

Chapter 19.86 RCW
UNFAIR BUSINESS PRACTICES—CONSUMER PROTECTION

Sections

- 19.86.010 Definitions.
- 19.86.020 Unfair competition, practices, declared unlawful.
- 19.86.023 Violation of RCW 15.86.030 constitutes violation of RCW 19.86.020.
- 19.86.030 Contracts, combinations, conspiracies in restraint of trade declared unlawful.
- 19.86.040 Monopolies and attempted monopolies declared unlawful.
- 19.86.050 Transactions and agreements not to use or deal in commodities or services of competitor declared unlawful when lessens competition.
- 19.86.060 Acquisition of corporate stock by another corporation to lessen competition declared unlawful—Exceptions—Judicial order to divest.
- 19.86.070 Labor not an article of commerce—Chapter not to affect mutual, nonprofit organizations.
- 19.86.080 Attorney general may restrain prohibited acts—Costs—Restoration of property.
- 19.86.085 Establishment of investigation unit—Receipt and use of criminal history information.
- 19.86.090 Civil action for damages—Treble damages authorized—Action by governmental entities.
- 19.86.093 Civil action—Unfair or deceptive act or practice—Claim elements.
- 19.86.095 Request for injunctive relief—Appellate proceeding—Service on the attorney general.
- 19.86.100 Assurance of discontinuance of prohibited act—Approval of court—Not considered admission.
- 19.86.110 Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—Use—Penalty.
- 19.86.115 Materials from a federal agency or other state's attorney general.
- 19.86.120 Limitation of actions—Tolling.
- 19.86.130 Final judgment to restrain is prima facie evidence in civil action—Exceptions.
- 19.86.140 Civil penalties.
- 19.86.145 Penalties—Animals used in biomedical research.
- 19.86.150 Dissolution, forfeiture of corporate franchise for violations.
- 19.86.160 Personal service of process outside state.
- 19.86.170 Exempted actions or transactions—Stipulated penalties and remedies are exclusive.
- 19.86.180 Mailing materials that interfere with census.
- 19.86.910 Short title.
- 19.86.920 Purpose—Interpretation—Liberal construction—Saving—1985 c 401; 1983 c 288; 1983 c 3; 1961 c 216.

Adult family homes: Chapter 70.128 RCW.

Advertisement of children for adoption: RCW 26.38.130.

Agriculture—Declarations of "Washington state grown": RCW 15.04.410.

Auctioneers: Chapter 18.11 RCW.

Automotive repair: Chapter 46.71 RCW.

*Bail bond agents—Records—Finances—Disposition of security—
Application of consumer protection act: RCW 18.185.210.*

Business opportunity fraud act: Chapter 19.110 RCW.

Camping resorts: RCW 19.105.405, 19.105.500.

Charitable solicitations, regulation: RCW 19.09.340.

Check cashers and sellers: Chapter 31.45 RCW.

Cigarettes—Sales below cost: RCW 19.91.300.

Collection agencies: RCW 19.16.120, 19.16.440.

Commercial telephone solicitation: Chapter 19.158 RCW.

Consumer leases: RCW 63.10.050.

Contractors: Chapter 18.27 RCW.

Credit—Fair credit reporting act: Chapter 19.182 RCW.

Credit services organization act: RCW 19.134.070.

Debt adjusting: RCW 18.28.185.

Degree-granting institutions: Chapter 28B.85 RCW.

Distressed property conveyances: Chapter 61.34 RCW.

*Electronic signatures—Licensed certification authority using license
in violation of chapter 19.86 RCW: RCW 19.34.100.*

Email—Commercial: Chapter 19.190 RCW.

Embalmers and funeral directors: RCW 18.39.350.

Employment agencies—Enforcement: RCW 19.31.210.

*Escrow agents—Advertisement, statement, or reference to existence of
financial responsibility requirements prohibited—Referral fees
prohibited: RCW 18.44.400, 18.44.450.*

Fair credit reporting act: Chapter 19.182 RCW.

*Franchise investment protection: RCW 19.100.030, 19.100.160,
19.100.190, 19.100.200.*

Funeral and cemetery board—Violation—Penalty—Unfair practice—Other laws applicable: RCW 68.05.330.

Going out of business sales: Chapter 19.178 RCW.

Health studio services: Chapter 19.142 RCW.

