

Individual State Agency Fiscal Note

Bill Number: 1799 HB	Title: Data brokers	Agency: 240-Department of Licensing
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Part I: Estimates

No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2024	FY 2025	2023-25	2025-27	2027-29
Business and Professions Account-State 06L-1	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000
Total \$	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

Estimated Operating Expenditures from:

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.2	6.1	4.7	5.7	5.7
Account					
Business and Professions Account-State 06L-1	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000
Total \$	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Megan Mulvihill	Phone: 360-786-7304	Date: 02/09/2023
Agency Preparation: Gina Rogers	Phone: 360-634-5036	Date: 02/16/2023
Agency Approval: Gerrit Eades	Phone: (360)902-3863	Date: 02/16/2023
OFM Review: Kyle Siefering	Phone: (360) 995-3825	Date: 02/16/2023

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Significant provisions of the bill and any related workload or policy assumptions that have revenue or expenditure impact on the responding agency by section number.

Please see attached fiscal note

II. B - Cash receipts Impact

Cash receipts impact of the legislation on the responding agency with the cash receipts provisions identified by section number and when appropriate, the detail of the revenue sources. Description of the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explanation of how workload assumptions translate into estimates. Distinguished between one time and ongoing functions.

See attached fiscal note

II. C - Expenditures

Agency expenditures necessary to implement this legislation (or savings resulting from this legislation), with the provisions of the legislation that result in the expenditures (or savings) identified by section number. Description of the factual basis of the assumptions and the method by which the expenditure impact is derived. Explanation of how workload assumptions translate into cost estimates. Distinguished between one time and ongoing functions.

Please see attached fiscal note.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2024	FY 2025	2023-25	2025-27	2027-29
06L-1	Business and Professions Account	State	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000
Total \$			1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

III. B - Expenditures by Object Or Purpose

	FY 2024	FY 2025	2023-25	2025-27	2027-29
FTE Staff Years	3.2	6.1	4.7	5.7	5.7
A-Salaries and Wages	751,000	1,479,000	2,230,000	2,892,000	2,892,000
B-Employee Benefits	180,000	351,000	531,000	680,000	680,000
C-Professional Service Contracts					
E-Goods and Other Services	605,000	537,000	1,142,000	1,040,000	1,040,000
G-Travel	5,000	5,000	10,000	10,000	10,000
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total \$	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

III. C - Operating FTE Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2024	FY 2025	2023-25	2025-27	2027-29
Customer Service Specialist 2	46,980	1.0	2.0	1.5	2.0	2.0
Investigator 2	63,216	0.5	1.0	0.8	1.0	1.0
Investigator 4	80,952	0.3	0.5	0.4	0.5	0.5
Management Analyst 4	82,896	0.4	0.7	0.6	0.3	0.3
Professional Licensing Manager 2	64,788	0.6	1.1	0.9	1.1	1.1
WMS	120,000	0.4	0.8	0.6	0.8	0.8
Total FTEs		3.2	6.1	4.7	5.7	5.7

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Acquisition and construction costs not reflected elsewhere on the fiscal note and description of potential financing methods.

NONE

IV. D - Capital FTE Detail: *FTEs listed by classification and corresponding annual compensation. Totals agree with total FTEs in Part IVB.*

NONE

Part V: New Rule Making Required

Provisions of the bill that require the agency to adopt new administrative rules or repeal/revise existing rules.

See attached fiscal note

Individual State Agency Fiscal Note

Agency 240 – Department of Licensing

Bill Number: HB 1799

Bill Title: Concerning the registration of business entities that qualify as data brokers

Part 1: Estimates

No Fiscal Impact

Estimated Cash Receipts:

Revenue	Fund	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Business and Professions	06L	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000
Account Totals		1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

Estimated Expenditures:

		FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
FTE Staff Years		3.2	6.1	4.8	5.7	5.7
Operating Expenditures	Fund	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Business and Professions	06L	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000
Account Totals		1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions.

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- If fiscal impact is **greater than \$50,000** per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- Capital budget impact, complete Part IV.
- Requires new rule making, complete Part V.

