

HOUSE BILL ANALYSIS

HB 2221

Title: An act relating to personal information acquired by merchants.

Brief Description: Prohibiting unauthorized transfer of personal information acquired by merchants.

Sponsors: Representatives Hurst, Lambert, Constantine, O'Brien, Rockefeller, Ogden and Edwards.

Brief Summary of Bill

- Prohibits a merchant from selling, trading, or transferring purchaser information if the purchaser has not been given notice or the purchaser objects to the sale, trade, or transfer.
- Prohibits a merchant from selling, trading, or transferring purchaser information gathered solely as a result of customer payment by personal check, credit card, or where the merchant records the purchaser's driver's license number.
- Allows a purchaser to remain anonymous when providing personal information in exchange for point of service financial benefits.

HOUSE COMMITTEE ON JUDICIARY

Staff: Jim Morishima (786-7191).

Background:

There are several statutory prohibitions relating to the protection of individual privacy. For example, it is unlawful for a person to open a sealed letter intended for another or to intercept, divulge, or record a private communication. A person injured by an unlawful invasion of privacy may bring a civil action for damages, reasonable attorney fees, and other costs of litigation.

Summary of Bill:

A merchant who intends to sell, trade, or transfer information to a third party concerning a purchaser gathered in connection with the sale, rental, or exchange of goods may not do so without giving the purchaser notice. The merchant must give

the purchaser notice by posting signs in a such a way that the purchaser is likely to see them. The signs must inform the purchaser that if he or she asks the merchant not to sell, trade, or transfer the information, the merchant must refrain from doing so.

Also, a merchant may not sell, trade, or transfer information gathered solely as a result of customer payment by personal check or credit card, or where the merchant records the customer's driver's license number. If the merchant offers point of service financial benefits in return for the provision of personal information, the merchant must allow the purchaser to remain anonymous when providing such information.

The foregoing provisions do not apply to the electronic transfer of information necessary to confirm a credit or debit transaction when a purchaser chooses to use a form of payment other than cash.

A purchaser whose personal information has been wrongly sold, traded, or transferred may bring a court action for damages. Such a purchaser may recover reasonable attorney fees and costs in the action.

Fiscal Note: Requested February 25, 1999.

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

Office of Program Research