ITED AMENDMENT TRACKER 2/07/2020

BILL SPONSOR DESCRIPTION	SUBS/AMENDMENTS	EFFECT
2742 (Rep. Kloba) Concerning the management and oversight of personal data.	■ PS-2742 (H4111.1) by Rep. Hudgins	Makes numerous substantive changes as specified in the summary of the proposed substitute.
	➢ 2742 AMH ITED H4119.1 by Rep. Slatter	• Modifies the exemption for data maintained for employment records purposes by expiring the exemption one year after the effective date of the bill.
	➢ 2742 AMH ITED H4129.1 by Rep. Hudgins	• Specifies that certain data are exempt from the requirements of the bill only to the extent that the collection or processing of that data is in substantial compliance with federal and state laws to which the data are subject and which are specified in the exemptions.
	➢ 2742 AMH ITED H4130.1 by Rep. Hudgins	• Removes from the jurisdictional scope section the thresholds that a business must meet in order to be subject to the bill to provide that the bill applies to legal entities that conduct business in Washington or produce products or services that are targeted to residents of Washington. Exempts from the provisions of the bill legal entities that fall below a certain size and annual revenue amount, that control or process personal data of fewer than 20,000 consumers, and that do not disclose or share consumer data other than as necessary to provide requested products or services or that monetize personal data within the limits set in the exemption.
	■ PS-2742 (H4322.1) by Rep. Hudgins	Makes the same substantive changes as PS-2742 (H-4411) and additionally: • Modifies the provision prohibiting discrimination against consumers who exercise personal data rights and allows a controller to offer different prices or rates of service to a consumer who voluntarily participates in a loyalty or reward program. • Provides that making available an application programming interface for accuracy and bias testing does not require the disclosure of proprietary data, trade secrets, or other information, if doing so would increase the risk of cyberattacks. • Removes the requirement to remove facial templates that are more than three years old from any database used by a controller's facial recognition service. • Modifies the requirement to test a facial recognition service in operational conditions by making the requirement applicable only to those controllers that use a facial recognition service to make decisions that produce legal or similarly significant effects on consumers.

2742 (Rep. Kloba) Concerning the management and oversight of personal data.	■ PS-2742 (H-4642.1) by Rep. Hudgins	Makes substantive changes to the jurisdictional scope, consumer rights, responsibilities of controllers and processors, facial recognition, and liability and enforcement provisions of the bill as specified in the summary of the proposed substitute. Some of the changes include: • Modifies the thresholds that a legal entity must meet before the obligations of the bill apply to that entity. • Specifies that certain data are exempt from the requirements of the bill only to the extent that the collection or processing of that data is in substantial compliance with federal and state laws to which the data are subject and which are specified in the exemptions. • Modifies the time limit within which controllers must respond to consumer requests, notify consumers of any extension, or inform consumers of reasons for not taking action on a request from 45 to 21 days. • Removes the requirement for controllers to conduct data protection assessments for each of their processing activities and specifies the activities for which controllers must conduct data protection assessments. • Provides that violations are enforceable under the Consumer Protection Act; modifies civil penalties for violations and adds civil penalties for intentional violations. • Provides that the bill does not preempt local laws or ordinances regarding facial recognition. • Modifies multiple definitions and requirements by removing the word "reasonable" or reasonably."
	➢ 2742 AMH ITED H-4689.1 by Rep. Smith	Strikes all the underlying provisions of the bill and does the following provisions from HB 2364 by Rep. Smith: • Provides that an individual residing in Washington state has the following rights with regard to the individual's personal data: (a) The right to know what personal data a business collects or processes about the individual; (b) the right to access and obtain the individual's personal data collected or processed by a business; (c) the right to object to and opt out of the selling or licensing of personal data; (d) the right to correct inaccurate personal data; and (e) the right to delete the individual's personal data collected or processed by a business. • Specifies that a business has the following duties: (a) Provide a prominent and easy-to-read privacy policy; (b) minimize the collection of personal data; (c) avoid secondary uses of personal data; (d) obtain an individual's affirmative opt-in consent for any processing outside of what is necessary to fulfill the individual's request, prevent fraud, comply with legal requirements, and for other purely operational purposes; (e) secure personal data from unauthorized acquisition or access; (f) act in good faith and with due diligence when responding to requests from individuals to exercise personal data rights; and (g) not discriminate against individuals who choose to exercise their personal data rights.