Hearing instrument dispensing, advertising, etc.—Application: RCW 18.35.110, 18.35.120, 18.35.180.

Heating oil pollution liability protection act: RCW 70A.330.090.

House-to-house sales by minors: RCW 49.12.310.

Immigration services fraud prevention act: RCW 19.154.090.

International student exchange: Chapter 19.166 RCW.

Kosher food products: Chapter 69.90 RCW.

Land development law: RCW 58.19.270.

Law against discrimination: RCW 49.60.030.

Lease-purchase agreements: Chapter 63.19 RCW.

Leases: RCW 62A.2A-104.

Life settlements act: Chapter 48.102 RCW.

Manufactured and mobile home installation service and warranty service standards: RCW 43.22.440.

Mechanics' and materialmen's liens—Acts of coercion: RCW 60.04.035.

Medicaid patient discrimination: RCW 74.42.055.

Mortgage brokers: Chapter 19.146 RCW.

Motor vehicle dealers: Chapter 46.70 RCW.

Motor vehicle subleasing or transfer: Chapter 19.116 RCW.

Motor vehicle warranties: Chapter 19.118 RCW.

Nursing homes—Discrimination against medicaid recipients: RCW 74.42.055.

Offers to alter bids at sales pursuant to deeds of trust: RCW 61.24.135.

On-site sewage additive manufacturers: RCW 70A.105.080.

Operator services: RCW 80.36.360, 80.36.400, 80.36.530, 80.36.540.

Pay-per-call information delivery services: Chapter 19.162 RCW.

Private vocational schools: Chapter 28C.10 RCW.

Promotional advertising of prizes: Chapter 19.170 RCW.

Radio communications service companies not regulated by utilities and transportation commission: RCW 80.66.010.

Roofing and siding contractors and salespersons: Chapter 19.186 RCW.

Sellers of travel: Chapter 19.138 RCW.

Telephone buyers' protection act: Chapter 19.130 RCW.

Timeshare act: Chapter 64.36 RCW.

Unsolicited goods or services: Chapter 19.56 RCW.

Usurious contracts: RCW 19.52.036.

Water companies exempt from utilities and transportation commission regulation: RCW 80.04.010.

Weatherization of leased or rented residences: RCW 70A.35.060.

RCW 19.86.010 Definitions. As used in this chapter:

(1) "Person" shall include, where applicable, natural persons, corporations, trusts, unincorporated associations and partnerships.

(2) "Trade" and "commerce" shall include the sale of assets or services, and any commerce directly or indirectly affecting the people of the state of Washington.

(3) "Assets" shall include any property, tangible or intangible, real, personal, or mixed, and wherever situate, and any other thing of value. [1961 c 216 § 1.]

RCW 19.86.020 Unfair competition, practices, declared unlawful.

Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful. [1961 c 216 § 2.]

Hearing instrument dispensing, advertising, etc.—Application: RCW 18.35.180.

RCW 19.86.023 Violation of RCW 15.86.030 constitutes violation of RCW 19.86.020. Any violation of RCW 15.86.030 shall also constitute a violation under RCW 19.86.020. [1985 c 247 § 7.]

RCW 19.86.030 Contracts, combinations, conspiracies in restraint of trade declared unlawful. Every contract, combination, in the form of trust or otherwise, or conspiracy in restraint of trade or commerce is hereby declared unlawful. [1961 c 216 § 3.]

Monopolies and trusts prohibited: State Constitution Art. 12 § 22.

RCW 19.86.040 Monopolies and attempted monopolies declared unlawful. It shall be unlawful for any person to monopolize, or attempt to monopolize or combine or conspire with any other person or persons to monopolize any part of trade or commerce. [1961 c 216 § 4.]

RCW 19.86.050 Transactions and agreements not to use or deal in commodities or services of competitor declared unlawful when lessens competition. It shall be unlawful for any person to lease or make a sale or contract for sale of goods, wares, merchandise, machinery, supplies, or other commodities, or services, whether patented or unpatented, for use, consumption, enjoyment, or resale, or fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement, or understanding that the lessee or purchaser thereof shall not use or deal in the goods, wares, merchandise, machinery, supplies, or other commodity or services of a competitor or competitors of the lessor or seller, where the effect of such lease, sale, or contract for such sale or such condition, agreement, or understanding may be to substantially lessen competition or tend to create a monopoly in any line of commerce. [1961 c 216 § 5.]

