manufacture, produce, market, distribute, advertise,
18 or assemble an article or product alleged to violate section 2 of this
19 act.

20 NEW SECTION. **Sec. 5.** (1) No action may be brought under section
21 2 of this act unless the person subject to section 2 of this act
22 received written notice of the alleged use of the stolen or
23 misappropriated information technology from the owner or exclusive
24 licensee of the information technology or the owner's agent and the
25 person: (a) Failed to establish that its use of the information
26 technology in question did not violate section 2 of this act; or (b)
27 failed, within ninety days after receiving such a notice, to cease use
28 of the owner's stolen or misappropriated information technology.
29 However, if the person commences and thereafter proceeds diligently to
30 replace the information technology with information technology whose
31 use would not violate section 2 of this act, such a period must be
32 extended for an additional period of ninety days, not to exceed one
33 hundred eighty days total. The information technology owner or the
34 owner's agent may extend any period described in this section.

35 (2) To satisfy the requirements of this section, written notice
36 must, under penalty of perjury: (a) Identify the stolen or

1 misappropriated information technology; (b) identify the lawful owner
2 or exclusive licensee of the information technology; (c) identify the
3 applicable law the person is alleged to be violating and state that the
4 notifier has a reasonable belief that the person has acquired,
5 appropriated, or used the information technology in question without
6 authorization of the owner of the information technology or the owner's
7 authorized licensee in violation of such applicable law; (d) to the
8 extent known by the notifier, state the manner in which the information
9 technology is being used by the defendant; (e) state the articles or
10 products to which the information technology relates; and (f) specify
11 the basis and the particular evidence upon which the notifier bases
12 such an allegation.

13 (3) The written notification must state, under penalty of perjury,
14 that, after a reasonable and good-faith investigation, the information
15 in the notice is accurate based on the notifier's reasonable knowledge,
16 information, and belief.

17 NEW SECTION. **Sec. 6.** (1) No earlier than ninety days after the
18 provision of notice in accordance with section 5 of this act, the
19 attorney general, or any person described in subsection (5) of this
20 section, may bring an action against any person that is subject to
21 section 2 of this act:

22 (a) To enjoin violation of section 2 of this act, including by
23 enjoining the person from selling or offering to sell in this state
24 articles or products that are subject to section 2 of this act, except
25 as provided in subsection (6) of this section. However, such an
26 injunction does not encompass articles or products to be provided to a
27 third party that establishes that such a third party has satisfied one
28 or more of the affirmative defenses set forth in section 8(1) of this
29 act with respect to the manufacturer alleged to have violated section
30 2 of this act;

31 (b) Only after a determination by the court that the person has
32 violated section 2 of this act, to recover the greater of:

33 (i) Actual damages, which may be imposed only against the person
34 who violated section 2 of this act; or

35 (ii) Statutory damages of no more than the retail price of the
36 stolen or misappropriated information technology, which may be imposed
37 only against the person who violated section 2 of this act; or

1 (c) In the event the person alleged to have violated section 2 of
2 this act has been subject to a final judgment or has entered into a
3 final settlement, or any products manufactured by such a person and
4 alleged to violate section 2 of this act have been the subject of an
5 injunction or attachment order, in any federal or state court in this
6 state or any other state, arising out of the same theft or
7 misappropriation of information technology, the court shall dismiss the
8 action. If such a person is a defendant in an ongoing action, or any
9 products manufactured by such a person and alleged to violate section
10 2 of this act are the subject of an ongoing injunction or attachment
11 order, in any federal or state court in this state or any other state,
12 arising out of the same theft or misappropriation of information
13 technology, the court shall stay the action against such a person
14 pending resolution of the other action. In the event the other action
15 results in a final judgment or final settlement, the court shall
16 dismiss the action against the person.

