

2SSB 6281 - H AMD TO ITED COMM AMD (H-5242.1/20) **2151**
By Representative MacEwen

WITHDRAWN 03/06/2020

1 On page 4, beginning on line 12, strike all of subsections (11)
2 through (13)

3 Renumber the remaining subsections consecutively and correct any
4 internal references accordingly.

5 On page 4, beginning on line 31, strike all of subsection (17)

6 Renumber the remaining subsections consecutively and correct any
7 internal references accordingly.

8 On page 5, beginning on line 1, strike all of subsection (21)

9 Renumber the remaining subsections consecutively and correct any
10 internal references accordingly.

11 On page 5, beginning on line 7, strike all of subsections (23)
12 and (24)

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

15 On page 6, beginning on line 13, strike all of subsection (31)

16 Renumber the remaining subsections consecutively and correct any
17 internal references accordingly.

18 On page 6, beginning on line 35, strike all of subsection (33)

19 Renumber the remaining subsections consecutively and correct any
20 internal references accordingly.

21 On page 7, beginning on line 5, strike all of subsection (35)

22 Renumber the remaining subsections consecutively and correct any
23 internal references accordingly.

1 On page 7, beginning on line 28, strike all of subsection (40)

2 On page 10, line 3, after "family" strike "educations" and insert
3 "educational"

4 On page 10, beginning on line 12, after "law;" strike all
5 material through "(m)" on line 13 and insert the following:

6 "(m) Information and documents created specifically for, and
7 collected and maintained by, the news media, as defined by RCW
8 5.68.010, for the gathering, dissemination, or reporting of news or
9 information to the public; or

10 (n)"

11 On page 21, after line 15, insert the following:

12 "NEW SECTION. **Sec. 11.** LIABILITY. (1) Any violation of this
13 chapter shall not serve as the basis for, or be subject to, a private
14 right of action under this chapter or under any other law. This
15 chapter does not relieve any party from any duty or obligation
16 imposed, or alter any right, burden, or obligation that a consumer
17 has under other laws including, without limitation, chapter 19.86
18 RCW, the Washington state Constitution, or the United States
19 Constitution.

20 (2) In the event that a consumer institutes a civil action under
21 chapter 19.86 RCW arising out of conduct that independently violates
22 chapter 19.86 RCW, such civil action shall continue to be permitted
23 solely under chapter 19.86 RCW, even if such conduct is regulated by
24 this chapter. For purposes of RCW 19.86.093, this chapter does not
25 incorporate chapter 19.86 RCW.

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

30 Renumber the remaining sections consecutively and correct any
31 internal references accordingly.

32 On page 21, beginning on line 16, after "(1)" strike all material
33 through "violation." on line 26 and insert "The attorney general has
34 exclusive authority to enforce this chapter. The attorney general
35 shall exercise such authority by bringing an action either in the
36 name of the state, or as parens patriae on behalf of persons residing

1 in the state. For the purposes of this chapter, the attorney general
2 has the same authority to investigate alleged violations as it does
3 in RCW 19.86.110.

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

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

12 On page 22, beginning on line 1, after "(1)" strike all material
13 through "recognition" on line 10 and insert "Except as provided in
14 subsection (2) of this section, this chapter supersedes and preempts
15 laws, ordinances, regulations, or the equivalent adopted by any local
16 entity regarding the processing of personal data by controllers or
17 processors.

18 (2) Laws, ordinances, or regulations regarding the processing of
19 personal data by controllers or processors that were adopted by any
20 local entity prior to January 1, 2020, are not superseded or
21 preempted"

22 Beginning on page 23, line 9, strike all of section 17

23 Renumber the remaining sections consecutively and correct any
24 internal references accordingly.

EFFECT: (1) Modifies the definition of "consumer" and removes
definitions related to facial recognition.

(2) Removes facial recognition provisions.

(3) Adds an exemption for certain news media activity.

(4) Removes the specification that certain payment-only
transactions do not count as "consumers" for purposes of
jurisdictional thresholds.

(5) Modifies the data minimization requirement and requires
controllers' collection of personal data to be adequate, relevant,
and limited to what is reasonably necessary in relation to processing
purposes, rather than only as reasonably necessary to provide
services requested by a consumer, to conduct an activity that a
consumer has requested, or to verify consumer requests.

(6) Removes enforcement under the Consumer Protection Act and
provides that the Attorney General has exclusive enforcement
authority.

(7) Provides the Attorney General with the same authority to
investigate violations of this chapter that it has to investigate
alleged violations under the Consumer Protection Act.

(8) Provides that this chapter does not relieve any party from any duties or obligations imposed, or alter any right, burden, or obligation that a consumer has under other laws, including the Consumer Protection Act.

(9) 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.

(10) Specifies that liability among multiple controllers and processors is to be allocated based on comparative fault.

(11) Provides that if a legal entity is held liable in any action for conduct governed by the bill, the legal entity shall not be made to defend against or be held liable against claims or causes of action arising out of the same conduct in any other proceedings.

(12) Specifies that local laws, ordinances, or regulations regarding the processing of personal data by controllers or processors that were adopted prior to January 1, 2020, are not superseded or preempted.

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