

SSB 5025 - H COMM AMD

By Committee on Consumer Protection & Business

ADOPTED 04/06/2021

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Strong consumer protection and antitrust penalties are
5 critical to protecting consumers and ensuring a fair marketplace;

6 (2) Strong penalties ensure accountability, deter violations, and
7 ensure a level playing field for businesses;

8 (3) Washington currently does not provide strong penalties for
9 violations of the state's consumer protection act, which prohibits
10 unfair or deceptive acts or practices and unfair methods of
11 competition;

12 (4) Washington's penalty for unfair or deceptive acts or
13 practices has not kept pace with inflation, and has not increased
14 since 1970;

15 (5) Washington's penalty for unfair methods of competition has
16 also not kept pace with inflation, and has not increased since 1983;

17 (6) Consequently, Washington has one of the lowest consumer
18 protection penalties in the United States;

19 (7) Twenty-four state legislatures representing more than 200
20 million Americans have passed enhanced penalties for violations that
21 target or impact certain vulnerable populations, but Washington does
22 not have an enhanced penalty;

23 (8) Many Washingtonians are hurting financially due to the
24 impacts of the global pandemic;

25 (9) Washington's weak penalties place Washington consumers at
26 greater risk; and

27 (10) Washingtonians deserve strong consumer protections to ensure
28 entities that illegally, unfairly, and deceptively go after their
29 hard-earned dollars are held accountable.

30 **Sec. 2.** RCW 19.86.140 and 1983 c 288 s 2 are each amended to
31 read as follows:

1 Every person who shall violate the terms of any injunction issued
2 as in this chapter provided, shall forfeit and pay a civil penalty of
3 not more than (~~twenty-five thousand dollars~~) \$125,000.

4 Every (~~person, other than a corporation,~~) individual who
5 violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not
6 more than (~~one hundred thousand dollars~~) \$180,000. Every
7 (~~corporation which~~) person, other than an individual, who violates
8 RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than
9 (~~five hundred thousand dollars~~) \$900,000.

10 Every person who violates RCW 19.86.020 shall forfeit and pay a
11 civil penalty of not more than (~~two thousand dollars~~) \$7,500 for
12 each violation: PROVIDED, That nothing in this paragraph shall apply
13 to any radio or television broadcasting station which broadcasts, or
14 to any publisher, printer or distributor of any newspaper, magazine,
15 billboard or other advertising medium who publishes, prints or
16 distributes, advertising in good faith without knowledge of its
17 false, deceptive or misleading character.

18 For unlawful acts or practices that target or impact specific
19 individuals or communities based on demographic characteristics
20 including, but not limited to, age, race, national origin,
21 citizenship or immigration status, sex, sexual orientation, presence
22 of any sensory, mental, or physical disability, religion, veteran
23 status, or status as a member of the armed forces, as that term is
24 defined in 10 U.S.C. Sec. 101, an enhanced penalty of \$5,000 shall
25 apply.

26 For the purpose of this section the superior court issuing any
27 injunction shall retain jurisdiction, and the cause shall be
28 continued, and in such cases the attorney general acting in the name
29 of the state may petition for the recovery of civil penalties.

30 With respect to violations of RCW 19.86.030 and 19.86.040, the
31 attorney general, acting in the name of the state, may seek recovery
32 of such penalties in a civil action.

33 By December 1, 2022, and every five years thereafter, the office
34 of the attorney general shall evaluate the efficacy of the maximum
35 civil penalty amounts established in this section in deterring
36 violations of the consumer protection act and the difference, if any,
37 between the current penalty amounts and the penalty amounts adjusted
38 for inflation, and provide the legislature with a report of its
39 findings and any recommendations in compliance with RCW 43.01.036.

1 **Sec. 3.** RCW 4.16.160 and 1986 c 305 s 701 are each amended to
2 read as follows:

3 The limitations prescribed in this chapter shall apply to actions
4 brought in the name or for the benefit of any county or other
5 municipality or quasimunicipality of the state, in the same manner as
6 to actions brought by private parties: PROVIDED, That, except as
7 provided in RCW 4.16.310, there shall be no limitation to actions
8 brought in the name or for the benefit of the state, and no claim of
9 right predicated upon the lapse of time shall ever be asserted
10 against the state, including actions asserting a claim for civil
11 penalties under RCW 19.86.140: AND FURTHER PROVIDED, That no
12 previously existing statute of limitations shall be interposed as a
13 defense to any action brought in the name or for the benefit of the
14 state, although such statute may have run and become fully operative
15 as a defense prior to February 27, 1903, nor shall any cause of
16 action against the state be predicated upon such a statute.

17 NEW SECTION. **Sec. 4.** This act may be known and cited as the
18 consumer protection improvement act."

19 Correct the title.

EFFECT: (1) Retains the underlying bill while reducing the
maximum civil penalties authorized by the bill as follows:

 (a) For a violation of the terms of a CPA injunction, the maximum
civil penalty is reduced from \$215,000 to \$125,000;

 (b) For an individual violation of the CPA restrictions on
contracts, combinations, or conspiracies in restraint of trade or
commerce, and monopolies, the maximum civil penalty is reduced from
\$260,000 to \$180,000;

 (c) For an entity violation of the CPA restrictions on contracts,
combinations, or conspiracies in restraint of trade or commerce, and
monopolies, the maximum civil penalty is reduced from \$1,300,000 to
\$900,000;

 (d) For a violation of the CPA restriction on unfair methods of
competition and unfair or deceptive acts or practices in the conduct
of any trade or commerce, the maximum civil penalty is reduced from
\$13,350 to \$7,500; and

 (e) The enhanced penalty for unlawful acts or practices that
target or impact specific individuals or communities based on
demographic characteristics is reduced from \$10,000 to \$5,000.

 (2) Additionally requires the attorney general to regularly
evaluate the efficacy of the consumer protection act civil penalty

amounts and provide the legislature with a report and any recommendations.

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