RCW 19.86.060 Acquisition of corporate stock by another corporation to lessen competition declared unlawful—Exceptions—Judicial order to divest. It shall be unlawful for any corporation to acquire, directly or indirectly, the whole or any part of the stock or assets of another corporation where the effect of such acquisition may be to substantially lessen competition or tend to create a monopoly in any line of commerce.

This section shall not apply to corporations purchasing such stock solely for investment and not using the same by voting or otherwise to bring about, or in attempting to bring about, the substantial lessening of competition. Nor shall anything contained in this section prevent a corporation from causing the formation of subsidiary corporations for the actual carrying on of their immediate lawful business, or the natural and legitimate branches or extensions thereof, or from owning and holding all or a part of the stock of such subsidiary corporations, when the effect of such formation is not to substantially lessen competition.

In addition to any other remedy provided by this chapter, the superior court may order any corporation to divest itself of the stock or assets held contrary to this section, in the manner and within the time fixed by said order. [1961 c 216 § 6.]

RCW 19.86.070 Labor not an article of commerce—Chapter not to affect mutual, nonprofit organizations. The labor of a human being is not a commodity or article of commerce. Nothing contained in this chapter shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof. [1961 c 216 § 7.]

Labor regulations: Title 49 RCW.

RCW 19.86.080 Attorney general may restrain prohibited acts—Costs—Restoration of property. (1) The attorney general may bring an action in the name of the state, or as *parens patriae* on behalf of persons residing in the state, against any person to restrain and prevent the doing of any act herein prohibited or declared to be unlawful; and the prevailing party may, in the discretion of the court, recover the costs of said action including a reasonable attorney's fee.

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

(3) Upon a violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, the court may also make such additional orders or judgments as may be necessary to restore to any person in interest any moneys or property, real or personal, which may have been acquired, regardless of whether such person purchased or transacted for goods or services directly with the defendant or indirectly through resellers. The court shall exclude from the amount of monetary relief awarded in an action pursuant to this subsection any amount that duplicates amounts that have been awarded for the same violation. The court should consider consolidation or coordination with other related actions, to the extent practicable, to avoid duplicate recovery. [2007 c 66 § 1; 1970 ex.s. c 26 § 1; 1961 c 216 § 8.]

Effective date—2007 c 66: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [April 17, 2007]." [2007 c 66 § 3.]

RCW 19.86.085 Establishment of investigation unit—Receipt and use of criminal history information. There is established a unit within the office of the attorney general for the purpose of detection, investigation, and prosecution of any act prohibited or declared to be unlawful under this chapter. The attorney general will employ supervisory, legal, and investigative personnel for the program, who must be qualified by training and experience. The attorney general is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with the investigation of any person doing any act herein prohibited or declared to be unlawful under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. [2008 c 74 § 7.]

Finding—2008 c 74: See note following RCW 51.04.024.

RCW 19.86.090 Civil action for damages—Treble damages authorized—Action by governmental entities. Any person who is injured in his or her business or property by a violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or any person so injured because he or she refuses to accede to a proposal

for an arrangement which, if consummated, would be in violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, may bring a civil action in superior court to enjoin further violations, to recover the actual damages sustained by him or her, or both, together with the costs of the suit, including a reasonable attorney's fee. In addition, the court may, in its discretion, increase the award of damages up to an amount not to exceed three times the actual damages sustained: PROVIDED, That such increased damage award for violation of RCW 19.86.020 may not exceed twenty-five thousand dollars: PROVIDED FURTHER, That such person may bring a civil action in the district court to recover his or her actual damages, except for damages which exceed the amount specified in RCW 3.66.020, and the costs of the suit, including reasonable attorney's fees. The district court may, in its discretion, increase the award of damages to an amount not more than three times the actual damages sustained, but such increased damage award shall not exceed twenty-five thousand dollars. For the purpose of this section, "person" includes the counties, municipalities, and all political subdivisions of this state.

Whenever the state of Washington is injured, directly or indirectly, by reason of a violation of RCW 19.86.030, 19.86.040, 19.86.050, or 19.86.060, it may sue therefor in superior court to recover the actual damages sustained by it, whether direct or indirect, and to recover the costs of the suit including a reasonable attorney's fee. [2009 c 371 § 1; 2007 c 66 § 2; 1987 c 202 § 187; 1983 c 288 § 3; 1970 ex.s. c 26 § 2; 1961 c 216 § 9.]

