

2014 SESSION: ATTORNEY GENERAL REQUEST LEGISLATION

CONSUMER PROTECTION ATTORNEYS FEES



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Attorney General
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OBJECTIVE

Protect taxpayers and equalize the playing field for Washington consumers by bringing Washington law on attorneys' fees in line with other states.

PROBLEM

Washington is the *only state in the nation* responsible for paying attorneys' fees when it does not prevail in a government enforcement action under the Consumer Protection Act.

Washington's outlier status creates an unlevel playing field, putting Washington's consumers at an unfair disadvantage relative to private plaintiffs. In Washington, private plaintiffs who sue and lose a claim under the Consumer Protection Act **do not** pay attorneys' fees to the defendant. Not so for Washington state taxpayers represented by the Attorney General's Office.

Current law creates significant risk for taxpayers. Defendants can hire large law firms who assign multiple attorneys at high billing rates. Whenever the Attorney General's Office pursues a case against such a defendant, it faces the specter of large attorneys' fees – even for a purely technical “win” on a single claim by a defendant. For example, in *State v. Pacific Health Center, Inc.* (2006,) the state pursued action against a defendant who was practicing medicine without a license. The state won at a trial level, but the Appeals Court ruled that while practicing law without a license is a violation of the Consumer Protections Act, practicing *medicine* without a license is not. This technical ruling meant Washington state was required to **pay \$280,000 in attorneys' fees.**

In 2011, recognizing the urgent need to reduce Washington state's liability in consumer protection actions, Attorney General McKenna introduced HB 1032/SB 5079 as agency request legislation.

LEGISLATION (SB 5985 / HB 2055)

This legislation removes Washington's outlier status and treats the state the same as private plaintiffs who bring an action under the Consumer Protection Act. This bill will protect taxpayers and level the playing field for Washington consumers.

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- The Everett Herald
- The Olympian

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