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**SUBSTITUTE SENATE BILL 5171**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Dhingra, Trudeau, Hunt, Lovelett, Cleveland, Keiser, C. Wilson, Hasegawa, Saldaña, Conway, Frame, Kuderer, Nguyen, Nobles, Pedersen, Stanford, Valdez, and Wellman)

AN ACT Relating to consumer gender discrimination; and adding a new chapter to Title 19 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) A person, firm, partnership, company, corporation, or business shall not charge a different price for any two goods that are substantially similar if those goods are priced differently based on the gender of the individuals for whom the goods are marketed and intended.

(2) This section does not prohibit price differences in goods or services based specifically upon any of the following:

(a) The amount of time it took to manufacture those goods;

(b) The difficulty in manufacturing those goods;

(c) The cost incurred in manufacturing those goods;

(d) The labor used in manufacturing those goods;

(e) The materials used in manufacturing those goods; or

(f) Any other gender-neutral reason for charging a different price for those goods.

(3)(a) Notwithstanding any other law, whenever the attorney general has cause to believe that a violation of this section has occurred, the attorney general may, upon notice to the defendant of not less than five days, petition the court for an order to enjoin and restrain the continuance of those violations.

(b) If a court finds that the defendant has violated this section, an injunction may be issued by the court enjoining or restraining any violation, without requiring proof that any person has, in fact, been injured or damaged thereby. The court may require the defendant to make direct restitution, if applicable. In connection with the proposed application for an injunction, the attorney general is authorized to conduct an investigation under this chapter and make a determination of the relevant facts in support of a petition for an injunction.

(4) For purposes of this section:

(a) "Business" means any business acting within the state of Washington that sells goods to any individual or entity including, but not limited to, retailers, suppliers, manufacturers, and distributors.

(b) "Goods" means any consumer products used, bought, or rendered primarily for personal, family, or household purposes.

(c)(i) "Substantially similar" means two goods that exhibit no substantial difference in:

(A) The materials used in production;

(B) The intended use of the good;

(C) The functional design of and features of the good;

(D) The brand of the good.

(ii) A difference in coloring among any of the goods shall not be construed as a substantial difference for the purposes of this subsection.

(5) The legislature finds that the acts or practices covered by this section are matters vitally affecting the public interest for the purposes of applying the consumer protection act, chapter 19.86 RCW. A violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. **Sec.**  Section 1 of this act constitutes a new chapter in Title 19 RCW.

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