Application—2009 c 371: "This act applies to all causes of action that accrue on or after July 26, 2009." [2009 c 371 § 3.]

Effective date—2007 c 66: See note following RCW 19.86.080.

Intent—1987 c 202: See note following RCW 2.04.190.

Short title—Purposes—1983 c 288: "This act may be cited as the antitrust/consumer protection improvements act. Its purposes are to strengthen public and private enforcement of the unfair business practices-consumer protection act, chapter 19.86 RCW, and to repeal the unfair practices act, chapter 19.90 RCW, in order to eliminate a statute which is unnecessary in light of the provisions and remedies of chapter 19.86 RCW. In repealing chapter 19.90 RCW, it is the intent of the legislature that chapter 19.86 RCW should continue to provide appropriate remedies for predatory pricing and other pricing practices which constitute violations of federal antitrust law." [1983 c 288 § 1.]

RCW 19.86.093 Civil action—Unfair or deceptive act or practice—Claim elements. In a private action in which an unfair or deceptive act or practice is alleged under RCW 19.86.020, a claimant may establish that the act or practice is injurious to the public interest because it:

- (1) Violates a statute that incorporates this chapter;
- (2) Violates a statute that contains a specific legislative declaration of public interest impact; or

(3) (a) Injured other persons; (b) had the capacity to injure other persons; or (c) has the capacity to injure other persons. [2009 c 371 § 2.]

Application—2009 c 371: See note following RCW 19.86.090.

RCW 19.86.095 Request for injunctive relief—Appellate proceeding—Service on the attorney general. In any proceeding in which there is a request for injunctive relief under RCW 19.86.090, the attorney general shall be served with a copy of the initial pleading alleging a violation of this chapter. In any appellate proceeding in which an issue is presented concerning a provision of this chapter, the attorney general shall, within the time provided for filing the brief with the appellate court, be served with a copy of the brief of the party presenting such issue. [1983 c 288 § 5.]

Short title—Purposes—1983 c 288: See note following RCW 19.86.090.

RCW 19.86.100 Assurance of discontinuance of prohibited act—Approval of court—Not considered admission. In the enforcement of this chapter, the attorney general may accept an assurance of discontinuance of any act or practice deemed in violation of this chapter, from any person engaging in, or who has engaged in, such act or practice. Any such assurance shall be in writing and be filed with and subject to the approval of the superior court of the county in which the alleged violator resides or has his or her principal place of business, or in Thurston county.

Such assurance of discontinuance shall not be considered an admission of a violation for any purpose; however, proof of failure to comply with the assurance of discontinuance shall be prima facie evidence of a violation of this chapter. [2011 c 336 § 556; 1970 ex.s. c 26 § 3; 1961 c 216 § 10.]

RCW 19.86.110 Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—Use—Penalty. (1) Whenever the attorney general believes that any person (a) may be in possession, custody, or control of any original or copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, mechanical transcription, or other tangible document or recording, wherever situate, which he or she believes to be relevant to the subject matter of an investigation of a possible violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, or federal statutes dealing with the same or similar matters that the attorney general is authorized to enforce, or (b) may have knowledge of any information which the attorney general believes relevant to the subject matter of such an investigation, he or she may, prior to the institution of a civil proceeding thereon, execute in writing and cause to be served upon such a person, a civil investigative demand requiring such person to produce such documentary material and permit inspection and copying, to answer in writing written interrogatories, to give oral

testimony, or any combination of such demands pertaining to such documentary material or information: PROVIDED, That this section shall not be applicable to criminal prosecutions.

(2) Each such demand shall:

(a) State the statute and section or sections thereof, the alleged violation of which is under investigation, and the general subject matter of the investigation;

(b) If the demand is for the production of documentary material, describe the class or classes of documentary material to be produced thereunder with reasonable specificity so as fairly to indicate the material demanded;

(c) Prescribe a return date within which the documentary material is to be produced, the answers to written interrogatories are to be made, or a date, time, and place at which oral testimony is to be taken; and

(d) Identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying, to whom answers to written interrogatories are to be made, or who are to conduct the examination for oral testimony.

(3) No such demand shall:

(a) Contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum, a request for answers to written interrogatories, or a request for deposition upon oral examination issued by a court of this state; or

(b) Require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of this state.