17 (2) After determination by the court that a person has violated
18 section 2 of this act and entry of a judgment against the person for
19 violating section 2 of this act, the attorney general, or a person
20 described in subsection (5) of this section, may add to the action a
21 claim for actual damages against a third party who sells or offers to
22 sell in this state products made by that person in violation of section
23 2 of this act, subject to the provisions of section 8 of this act.
24 However, damages may be imposed against a third party only if:

25 (a) The third party was provided a copy of a written notice sent to
26 the person alleged to have violated section 2 of this act that
27 satisfies the requirements of section 5 of this act at least ninety
28 days prior to the entry of the judgment;

29 (b) The person who violated section 2 of this act did not make an
30 appearance or does not have sufficient attachable assets to satisfy a
31 judgment against the person;

32 (c) Such a person either manufactured the final product or produced
33 a component equal to thirty percent or more of the value of the final
34 product;

35 (d) Such a person has a direct contractual relationship with the
36 third party respecting the manufacture of the final product or
37 component; and

1 (e) The third party has not been subject to a final judgment in any
2 federal or state court in this state or any other state arising out of
3 the same theft or misappropriation of information technology. However,
4 in the event the third party is a party to an ongoing suit for damages,
5 or has entered an appearance as an interested third party in
6 proceedings in rem, in any federal or state court in this state or any
7 other state arising out of the same theft or misappropriation of
8 information technology, the court shall stay the action against the
9 third party pending resolution of the other action. In the event the
10 other action results in a final judgment, the court shall dismiss the
11 action against the third party and any in rem action as to any articles
12 or products manufactured for such a third party or that have been or
13 are to be supplied to such a third party.

14 (3) An award of damages against such a third party pursuant to
15 subsection (2) of this section must be the lesser of the retail price
16 of the stolen or misappropriated information technology at issue or two
17 hundred fifty thousand dollars, less any amounts recovered from the
18 person adjudicated to have violated section 2 of this act, and
19 subsection (4)(a) of this section does not apply to such an award or
20 recovery against the third party.

21 (4) In an action under this chapter, a court may:

22 (a) Against the person adjudicated to have violated section 2 of
23 this act, increase the damages up to three times the damages authorized
24 by subsection (1)(b) of this section where the court finds that the
25 person's use of the stolen or misappropriated information technology
26 was willful;

27 (b) With respect to an award under subsection (1) of this section
28 only, award costs and reasonable attorneys' fees to: (i) A prevailing
29 plaintiff in actions brought by an injured person under section 2 of
30 this act; or (ii) a prevailing defendant in actions brought by an
31 allegedly injured person; and

32 (c) With respect to an action under subsection (2) of this section
33 brought by a private plaintiff only, award costs and reasonable
34 attorneys' fees to a third party who qualifies for an affirmative
35 defense under section 8 of this act. However, in a case in which the
36 third party received a copy of the notification described in subsection
37 (2)(a) of this section at least ninety days before the filing of the
38 action under subsection (2) of this section, with respect to a third

1 party's reliance on the affirmative defenses set forth in section 8(1)
2 (c) and (d) of this act, the court may award costs and reasonable
3 attorneys' fees only if all of the conduct on which the affirmative
4 defense is based was undertaken by the third party, and the third party
5 notified the plaintiff of the conduct, prior to the end of the ninety-
6 day period.

7 (5) A person is deemed to have been injured by the sale or offer
8 for sale of a directly competing article or product subject to section
9 2 of this act if the person establishes by a preponderance of the
10 evidence that:

11 (a) The person manufactures articles or products that are sold or
12 offered for sale in this state in direct competition with articles or
13 products that are subject to section 2 of this act;

14 (b) The person's articles or products were not manufactured using
15 stolen or misappropriated information technology of the owner of the
16 information technology;

17 (c) The person suffered economic harm, which may be shown by
18 evidence that the retail price of the stolen or misappropriated
19 information technology was twenty thousand dollars or more; and

20 (d) If the person is proceeding in rem or seeks injunctive relief,
21 that the person suffered material competitive injury as a result of the
22 violation of section 2 of this act.

