
HOUSE BILL 2277

State of Washington

68th Legislature

2024 Regular Session

By Representatives Kloba, Pollet, Slatter, Duerr, Ramel, Ryu, Fosse, Cortes, Morgan, and Nance

Read first time 01/10/24. Referred to Committee on Consumer Protection & Business.

1 AN ACT Relating to licensing of business entities engaged in the
2 act of brokering data; amending RCW 18.235.020; adding a new chapter
3 to Title 19 RCW; creating a new section; and providing an effective
4 date.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

7 (a) The data consumers generate in nearly every moment of their
8 modern lives in today's highly technological world enables the
9 constant surveillance of any individual any time of the day and every
10 day of the year. There has been rapid growth in the volume and
11 variety of this personal data, which is known as behavioral surplus,
12 being collected, analyzed, packaged, sold, purchased, monetized, and
13 used in ways that are both helpful and harmful. This process is
14 largely invisible to consumers and often happens without their
15 awareness or consent. This growth has the potential for great
16 benefits to human knowledge, technological innovation, and economic
17 growth, but also the potential to harm individual privacy and
18 freedom;

19 (b) Privacy is a deeply held value of Washington state residents,
20 and Washington explicitly recognizes its citizens' right to privacy
21 under Article I, section 7 of the state Constitution. Fundamental

1 privacy rights have long been and continue to be integral to
2 protecting Washingtonians and to safeguarding the democratic
3 republic. Washington residents should have the right to a reasonable
4 expectation of privacy in their movements, and thus should be free
5 from ubiquitous and surreptitious surveillance;

6 (c) Washington is a technology leader on a national and global
7 level and recognizes its distinctive position in promoting the
8 efficient balance of consumer privacy and economic benefits. In
9 addition, the technology industry has been a tremendous driver of
10 economic growth in Washington state, but should not be based on the
11 exploitation of its residents at the expense of their privacy; and

12 (d) Technological advances have outpaced the legislature's
13 ability to protect consumers. Technology and businesses continue to
14 push the limits of data collection with exponential rapidity. Laws
15 must keep pace as technology and business practices evolve.

16 (2) The legislature intends to lay the groundwork for improved
17 protection of the privacy of the residents of Washington. Creating a
18 policy that offers greater transparency and accountability of the
19 actions of data brokers will allow consumers to understand which
20 companies are engaged in brokering personal data. It is the intention
21 of the legislature for this to lead to the creation of more robust
22 privacy safeguards and improved ability of consumers to make informed
23 decisions about how their personal data is collected and used.

24 NEW SECTION. **Sec. 2.** The definitions in this section apply
25 throughout this chapter unless the context clearly requires
26 otherwise.

27 (1) (a) "Biometric information" means a record of one or more
28 measurable biological or behavioral characteristics that can be used
29 alone or in combination with each other or with other information for
30 automated recognition of a known or unknown individual. Examples
31 include, but are not limited to: fingerprints, retina and iris
32 patterns, voiceprints, DNA sequence, facial characteristics, gait,
33 handwriting, key stroke dynamics, and mouse movements.

34 (b) "Biometric information" does not include writing samples,
35 written signatures, human biological samples used for valid
36 scientific testing or screening, demographic data, tattoo
37 descriptions, or physical descriptions, such as height, weight, hair
38 color, or eye color. "Biometric information" does not include donated
39 organs, tissues, or parts, or blood or serum stored on behalf of

1 recipients or potential recipients of living or cadaveric transplants
2 and obtained or stored by a federally designated organ procurement
3 agency.

4 (2) "Brokered personal data" means any of the following
5 computerized data elements about a resident individual, if
6 categorized or organized for sale or licensing to another entity:

7 (a) The resident individual's name or the name of a member of the
8 resident individual's immediate family or household;

9 (b) The resident individual's address or an address for a member
10 of the resident individual's immediate family or household;

11 (c) The resident individual's date or place of birth;

12 (d) The maiden name of the resident individual's mother;

13 (e) Biometric information about the resident individual;

14 (f) The resident individual's social security number or the
15 number of any other government-issued identification for the resident
16 individual; or

17 (g) Other information that, alone or in combination with other
18 information that is sold or licensed, can reasonably be associated
19 with the resident individual.

20 (3) (a) "Business entity" means:

21 (i) A resident individual who regularly engages in commercial
22 activity for the purpose of generating income;

23 (ii) A corporation or nonprofit corporation, limited liability
24 company, partnership or limited liability partnership, business
25 trust, joint venture, or other form of business organization the
26 constituent parts of which share a common economic interest;

27 (iii) A financial institution, as defined in RCW 9A.56.280; or

28 (iv) An individual that controls, is controlled by, or is under
29 common control with a person described in (a) (ii) or (iii) of this
30 subsection (3).

