

2SHB 1503 - H AMD 1178

By Representative Smith

ADOPTED 02/17/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The definitions in this section apply
4 throughout this chapter unless the context clearly requires
5 otherwise.

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

17 (2) "Chief privacy officer" means the person appointed under RCW
18 43.105.369(2).

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

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

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

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

29 (ii) Collecting or disclosing nonpublic personal information, as
30 defined in 15 U.S.C. Sec. 6809(4), by a financial institution, as
31 defined in 15 U.S.C. Sec. 6809(3), in a manner than is regulated

1 under the federal Gramm Leach Bliley act, P.L. 106-102, and
2 implementing regulations;

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

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

8 (5) (a) "Personal information" means information that identifies,
9 relates to, describes, is reasonably capable of being associated
10 with, or could reasonably be linked, directly or indirectly, with a
11 particular consumer or household.

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

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

18 (7) "Sale," "sell," "selling," or "sold" means selling, renting,
19 releasing, disclosing, disseminating, making available, transferring,
20 or otherwise communicating orally, in writing, or by electronic or
21 other means, a consumer's personal information by the business to
22 another business or a third party for monetary or other valuable
23 consideration.

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

27 (a) Register with the chief privacy officer;

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

30 (c) Provide the following information to the chief privacy
31 officer:

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

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

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

1 (B) If the opt-out applies to only certain activities or sales, a
2 statement specifying to which activities or sales the opt-out
3 applies;

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

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

8 (iii) Whether the data broker implements a purchaser
9 credentialing process;

10 (iv) Where the data broker has actual knowledge that it possesses
11 the personal information of minors, a separate statement detailing
12 the data collection practices, databases, sales activities, and opt-
13 out policies that are applicable to the personal information of
14 minors; and

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

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

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

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

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

27 (c) Other penalties imposed by law.

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

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

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

35 (a) Stalking or harassing another person;

36 (b) Committing a fraud, including identity theft, financial
37 fraud, or email fraud; or

38 (c) Engaging in unlawful discrimination, including employment
39 discrimination and housing discrimination.

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

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

8 NEW SECTION. **Sec. 5.** (1) On or before December 1, 2021, the
9 chief privacy officer, in consultation with the attorney general,
10 shall submit a preliminary report concerning the implementation of
11 this act to the relevant committees of the legislature. The report
12 must also review and consider the necessity of additional legislative
13 and regulatory approaches to protecting the data security and privacy
14 of Washington consumers whose data is subject to data brokers
15 activities.

16 (2) On or before October 1, 2022, the chief privacy officer, in
17 consultation with the attorney general, shall update the preliminary
18 report and provide additional information concerning the
19 implementation of this act and the necessity of additional
20 legislative and regulatory approaches to protecting the data security
21 and privacy of Washington consumers whose data is subject to data
22 brokers activities.

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

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

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

27 Correct the title.

EFFECT: (1) Replaces the definition of "brokered personal
information" with "personal information" to mean information that
identifies or could reasonably be linked with a particular consumer
or household.

 (2) Modifies the definition of "data broker" by excluding
activities regulated under specified federal laws.

 (3) Adds the definition of "sale" to mean disclosing or otherwise
making available a consumer's personal information for monetary or
other valuable consideration.

 (4) Eliminates the requirement to report annually the number of
security breaches that a data broker has experienced in the preceding
year.

(5) Removes the provisions related to information security program.

(6) Modifies the reports to be submitted by the Chief Privacy Officer in consultation with the Attorney General to require a preliminary report by December 1, 2021, and an updated report by October 1, 2022.

(7) Requires the preliminary report and the updated report to include information regarding the implementation of this act, as well as to review and consider the necessity of additional legislative and regulatory approaches to protecting the data security and privacy of Washington consumers.

(8) Modifies the effective date of the bill to January 1, 2021.

(9) Removes the "null and void" clause with a 2019 date.

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