

ESHB 1155 - S AMD TO S AMD (S-2826.4/23) 305
By Senator Mullet

NOT ADOPTED 04/05/2023

1 On page 3, line 15, after "that" strike "identifies" and insert
2 "a regulated entity or a small business processes to identify"

3 On page 15, beginning on line 26, strike all of section 11 and
4 insert the following:

5 "NEW SECTION. **Sec. 11.** (1) For actions brought by the attorney
6 general to enforce this chapter, the legislature finds that the
7 practices covered by this chapter are matters vitally affecting the
8 public interest for the purpose of applying the consumer protection
9 act, chapter 19.86 RCW. A violation of this chapter is not reasonable
10 in relation to the development and preservation of business, and is
11 an unfair or deceptive act in trade or commerce and an unfair method
12 of competition for the purpose of applying the consumer protection
13 act, chapter 19.86 RCW.

14 (2) The attorney general shall, prior to initiating any action
15 for a violation of any provisions of this chapter, issue a notice of
16 violation to the regulated entity, small business, or processor if
17 the attorney general determines that a cure is possible. If the
18 regulated entity, small business, or processor fails to cure such
19 violation within 30 days of receipt of the notice of violation, the
20 attorney general may bring an action pursuant to this section.
21 Notwithstanding the foregoing, the attorney general shall not be
22 required to provide a 30-day opportunity to cure if the alleged
23 violation is the same as a previously addressed matter involving the
24 same parties, and the decision has been resolved by an agreement
25 between the parties or was adjudicated and a decision issued is
26 final.

27 (3) Any consumer injured by a violation of this chapter may bring
28 an action under chapter 19.86 RCW, but must establish all required
29 elements of an action under chapter 19.86 RCW before relief may be
30 granted."

EFFECT: (1) Revises the definition of "consumer health data" to provide that consumer health data is personal information that a regulated entity or a small business processes to identify a consumer's health, rather than personal information that identifies a consumer's health.

(2) Specifies that the legislative declarations that make a violation of the bill a per se violation of the Consumer Protection Act (CPA) apply in enforcement actions brought by the Attorney General.

(3) Requires the Attorney General, prior to initiating an enforcement action, to provide a notice of the violation if the Attorney General determines a cure is possible.

(4) Authorizes the Attorney General to bring an action if the regulated entity, small business, or processor fails to cure the violation within 30 days.

(5) Provides that any consumer injured by a violation of the bill may bring an action under the CPA, but must establish all required elements of a CPA action before relief may be granted.

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