
HOUSE BILL 2729

State of Washington 60th Legislature 2008 Regular Session

By Representatives Eddy, Pedersen, Appleton, Lantz, Williams, Upthegrove, Santos, Simpson, Hasegawa, Ericks, Ormsby, and Springer

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1 AN ACT Relating to identification documents; amending RCW
2 19.192.020, 42.56.250, and 42.56.330; adding new sections to chapter
3 19.192 RCW; creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that:

6 (1) Washington state recognizes the importance of protecting the
7 confidentiality and privacy of an individual's personal information
8 contained in drivers' licenses and identicards.

9 (2) Machine-readable features found on drivers' licenses and
10 identicards are intended to facilitate verification of age or identity,
11 not to facilitate collection of personal information about individuals,
12 nor to facilitate the creation of private databases of transactional
13 information associated with those individuals.

14 (3) Easy access to the information found on drivers' licenses and
15 identicards facilitates the crime of identity theft, a crime that is a
16 major concern in Washington.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.192 RCW
18 to read as follows:

1 (1) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Electronically" means relating to technology having
4 electrical, digital, magnetic, wireless, optical, electromagnetic, or
5 similar capabilities.

6 (b) "Personal information" includes any of the following: An
7 individual's name, address, date of birth, photograph, fingerprint or
8 other biometric image of the individual, driver's license or identicard
9 number, or any other unique personal identifier or number.

10 (2)(a) A nongovernmental entity may only electronically read an
11 individual's driver's license or identicard to verify the authenticity
12 of the document or verify the individual's age or identity.

13 (b) When a nongovernmental entity electronically reads a driver's
14 license or identicard for one of the purposes permitted in (a) of this
15 subsection, and except as otherwise permitted in subsection (3) of this
16 section, the entity may not store, sell, or share personal information
17 collected from the driver's license or identicard without written
18 consent of the individual.

19 (3) A business may only verify a consumer's age when providing an
20 age-restricted good or service or for which there is a discount based
21 on the consumer's age. A business may only verify a consumer's
22 identity and the accuracy of personal information submitted by a
23 consumer when the consumer pays with a method other than cash or
24 returns an item. A business may store or share the personal
25 information collected from a driver's license or identicard when the
26 consumer pays with a method other than cash, but only for the purposes
27 of preventing fraud by pursuing legal remedies against, or recovering
28 on a debt or security interest against, the individual. Any personal
29 information collected from a driver's license or identicard must be
30 destroyed within thirty days. A business may not deny a consumer or
31 prospective consumer a good or service when the consumer or prospective
32 consumer exercises the right under this section not to allow his or her
33 driver's license or identicard to be read electronically for other
34 purposes or exercises the right not to allow storage, sale, or sharing
35 of personal information except as permitted by this subsection.

36 (4) A governmental entity may only electronically read an
37 individual's driver's license or identicard when the individual
38 knowingly makes the driver's license or identicard available to the

1 governmental entity, the governmental entity lawfully seizes the
2 driver's license or identicard, or to provide emergency assistance when
3 an individual is unconscious or otherwise unable to make the driver's
4 license or identicard available.

5 (5) Any waiver of a provision of this section is contrary to public
6 policy and is void and unenforceable.

7 (6) In addition to any other remedy provided by law, an individual
8 whose personal information is read, stored, shared, sold, or otherwise
9 used in violation of this section may bring an action to recover actual
10 damages or one thousand dollars, whichever is greater, and equitable
11 relief, if available. A court shall award a prevailing individual
12 reasonable costs and attorneys' fees. If a court finds that a
13 violation of this section was willful or knowing, the court may
14 increase the amount of the award to no more than three times the amount
15 otherwise available.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 19.192 RCW
17 to read as follows:

18 The legislature finds that the practices covered by section 2 of
19 this act are matters vitally affecting the public interest for the
20 purpose of applying chapter 19.86 RCW. A violation of section 2 of
21 this act is not reasonable in relation to the development and
22 preservation of business and is an unfair or deceptive act in trade or
23 commerce and an unfair method of competition for the purpose of
24 applying chapter 19.86 RCW.

25 **Sec. 4.** RCW 19.192.020 and 2003 c 89 s 2 are each amended to read
26 as follows:

27 (1) Any provision of a contract between a merchant or retailer and
28 a credit or debit card issuer, financial institution, or other person
29 that prohibits the merchant or retailer from verifying the identity of
30 a customer who offers to pay for goods or services with a credit or
31 debit card by requiring or requesting that the customer present
32 additional identification is void for violation of public policy.