(4) Service of any such demand may be made by:

(a) Delivering a duly executed copy thereof to the person to be served, or, if such person is not a natural person, to any officer or managing agent of the person to be served; or

(b) Delivering a duly executed copy thereof to the principal place of business in this state of the person to be served; or

(c) Mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in this state, or, if said person has no place of business in this state, to his or her principal office or place of business.

(5) (a) Documentary material demanded pursuant to the provisions of this section shall be produced for inspection and copying during normal business hours at the principal office or place of business of the person served, or at such other times and places as may be agreed upon by the person served and the attorney general;

(b) Written interrogatories in a demand served under this section shall be answered in the same manner as provided in the civil rules for superior court;

(c) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the same manner as provided in the civil rules for superior court for the taking of depositions. In the course of the deposition, the assistant attorney general conducting the examination may exclude from the place where the examination is held all persons other than the person being examined, the person's counsel, and the officer before whom the testimony is to be taken;

(d) Any person compelled to appear pursuant to a demand for oral testimony under this section may be accompanied by counsel;

(e) The oral testimony of any person obtained pursuant to a demand served under this section shall be taken in the county within

which the person resides, is found, or transacts business, or in such other place as may be agreed upon between the person served and the attorney general.

(6) If, after prior court approval, a civil investigative demand specifically prohibits disclosure of the existence or content of the demand, unless otherwise ordered by a superior court for good cause shown, it shall be a misdemeanor for any person if not a bank, trust company, mutual savings bank, credit union, or savings and loan association organized under the laws of the United States or of any one of the United States to disclose to any other person the existence or content of the demand, except for disclosure to counsel for the recipient of the demand or unless otherwise required by law.

(7) No documentary material, answers to written interrogatories, or transcripts of oral testimony produced pursuant to a demand, or copies thereof, shall, unless otherwise ordered by a superior court for good cause shown, be produced for inspection or copying by, nor shall the contents thereof be disclosed to, other than an authorized employee of the attorney general, without the consent of the person who produced such material, answered written interrogatories, or gave oral testimony, except as otherwise provided in this section: PROVIDED, That:

(a) Under such reasonable terms and conditions as the attorney general shall prescribe, the copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony shall be available for inspection and copying by the person who produced such material, answered written interrogatories, or gave oral testimony, or any duly authorized representative of such person;

(b) The attorney general may provide copies of such documentary material, answers to written interrogatories, or transcripts of oral testimony to an official of this state, the federal government, or other state, who is charged with the enforcement of federal or state antitrust or consumer protection laws, if before the disclosure the receiving official agrees in writing that the information may not be disclosed to anyone other than that official or the official's authorized employees. The material provided under this subsection (7)(b) is subject to the confidentiality restrictions set forth in this section and may not be introduced as evidence in a criminal prosecution; and

(c) The attorney general or any assistant attorney general may use such copies of documentary material, answers to written interrogatories, or transcripts of oral testimony as he or she determines necessary in the enforcement of this chapter, including presentation before any court: PROVIDED, That any such material, answers to written interrogatories, or transcripts of oral testimony which contain trade secrets shall not be presented except with the approval of the court in which action is pending after adequate notice to the person furnishing such material, answers to written interrogatories, or oral testimony.

(8) At any time before the return date specified in the demand, or within twenty days after the demand has been served, whichever period is shorter, a petition to extend the return date for, or to modify or set aside a demand issued pursuant to subsection (1) of this section, stating good cause, may be filed in the superior court for Thurston county, or in such other county where the parties reside. A petition, by the person on whom the demand is served, stating good cause, to require the attorney general or any person to perform any duty imposed by the provisions of this section, and all other

petitions in connection with a demand, may be filed in the superior court for Thurston county, or in the county where the parties reside. The court shall have jurisdiction to impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions.

(9) Whenever any person fails to comply with any civil investigative demand for documentary material, answers to written interrogatories, or oral testimony duly served upon him or her under this section, or whenever satisfactory copying or reproduction of any such material cannot be done and such person refuses to surrender such material, the attorney general may file, in the trial court of general jurisdiction of the county in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section, except that if such person transacts business in more than one county such petition shall be filed in the county in which such person maintains his or her principal place of business, or in such other county as may be agreed upon by the parties to such petition. Whenever any petition is filed in the trial court of general jurisdiction of any county under this section, such court shall have jurisdiction to hear and determine the matter so presented and to enter such order or orders as may be required to carry into effect the provisions of this section, and may impose such sanctions as are provided for in the civil rules for superior court with respect to discovery motions. [2011 c 336 § 557; 1993 c 125 § 1; 1990 c 199 § 1; 1987 c 152 § 1; 1982 c 137 § 1; 1970 ex.s. c 26 § 4; 1961 c 216 § 11.]

