

CERTIFICATION OF ENROLLMENT

HOUSE BILL 2790

54th Legislature
1996 Regular Session

Passed by the House March 4, 1996
Yeas 94 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate March 1, 1996
Yeas 39 Nays 10

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 2790** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 2790

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By Representatives Dyer, Hymes, Scott, Wolfe, Honeyford, D. Schmidt and B. Thomas

Read first time 01/19/96. Trade and Economic Development.

1 AN ACT Relating to distribution of certain governmental lists and
2 information; amending RCW 46.12.370 and 82.32.330; adding new sections
3 to chapter 42.17 RCW; and adding a new section to chapter 82.32 RCW.

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

5 **Sec. 1.** RCW 46.12.370 and 1982 c 215 s 1 are each amended to read
6 as follows:

7 In addition to any other authority which it may have, the
8 department of licensing may furnish lists of registered and legal
9 owners of motor vehicles only for the purposes specified in this
10 section to:

11 (1) The manufacturers of motor vehicles, or their authorized
12 agents, to be used to enable those manufacturers to carry out the
13 provisions of the National Traffic and Motor Vehicle Safety Act of 1966
14 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto,
15 respecting safety-related defects in motor vehicles;

16 (2) Any governmental agency of the United States or Canada, or
17 political subdivisions thereof, to be used by it or by its authorized
18 commercial agents or contractors only in connection with the
19 enforcement of motor vehicle or traffic laws by, or programs related to

1 traffic safety of, that government agency. Only such parts of the list
2 as are required for completion of the work required of the agent or
3 contractor shall be provided to such agent or contractor; ((or))

4 (3) Any business regularly making loans to other persons to finance
5 the purchase of motor vehicles, to be used to assist the person
6 requesting the list to determine ownership of specific vehicles for the
7 purpose of determining whether or not to provide such financing. In
8 the event a list of registered and legal owners of motor vehicles is
9 used for any purpose other than that authorized in subsections (1)((
10 ~~2~~) and (~~3~~)) through (4) of this section, the manufacturer,
11 governmental agency, financial institution or their authorized agents
12 or contractors responsible for the unauthorized disclosure or use will
13 be denied further access to such information by the department of
14 licensing; or

15 (4) To private companies that provide on-line computer data base
16 services to federal, state, and local agencies for law enforcement or
17 government purposes. The department shall first obtain the written
18 agreement and assurances satisfactory to the agency of any company
19 requesting information under this section that any list so obtained
20 shall not be provided to any person other than as provided in this
21 section.

22 NEW SECTION. Sec. 2. A new section is added to chapter 42.17 RCW
23 to read as follows:

24 In addition to the provisions of RCW 42.17.260, state agencies may
25 furnish lists that they maintain of public information, including such
26 lists in computer readable form or on magnetic tape, that they make
27 available to other federal, state, or local government agencies,
28 including law enforcement agencies, to private companies that provide
29 on-line computer data base services with data bases consisting
30 primarily of public records. An agency shall first obtain the written
31 agreement and assurances of the data base company satisfactory to the
32 agency that the company will supply the lists and information so
33 obtained only to federal, state, or local government agencies solely
34 for law enforcement or governmental purposes.

35 **Sec. 3.** RCW 82.32.330 and 1995 c 197 s 1 are each amended to read
36 as follows:

37 (1) For purposes of this section:

1 (a) "Disclose" means to make known to any person in any manner
2 whatever a return or tax information;

3 (b) "Return" means a tax or information return or claim for refund
4 required by, or provided for or permitted under, the laws of this state
5 which is filed with the department of revenue by, on behalf of, or with
6 respect to a person, and any amendment or supplement thereto, including
7 supporting schedules, attachments, or lists that are supplemental to,
8 or part of, the return so filed;

9 (c) "Tax information" means (i) a taxpayer's identity, (ii) the
10 nature, source, or amount of the taxpayer's income, payments, receipts,
11 deductions, exemptions, credits, assets, liabilities, net worth, tax
12 liability deficiencies, overassessments, or tax payments, whether taken
13 from the taxpayer's books and records or any other source, (iii)
14 whether the taxpayer's return was, is being, or will be examined or
15 subject to other investigation or processing, (iv) a part of a written
16 determination that is not designated as a precedent and disclosed
17 pursuant to RCW 82.32.410, or a background file document relating to a
18 written determination, and (v) other data received by, recorded by,
19 prepared by, furnished to, or collected by the department of revenue
20 with respect to the determination of the existence, or possible
21 existence, of liability, or the amount thereof, of a person under the
22 laws of this state for a tax, penalty, interest, fine, forfeiture, or
23 other imposition, or offense: PROVIDED, That data, material, or
24 documents that do not disclose information related to a specific or
25 identifiable taxpayer do not constitute tax information under this
26 section. Except as provided by RCW 82.32.410, nothing in this chapter
27 shall require any person possessing data, material, or documents made
28 confidential and privileged by this section to delete information from
29 such data, material, or documents so as to permit its disclosure;

30 (d) "State agency" means every Washington state office, department,
31 division, bureau, board, commission, or other state agency;

32 (e) "Taxpayer identity" means the taxpayer's name, address,
33 telephone number, registration number, or any combination thereof, or
34 any other information disclosing the identity of the taxpayer; and

35 (f) "Department" means the department of revenue or its officer,
36 agent, employee, or representative.