23 (6)(a) If the court determines that a person found to have violated
24 section 2 of this act lacks sufficient attachable assets in this state
25 to satisfy a judgment rendered against it, the court may enjoin the
26 sale or offering for sale in this state of any articles or products
27 subject to section 2 of this act, except as provided in section 4 of
28 this act.

29 (b) To the extent that an article or product subject to section 2
30 of this act is an essential component of a third party's article or
31 product, the court shall deny injunctive relief as to such an essential
32 component, provided that the third party has undertaken good faith
33 efforts within the third party's rights under its applicable contract
34 with the manufacturer to direct the manufacturer of the essential
35 component to cease the theft or misappropriation of information
36 technology in violation of section 2 of this act, which may be
37 satisfied, without limitation, by the third party issuing a written
38 directive to the manufacturer demanding that it cease the theft or

1 misappropriation and demanding that the manufacturer provide the third
2 party with copies of invoices, purchase orders, licenses, or other
3 verification of lawful use of the information technology at issue.

4 (7) The court shall determine whether a cure period longer than the
5 period reflected in section 5 of this act would be reasonable given the
6 nature of the use of the information technology that is the subject of
7 the action and the time reasonably necessary either to bring such use
8 into compliance with applicable law or to replace the information
9 technology with information technology that would not violate section
10 2 of this act. If the court deems that a longer cure period would be
11 reasonable, then the action shall be stayed until the end of that
12 longer cure period. If by the end of that longer cure period, the
13 defendant has established that its use of the information technology in
14 question did not violate section 2 of this act, or the defendant ceased
15 use of the stolen or misappropriated information technology, then the
16 action must be dismissed.

17 NEW SECTION. **Sec. 7.** (1) In a case in which the court is unable
18 to obtain personal jurisdiction over a person subject to section 2 of
19 this act, the court may proceed in rem against any articles or products
20 subject to section 2 of this act sold or offered for sale in this state
21 in which the person alleged to have violated section 2 of this act
22 holds title. Except as provided in section 4 of this act and
23 subsection (2) through (4) of this section, all such articles or
24 products are subject to attachment at or after the time of filing a
25 complaint, regardless of the availability or amount of any monetary
26 judgment.

27 (2) At least ninety days prior to the enforcement of an attachment
28 order against articles or products pursuant to subsection (1) of this
29 section, the court shall notify any person in possession of the
30 articles or products of the pending attachment order. Prior to the
31 expiration of the ninety day period, any person for whom the articles
32 or products were manufactured, or to whom the articles or products have
33 been or are to be supplied, pursuant to an existing contract or
34 purchase order, may:

35 (a) Establish that the person has satisfied one or more of the
36 affirmative defenses set forth in section 8(1) of this act with respect
37 to the manufacturer alleged to have violated section 2 of this act, in

1 which case the attachment order must be dissolved only with respect to
2 those articles or products that were manufactured for such a person, or
3 have been or are to be supplied to such a person, pursuant to an
4 existing contract or purchase order; or

5 (b) Post a bond with the court equal to the retail price of the
6 allegedly stolen or misappropriated information technology or twenty-
7 five thousand dollars, whichever is less, in which case the court shall
8 stay enforcement of the attachment order against the articles or
9 products and shall proceed on the basis of its jurisdiction over the
10 bond. The person posting the bond shall recover the full amount of
11 such bond, plus interest, after the issuance of a final judgment.

12 (3) In the event the person posting the bond pursuant to subsection
13 (2)(b) of this section is entitled to claim an affirmative defense in
14 section 8 of this act, and that person establishes with the court that
15 the person is entitled to any affirmative defense, the court shall
16 award costs and reasonable attorneys' fees to the person posting the
17 bond and against the plaintiff in the event the plaintiff proceeds with
18 an action pursuant to section 6(2) of this act against the person
19 posting the bond.