2742 (Rep. Kloba) Concerning the management and oversight of personal data.		• Provides that a business must require service to process personal data only on documented instructions from the business on whose behalf service providers are processing personal data. • Requires a business to use only those service providers that deliver sufficient guarantees that processing meets the requirements of this bill and ensures the protection of personal data rights. • Exempts employment-related information from the provisions of the bill. • Makes violations of the bill enforceable under the state Consumer Protection Act. • Sets forth civil penalties of up to $10,000 per violation in actions brought by the Attorney General and statutory damages of $10,000 per violation in actions brought by individuals. CONFLICT: ALL BAKY AMENDMENTS
	➢ 2742-PS AMH ITED BAKY 107 by Rep. Van Werven	• Modifies the definition of "child" to apply to a natural person under eighteen, rather than thirteen, years of age. Eliminates the exemption related to controllers that are in compliance with parental consent mechanisms under the federal Children's Online Privacy Protection Act. Modifies the provisions related to sensitive data by requiring controllers to obtain parental consent for processing sensitive data of a known child.
	➢ 2742-PS AMH ITED BAKY 094 by Rep. Van Werven	• Includes in the definition of "consumer" a natural person acting in a commercial context.
	➢ 2742-PS AMH ITED BAKY 095 by Rep. Smith	• Modifies the definition of "deidentified data" by requiring that a controller take reasonable measures to ensure that data cannot be associated with a device or household, as well as a natural person.
	➢ 2742-PS AMH ITED BAKY 096 by Rep. Van Werven	• Removes facial recognition provisions and related definitions from the bill. CONFLICT: BAKY 121
	➢ 2742-PS AMH ITED BAKY 122 by Rep. Smith	• Adds a definition of "lawful basis for processing." Specifies that the exemptions set forth in the jurisdictional scope section of the bill apply only to the extent that a controller is able to demonstrate a lawful basis for processing.
	➢ 2742-PS AMH ITED BAKY 097 by Rep. Smith	• Removes the definition for "personal data" an exemption for publicly available information.
	➢ 2742-PS AMH ITED BAKY 098 by Rep. Smith	• Modifies the definition of "pseudonymous data" provide that the term means a controller or processor cannot in good faith reasonably associate personal data with a specific natural person without the use of additional information. Specifies that photographs or other visual depictions of a person cannot be pseudonymous. s