37 (2) Returns and tax information shall be confidential and
38 privileged, and except as authorized by this section, neither the

1 department of revenue nor any other person may disclose any return or
2 tax information.

3 (3) The foregoing, however, shall not prohibit the department of
4 revenue from:

5 (a) Disclosing such return or tax information in a civil or
6 criminal judicial proceeding or an administrative proceeding:

7 (i) In respect of any tax imposed under the laws of this state if
8 the taxpayer or its officer or other person liable under Title 82 RCW
9 is a party in the proceeding; or

10 (ii) In which the taxpayer about whom such return or tax
11 information is sought and another state agency are adverse parties in
12 the proceeding;

13 (b) Disclosing, subject to such requirements and conditions as the
14 director shall prescribe by rules adopted pursuant to chapter 34.05
15 RCW, such return or tax information regarding a taxpayer to such
16 taxpayer or to such person or persons as that taxpayer may designate in
17 a request for, or consent to, such disclosure, or to any other person,
18 at the taxpayer's request, to the extent necessary to comply with a
19 request for information or assistance made by the taxpayer to such
20 other person: PROVIDED, That tax information not received from the
21 taxpayer shall not be so disclosed if the director determines that such
22 disclosure would compromise any investigation or litigation by any
23 federal, state, or local government agency in connection with the civil
24 or criminal liability of the taxpayer or another person, or that such
25 disclosure would identify a confidential informant, or that such
26 disclosure is contrary to any agreement entered into by the department
27 that provides for the reciprocal exchange of information with other
28 government agencies which agreement requires confidentiality with
29 respect to such information unless such information is required to be
30 disclosed to the taxpayer by the order of any court;

31 (c) Disclosing the name of a taxpayer with a deficiency greater
32 than five thousand dollars and against whom a warrant under RCW
33 82.32.210 has been either issued or filed and remains outstanding for
34 a period of at least ten working days. The department shall not be
35 required to disclose any information under this subsection if a
36 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued
37 a warrant that has not been filed; and (iii) has entered a deferred
38 payment arrangement with the department of revenue and is making

1 payments upon such deficiency that will fully satisfy the indebtedness
2 within twelve months;

3 (d) Disclosing the name of a taxpayer with a deficiency greater
4 than five thousand dollars and against whom a warrant under RCW
5 82.32.210 has been filed with a court of record and remains
6 outstanding;

7 (e) Publishing statistics so classified as to prevent the
8 identification of particular returns or reports or items thereof;

9 (f) Disclosing such return or tax information, for official
10 purposes only, to the governor or attorney general, or to any state
11 agency, or to any committee or subcommittee of the legislature dealing
12 with matters of taxation, revenue, trade, commerce, the control of
13 industry or the professions;

14 (g) Permitting the department of revenue's records to be audited
15 and examined by the proper state officer, his or her agents and
16 employees;

17 (h) Disclosing any such return or tax information to the proper
18 officer of the internal revenue service of the United States, the
19 Canadian government or provincial governments of Canada, or to the
20 proper officer of the tax department of any state or city or town or
21 county, for official purposes, but only if the statutes of the United
22 States, Canada or its provincial governments, or of such other state or
23 city or town or county, as the case may be, grants substantially
24 similar privileges to the proper officers of this state;

25 (i) Disclosing any such return or tax information to the Department
26 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the
27 Department of the Treasury, the Department of Defense, the United
28 States customs service, the coast guard of the United States, and the
29 United States department of transportation, or any authorized
30 representative thereof, for official purposes;

31 (j) Publishing or otherwise disclosing the text of a written
32 determination designated by the director as a precedent pursuant to RCW
33 82.32.410;

34 (k) Disclosing, in a manner that is not associated with other tax
35 information, the taxpayer name, entity type, business address, mailing
36 address, revenue tax registration numbers, standard industrial
37 classification code of a taxpayer, and the dates of opening and closing
38 of business. This subsection shall not be construed as giving
39 authority to the department to give, sell, or provide access to any

1 list of taxpayers for any commercial purpose except as provided in
2 section 4 of this act; or

3 (1) Disclosing such return or tax information that is also
4 maintained by another Washington state or local governmental agency as
5 a public record available for inspection and copying under the
6 provisions of chapter 42.17 RCW or is a document maintained by a court
7 of record not otherwise prohibited from disclosure.

