

SENATE BILL REPORT

SB 5855

As of January 16, 2024

Title: An act relating to protecting consumers by requiring summaries for certain agreements and policies presented in an electronic format.

Brief Description: Protecting consumers by requiring summaries for certain agreements and policies presented in an electronic format.

Sponsors: Senators MacEwen, Stanford and Wilson, L..

Brief History:

Committee Activity: Environment, Energy & Technology: 1/16/24.

Brief Summary of Bill

- Requires conspicuous, plain language summaries for specified agreements delivered to consumers in an electronic format.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Staff: Adam Brunmeier (786-7357)

Background: Electronic Agreements. It is common practice for businesses and other entities to deliver electronic agreements in the process of performing transactions with consumers. Several businesses condition access to their products or services on the consumer's agreement to the terms and conditions presented in an electronic agreement. Such agreements are generally legally binding regardless of whether consumers read or understand the terms.

Consumer Protection Act. The Consumer Protection Act (CPA), first enacted in 1961, prohibits unfair or deceptive practices in trade or commerce. It includes prohibitions on anti-competitive behavior and restraints on trade. The Legislature has enacted dozens of statutes covering specific areas of the marketplace, violation of which constitute per se

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violations of the CPA. The attorney general and private consumers can bring actions to enforce violations of the CPA.

Summary of Bill: Creates a requirement for a plain-language summary of an agreement or policy presented in an electronic format. Summaries must appear in a conspicuous manner at the beginning of the agreement or policy and shall not exceed 100 words.

This requirement applies to any user agreement, end-user license agreement, software-as-a-service agreement, or privacy policy.

Violations are defined as an unfair or deceptive act in trade or commerce, and an unfair method of competition, under the CPA. The attorney general is tasked with exclusive responsibilities of enforcement, no new private rights of action are created.

Appropriation: None.

Fiscal Note: Requested on January 10, 2024.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill will give consumers an opportunity to understand what they are agreeing to.

OTHER: There are existing federal regulations in place that create plain language requirements or supply language that cannot be modified. This bill may create overlapping or redundant obligations. The definitions covered in the agreement need to be clearly defined. The implementation timeline is too short.

Persons Testifying: PRO: Senator Drew MacEwen, Prime Sponsor.

OTHER: Joe Adamack, Washington's Credit Unions - GWCUA.

Persons Signed In To Testify But Not Testifying: No one.