
SUBSTITUTE SENATE BILL 5025

AS AMENDED BY THE HOUSE

Passed Legislature - 2021 Regular Session

State of Washington 67th Legislature 2021 Regular Session

By Senate Law & Justice (originally sponsored 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)

READ FIRST TIME 01/29/21.

1 AN ACT Relating to the consumer protection improvement act;
2 amending RCW 19.86.140 and 4.16.160; creating new sections; and
3 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) Twenty-four state legislatures representing more than 200
2 million Americans have passed enhanced penalties for violations that
3 target or impact certain vulnerable populations, but Washington does
4 not 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 19.86.140 and 1983 c 288 s 2 are each amended to
13 read as follows:

14 Every person who shall violate the terms of any injunction issued
15 as in this chapter provided, shall forfeit and pay a civil penalty of
16 not more than (~~twenty-five thousand dollars~~) \$125,000.

17 Every (~~person, other than a corporation,~~) individual who
18 violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not
19 more than (~~one hundred thousand dollars~~) \$180,000. Every
20 (~~corporation which~~) person, other than an individual, who violates
21 RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than
22 (~~five hundred thousand dollars~~) \$900,000.

23 Every person who violates RCW 19.86.020 shall forfeit and pay a
24 civil penalty of not more than (~~two thousand dollars~~) \$7,500 for
25 each violation: PROVIDED, That nothing in this paragraph shall apply
26 to any radio or television broadcasting station which broadcasts, or
27 to any publisher, printer or distributor of any newspaper, magazine,
28 billboard or other advertising medium who publishes, prints or
29 distributes, advertising in good faith without knowledge of its
30 false, deceptive or misleading character.

31 For unlawful acts or practices that target or impact specific
32 individuals or communities based on demographic characteristics
33 including, but not limited to, age, race, national origin,
34 citizenship or immigration status, sex, sexual orientation, presence
35 of any sensory, mental, or physical disability, religion, veteran
36 status, or status as a member of the armed forces, as that term is
37 defined in 10 U.S.C. Sec. 101, an enhanced penalty of \$5,000 shall
38 apply.

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

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

8 By December 1, 2022, and every five years thereafter, the office
9 of the attorney general shall evaluate the efficacy of the maximum
10 civil penalty amounts established in this section in deterring
11 violations of the consumer protection act and the difference, if any,
12 between the current penalty amounts and the penalty amounts adjusted
13 for inflation, and provide the legislature with a report of its
14 findings and any recommendations in compliance with RCW 43.01.036.

15 **Sec. 3.** RCW 4.16.160 and 1986 c 305 s 701 are each amended to
16 read as follows:

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

31 NEW SECTION. **Sec. 4.** This act may be known and cited as the
32 consumer protection improvement act.

--- END ---