
HOUSE BILL 1799

State of Washington

68th Legislature

2023 Regular Session

By Representatives Kloba and Berry

1 AN ACT Relating to the registration of business entities that
2 qualify as data brokers; adding a new chapter to Title 19 RCW;
3 prescribing penalties; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Brokered personal data" means any of the following
9 computerized data elements about a resident individual, if
10 categorized or organized for sale or licensing to another entity:

11 (a) The resident individual's name or the name of a member of the
12 resident individual's immediate family or household;

13 (b) The resident individual's address or an address for a member
14 of the resident individual's immediate family or household;

15 (c) The resident individual's date or place of birth;

16 (d) The maiden name of the resident individual's mother;

17 (e) Biometric information about the resident individual;

18 (f) The resident individual's social security number or the
19 number of any other government-issued identification for the resident
20 individual; or

1 (g) Other information that, alone or in combination with other
2 information that is sold or licensed, can reasonably be associated
3 with the resident individual.

4 (2) (a) "Business entity" means:

5 (i) A resident individual who regularly engages in commercial
6 activity for the purpose of generating income;

7 (ii) A corporation or nonprofit corporation, limited liability
8 company, partnership or limited liability partnership, business
9 trust, joint venture, or other form of business organization the
10 constituent parts of which share a common economic interest;

11 (iii) A financial institution, as defined in RCW 9A.56.280; or

12 (iv) An individual that controls, is controlled by, or is under
13 common control with a person described in (a) (ii) or (iii) of this
14 subsection (2).

15 (b) "Business entity" does not include the state or a state
16 agency, a local government, or a business entity or other person
17 during a period in which the business entity or person is acting
18 solely on behalf of and at the direction of the state, a state
19 agency, or the local government.

20 (3) "Data broker" means a business entity or part of a business
21 entity that collects and sells or licenses brokered personal data to
22 another person and does not include:

23 (a) A consumer reporting agency, as defined in Title 15 U.S.C.
24 Sec. 1681a, a person that furnishes information to a consumer
25 reporting agency, as provided in Title 15 U.S.C. Sec. 1681s-2, or a
26 user of a consumer report, as defined in Title 15 U.S.C. Sec. 1681a,
27 to the extent that the consumer reporting agency, the person that
28 furnishes information to a consumer reporting agency, or the user of
29 a consumer report engages in activities that are subject to
30 regulation under the federal fair credit reporting act, Title 15
31 U.S.C. Sec. 1681 et seq.;

32 (b) A financial institution, an affiliate, or a nonaffiliated
33 third party, as those terms are defined in Title 15 U.S.C. Sec. 6809,
34 to the extent that the financial institution, affiliate, or
35 nonaffiliated third party is subject to regulation under Title V of
36 the Gramm-Leach-Bliley act, Title 15 U.S.C. Secs. 6801 to 6809, and
37 regulations adopted under Title V of the Gramm-Leach-Bliley act;

38 (c) A business entity that collects information about a resident
39 individual if the resident individual is or was:

1 (i) A customer, subscriber, or user of the business entity's
2 goods or services;

3 (ii) An employee or agent of the business entity or is in a
4 contractual relationship with the business entity;

5 (iii) An investor in the business entity;

6 (iv) A donor to the business entity; or

7 (v) In another relationship with the business entity the nature
8 of which is similar to the relationships described in this
9 subsection; or

10 (d) A business entity that performs services for, acts on behalf
11 of, or acts as an agent of a business entity described in (c) of this
12 subsection.

13 (4) "Department" means the department of licensing.

14 (5) "Resident individual" means a person who resides in
15 Washington state.

16 NEW SECTION. **Sec. 2.** (1) Except as provided in subsection (2)
17 of this section, a data broker may not collect, sell, or license
18 brokered personal data within Washington state unless the data broker
19 first registers with the department as provided in section 3 of this
20 act.

21 (2) A data broker may collect, sell, or license brokered personal
22 data without registering with the department if the collection, sale,
23 or licensing involves any of the following:

24 (a) Providing publicly available information that is related to a
25 resident individual's business or profession;

26 (b) Providing publicly available information as part of a service
27 that provides alerts for health or safety purposes;

28 (c) Providing information that is lawfully available from
29 federal, state, or local government records;

30 (d) Publishing, selling, reselling, distributing, or providing
31 digital access to journals, books, periodicals, newspapers,
32 magazines, news media, or educational, academic, or instructional
33 works;

34 (e) Developing or maintaining an electronic commerce service or
35 software;

36 (f) Providing directory assistance or directory information
37 services as, or on behalf of, a telecommunications carrier; or

38 (g) Selling the assets of a business entity or a part of a
39 business entity a single time, or only occasionally, as part of a

1 transfer of control over the assets that is not part of the ordinary
2 conduct of the business entity or a part of the business entity.

3 NEW SECTION. **Sec. 3.** (1) Annually, on or before January 31st
4 following a year in which a person meets the definition of data
5 broker as provided in section 1 of this act, a data broker must:

6 (a) Submit on a form and in a format the department specifies:

7 (i) The name of the data broker;

8 (ii) The street address and telephone number of the data broker;

9 and

10 (iii) The data broker's primary website and email address;

11 (b) Pay a fee in an amount the department specifies by rule. The
12 department shall set the fee in an amount that is sufficient to pay
13 the costs of administering the registration program;

14 (c) Include with the application form a declaration in which the
15 data broker:

16 (i) States whether resident individuals may opt out of all or a
17 portion of the data broker's collection, sale, or licensing of the
18 resident individuals' brokered personal data;

19 (ii) Identifies which of the data broker's activities of
20 collecting, selling, or licensing brokered personal data a resident
21 individual may opt out of or which portion of the resident
22 individual's brokered personal data the resident individual may opt
23 out of providing or permitting the data broker to collect, sell, or
24 license;

25 (iii) Describes the method by which a resident individual may
26 exercise the choices described in (a) and (b) of this subsection; and

27 (iv) States whether a resident individual may authorize an
28 individual to exercise the choice described in (c)(i) of this
29 subsection on the resident individual's behalf and, if so, the
30 appropriate process for the authorization.

31 (2) If a data broker complies with the requirements set forth in
32 this section, the department must approve the registration. A
33 registration under this section is valid until December 31st of the
34 year in which the department approves the registration.

35 (3) The department may approve and renew a registration under
36 this section by means of an agreement with the nationwide multistate
37 licensing system and may, by rule, conform the practices, procedures,
38 and information that the department uses to approve or renew a

1 registration to the requirements of the nationwide multistate
2 licensing system.

3 NEW SECTION. **Sec. 4.** The department shall make the information
4 that business entities submit for registration under this section
5 publicly available on the department's website.

6 NEW SECTION. **Sec. 5.** (1) The department may impose a civil
7 penalty: (a) In an amount that does not exceed \$500 for each of a
8 data broker's violations of a requirement under this chapter or each
9 violation of a rule the department adopted under this section; or (b)
10 in the case of a continuing violation, in the amount of \$500 for each
11 day in which the violation continues.

12 (2) The total amount of penalties that may be imposed on a data
13 broker may not exceed \$10,000 during any calendar year.

14 (3) If the data broker fails to pay the civil penalty, the
15 attorney general may recover the amount imposed by action in the
16 appropriate court.

17 NEW SECTION. **Sec. 6.** The department may adopt rules that are
18 necessary to implement the provisions of this chapter.

19 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2024.

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

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