

**Chapter 7.113 RCW**  
**SEXUALLY PROTECTIVE DEVICES**

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**RCW 7.113.010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Consent" means that at the time of sexual contact or sexual penetration, there are actual words or conduct indicating freely given agreement. Consent may be revoked at any time. Conduct short of voluntary agreement does not constitute consent as a matter of law. Consent cannot be freely given when a person does not have capacity due to disability, intoxication, or age. Consent cannot be freely given when the other party has authority or control over the care or custody of a person incarcerated or detained.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(3) "Sexual penetration" has the same meaning as in RCW 7.105.010.

(4) "Sexually protective device" means an internal or external condom, spermicide, diaphragm, cervical cap, contraceptive sponge, dental dam, or any other physical barrier device intended to prevent pregnancy or sexually transmitted infection. "Sexually protective device" does not include an intrauterine device or any hormonal birth control method. [2024 c 254 s 1.]

**RCW 7.113.020 Civil cause of action.** (1) A person who engaged in sexual contact or sexual penetration with another person may bring a civil action against that other person if prior to sexual contact or sexual penetration both persons understood and agreed that a sexually protective device would be used, and the other person:

(a) Engaged or continued to engage in sexual contact or sexual penetration after the other person:

(i) Removed the sexually protective device without consent of the person bringing the action; or

(ii) Knew or became aware that the sexually protective device had been unintentionally removed, but did not obtain consent from the person bringing the action to engage or continue engaging in sexual contact or sexual penetration without the use of a sexually protective device;

(b) Engaged or continued engaging in sexual contact or sexual penetration after tampering with the sexually protective device without the consent of the person bringing the action and in a manner likely to render the device ineffective for its common purpose;

(c) Without consent of the person bringing the action used a sexually protective device that the other person knew had been

tampered with in a manner likely to render the device ineffective for its common purpose; or

(d) Misled the person bringing the action into believing that a sexually protective device was used by the other person and the other person knew that the device was not used, had been tampered with, or was otherwise inoperable.

(2) Evidence that the person bringing the action consented to previous sexual contact or sexual penetration without a sexually protective device or to removing or tampering with a sexually protective device during previous sexual contact or sexual penetration does not by itself establish consent to any subsequent sexual contact or sexual penetration without a sexually protective device or to removing or tampering with a sexually protective device in any subsequent sexual contact or sexual penetration. [2024 c 254 s 2.]

**RCW 7.113.030 Remedies.** (1) In an action under this chapter, the court may award any or all of the following remedies upon request:

- (a) Compensatory damages;
- (b) Punitive damages;
- (c) Statutory damages of \$5,000 per violation;
- (d) Injunctive relief; and
- (e) Any other relief the court deems appropriate.

(2) In determining punitive damages, the court may take into consideration any previous findings of liability against a defendant pursuant to this section.

(3) The court shall award costs and reasonable attorneys' fees to the prevailing plaintiff.

(4) In an action brought under this section, the plaintiff may ask the court to require the defendant to attend counseling sessions. If ordered to attend counseling, the defendant shall be financially responsible for the counseling fees and any related expenses.

(5) An award under this section may not be used to offset any child support obligations.

(6) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law and may not be construed to prohibit, limit, or to be a prerequisite to any other cause of action or remedy. [2024 c 254 s 3.]

**RCW 7.113.040 Plaintiff may use pseudonym.** In an action under this chapter, a plaintiff may proceed using a pseudonym in place of the true name of the plaintiff under applicable state law or procedural rules. [2024 c 254 s 4.]

**RCW 7.113.900 Application.** This chapter applies to causes of action accruing on and after July 1, 2024. [2024 c 254 s 5.]

**RCW 7.113.901 Effective date—2024 c 254.** This act takes effect July 1, 2024. [2024 c 254 s 6.]