2742 (Rep. Kloba) Concerning the management and oversight of personal data.	➢ 2742-PS AMH ITED BAKY 099 by Rep. Smith	• Modifies the definition of "sale" by specifying several activities that are considered a "sale." Specifies that in order to be considered a "sale," an activity may be done for a commercial purpose, as well as for monetary or other valuable consideration.
	➢ 2742-PS AMH ITED BAKY 100 by Rep. Smith	• Modifies the definition of "sale" by including in the definition disclosure of information made public by a consumer and disclosure or transfer of personal data as part of certain transactions where a third party assumes control of a controller's assets. CONFLICT: BAKY 112; BAKY 113
	➢ 2742-PS AMH ITED BAKY 112 by Rep. Smith	• Modifies the definition of "sale" by including in the definition disclosure of information made public by a consumer. CONFLICT: BAKY 100
	➢ 2742-PS AMH ITED BAKY 113 by Rep. Smith	• Modifies the definition of "sale" by including in the definition disclosure or transfer of personal data as part of certain transactions where a third party assumes control of a controller's assets. CONFLICT: BAKY 100
	➢ 2742-PS AMH ITED BAKY 101 by Rep. Van Werven	• Removes from the right to correction the authorization to take into account the nature of personal data and the purposes of processing.
	➢ 2742-PS AMH ITED BAKY 102 by Rep. Smith	• Removes from the right to data portability the reference to the right of access.
	➢ 2742-PS AMH ITED BAKY 103 by Rep. Smith	• Modifies the right to opt out by providing that a consumer has the right to opt out of the processing of personal data, rather than opt out of the processing for specified purposes.
	➢ 2742-PS AMH ITED BAKY 104 by Rep. Van Werven	• Requires a controller to communicate a consumer's request to correct or delete personal data, or to opt-out from certain processing to all third parties to whom personal data was disclosed within one year preceding the consumer's request.
	➢ 2742-PS AMH ITED BAKY 105 by Rep. Smith	• Modifies the conditions that must be met before a controller is permitted not to comply with an authenticated consumer request by removing on of the conditions related to using personal data to recognize or respond to a consumer, or to associate personal data with other personal data of the consumer.
	➢ 2742-PS AMH ITED BAKY 106 by Rep. Smith	• Modifies the responsibility of a controller to minimize data collection by requiring that the controller collect personal data only as reasonably necessary for specified purposes, rather

2742 (Rep. Kloba) Concerning the management and oversight of personal data.		than adequate, relevant, and limited to what is necessary for processing purposes, as disclosed to consumer.
	➢ 2742-PS AMH ITED BAKY 108 by Rep. Smith	• Adds a prohibition on the commercial use of a consumer's name, voice, signature, photograph, or likeness without the consumer's consent. Specifies that this prohibition does not limit the individual property rights in one's likeness under chapter 63.60 RCW.
	➢ 2742-PS AMH ITED BAKY 109 by Rep. Smith	• Removes the specification that a data protection assessment disclosed by a controller to the Attorney General be relevant to the Attorney's General investigation of the controller.
	➢ 2742-PS AMH ITED BAKY 110 by Rep. Smith	• Removes the provision exempting data protection assessments disclosed to the Attorney General from public inspection under the Public Records Act.
	➢ 2742-PS AMH ITED BAKY 111 by Rep. Smith	• Modifies the exemption related to protecting vital interests and allows controllers take immediate steps to protect interests essential for the life of the consumer or another person where no other lawful basis for processing applies.
	➢ 2742-PS AMH ITED BAKY 114 by Rep. Smith	• Removes the exemption related to processing data for reasons of public interest. CONFLICT: BAKY 118
	➢ 2742-PS AMH ITED BAKY 118 by Rep. Slatter	• Modifies the exemption related to the processing of personal data for public interest reasons to allow processing for certain research that adheres to all other applicable ethics and privacy laws and is regulated by an oversight entity that ensures that certain requirements for the research are met. CONFLICT: BAKY 114
	➢ 2742-PS AMH ITED BAKY 115 by Rep. Smith	• Removes the exemption related to conducting internal research.
	➢ 2742-PS AMH ITED BAKY 117 by Rep. Smith	• Removes the exemption related to performing internal operations aligned with a consumer's expectation.
	➢ 2742-PS AMH ITED BAKY 119 by Rep. Smith	• Modifies in the enforcement provisions the civil penalties to not more than $10,000 per violation. Specifies that a violation of the chapter is an injury. Specifies the remedies available to a consumer, including statutory damages of not less than $10,000 per violation. Requires a court to award costs and reasonable attorneys' fees to a prevailing plaintiff. Specifies that these remedies are in addition to any other rights and remedies provided by law.

	➢ 2742-PS AMH ITED BAKY 120 by Rep. Van Werven	• Removes the provisions related joint research initiatives with other states and Canadian provinces.
	➢ 2742-PS AMH ITED BAKY 121 by Rep. Tarleton	• Allows controllers to enroll a consumer's image in a facial recognition service for a security or safety purpose without the consumer's consent if all of the specified requirements are met. CONFLICT: BAKY 096