Rules of court: See Superior Court Civil Rules.

RCW 19.86.115 Materials from a federal agency or other state's attorney general. Whenever the attorney general receives documents or other material from:

(1) A federal agency, pursuant to its subpoena or Hart-Scott-Rodino authority; or

(2) Another state's attorney general, pursuant to that state's presuit investigative subpoena powers, the documents or materials are subject to the same restrictions as and may be used for all the purposes set forth in RCW 19.86.110. [1993 c 125 § 2.]

RCW 19.86.120 Limitation of actions—Tolling. Any action to enforce a claim for damages under RCW 19.86.090 shall be forever barred unless commenced within four years after the cause of action accrues: PROVIDED, That whenever any action is brought by the attorney general for a violation of RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060, except actions for the recovery of a civil penalty for violation of an injunction or actions under RCW 19.86.090, the running of the foregoing statute of limitations, with respect to every private right of action for damages under RCW 19.86.090 which is based in whole or part on any matter complained of in said action by the attorney general, shall be suspended during the pendency thereof. [1970 ex.s. c 26 § 5; 1961 c 216 § 12.]

Action to enforce claim for civil damages under chapter 19.86 RCW must be commenced within six years. Unfair motor vehicles business practices act: RCW 46.70.220.

Limitation of actions: Chapter 4.16 RCW.

RCW 19.86.130 Final judgment to restrain is prima facie evidence in civil action—Exceptions. A final judgment or decree rendered in any action brought under RCW 19.86.080 by the state of Washington to the effect that a defendant has violated RCW 19.86.020, 19.86.030, 19.86.040, 19.86.050, or 19.86.060 shall be prima facie evidence against such defendant in any action brought by any party against such defendant under RCW 19.86.090 as to all matters which said judgment or decree would be an estoppel as between the parties thereto: PROVIDED, That this section shall not apply to consent judgments or decrees where the court makes no finding of illegality. [1970 ex.s. c 26 § 6; 1961 c 216 § 13.]

RCW 19.86.140 Civil penalties. Every person who shall violate the terms of any injunction issued as in this chapter provided, shall forfeit and pay a civil penalty of not more than \$125,000.

Every individual who violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than \$180,000. Every person, other than an individual, who violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than \$900,000.

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

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

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

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

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

[2021 c 228 § 2; 1983 c 288 § 2; 1970 ex.s. c 26 § 7; 1961 c 216 § 14.]

Findings—2021 c 228: "The legislature finds that:

- (1) Strong consumer protection and antitrust penalties are critical to protecting consumers and ensuring a fair marketplace;
- (2) Strong penalties ensure accountability, deter violations, and ensure a level playing field for businesses;
- (3) Washington currently does not provide strong penalties for violations of the state's consumer protection act, which prohibits unfair or deceptive acts or practices and unfair methods of competition;
- (4) Washington's penalty for unfair or deceptive acts or practices has not kept pace with inflation, and has not increased since 1970;
- (5) Washington's penalty for unfair methods of competition has also not kept pace with inflation, and has not increased since 1983;
- (6) Consequently, Washington has one of the lowest consumer protection penalties in the United States;
- (7) Twenty-four state legislatures representing more than 200 million Americans have passed enhanced penalties for violations that target or impact certain vulnerable populations, but Washington does not have an enhanced penalty;
- (8) Many Washingtonians are hurting financially due to the impacts of the global pandemic;
- (9) Washington's weak penalties place Washington consumers at greater risk; and
- (10) Washingtonians deserve strong consumer protections to ensure entities that illegally, unfairly, and deceptively go after their hard-earned dollars are held accountable." [2021 c 228 § 1.]

Short title—2021 c 228: "This act may be known and cited as the consumer protection improvement act." [2021 c 228 § 4.]

Short title—Purposes—1983 c 288: See note following RCW 19.86.090.