31 (b) "Business entity" does not include the state or a state
32 agency, a local government, or a business entity or other person
33 during a period in which the business entity or person is acting
34 solely on behalf of and at the direction of the state, a state
35 agency, or the local government.

36 (4) "Data broker" means any business entity that engages in data
37 brokering and does not include:

38 (a) A consumer reporting agency, as defined in Title 15 U.S.C.
39 Sec. 1681a, a person that furnishes information to a consumer
40 reporting agency, as provided in Title 15 U.S.C. Sec. 1681s-2, or a

1 user of a consumer report, as defined in Title 15 U.S.C. Sec. 1681a,
2 to the extent that the consumer reporting agency, the person that
3 furnishes information to a consumer reporting agency, or the user of
4 a consumer report engages in activities that are subject to
5 regulation under the federal fair credit reporting act, Title 15
6 U.S.C. Sec. 1681 et seq.; and

7 (b) A financial institution, an affiliate, or a nonaffiliated
8 third party, as those terms are defined in Title 15 U.S.C. Sec. 6809,
9 to the extent that the financial institution, affiliate, or
10 nonaffiliated third party is subject to regulation under Title V of
11 the Gramm-Leach-Bliley act, Title 15 U.S.C. Secs. 6801 to 6809, and
12 regulations adopted under Title V of the Gramm-Leach-Bliley act.

13 (5) "Data brokering" means the act of collecting, aggregating,
14 analyzing, buying, selling, and sharing brokered personal data,
15 irrespective of the business entity's relationship with the resident
16 individual whose data is being brokered.

17 (6) "Department" means the department of licensing.

18 (7) "Resident individual" means a person who resides in
19 Washington.

20 NEW SECTION. **Sec. 3.** (1) Except as provided in subsection (2)
21 of this section, a data broker who engages in data brokering must
22 register with the department as provided in section 4 of this act.

23 (2) A data broker is not required to register with the department
24 if the brokered personal data involves any of the following:

25 (a) Providing publicly available information that is related to a
26 resident individual's business or profession;

27 (b) Providing publicly available information as part of a service
28 that provides alerts for health or safety purposes;

29 (c) Providing directory assistance or directory information
30 services as, or on behalf of, a telecommunications carrier; or

31 (d) Selling the assets of a business entity or a part of a
32 business entity a single time, or only occasionally, as part of a
33 transfer of control over the assets that is not part of the ordinary
34 conduct of the business entity or a part of the business entity.

35 NEW SECTION. **Sec. 4.** (1) Annually, on or before January 31st
36 following a year in which a business entity meets the definition of
37 data broker as provided in section 2 of this act, a data broker must:

38 (a) Submit on a form and in a format the department specifies:

1 (i) The name of the data broker;
2 (ii) The street address and telephone number of the data broker;
3 and
4 (iii) The data broker's primary website and email address;
5 (b) Pay a fee in an amount the department specifies by rule. The
6 department shall set the fee in an amount that is sufficient to pay
7 the costs of administering the registration program as provided in
8 RCW 43.24.086. Any fees or fines collected under the authority of
9 this chapter must be deposited into the business and professions
10 account created in RCW 43.24.150; and
11 (c) Include with the application form a declaration in which the
12 data broker:
13 (i) States whether a resident individual's precise geolocation
14 information is a part of their data brokering activity;
15 (ii) States whether resident individuals' consumer health data,
16 as defined in RCW 19.373.010, is a part of their data brokering
17 activity;
18 (iii) States whether resident individuals may opt out of all or a
19 portion of the data broker's use of their brokered personal data;
20 (iv) (A) Identifies which of the data broker's activities a
21 resident individual may opt out of; and
22 (B) Identifies which portion of the resident individual's
23 brokered personal data the resident individual may opt out of
24 providing or permitting the data broker to use;
25 (v) Describes the method by which a resident individual may
26 exercise the choices described in (c)(iii) and (iv) of this
27 subsection (1); and
28 (vi) States whether a resident individual may authorize an
29 individual to exercise the choice described in (c)(iii) of this
30 subsection (1) on the resident individual's behalf and, if so, the
31 appropriate process for the authorization.
32 (2) If a data broker complies with the requirements set forth in
33 this section, the department must approve the registration. A
34 registration under this section is valid until December 31st of the
35 year in which the department approves the registration.

