

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

By Representative Dufault

OUT OF ORDER 03/06/2020

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

3
4 "NEW SECTION. **Sec. 11.** LIABILITY. (1) Any violation of this
5 chapter shall not serve as the basis for, or be subject to, a private
6 right of action under this chapter or any other law or serve as the
7 basis for a violation of chapter 19.86 RCW or under any other law.
8 This chapter does not relieve any party from any duty or obligation
9 imposed, or alter any right, burden, or obligation that a consumer has
10 under other laws, including without limitation chapter 19.86 RCW, the
11 Washington State Constitution, or the United States Constitution.

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

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

22
23 NEW SECTION. **Sec. 12.** ENFORCEMENT. (1) The attorney general has
24 exclusive authority to enforce this chapter. The attorney general
25 shall exercise such authority by bringing an action either in the name
26 of the state or as parens patriae on behalf of persons residing in the
27 state. For the purposes of this chapter the attorney general has the

1 same authority to investigate alleged violations as he or she does in
2 RCW 19.86.110.

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

6 (3) In the event that a legal entity subject to this chapter is
7 held liable in any action arising out of conduct governed under this
8 chapter, such legal entity shall not be made to defend against, and
9 shall not be held liable, against causes of action or claims arising
10 of the same conduct in any other proceeding."
11

12 Renumber the remaining sections consecutively and correct any
13 internal references accordingly.
14

15 On page 26, line 4 of the striking amendment, after "through"
16 strike "18 and 20" and insert "19 and 21"
17

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.

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