

ESHB 1155 - S AMD TO S AMD (S-2826.4/23) 302
By Senator Short

WITHDRAWN 04/05/2023

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

3 "NEW SECTION. **Sec. 11.** (1) This chapter may be enforced solely
4 by the attorney general under the consumer protection act, chapter
5 19.86 RCW.

6 (2)(a) The legislature finds that the practices covered by this
7 chapter are matters vitally affecting the public interest for the
8 purpose of applying the consumer protection act, chapter 19.86 RCW. A
9 violation of this chapter is not reasonable in relation to the
10 development and preservation of business, is an unfair or deceptive
11 act in trade or commerce, and an unfair method of competition for the
12 purpose of applying the consumer protection act, chapter 19.86 RCW.

13 (b) The legislative declarations in this subsection do not apply
14 to any claim or action by any party other than the attorney general
15 alleging that conduct regulated by this chapter violates chapter
16 19.86 RCW, and this chapter does not incorporate RCW 19.86.093.

17 (3) A violation of this chapter may not serve as the basis for,
18 or be subject to, a private right of action under this chapter or
19 under any other law.

20 (4) Prior to commencing an enforcement action for a violation of
21 this chapter, if the attorney general determines that it is possible
22 to cure the violation, the attorney general must issue a notice of
23 the violation to the regulated entity, small business, or processor.
24 If, at least 60 days after issuing the notice, the attorney general
25 believes the regulated entity, small business, or processor has
26 failed to cure the violation, the attorney general may bring an
27 action against the regulated entity, small business, or processor as
28 provided in this chapter."

EFFECT: Provides that violations are enforceable only by the
Attorney General under the Consumer Protection Act (CPA).

Eliminates private right of action and provides that a violation
of the bill may not serve as the basis for a private right of action
under the bill or under any other law.

Retains the legislative declarations that make a violation of the bill a per se violation of the CPA, but specifies that these legislative declarations apply only to actions brought by the Attorney General and not to any claim or action by any other party.

Requires the Attorney General, prior to commencing an enforcement action for a violation that the Attorney General determines to be curable, to provide the regulated entity, small business, or processor with a notice of the violation. Requires the Attorney General to allow the regulated entity, small business, or processor at least 60 days to cure the violation prior to bringing an enforcement action.

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