RCW 19.86.145 Penalties—Animals used in biomedical research. Any violation of RCW 9.08.070 through 9.08.078 or 16.52.220 constitutes an unfair or deceptive practice in violation of this chapter. The relief available under this chapter for violations of RCW 9.08.070 through 9.08.078 or 16.52.220 by a research institution shall be limited to only monetary penalties in an amount not to exceed two thousand five hundred dollars. [2003 c 53 § 150; 1989 c 359 § 4.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 19.86.150 Dissolution, forfeiture of corporate franchise for violations. Upon petition by the attorney general, the court may, in its discretion, order the dissolution, or suspension or forfeiture of franchise, of any corporation which shall violate RCW 19.86.030 or 19.86.040 or the terms of any injunction issued as in this chapter provided. [1961 c 216 § 15.]

RCW 19.86.160 Personal service of process outside state.

Personal service of any process in an action under this chapter may be made upon any person outside the state if such person has engaged in conduct in violation of this chapter which has had the impact in this state which this chapter reprehends. Such persons shall be deemed to have thereby submitted themselves to the jurisdiction of the courts of this state within the meaning of RCW 4.28.180 and 4.28.185. [1961 c 216 § 16.]

RCW 19.86.170 Exempted actions or transactions—Stipulated penalties and remedies are exclusive. Nothing in this chapter shall apply to actions or transactions otherwise permitted, prohibited or regulated under laws administered by the insurance commissioner of this state, the Washington utilities and transportation commission, the federal power commission or actions or transactions permitted by any other regulatory body or officer acting under statutory authority of this state or the United States: PROVIDED, HOWEVER, That actions and transactions prohibited or regulated under the laws administered by the insurance commissioner shall be subject to the provisions of RCW 19.86.020 and all sections of chapter 216, Laws of 1961 and chapter 19.86 RCW which provide for the implementation and enforcement of RCW 19.86.020 except that nothing required or permitted to be done pursuant to Title 48 RCW shall be construed to be a violation of RCW 19.86.020: PROVIDED, FURTHER, That actions or transactions specifically permitted within the statutory authority granted to any regulatory board or commission established within Title 18 RCW shall not be construed to be a violation of chapter 19.86 RCW: PROVIDED, FURTHER, That this chapter shall apply to actions and transactions in connection with the disposition of human remains.

RCW 9A.20.010(2) shall not be applicable to the terms of this chapter and no penalty or remedy shall result from a violation of this chapter except as expressly provided herein. [1977 c 49 § 1; 1974 ex.s. c 158 § 1; 1967 c 147 § 1; 1961 c 216 § 17.]

Radio communications: RCW 80.04.530.

Telecommunications: RCW 80.36.360.

RCW 19.86.180 Mailing materials that interfere with census.

Mailing materials with the intent to deceive a person into believing that the material is an official census communication, interfere with the operation of the census, or discourage a person from participating in the census constitutes an unfair or deceptive practice under this chapter. [2020 c 34 § 3.]

Effective date—2020 c 34: See note following RCW 43.62.060.

RCW 19.86.910 Short title. This act shall be known and designated as the "Consumer Protection Act." [1961 c 216 § 19.]

RCW 19.86.920 Purpose—Interpretation—Liberal construction—Saving—1985 c 401; 1983 c 288; 1983 c 3; 1961 c 216. The legislature

hereby declares that the purpose of this act is to complement the body of federal law governing restraints of trade, unfair competition and unfair, deceptive, and fraudulent acts or practices in order to protect the public and foster fair and honest competition. It is the intent of the legislature that, in construing this act, the courts be guided by final decisions of the federal courts and final orders of the federal trade commission interpreting the various federal statutes dealing with the same or similar matters and that in deciding whether conduct restrains or monopolizes trade or commerce or may substantially lessen competition, determination of the relevant market or effective area of competition shall not be limited by the boundaries of the state of Washington. To this end this act shall be liberally construed that its beneficial purposes may be served.

It is, however, the intent of the legislature that this act shall not be construed to prohibit acts or practices which are reasonable in relation to the development and preservation of business or which are not injurious to the public interest, nor be construed to authorize those acts or practices which unreasonably restrain trade or are unreasonable per se. [1985 c 401 § 1; 1983 c 288 § 4; 1983 c 3 § 25; 1961 c 216 § 20.]

Reviser's note: "This act" originally appears in 1961 c 216.

Short title—Purposes—1983 c 288: See note following RCW 19.86.090.