

HOUSE BILL REPORT

SB 5597

As Reported By House Committee On:
Judiciary

Title: An act relating to documentary materials.

Brief Description: Limiting the use of documentary materials.

Sponsors: Senators A. Smith, Spanel and Rinehart; by request of Attorney General.

Brief History:

Reported by House Committee on:
Judiciary, March 30, 1993, DP.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 16 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Campbell; Chappell; Forner; Johanson; Long; Mastin; H. Myers; Riley; Schmidt; Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: The attorney general investigates alleged violations of the Consumer Protection Act. The attorney general may engage in pre-suit discovery during those investigations. The attorney general may issue a "civil investigative demand" (CID) to a person who the attorney general believes may be in possession of information or documents relevant to the investigation. The CID requires the person to produce documents, answer written questions, or give oral testimony. This type of pre-suit discovery allows the attorney general to determine whether legal action is warranted.

Information obtained through a CID may not be used in criminal prosecutions. Additionally, information produced in response to a CID may be disclosed only to authorized employees of the attorney general, unless the person who produced the information consents to disclosure to third parties. This restriction prevents the attorney general from sharing CID material with other law enforcement organizations who may also enforce antitrust or consumer protection laws, such as the Department of Justice, the

Federal Trade Commission, other states, or other Washington State agencies, such as the Department of Licensing's Securities Division.

No express provision exists in our Consumer Protection Act that prevents this state's attorney general from disseminating CID information received from other states or federal agencies. The lack of an express provision may inhibit other state and federal agencies from giving our state attorney general information that may be helpful to an investigation in this state or multi-state investigations.

Summary of Bill: The attorney general may provide copies of materials obtained by a civil investigative demand to any law enforcement official of this state, another state, or the federal government who investigates and enforces antitrust or consumer protection laws.

An official receiving the information must agree not to disclose the information to parties other than the official's employees.

The information may not be introduced as evidence in a criminal prosecution.

Washington's attorney general must abide by these rules of confidentiality and restrictions when the attorney general receives materials obtained from another state or federal agency pursuant to that state or federal agency's investigative powers.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The bill will improve efficient enforcement of antitrust and consumer protection laws.

Testimony Against: None.

Witnesses: Tina Kondo, assistant attorney general (pro); and Heather Hamilton, Department of Licensing (pro).