

Washington State Enacts a Broad Premerger Notification Requirement for All Industries

MAY 2, 2025

Washington recently became the first state to adopt the Uniform Antitrust Premerger Notification Act (UAPNA) and establish, effective July 27, 2025, a general state-level premerger notification requirement for all transactions. While several states already require premerger notifications for certain healthcare industry transactions, Washington will become the only state with a broad premerger notification system applicable to any industry.

The UAPNA, which was published by the Uniform Law Commission in 2024, requires parties filing a federal premerger notification under the federal Hart-Scott-Rodino (HSR) Act to provide a copy of their HSR filing to the enacting state's attorney general if they have sufficient nexus to the state based on sales or location. The Washington law, Senate Bill 5122, adopts the UAPNA's model notification requirements for transactions in any industry, while adding a heightened notification requirement specific to transactions involving healthcare providers. The bill also amends the state's existing healthcare premerger notification statute, such that healthcare providers who provide HSR filings to Washington's attorney general under the new law will satisfy the state's 60-day notice statute without needing to submit an additional state-specific filing.

KEY PROVISIONS OF SENATE BILL 5122

Senate Bill 5122 requires any "person"^[1] submitting a premerger notification under the federal HSR Act to contemporaneously submit that notification to the Washington attorney general if any of the following conditions apply:

- (a) the person has its principal place of business in Washington;
- (b) the person (or any person it controls) had annual net sales in Washington^[2] of services or goods involved in the transaction at least 20% of the applicable HSR size of transaction threshold (which is \$126.4 million for 2025, making Washington's threshold \$25.28 million in in-state sales); or
- (c) the party is a "provider" or "provider organization" (as defined in RCW 19.390.020)^[3] conducting business in Washington.

Parties qualifying under subsection (a) are required to provide a copy of their HSR form and all HSR filing attachments to the Washington attorney general at the same time as the HSR filing. Parties qualifying under

subsections (b) or (c) initially only need to submit a copy of the HSR form but are required to produce all HSR filing attachments within seven days of a request by the Washington attorney general.

In contrast to the HSR Act, Senate Bill 5122 is a notice-only requirement. It does not impose a filing fee or a waiting period on the transaction before it may close. However, failure to comply with the notice requirements of Senate Bill 5122 may result in civil penalties of up to \$10,000 per day. In addition, the Washington attorney general retains the authority to challenge potential mergers under state or federal antitrust laws.

Any information provided to the Washington attorney general under Senate Bill 5122 is required to be kept confidential from the public. However, the Washington attorney general may share such information with federal antitrust enforcers or states that have enacted the UAPNA or a substantively equivalent act.

EXPANSION OF STATE PREMERGER NOTIFICATION REQUIREMENTS

Although Washington is the first state to enact the UAPNA, several other states, including California, Colorado, Hawaii, Nevada, Utah, West Virginia and the District of Columbia, have introduced bills to adopt it. These laws cast a wider net than the existing state-level premerger notification regulations known as “Baby HSR” laws. Baby HSR laws—which have been enacted in fifteen states—typically focus on healthcare transactions valued below the federal notification thresholds. Senate Bill 5122, by contrast, imposes a state-level premerger notification requirement on all HSR-filing parties with a sufficient connection to the state, regardless of the industries involved. However, while Senate Bill 5122 does cover all industries, its healthcare focus is evident since any party that is a “provider” or a “provider organization” conducting business in Washington must file even if they are not headquartered in Washington or do not have a large volume of sales in Washington.

KEY TAKEAWAYS

Any transacting party making an HSR filing, regardless of industry, now must consider their potential nexus with Washington in their assessment of state-level premerger filing obligations. Parties should consult counsel to determine whether a proposed transaction would trigger a state-level premerger notification requirement.

Parties should also continue to watch this space for further updates as states continue to adopt and expand their premerger notification requirements. While Washington is the first state to adopt the UAPNA, other states may follow suit.

Winston & Strawn attorneys regularly advise clients on transaction notification requirements and help clients navigate state and federal antitrust notification processes. Reach out to the authors or your regular Winston contacts with any questions.

[1] Under Senate Bill 5122, “person” means an individual; estate; business or nonprofit entity; government or governmental subdivision, agency, or instrumentality; or other legal entity.

[2] Senate Bill 5122 is silent as to how parties should measure annual sales in the state.

[3] As defined in RCW 19.390.020, a “provider” means a natural person who practices a profession identified in RCW 18.130.040, which includes a broad range of healthcare practice areas. A “provider organization” means a corporation, partnership, business trust, association, or organized group of persons, whether incorporated or not, which is in the business of health care delivery or management and that represents seven or more health care providers in contracting with carriers or third-party administrators for the payments of health care services. A “provider organization” includes physician organizations, physician-hospital organizations, independent practice associations, provider networks, and accountable care organizations.

4 Min Read

Authors

Richard Falek

Kevin B. Goldstein

Conor Reidy

Banee Pachuca

Lisa Lavelle

Related Topics

Antitrust Intelligence

M&A

State Antitrust Laws

State Enforcement

Baby HSR

Related Capabilities

Antitrust/Competition

Antitrust Transactions

Mergers & Acquisitions

Related Professionals



Richard Falek



Kevin B. Goldstein



Conor Reidy



Lisa Lavelle

This entry has been created for information and planning purposes. It is not intended to be, nor should it be substituted for, legal advice, which turns on specific facts.