Legislative Contact: Megan Mulvihill	Phone: (360) 786-7304	Date:
Agency Preparation: Gina Rogers	Phone: (360) 634-5036	Date: 2/15/2023
Agency Approval: Gerrit Eades	Phone: (360) 902-3931	Date:

Request #	1
Bill #	1799 HB

Part 2 – Explanation

This bill requires DOL to begin licensing data brokers.

2.A – Brief Description Of What The Measure Does That Has Fiscal Impact

Sec. 1 – New Section

- (1) “brokered personal data” means any of the following computerized data elements about a resident individual if it’s categorized or organized for sale/licensing another entity:
 - The individual’s name or address, or either for a member of their immediate family/household
 - The individual’s date or place of birth
 - The maiden name of the individual’s mother
 - The individual’s biometric information
 - The individual’s SSN or any other government-issued identification
 - Information that alone or in combination can be associated with the individual
- (2)(a) “business entity” means any of the following:
 - Resident individual who regularly engages in commercial activity to generate income
 - A corporation, nonprofit, LLC, partnership or LLP, business trust, joint venture, or other business organization whose constituent parts share a common economic interest
 - A financial institution defined in RCW 9A.56.280
 - An individual that controls, is controlled by, or is under common control with a person described in bullets 2 or 3
 - (b) “business entity” doesn’t include the state, a state agency, a local government, or a business entity during a period in which they are working solely on behalf of the state, state agency, or local government direction
- (3) “data broker” means a business entity, or part of, that collects and sells, or licenses brokered personal data to another person and doesn’t include:
 - A consumer reporting agency, a person that provides information to them, or a user of a consumer report to the extent that they are subject to regulation under the federal fair credit reporting act
 - A financial institution, affiliate, or a nonaffiliated third party to the extent that they are subject to regulation under Title V of the Gramm-Leach-Bliley act
 - A business entity that collects information about a resident individual if the individual is/was a user of goods/services, an employee/agent or someone in a contractual relationship with them, an investor, a donor, or in a similar relationship
 - A business entity that performs services for another entity described in the bullet above
- (4) “department” means DOL
- (5) “resident individual” means an individual residing in WA

Sec. 2 – New Section

- (1) prohibits data brokers from collecting, selling, or licensing brokered personal data within WA state unless they are registered with DOL (except as provided)
- (2) allows data brokers to collect, sell, or license brokered personal data without registering with DOL if it involves any of the following:
 - Providing publicly available information related to a resident individual’s business/profession
 - Providing publicly available information as part of a service that provides alerts for health/safety purposes
 - Providing information that is available from federal, state, or local government records
 - Publishing, selling, or distributing access to journals, books, periodicals, newspapers, magazines, news media or educational works
 - Developing or maintaining an electronic commerce service/software
 - Providing directory assistance/information services as a telecommunications carrier

- Selling business entity assets that's not part of the ordinary conduct of the business entity

Sec. 3 – New Section

- (1) requires data brokers to complete the following annually, on or before January 31st:
 - Submit a form that DOL specifies which includes their name, street address, telephone number, and primary website and email address
 - Pay a fee set by DOL in rule
 - DOLs fee shall be sufficient to cover the costs of administering the registration program
 - A declaration that includes:
 - A statement on whether resident individuals may opt out of all or a portion of the broker's collection, sale, or licensing of the resident individuals' brokered personal data
 - Identification of which activities of collecting, selling, or licensing personal data resident individual's are able to opt out of or permit the data broker to collect, sell, or license
 - Description of the method a resident individual may exercise the choices of form submittal or fee payment
 - A statement on whether a resident individual may authorize another person to exercise the choice in bullet 1 of this list, on their behalf and the appropriate process
- (2) requires DOL to approve the registration if a data broker applies with section requirements
 - Registrations are valid until December 31st of the year in which DOL approves it
- (3) allows DOL to approve/renew a registration by an agreement with the nationwide multistate licensing system
 - Allows DOL to conform their practices to the requirements of the nationwide multistate licensing system in rule

Sec. 4 – New Section

- Requires DOL to make the information that business entities submit for registration publicly available on its website