36 NEW SECTION. **Sec. 5.** (1) The department shall make the
37 information that business entities submit for registration under this
38 chapter publicly available on the department's website.

1 (2) The department shall report to the governor and to the
2 legislature in accordance with RCW 43.01.036 annually, beginning
3 December 31, 2026, on the following:

4 (a) How many business entities registered with the department as
5 data brokers in that year;

6 (b) The fee the department charged for registration per data
7 broker, and the total revenue collected;

8 (c) How many business entities were fined for noncompliance with
9 this chapter; and

10 (d) Any other information the department deems relevant.

11 NEW SECTION. **Sec. 6.** The uniform regulation of business and
12 professions act, chapter 18.235 RCW governs unlicensed practice, the
13 issuance and denial of licenses, and the discipline of licensees
14 under this chapter.

15 NEW SECTION. **Sec. 7.** The department may adopt rules that are
16 necessary to implement the provisions of this chapter.

17 **Sec. 8.** RCW 18.235.020 and 2017 c 281 s 37 are each amended to
18 read as follows:

19 (1) This chapter applies only to the director and the boards and
20 commissions having jurisdiction in relation to the businesses and
21 professions licensed under the chapters specified in this section.
22 This chapter does not apply to any business or profession not
23 licensed under the chapters specified in this section.

24 (2)(a) The director has authority under this chapter in relation
25 to the following businesses and professions:

26 (i) Auctioneers under chapter 18.11 RCW;

27 (ii) Bail bond agents and bail bond recovery agents under chapter
28 18.185 RCW;

29 (iii) Camping resorts' operators and salespersons under chapter
30 19.105 RCW;

31 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

32 (v) Cosmetologists, barbers, manicurists, and estheticians under
33 chapter 18.16 RCW;

34 (vi) Court reporters under chapter 18.145 RCW;

35 (vii) Driver training schools and instructors under chapter 46.82
36 RCW;

37 (viii) Employment agencies under chapter 19.31 RCW;

1 (ix) For hire vehicle operators under chapter 46.72 RCW;
2 (x) Limousines under chapter 46.72A RCW;
3 (xi) Notaries public under chapter 42.45 RCW;
4 (xii) Private investigators under chapter 18.165 RCW;
5 (xiii) Professional boxing, martial arts, and wrestling under
6 chapter 67.08 RCW;
7 (xiv) Real estate appraisers under chapter 18.140 RCW;
8 (xv) Real estate brokers and salespersons under chapters 18.85
9 and 18.86 RCW;
10 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
11 metal suppliers under chapter 19.290 RCW;
12 (xvii) Security guards under chapter 18.170 RCW;
13 (xviii) Sellers of travel under chapter 19.138 RCW;
14 (xix) Timeshares and timeshare salespersons under chapter 64.36
15 RCW;
16 (xx) Whitewater river outfitters under chapter 79A.60 RCW;
17 (xxi) Home inspectors under chapter 18.280 RCW;
18 (xxii) Body artists, body piercers, and tattoo artists, and body
19 art, body piercing, and tattooing shops and businesses, under chapter
20 18.300 RCW; (~~and~~)
21 (xxiii) Appraisal management companies under chapter 18.310 RCW;
22 and
23 (xxiv) Data brokers under chapter 19.--- RCW (the new chapter
24 created in section 9 of this act).
25 (b) The boards and commissions having authority under this
26 chapter are as follows:
27 (i) The state board for architects established in chapter 18.08
28 RCW;
29 (ii) The Washington state collection agency board established in
30 chapter 19.16 RCW;
31 (iii) The state board of registration for professional engineers
32 and land surveyors established in chapter 18.43 RCW governing
33 licenses issued under chapters 18.43 and 18.210 RCW;
34 (iv) The funeral and cemetery board established in chapter 18.39
35 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
36 (v) The state board of licensure for landscape architects
37 established in chapter 18.96 RCW; and
38 (vi) The state geologist licensing board established in chapter
39 18.220 RCW.

1 (3) In addition to the authority to discipline license holders,
2 the disciplinary authority may grant or deny licenses based on the
3 conditions and criteria established in this chapter and the chapters
4 specified in subsection (2) of this section. This chapter also
5 governs any investigation, hearing, or proceeding relating to denial
6 of licensure or issuance of a license conditioned on the applicant's
7 compliance with an order entered under RCW 18.235.110 by the
8 disciplinary authority.

9 NEW SECTION. **Sec. 9.** Sections 2 through 7 of this act
10 constitute a new chapter in Title 19 RCW.

11 NEW SECTION. **Sec. 10.** This act takes effect January 1, 2026.

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