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SENATE BILL 5985

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State of Washington

63rd Legislature

2014 Regular Session

By Senators Darneille, Kline, Rolfes, Conway, and Kohl-Welles; by request of Attorney General

1 AN ACT Relating to recovering costs in consumer protection actions;  
2 and amending RCW 19.86.080 and 19.270.060.

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

4 **Sec. 1.** RCW 19.86.080 and 2007 c 66 s 1 are each amended to read  
5 as follows:

6 (1) The attorney general may bring an action in the name of the  
7 state, or as *parens patriae* on behalf of persons residing in the state,  
8 against any person to restrain and prevent the doing of any act herein  
9 prohibited or declared to be unlawful; and the attorney general, if the  
10 prevailing party, may, in the discretion of the court, recover the  
11 costs of said action including a reasonable (~~attorney's~~) attorneys'  
12 fee.

13 (2) The court may make such additional orders or judgments as may  
14 be necessary to restore to any person in interest any moneys or  
15 property, real or personal, which may have been acquired by means of  
16 any act herein prohibited or declared to be unlawful.

17 (3) Upon a violation of RCW 19.86.030, 19.86.040, 19.86.050, or  
18 19.86.060, the court may also make such additional orders or judgments  
19 as may be necessary to restore to any person in interest any moneys or

1 property, real or personal, which may have been acquired, regardless of  
2 whether such person purchased or transacted for goods or services  
3 directly with the defendant or indirectly through resellers. The court  
4 shall exclude from the amount of monetary relief awarded in an action  
5 pursuant to this subsection any amount that duplicates amounts that  
6 have been awarded for the same violation. The court should consider  
7 consolidation or coordination with other related actions, to the extent  
8 practicable, to avoid duplicate recovery.

9 **Sec. 2.** RCW 19.270.060 and 2008 c 66 s 5 are each amended to read  
10 as follows:

11 (1) In addition to any other remedies provided by this chapter or  
12 any other provision of law, the attorney general, or a provider of  
13 computer software or owner of a web site or trademark who is adversely  
14 affected by reason of a violation of this chapter, and whose action  
15 arises directly out of such person's status as a provider or owner, may  
16 bring an action against a person who violates this chapter to enjoin  
17 further violations and to recover either actual damages or one hundred  
18 thousand dollars per violation, whichever is greater.

19 (2) In an action under subsection (1) of this section, a court may  
20 increase the damages up to three times the damages allowed under  
21 subsection (1) of this section if the defendant has engaged in a  
22 pattern and practice of violating this chapter. The court may also  
23 award costs and reasonable attorneys' fees to the prevailing party,  
24 except that in an action brought by the attorney general, costs and  
25 reasonable attorneys' fees may only be awarded to the attorney general  
26 as prevailing party, and may not be awarded to the defendant.

27 (3) The amount of damages determined under subsection (1) or (2) of  
28 this section may not exceed two million dollars.

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