8 (4)(a) The department may disclose return or taxpayer information
9 to a person under investigation or during any court or administrative
10 proceeding against a person under investigation as provided in this
11 subsection (4). The disclosure must be in connection with the
12 department's official duties relating to an audit, collection activity,
13 or a civil or criminal investigation. The disclosure may occur only
14 when the person under investigation and the person in possession of
15 data, materials, or documents are parties to the return or tax
16 information to be disclosed. The department may disclose return or tax
17 information such as invoices, contracts, bills, statements, resale or
18 exemption certificates, or checks. However, the department may not
19 disclose general ledgers, sales or cash receipt journals, check
20 registers, accounts receivable/payable ledgers, general journals,
21 financial statements, expert's workpapers, income tax returns, state
22 tax returns, tax return workpapers, or other similar data, materials,
23 or documents.

24 (b) Before disclosure of any tax return or tax information under
25 this subsection (4), the department shall, through written
26 correspondence, inform the person in possession of the data, materials,
27 or documents to be disclosed. The correspondence shall clearly
28 identify the data, materials, or documents to be disclosed. The
29 department may not disclose any tax return or tax information under
30 this subsection (4) until the time period allowed in (c) of this
31 subsection has expired or until the court has ruled on any challenge
32 brought under (c) of this subsection.

33 (c) The person in possession of the data, materials, or documents
34 to be disclosed by the department has twenty days from the receipt of
35 the written request required under (b) of this subsection to petition
36 the superior court of the county in which the petitioner resides for
37 injunctive relief. The court shall limit or deny the request of the
38 department if the court determines that:

1 (i) The data, materials, or documents sought for disclosure are
2 cumulative or duplicative, or are obtainable from some other source
3 that is more convenient, less burdensome, or less expensive;

4 (ii) The production of the data, materials, or documents sought
5 would be unduly burdensome or expensive, taking into account the needs
6 of the department, the amount in controversy, limitations on the
7 petitioner's resources, and the importance of the issues at stake; or

8 (iii) The data, materials, or documents sought for disclosure
9 contain trade secret information that, if disclosed, could harm the
10 petitioner.

11 (d) The department shall reimburse reasonable expenses for the
12 production of data, materials, or documents incurred by the person in
13 possession of the data, materials, or documents to be disclosed.

14 (e) Requesting information under (b) of this subsection that may
15 indicate that a taxpayer is under investigation does not constitute a
16 disclosure of tax return or tax information under this section.

17 (5) Any person acquiring knowledge of any return or tax information
18 in the course of his or her employment with the department of revenue
19 and any person acquiring knowledge of any return or tax information as
20 provided under subsection (3)(f), (g), (h), or (i) of this section, who
21 discloses any such return or tax information to another person not
22 entitled to knowledge of such return or tax information under the
23 provisions of this section, shall upon conviction be punished by a fine
24 not exceeding one thousand dollars and, if the person guilty of such
25 violation is an officer or employee of the state, such person shall
26 forfeit such office or employment and shall be incapable of holding any
27 public office or employment in this state for a period of two years
28 thereafter.

29 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.32 RCW
30 to read as follows:

31 The department of revenue may furnish lists of taxpayer names,
32 entity types, business addresses, mailing addresses, revenue tax
33 registration numbers, standard industrial classification code of a
34 taxpayer, and the dates of opening and closing of a business to
35 companies that provide on-line computer data base services. The on-
36 line computer companies shall provide the data bases consisting
37 primarily of public records only to other federal, state, or local
38 government agencies solely for law enforcement or government purposes.

1 Before providing a list to a company under this section, the department
2 shall obtain a written agreement that any list so provided shall be
3 used only for the purposes specified in this section.

4 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.17 RCW
5 to read as follows:

6 The legislature finds that the practices covered by RCW
7 46.12.370(4) and sections 2 and 4 of this act are matters vitally
8 affecting the public interest for the purpose of applying the consumer
9 protection act, chapter 19.86 RCW. Violations of RCW 46.12.370(4) and
10 sections 2 and 4 of this act are not reasonable in relation to the
11 development and preservation of business. A violation of RCW
12 46.12.370(4) or section 2 or 4 of this act is an unfair or deceptive
13 act in trade or commerce and an unfair method of competition for the
14 purpose of applying the consumer protection act, chapter 19.86 RCW.

--- END ---