

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5228

60th Legislature
2007 Regular Session

Passed by the Senate March 7, 2007
YEAS 47 NAYS 2

President of the Senate

Passed by the House April 4, 2007
YEAS 95 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5228** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5228

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin and Weinstein; by request of Attorney General)

READ FIRST TIME 02/22/07.

1 AN ACT Relating to actions under chapter 19.86 RCW, the consumer
2 protection act; amending RCW 19.86.080 and 19.86.090; and declaring an
3 emergency.

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

5 **Sec. 1.** RCW 19.86.080 and 1970 ex.s. c 26 s 1 are each amended to
6 read as follows:

7 (1) The attorney general may bring an action in the name of the
8 state, or as parens patriae on behalf of persons residing in the state,
9 against any person to restrain and prevent the doing of any act herein
10 prohibited or declared to be unlawful; and the prevailing party may, in
11 the discretion of the court, recover the costs of said action including
12 a reasonable attorney's 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 19.86.090 and 1987 c 202 s 187 are each amended to
10 read as follows:

11 Any person who is injured in his or her business or property by a
12 violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or
13 19.86.060, or any person so injured because he or she refuses to accede
14 to a proposal for an arrangement which, if consummated, would be in
15 violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may
16 bring a civil action in the superior court to enjoin further
17 violations, to recover the actual damages sustained by him or her, or
18 both, together with the costs of the suit, including a reasonable
19 attorney's fee, and the court may in its discretion, increase the award
20 of damages to an amount not to exceed three times the actual damages
21 sustained: PROVIDED, That such increased damage award for violation of
22 RCW 19.86.020 may not exceed ten thousand dollars: PROVIDED FURTHER,
23 That such person may bring a civil action in the district court to
24 recover his or her actual damages, except for damages which exceed the
25 amount specified in RCW 3.66.020, and the costs of the suit, including
26 reasonable attorney's fees. The district court may, in its discretion,
27 increase the award of damages to an amount not more than three times
28 the actual damages sustained, but such increased damage award shall not
29 exceed the amount specified in RCW 3.66.020. For the purpose of this
30 section, "person" shall include the counties, municipalities, and all
31 political subdivisions of this state.

32 Whenever the state of Washington is injured, directly or
33 indirectly, by reason of a violation of RCW 19.86.030, 19.86.040,
34 19.86.050, or 19.86.060, it may sue therefor in the superior court to
35 recover the actual damages sustained by it, whether direct or indirect,
36 and to recover the costs of the suit including a reasonable attorney's
37 fee.

1 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and takes effect
4 immediately.

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