20 (4) In the event that the court does not provide notification as
21 described in subsection (2) of this section, the court, upon motion of
22 any third party, shall stay the enforcement of the attachment order for
23 ninety days as to articles or products manufactured for the third
24 party, or that have been or are to be supplied to the third party,
25 pursuant to an existing contract or purchase order, during which ninety
26 day period the third party may avail itself of the options set forth in
27 subsection (2)(a) and (b) of this section.

28 NEW SECTION. **Sec. 8.** (1) A court may not award damages against
29 any third party pursuant to section 6(2) of this act where that party,
30 after having been afforded reasonable notice of at least ninety days
31 and opportunity to plead any of the affirmative defenses set forth in
32 this subsection, establishes by a preponderance of the evidence any of
33 the following:

34 (a) Such a person is the end consumer or end user of an article or
35 product subject to section 2 of this act, or acquired the article or
36 product after its sale to an end consumer or end user;

1 (b) Such a person is a business with annual revenues not in excess
2 of fifty million dollars;

3 (c) The person acquired the articles or products:

4 (i) In good faith reliance on either: (A) A code of conduct or
5 other written document that governs the person's commercial
6 relationships with the manufacturer adjudicated to have violated
7 section 2 of this act and which includes commitments, such as general
8 commitments to comply with applicable laws, that prohibit use of the
9 stolen or misappropriated information technology by such manufacturer;
10 or (B) written assurances from the manufacturer of the articles or
11 products that the articles or products, to the manufacturer's
12 reasonable knowledge, were manufactured without the use of stolen or
13 misappropriated information technology in the manufacturer's business
14 operations. However, with respect to both (c)(i)(A) and (B) of this
15 subsection, within one hundred eighty days of receiving written notice
16 of the judgment against the manufacturer for a violation of section 2
17 of this act and a copy of a written notice that satisfies the
18 requirements of section 5 of this act, the person must undertake
19 commercially reasonable efforts to do any of the following:

20 (I) Exchange written correspondence confirming that such a
21 manufacturer is not using the stolen or misappropriated information
22 technology in violation of section 2 of this act, which may be
23 satisfied, without limitation, by obtaining written assurances from the
24 manufacturer accompanied by copies of invoices, purchase orders,
25 licenses, or other verification of lawful use of the information
26 technology at issue;

27 (II) Direct the manufacturer to cease the theft or
28 misappropriation, which may be satisfied, without limitation, by the
29 third party issuing a written directive to the manufacturer demanding
30 that it cease such theft or misappropriation and demanding that the
31 manufacturer provide the third party with copies of invoices, purchase
32 orders, licenses, or other verification of lawful use of the
33 information technology at issue; or

34 (III) In a case in which the manufacturer has failed to cease such
35 a theft or misappropriation within the one hundred eighty-day period,
36 and the third party has not fulfilled either option (c)(i)(A) or (B) of
37 this subsection, prevent the future acquisition of the articles or
38 products from the manufacturer during the period that the manufacturer

1 continues to engage in the theft or misappropriation subject to section
2 2 of this act where doing so would not constitute a breach of an
3 agreement between the person and the manufacturer for the manufacture
4 of the articles or products in question that was entered into on or
5 before one hundred eighty days after the effective date of this
6 section; or

7 (ii) Pursuant to an agreement between the person and a manufacturer
8 for the manufacture of the articles or products in question that was
9 entered into before one hundred eighty days after the effective date of
10 this section. However, within one hundred eighty days of receiving
11 written notice of the judgment against the manufacturer for a violation
12 of section 2 of this act and a copy of a written notice that satisfies
13 the requirements of section 5 of this act, the person must undertake
14 commercially reasonable efforts to do any of the following:

15 (A) Obtain from the manufacturer written assurances that such a
16 manufacturer is not using the stolen or misappropriated information
17 technology in violation of section 2 of this act, which may be
18 satisfied, without limitation, by obtaining written assurances from the
19 manufacturer accompanied by copies of invoices, purchase orders,
20 licenses, or other verification of lawful use of the information
21 technology at issue;

