
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1503

State of Washington

66th Legislature

2019 Regular Session

By House Appropriations (originally sponsored by Representatives Smith, Hudgins, and Stanford)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to registration and consumer protection
2 obligations of data brokers; adding a new chapter to Title 19 RCW;
3 creating a new section; prescribing penalties; providing an effective
4 date; and providing an expiration date.

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
8 otherwise.

9 (1) "Business" means a commercial entity, including a sole
10 proprietorship, partnership, corporation, association, limited
11 liability company, or other group, however organized and whether or
12 not organized to operate at a profit, including a financial
13 institution organized, chartered, or holding a license or
14 authorization certificate under the laws of Washington state, or any
15 other state, the United States, or any other country, or the parent,
16 affiliate, or subsidiary of a financial institution, but it does not
17 include the state, any political subdivision of the state, or a
18 vendor acting solely on behalf of, and at the direction of, the
19 state.

20 (2) "Chief privacy officer" means the person appointed under RCW
21 43.105.369(2).

1 (3) "Consumer" means an individual residing in this state.

2 (4) (a) "Data broker" means a business, or unit or units of a
3 business, separately or together, that knowingly collects and sells
4 or licenses to third parties the personal information of a consumer
5 with whom the business does not have a direct relationship.

6 (b) The following activities conducted by a business do not
7 qualify the business as a data broker:

8 (i) Furnishing a consumer credit report, as defined in 15 U.S.C.
9 Sec. 1681a(d), by a consumer reporting agency, as defined in 15
10 U.S.C. Sec. 1681a(f);

11 (ii) Collecting or disclosing nonpublic personal information, as
12 defined in 15 U.S.C. Sec. 6809(4), by a financial institution, as
13 defined in 15 U.S.C. Sec. 6809(3), in a manner than is regulated
14 under the federal Gramm Leach Bliley act, P.L. 106-102, and
15 implementing regulations;

16 (iii) Providing 411 directory assistance or directory information
17 services, including name, address, and telephone number, on behalf of
18 or as a function of a telecommunications carrier; or

19 (iv) Providing publicly available information via real-time or
20 near real-time alert services for health or safety purposes.

21 (5) (a) "Personal information" means information that identifies,
22 relates to, describes, is reasonably capable of being associated
23 with, or could reasonably be linked, directly or indirectly, with a
24 particular consumer or household.

25 (b) "Personal information" does not include publicly available
26 information to the extent that it is related to a consumer's business
27 or profession.

28 (6) "Record" means any material on which written, drawn, spoken,
29 visual, or electromagnetic information is recorded or preserved,
30 regardless of physical form or characteristic.

31 (7) "Sale," "sell," "selling," or "sold" means selling, renting,
32 releasing, disclosing, disseminating, making available, transferring,
33 or otherwise communicating orally, in writing, or by electronic or
34 other means, a consumer's personal information by the business to
35 another business or a third party for monetary or other valuable
36 consideration.

37 NEW SECTION. **Sec. 2.** (1) Annually, on or before January 31st
38 following a year in which a business meets the definition of data
39 broker as provided in section 1 of this act, a data broker shall:

1 (a) Register with the chief privacy officer;

2 (b) Pay a registration fee of two hundred fifty dollars to the
3 chief privacy officer; and

4 (c) Provide the following information to the chief privacy
5 officer:

6 (i) The name and primary physical, email, and internet addresses
7 of the data broker;

8 (ii) If the data broker permits a consumer to opt out of the data
9 broker's collection of personal information, opt out of its
10 databases, or opt out of certain sales of data:

11 (A) The method for requesting an opt-out;

12 (B) If the opt-out applies to only certain activities or sales, a
13 statement specifying to which activities or sales the opt-out
14 applies;

15 (C) Whether the data broker permits a consumer to authorize a
16 third party to opt out on the consumer's behalf;

17 (D) A statement specifying the data collection, databases, or
18 sales activities from which a consumer may not opt out;

19 (iii) Whether the data broker implements a purchaser
20 credentialing process;

21 (iv) Where the data broker has actual knowledge that it possesses
22 the personal information of minors, a separate statement detailing
23 the data collection practices, databases, sales activities, and opt-
24 out policies that are applicable to the personal information of
25 minors; and

26 (v) Any additional information that the data broker chooses to
27 provide concerning its data collection practices.

28 (2) The chief privacy officer is authorized to coordinate with a
29 third party for the purpose of collecting the registration fee under
30 subsection (1)(b) of this section.

31 (3) A data broker that fails to fulfill the requirements of
32 subsection (1) of this section is subject to:

33 (a) A civil penalty of fifty dollars for each day, not to exceed
34 a total of ten thousand dollars for each year it fails to register
35 pursuant to this section;

36 (b) A fine equal to the fees due under this section during the
37 period it failed to register pursuant to this section; and

38 (c) Other penalties imposed by law.

1 (4) The attorney general may maintain an action to collect the
2 penalties imposed in this section and to seek appropriate injunctive
3 relief.

4 NEW SECTION. **Sec. 3.** (1) A person shall not acquire personal
5 information through fraudulent means.

6 (2) A person shall not acquire or use personal information for
7 the purpose of:

8 (a) Stalking or harassing another person;

9 (b) Committing a fraud, including identity theft, financial
10 fraud, or email fraud; or

11 (c) Engaging in unlawful discrimination, including employment
12 discrimination and housing discrimination.

13 NEW SECTION. **Sec. 4.** (1) A violation of this chapter is not
14 reasonable in relation to the development and preservation of
15 business and is an unfair or deceptive act in trade or commerce and
16 an unfair method of competition for the purpose of applying the
17 consumer protection act, chapter 19.86 RCW.

18 (2) This chapter may be enforced solely by the attorney general
19 under the consumer protection act, chapter 19.86 RCW.

20 NEW SECTION. **Sec. 5.** (1) On or before December 1, 2021, the
21 chief privacy officer, in consultation with the attorney general,
22 shall submit a preliminary report concerning the implementation of
23 this act to the relevant committees of the legislature. The report
24 must also review and consider the necessity of additional legislative
25 and regulatory approaches to protecting the data security and privacy
26 of Washington consumers whose data is subject to data brokers
27 activities.

28 (2) On or before October 1, 2022, the chief privacy officer, in
29 consultation with the attorney general, shall update the preliminary
30 report and provide additional information concerning the
31 implementation of this act and the necessity of additional
32 legislative and regulatory approaches to protecting the data security
33 and privacy of Washington consumers whose data is subject to data
34 brokers activities.

35 (3) This section expires January 1, 2023.

1 NEW SECTION. **Sec. 6.** Sections 1 through 4 of this act
2 constitute a new chapter in Title 19 RCW.

3 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2021.

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