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**HOUSE BILL 2364**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Smith and Hudgins

Prefiled 01/10/20.

1 AN ACT Relating to creating the charter of personal data rights;  
2 adding a new chapter to Title 19 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** (1) The legislature finds that  
5 Washingtonians have a right to privacy and that advances in  
6 technology make the protection of this vital right a matter of  
7 urgency.

8 (2) The legislature further finds that privacy is also the  
9 foundation of consumer trust, particularly in electronic commerce,  
10 and that people will use advanced data-driven technology only if  
11 their privacy rights are respected, their personal information is  
12 safeguarded, and their freedom to choose how much personal  
13 information to share is unobstructed.

14 (3) Therefore, the legislature declares, in plain language, the  
15 new baseline norms and expectations for the protection of personal  
16 data by businesses and enacts a lasting charter of personal data  
17 rights.

18 **CONSUMER EMPOWERMENT**

1       NEW SECTION.   **Sec. 2.**  An individual residing in Washington state  
2 has the following rights with regard to the individual's personal  
3 data:

4       (1) The right to know what personal data a business collects or  
5 processes about the individual, including the categories and specific  
6 pieces of personal data the business collects or processes;

7       (2) The right to access and to obtain, in a readily useable  
8 portable format, the individual's personal data collected or  
9 processed by a business;

10      (3) The right to object to and opt out of the selling or  
11 licensing of the individual's personal data to third parties;

12      (4) The right to correct inaccurate personal data; and

13      (5) The right to delete all personal data of the individual  
14 collected or processed by a business.

15                                      **CORPORATE RESPONSIBILITY**

16       NEW SECTION.   **Sec. 3.**   (1) To safeguard the privacy of  
17 individuals, a business has the duty to:

18       (a) Provide a prominent, publicly accessible, and easy to read  
19 privacy policy that specifies how and where an individual may contact  
20 the business to exercise personal data rights under this chapter and  
21 clearly states that the business collects or processes personal data  
22 only as reasonably necessary to provide services requested by an  
23 individual or to verify requests made pursuant to section 2 of this  
24 act;

25       (b) Minimize the collection of personal data by collecting and  
26 processing personal data only as reasonably necessary for services  
27 requested by an individual or to verify requests made pursuant to  
28 section 2 of this act;

29       (c) Avoid secondary uses of personal data and not process  
30 personal data for purposes that are not reasonably necessary to  
31 provide services requested by an individual or to verify requests  
32 made pursuant to section 2 of this act;

33       (d) Secure personal data from unauthorized acquisition or access  
34 by developing, implementing, and maintaining a comprehensive  
35 information security program that includes administrative, technical,  
36 and physical safeguards and meets or exceeds relevant security  
37 standards;

1 (e) Act in good faith and with due diligence when responding to  
2 requests made pursuant to section 2 of this act; and

3 (f) Not discriminate against individuals who choose to exercise  
4 their rights under this chapter, including by denying goods or  
5 services, charging different prices or rates, or providing a  
6 different level of quality of goods and services.

7 (2)(a) If a business uses a service provider to process personal  
8 data on behalf of the business, the business shall require the  
9 service provider to process personal data only on documented  
10 instructions from the business as to the nature, duration, and  
11 purposes of the processing.

12 (b) A business shall use only those service providers that  
13 deliver sufficient guarantees that processing meets the requirements  
14 of this chapter and ensures the protection of personal data rights.

15 (3) The duties in this chapter are in addition to any other  
16 duties imposed on a business by any state or federal law or  
17 regulation.

18 **STRONG ENFORCEMENT**

19 NEW SECTION. **Sec. 4.** (1) Any waiver of the provisions of this  
20 chapter is contrary to public policy and is void and unenforceable.

21 (2) The legislature finds that the practices covered by this  
22 chapter are matters vitally affecting the public interest for the  
23 purpose of applying the consumer protection act, chapter 19.86 RCW. A  
24 violation of this chapter is not reasonable in relation to the  
25 development and preservation of business and is an unfair or  
26 deceptive act in trade or commerce and an unfair method of  
27 competition for purposes of applying the consumer protection act,  
28 chapter 19.86 RCW.

29 (3) The attorney general may bring an action in the name of the  
30 state, or as *parens patriae* on behalf of persons residing in the  
31 state, to enforce this chapter. In any action brought by the attorney  
32 general to enforce this chapter, a violation of this chapter is  
33 subject to a civil penalty of not more than ten thousand dollars per  
34 violation.

35 (4) Any violation of this chapter constitutes an injury and any  
36 individual whose rights under this chapter have been violated or  
37 whose personal data has been collected or processed in violation of  
38 this chapter may bring a civil action for declaratory relief,

1 injunctive relief, and actual damages, but not less than statutory  
2 damages of ten thousand dollars per violation.

3 (5) A court shall award costs and reasonable attorneys' fees to a  
4 plaintiff who prevails in an action under this chapter.

5 (6) The provisions of this chapter are not exclusive and are in  
6 addition to any other requirements, rights, remedies, and penalties  
7 provided by law.

8 **NARROWLY SCOPED EXEMPTIONS**

9 NEW SECTION. **Sec. 5.** Nothing in this chapter applies to  
10 information that is collected or used by a business about an  
11 individual in the course of the individual's role as a job applicant,  
12 employee, or contractor of the business.

13 **DEFINITIONS**

14 NEW SECTION. **Sec. 6.** The definitions in this section apply  
15 throughout this chapter unless the context clearly requires  
16 otherwise.

17 (1)(a) "Business" means a person or entity that, alone or  
18 together with any affiliates:

19 (i) Engages in business in and has a substantial nexus with  
20 Washington state;

21 (ii) Has more than ten million dollars in worldwide gross revenue  
22 during the immediately preceding calendar year;

23 (iii) Collects or processes personal data of individuals; and

24 (iv) Alone or jointly with others determines the purposes and  
25 means of the processing of personal data.

26 (b) For the purposes of this subsection:

27 (i) "Affiliate" means a person that directly or indirectly,  
28 through one or more intermediaries, controls, is controlled by, or is  
29 under common control with another person;

30 (ii) "Engage in business" means commencing, conducting, or  
31 continuing in business and also the exercise of corporate or  
32 franchise powers as well as liquidating a business when the  
33 liquidators thereof hold themselves out to the public as conducting  
34 such a business; and

35 (iii) "Substantial nexus" has the same meaning as in RCW  
36 82.04.067.

1 (2) "Individual" means a natural person residing in Washington  
2 state.

3 (3) "Personal data" means any information that identifies,  
4 relates to, describes, or could reasonably be linked, directly or  
5 indirectly, with a particular individual or household.

6 (4) "Process" or "processing" means any collection, use, storage,  
7 disclosure, analysis, deletion, or modification of personal data.

8 (5) "Service provider" means a natural or legal person that  
9 processes personal data on behalf of a business.

10 **SHORT TITLE**

11 NEW SECTION. **Sec. 7.** This chapter may be known and cited as the  
12 Washington state charter of personal data rights.

13 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act  
14 constitute a new chapter in Title 19 RCW.

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