Sec. 5 – New Section

- (1) allows DOL to impose civil penalties:
 - Of no more than \$500 for each violation of a data broker under this chapter or DOL's rules
 - Of \$500 per day for continuing violations
- (2) limits the total penalty amount imposed on a data broker in any calendar year to \$10,000
- (3) provides that the AG may recover an amount imposed by court action if a data broker fails to pay the civil penalty

Sec. 6 – New Section

- Provides DOL rulemaking authority

Sec. 7 – New Section

- Provides an effective date of January 1, 2024

Sec. 8 – New Section

- Section 1-7 constitute a new chapter in Title 19 RCW

2.B - Cash receipts Impact

Revenue	Fund	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Business and Professions	06L	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000
Account Totals		1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

To implement this legislation, a one-time assessment would need to be added to licenses that are funded with dedicated funds, equal to the costs contained in the expenditure section of this fiscal note. The cost allocation model applied to current expenditures is used to establish the revenue breakdown. For efficiency purposes, the department will add inclusion of this one-time assessment per license, to a planned fee rulemaking process in the spring of 2024, with any fee proposed increases to go into effect in June 2024.

2.C – Expenditures

DOL estimated 1100 licensees will be processed in the first year the based on licensee counts in other states. However, the number of licensees in these other states appear to be doubling every 2 years since 2019, putting our potential licensee count at 4000 by 2027.

The number of staff requested is dependent on the number of licensees. DOL will use the following professions as comparison:

Profession	Processed licensees (as of 12/31/2021)	Current allotted FTEs
Security guard	14,804	8.8
Architects	8,067	4.7
Tattoo/Body Piercing/Body Art	4,471	3.1

Information Services:

The agency will use appropriated funds to hire contract programmers to accomplish this work or to support current staff implementing this legislation within the required timeline. Appropriated funds may also be used to hire agency temporary staff to support permanent staff assigned to this legislative effort.

Any change requires a process to ensure changes are correctly applied to the system. This involves Project Managers that manage the team that completes the update, business analyst that documents and reviews the system changes, architect services that analyzes how the update could have an effect on other systems or DOL processes, developers who create the change, and testers and quality assurance teams that ensure the update is working correctly.

Cost Category	Description	Rate	2024	2025	2026	2027	2028	2029	Total Cost
TESTER	Test to verify individual components meet requirements; ensure that other business transactions have not been impacted.	\$ 22,620	47,500	-	-	-	-	-	47,500
BUSINESS ANALYST	Determine business requirements; translate requirements into what changes are needed to various systems including account codes, inventory codes, testing considerations, etc.	\$ 16,530	9,900	-	-	-	-	-	9,900
PROJECT MANAGER	Manage schedule and contracts	\$ 28,710	14,400	-	-	-	-	-	14,400
QUALITY ASSURANCE	Plan and carry out activities to assure project deliverables; e.g. preventative defect activities, align quality measures and business objectives.	\$ 37,410	67,300	-	-	-	-	-	67,300
SECURITY AND ARCHITECT SERVICES	Create the conceptual model that defines the structure, behavior and framework of a computerized system including a breakdown of the system into components, the component interactions and interfaces (including with the environment, especially the user), and the technologies and resources to be used in the design.	\$ 16,530	5,000	-	-	-	-	-	5,000
DEVELOPERS	Modify programming and coding to all major systems	\$ 19,140	3,800	-	-	-	-	-	3,800
CONTRACTED FAST DEVELOPER/ TESTER	Updates to the DRIVES system will require additional vendor hours outside of the contracted maintenance to make system updates to implement this bill.	\$ 37,236	22,300	-	-	-	-	-	22,300
Trainer	Trains business partners and employees in new system processes and capabilities.	\$ 22,620	40,700	-	-	-	-	-	40,700
Project Contingency	Office of the Chief Information Officer designated rate of 10% (rounded for contracts)	\$ 25,474	40,800	-	-	-	-	-	40,800
Totals			251,700	-	-	-	-	-	251,700

Rounding used

The system change identified requires a Commercial off the Shelf (COTS) product or service. \$74,600

Support Services:

Agency Administrative Overhead is included at a rate of 23.4 percent of the direct program costs. This funding received covers agency-wide functions such as vendor payments, contract administration, financial management, mail processing, equipment management, help desk support, and technical assistance to DOL employees.