33 (2) Nothing in this (~~section~~) chapter shall be interpreted as(~~(~~
34 ~~(a))~~) compelling merchants or retailers to verify identification(~~(~~
35 ~~(b) interfering with the ability of the owner or manager of a retail~~

1 ~~store or chain to make and enforce its own policies regarding~~
2 ~~verification of identification)).~~

3 **Sec. 5.** RCW 42.56.250 and 2006 c 209 s 6 are each amended to read
4 as follows:

5 The following employment and licensing information is exempt from
6 public inspection and copying under this chapter:

7 (1) Test questions, scoring keys, and other examination data used
8 to administer a license, employment, or academic examination;

9 (2) Documents and related materials used to establish identity,
10 age, a residential address, a social security number, or other personal
11 information required in connection with an application for a driver's
12 license or identicard;

13 (3) All applications for public employment, including the names of
14 applicants, resumes, and other related materials submitted with respect
15 to an applicant;

16 ~~((+3))~~ (4) The residential addresses, residential telephone
17 numbers, personal wireless telephone numbers, personal electronic mail
18 addresses, social security numbers, and emergency contact information
19 of employees or volunteers of a public agency, and the names, dates of
20 birth, residential addresses, residential telephone numbers, personal
21 wireless telephone numbers, personal electronic mail addresses, social
22 security numbers, and emergency contact information of dependents of
23 employees or volunteers of a public agency that are held by any public
24 agency in personnel records, public employment related records, or
25 volunteer rosters, or are included in any mailing list of employees or
26 volunteers of any public agency. For purposes of this subsection,
27 "employees" includes independent provider home care workers as defined
28 in RCW 74.39A.240;

29 ~~((+4))~~ (5) Information that identifies a person who, while an
30 agency employee: (a) Seeks advice, under an informal process
31 established by the employing agency, in order to ascertain his or her
32 rights in connection with a possible unfair practice under chapter
33 49.60 RCW against the person; and (b) requests his or her identity or
34 any identifying information not be disclosed;

35 ~~((+5))~~ (6) Investigative records compiled by an employing agency
36 conducting a current investigation of a possible unfair practice under

1 chapter 49.60 RCW or of a possible violation of other federal, state,
2 or local laws prohibiting discrimination in employment; and

3 ~~((6))~~ (7) Except as provided in RCW 47.64.220, salary and
4 employee benefit information collected under RCW 47.64.220(1) and
5 described in RCW 47.64.220(2).

6 **Sec. 6.** RCW 42.56.330 and 2007 c 197 s 5 are each amended to read
7 as follows:

8 The following information relating to public utilities and
9 transportation is exempt from disclosure under this chapter:

10 (1) Records filed with the utilities and transportation commission
11 or attorney general under RCW 80.04.095 that a court has determined are
12 confidential under RCW 80.04.095;

13 (2) The residential addresses and residential telephone numbers of
14 the customers of a public utility contained in the records or lists
15 held by the public utility of which they are customers, except that
16 this information may be released to the division of child support or
17 the agency or firm providing child support enforcement for another
18 state under Title IV-D of the federal social security act, for the
19 establishment, enforcement, or modification of a support order;

20 (3) The names, residential addresses, residential telephone
21 numbers, and other individually identifiable records held by an agency
22 in relation to a vanpool, carpool, or other ride-sharing program or
23 service; however, these records may be disclosed to other persons who
24 apply for ride-matching services and who need that information in order
25 to identify potential riders or drivers with whom to share rides;

26 (4) The personally identifying information of current or former
27 participants or applicants in a paratransit or other transit service
28 operated for the benefit of persons with disabilities or elderly
29 persons;

30 (5) The personally identifying information of persons who acquire
31 and use transit passes and other fare payment media including, but not
32 limited to, stored value smart cards and magnetic strip cards, except
33 that an agency may disclose this information to a person, employer,
34 educational institution, or other entity that is responsible, in whole
35 or in part, for payment of the cost of acquiring or using a transit
36 pass or other fare payment media, or to the news media when reporting

1 on public transportation or public safety. This information may also
2 be disclosed at the agency's discretion to governmental agencies or
3 groups concerned with public transportation or public safety;

4 (6) Any information obtained by governmental agencies that is
5 collected by the use of a motor carrier intelligent transportation
6 system or any comparable information equipment attached to a truck,
7 tractor, or trailer; however, the information may be given to other
8 governmental agencies or the owners of the truck, tractor, or trailer
9 from which the information is obtained. As used in this subsection,
10 "motor carrier" has the same definition as provided in RCW 81.80.010;
11 and

12 (7) The personally identifying information of persons who acquire
13 and use transponders or other technology to facilitate payment of tolls
14 or border crossing. This information may be disclosed in aggregate
15 form as long as the data does not contain any personally identifying
16 information. For these purposes aggregate data may include the census
17 tract of the account holder as long as any individual personally
18 identifying information is not released. Personally identifying
19 information may be released to law enforcement agencies only for toll
20 enforcement or United States customs and border protection enforcement
21 purposes. Personally identifying information may be released to law
22 enforcement agencies for other purposes only if the request is
23 accompanied by a court order.

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