
SENATE BILL 5025

State of Washington

67th Legislature

2021 Regular Session

By Senators Rolfes, Billig, Conway, Das, Dhingra, Hasegawa, Hunt, Keiser, Kuderer, Lovelett, Pedersen, Saldaña, Salomon, Stanford, Van De Wege, Wellman, and Wilson, C.; by request of Attorney General

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1 AN ACT Relating to the consumer protection improvement act;
2 amending RCW 19.86.010, 19.86.080, 19.86.140, and 4.16.160; creating
3 new sections; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

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

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

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

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

1 (7) 24 state legislatures representing more than 200 million
2 Americans have passed enhanced penalties for violations that target
3 or impact certain vulnerable populations, but Washington does not
4 have an enhanced penalty;

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

7 (9) Washington's weak penalties place Washington consumers at
8 greater risk; and

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

12 **Sec. 2.** RCW 19.86.010 and 1961 c 216 s 1 are each amended to
13 read as follows:

14 As used in this chapter:

15 (1) "Assets" shall include any property, tangible or intangible,
16 real, personal, or mixed, and wherever situate, and any other thing
17 of value.

18 (2) "Person" shall include, where applicable, natural persons,
19 corporations, trusts, unincorporated associations and partnerships.

20 ~~((2))~~ (3) "Small business" means any business entity, including
21 a sole proprietorship, corporation, partnership, or other legal
22 entity, or that is controlled by an entity, with 50 or fewer
23 employees and collects 1,000,000 dollars or less in gross annual
24 revenues.

25 (4) "Trade" and "commerce" shall include the sale of assets or
26 services, and any commerce directly or indirectly affecting the
27 people of the state of Washington.

28 ~~((3) "Assets" shall include any property, tangible or~~
29 ~~intangible, real, personal, or mixed, and wherever situate, and any~~
30 ~~other thing of value.))~~

31 **Sec. 3.** RCW 19.86.080 and 2007 c 66 s 1 are each amended to read
32 as follows:

33 (1) The attorney general may bring an action in the name of the
34 state, or as parens patriae on behalf of persons residing in the
35 state, against any person to restrain and prevent the doing of any
36 act herein prohibited or declared to be unlawful; and the attorney
37 general or a small business, if the prevailing party, may, in the

1 discretion of the court, recover the costs of said action, including
2 ((a)) reasonable ((~~attorney's fee~~)) attorneys' fees.

3 (2) Reasonable attorneys' fees may be awarded to a prevailing
4 defendant that is not a small business upon a finding by a court that
5 the state's action was frivolous.

6 (3) The court may make such additional orders or judgments as may
7 be necessary to restore to any person in interest any moneys or
8 property, real or personal, which may have been acquired by means of
9 any act herein prohibited or declared to be unlawful.

10 ((~~3~~)) (4) Upon a violation of RCW 19.86.030, 19.86.040,
11 19.86.050, or 19.86.060, the court may also make such additional
12 orders or judgments as may be necessary to restore to any person in
13 interest any moneys or property, real or personal, which may have
14 been acquired, regardless of whether such person purchased or
15 transacted for goods or services directly with the defendant or
16 indirectly through resellers. The court shall exclude from the amount
17 of monetary relief awarded in an action pursuant to this subsection
18 any amount that duplicates amounts that have been awarded for the
19 same violation. The court should consider consolidation or
20 coordination with other related actions, to the extent practicable,
21 to avoid duplicate recovery.

22 **Sec. 4.** RCW 19.86.140 and 1983 c 288 s 2 are each amended to
23 read as follows:

24 Every person who shall violate the terms of any injunction issued
25 as in this chapter provided, shall forfeit and pay a civil penalty of
26 not more than ((~~twenty-five thousand~~)) 215,000 dollars.

27 Every person, other than a corporation, who violates RCW
28 19.86.030 or 19.86.040 shall pay a civil penalty of not more than
29 ((~~one hundred thousand~~)) 260,000 dollars. Every corporation which
30 violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not
31 more than ((~~five hundred thousand~~)) 1,300,000 dollars.

32 Every person who violates RCW 19.86.020 shall forfeit and pay a
33 civil penalty of not more than ((~~two thousand~~)) 13,350 dollars for
34 each violation: PROVIDED, That nothing in this paragraph shall apply
35 to any radio or television broadcasting station which broadcasts, or
36 to any publisher, printer or distributor of any newspaper, magazine,
37 billboard or other advertising medium who publishes, prints or
38 distributes, advertising in good faith without knowledge of its
39 false, deceptive or misleading character.

1 For unlawful acts or practices that target or impact specific
2 individuals or communities based on demographic characteristics
3 including, but not limited to, age, race, national origin,
4 citizenship or immigration status, sex, sexual orientation, presence
5 of any sensory, mental, or physical disability, religion, veteran
6 status, or status as a member of the armed forces, as that term is
7 defined in 10 U.S.C. Sec. 101, an enhanced penalty of 10,000 dollars
8 shall apply.

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

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

16 **Sec. 5.** RCW 4.16.160 and 1986 c 305 s 701 are each amended to
17 read as follows:

18 The limitations prescribed in this chapter shall apply to actions
19 brought in the name or for the benefit of any county or other
20 municipality or quasimunicipality of the state, in the same manner as
21 to actions brought by private parties: PROVIDED, That, except as
22 provided in RCW 4.16.310, there shall be no limitation to actions
23 brought in the name or for the benefit of the state, and no claim of
24 right predicated upon the lapse of time shall ever be asserted
25 against the state, including actions asserting a claim for civil
26 penalties under RCW 19.86.140: AND FURTHER PROVIDED, That no
27 previously existing statute of limitations shall be interposed as a
28 defense to any action brought in the name or for the benefit of the
29 state, although such statute may have run and become fully operative
30 as a defense prior to February 27, 1903, nor shall any cause of
31 action against the state be predicated upon such a statute.

32 NEW SECTION. **Sec. 6.** This act may be known and cited as the
33 consumer protection improvement act.

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