
SUBSTITUTE SENATE BILL 5531

State of Washington

61st Legislature

2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Regala, Keiser, Kohl-Welles, Kauffman, Kline, Oemig, Pridemore, Tom, and Franklin)

READ FIRST TIME 02/25/09.

1 AN ACT Relating to modifying provisions relating to consumer
2 protection act violations; amending RCW 19.86.090 and 19.86.080; and
3 adding a new section to chapter 19.86 RCW.

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

5 **Sec. 1.** RCW 19.86.090 and 2007 c 66 s 2 are each amended to read
6 as follows:

7 Any person who is injured in his or her business or property by a
8 violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or
9 19.86.060, or any person so injured because he or she refuses to accede
10 to a proposal for an arrangement which, if consummated, would be in
11 violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may
12 bring a civil action in ((the)) superior court to enjoin further
13 violations, to recover the actual damages sustained by him or her, or
14 both, together with the costs of the suit, including a reasonable
15 attorney's fee(~~,~~ and). In addition, the court may, in its
16 discretion, increase the award of damages ((~~to~~)) by an amount not to
17 exceed three times the actual damages sustained: PROVIDED, That such
18 increased damage award for violation of RCW 19.86.020 may not exceed
19 ((~~ten~~)) fifty thousand dollars: PROVIDED FURTHER, That such person may

1 bring a civil action in the district court to recover his or her actual
2 damages, except for damages which exceed the amount specified in RCW
3 3.66.020, and the costs of the suit, including reasonable attorney's
4 fees. The district court may, in its discretion, increase the award of
5 damages to an amount (~~((not more than))~~) up to three times the actual
6 damages sustained, but such increased damage award shall not exceed
7 (~~((the amount specified in RCW 3.66.020))~~) fifty thousand dollars. For
8 the purpose of this section, "person" (~~((shall))~~) includes the counties,
9 municipalities, and all political subdivisions of this state.

10 Whenever the state of Washington is injured, directly or
11 indirectly, by reason of a violation of RCW 19.86.030, 19.86.040,
12 19.86.050, or 19.86.060, it may sue therefor in (~~((the))~~) superior court
13 to recover the actual damages sustained by it, whether direct or
14 indirect, and to recover the costs of the suit including a reasonable
15 attorney's fee.

16 NEW SECTION. Sec. 2. A new section is added to chapter 19.86 RCW
17 to read as follows:

18 In a private action in which an unfair or deceptive act or practice
19 is alleged under RCW 19.86.020, a claimant may establish that the act
20 or practice is injurious to the public interest because it:

21 (1) Violates a statute which incorporates this chapter;

22 (2) Violates a statute which contains a specific legislative
23 declaration of public interest impact; or

24 (3)(a) Injured other persons; (b) had the capacity to injure other
25 persons; or (c) has the capacity to injure other persons.

26 Sec. 3. RCW 19.86.080 and 2007 c 66 s 1 are each amended to read
27 as follows:

28 (1) The attorney general may bring an action in the name of the
29 state, or as parens patriae on behalf of persons residing in the state,
30 against any person to restrain and prevent the doing of any act herein
31 prohibited or declared to be unlawful; and the prevailing party may, in
32 the discretion of the court, recover the costs of said action including
33 a reasonable attorney's fee. Actions brought by the attorney general
34 are presumed to involve an act or practice injurious to the public
35 interest.

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

5 (3) Upon a violation of RCW 19.86.030, 19.86.040, 19.86.050, or
6 19.86.060, the court may also make such additional orders or judgments
7 as may be necessary to restore to any person in interest any moneys or
8 property, real or personal, which may have been acquired, regardless of
9 whether such person purchased or transacted for goods or services
10 directly with the defendant or indirectly through resellers. The court
11 shall exclude from the amount of monetary relief awarded in an action
12 pursuant to this subsection any amount that duplicates amounts that
13 have been awarded for the same violation. The court should consider
14 consolidation or coordination with other related actions, to the extent
15 practicable, to avoid duplicate recovery.

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