What IS Will Implement:

- Create new profession in POLARIS for data brokers.
- Create ability to for data brokers to register, renew, and submit account change requests online or by paper.
- Add form fields to collect information from each data broker on residents’ ability to opt out of data broker activities and the method for opting out.
- Update system to allow staff to process registrations and perform compliance activities.
- Create new registration fee.
- Add new profession to standard notifications and create new notification timing for annual registration reminder.
- Update scanners to route paper submissions to system.
- Update public license search to include data brokers and opt out information for each data broker.

Assumptions:

- Only businesses will register as data brokers.
- Registered data brokers must re-register and pay a fee annually.
- Existing functionality supports the reporting of complaints and other compliance issues by licenses, including status of complaint.
- No bonds/financial guarantees.
- The new license type will work with existing letters.
- Individuals will use existing search features on public portal to create a list of data brokers.
- Licenses will be selected for audit manually and not through an automated process.

Part 3 – Expenditure Detail

3.A – Operating Budget Expenditures

Operating Expenditures	Fund	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Business and Professions	06L	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000
Account Totals		1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

3.B – Expenditures by Object or Purpose

Object of Expenditure	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
FTE Staff Years	3.2	6.1	4.8	5.7	5.7
Salaries and Wages	751,000	1,479,000	2,230,000	2,892,000	2,892,000
Employee Benefits	180,000	351,000	531,000	680,000	680,000
Goods and Services	605,000	537,000	1,142,000	1,040,000	1,040,000
Travel	5,000	5,000	10,000	10,000	10,000
Total By Object Type	1,541,000	2,372,000	3,913,000	4,622,000	4,622,000

3.C – FTE Detail

Staffing	Salary	FY 24	FY 25	23-25 Total	25-27 Total	27-29 Total
Customer Service Specialist 2	46,980	1.0	2.0	1.5	2.0	2.0
Professional Licensing Manager 2	64,788	0.6	1.1	0.9	1.1	1.1
Investigator 2	63,216	0.5	1.0	0.8	1.0	1.0
Investigator 4	80,952	0.3	0.5	0.4	0.5	0.5
Management Analyst 4	82,896	0.4	0.7	0.6	0.3	0.3
WMS	120,000	0.4	0.8	0.6	0.8	0.8
Total FTE		3.2	6.1	4.8	5.7	5.7

Licensing:

- 2 Customer Specialist 2 (CSS2 to answer customer calls and emails, issue licenses and process renewals (ongoing)
- .25 Professional Licensing Manager 2 (PLM2) to supervise CSS2s, answer escalated customer requests, address complex licensing questions (ongoing)
- .75 WMS manage the development and implementation of a new licensing program, work with stakeholders, establish processes and policies (ongoing)

Complaints/Inspections/Investigations:

- 1.0 Professional Licensing Manager 2 (PLM2) process intake complaints, evaluate for relevancy, provide consumer guidance and direction to the AGO consumer complaints division (ongoing)

0.5 Investigator 2 (Inv2) conduct non-complex investigations for verification of licensure based on business being conducted in the state tied to consumer complaints (ongoing)

0.25 Investigator 4 (Inv4) to supervise and provide escalated regulatory support (ongoing)

Compliance/Legal:

.25 PLM2 work with investigators to compile information for legal documents, manage due process activities and administrative action for licensees (ongoing)

Program Implementation:

1 Management Analyst 4 (MA4) coordinate and conduct rulemaking to implement new licensing program; support stakeholder outreach; assist with process and policy development (12 month project starting January 1, 2024).

Part 4 – Capital Budget Impact

None.

Part 5 – New Rule Making Required

BPD will need to create a new Chapter in WAC. Undetermined # of WAC's needed until stakeholder work is done.

To implement this legislation, a one-time assessment would need to be added to licenses that are funded with dedicated funds, equal to the costs contained in the expenditure section of this fiscal note. The cost allocation model applied to current expenditures is used to establish the revenue breakdown. For efficiency purposes, the department will add inclusion of this one-time assessment per license, to a planned fee rulemaking process in the spring of 2024, with any fee proposed increases to go into effect in June 2024.