22 (B) Direct the manufacturer to cease the theft or misappropriation,
23 which may be satisfied, without limitation, by the third party issuing
24 a written directive to the manufacturer demanding that it cease such
25 theft or misappropriation and demanding that the manufacturer provide
26 the third party with copies of invoices, purchase orders, licenses, or
27 other verification of lawful use of the information technology at
28 issue; or

29 (C) In a case in which the manufacturer has failed to cease the
30 theft or misappropriation within the one hundred eighty-day period, and
31 the third party has not fulfilled either option (c)(ii)(A) or (B) of
32 this subsection, cease the future acquisition of the articles or
33 products from the manufacturer during the period that the manufacturer
34 continues to engage in the theft or misappropriation subject to section
35 2 of this act where doing so would not constitute a breach of such
36 agreement;

37 (d) The person has made commercially reasonable efforts to
38 implement practices and procedures to require its direct manufacturers,

1 in manufacturing articles or products for such person, not to use
2 stolen or misappropriated information technology in violation of
3 section 2 of this act. A person may satisfy this subsection (1)(d) by:

4 (i) Adopting and undertaking commercially reasonable efforts to
5 implement a code of conduct or similar written requirements, which are
6 applicable to the person's direct manufacturers, that prohibit the use
7 of stolen or misappropriated information technology by such a
8 manufacturer, subject to a right of audit, and the person either: (A)
9 Has a practice of auditing its direct manufacturers on a periodic basis
10 in accordance with generally accepted industry standards; or (B)
11 requires in its agreements with its direct manufacturers that they
12 submit to audits by a third party, which may include a third-party
13 association of businesses representing the owner of the stolen or
14 misappropriated intellectual property, and further provides that a
15 failure to remedy any deficiencies found in such an audit that
16 constitute a violation of the applicable law of the jurisdiction where
17 the deficiency occurred constitutes a breach of the contract, subject
18 to cure within a reasonable period of time; or

19 (ii) Adopting and undertaking commercially reasonable efforts to
20 implement a code of conduct or similar written requirements, which are
21 applicable to the person's direct manufacturers, that prohibit use of
22 stolen or misappropriated information technology by such a
23 manufacturer, and the person undertakes practices and procedures to
24 address compliance with the prohibition against the use of the stolen
25 or misappropriated information technology in accordance with the
26 applicable code of conduct or written requirements; or

27 (e) The person does not have a contractual relationship with the
28 person alleged to have violated section 2 of this act respecting the
29 manufacture of the articles or products alleged to have been
30 manufactured in violation of section 2 of this act.

31 (2) A third party must have the opportunity to be heard regarding
32 whether an article or product is an essential component provided or to
33 be provided to a third party, and must have the right to file a motion
34 to dismiss any action brought against it under section 6(2) of this
35 act.

36 (3) The court may not enforce any award for damages against such a
37 third party until after the court has ruled on that party's claim of
38 eligibility for any of the affirmative defenses set out in this

1 section, and prior to such a ruling may allow discovery, in an action
2 under section 6(2) of this act, only on the particular defenses raised
3 by the third party.

4 (4) The court shall allow discovery against a third party on an
5 issue only after all discovery on that issue between the parties has
6 been completed and only if the evidence produced as a result of the
7 discovery does not resolve an issue of material dispute between the
8 parties.

9 (5) Any confidential or otherwise sensitive information submitted
10 by a party pursuant to this section is subject to a protective order.

11 NEW SECTION. **Sec. 9.** A court may not enforce an award of damages
12 against a third party pursuant to section 6(2) of this act for a period
13 of eighteen months from the effective date of this section.

14 NEW SECTION. **Sec. 10.** A violation of this chapter may not be
15 considered a violation of the state consumer protection act, and
16 chapter 19.86 RCW does not apply to this chapter. The remedies
17 provided under this chapter are the exclusive remedies for the parties.

18 NEW SECTION. **Sec. 11.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

22 NEW SECTION. **Sec. 12.** Sections 1 through 10 of this act
23 constitute a new chapter in Title 19 RCW.

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