

SENATE BILL REPORT

SB 6034

As Reported By Senate Committee On:
Energy, Technology & Telecommunications, January 25, 2000

Title: An act relating to cable subscriber information practices.

Brief Description: Restricting information about cable subscribers.

Sponsors: Senators Brown, Hochstatter and Winsley.

Brief History:

Committee Activity: Energy, Technology & Telecommunications: 1/18/2000, 1/25/2000
[DPS, DNPS].

SENATE COMMITTEE ON ENERGY, TECHNOLOGY & TELECOMMUNICATIONS

Majority Report: That Substitute Senate Bill No. 6034 be substituted therefor, and the substitute bill do pass.

Signed by Senators Brown, Chair; Goings, Vice Chair; Fairley, Fraser and Roach.

Minority Report: Do not pass substitute.

Signed by Senator Hochstatter.

Staff: William Bridges (786-7424)

Background: The federal Cable Act permits cable operators to collect personally identifiable information about their subscribers in order to do business. This information may not be disclosed to third parties without a subscriber's written or electronic consent. However, cable operators may disclose the name and address of a subscriber if: (1) the subscriber is given an opportunity to stop or limit the disclosure and the subscriber fails to opt out-- and (2) the disclosure does not reveal, directly or indirectly, the extent of any viewing or other use of a cable service by the subscriber or the nature of any transaction made by the subscriber over the cable system.

Some cable customers are concerned that the federal act may not protect information about the particular cable services a subscriber receives. These concerned customers believe, for example, that a cable operator could reveal that a particular subscriber receives the sports package,-- which could result in solicitations by sports magazine publishers.

Summary of Substitute Bill: Findings. Cable operators collect information that may reflect a subscriber's intimate life, as well as the subscriber's financial status and political and religious beliefs. Cable subscribers expect this information to be kept private.

Definitions. Various terms are defined, including "personally identifiable information" and "cable service." "Cable service" does not include cable telephone and internet services.

Collecting information. Cable operators may collect personally identifiable information about subscribers to render a cable service or to detect the theft of cable services. Otherwise, cable operators may not collect such information without the written or electronic consent of subscribers.

Protecting information. Cable operators may not disclose personally identifiable information about subscribers without written consent. However, cable operators may disclose the names, addresses, and programming tiers of their subscribers if: (1) the subscribers are given an opportunity to stop or limit the disclosure and they fail to "opt out" and (2) the disclosure does not reveal, directly or indirectly the viewing preferences of subscribers. Cable operators must provide subscribers an opt-out, self-addressed, postage-paid postcard at the time of entering into a cable agreement.

Providing remedies. Among other things, a state court may award damages of at least \$1000. Treble damages may be awarded under the Consumer Protection Act.

Substitute Bill Compared to Original Bill: Definition of cable service is changed to exclude cable telephone and internet service. Subscribers may electronically consent to collection of personally identifiable information. Cable operators may observe viewing habits of subscribers to render a cable service or to detect cable theft. At the time cable subscribers enter into service agreements, cable operators must provide them with self-addressed, postage-paid postcards to opt-out of disclosing the names, addresses, and programming tiers.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill is consistent with federal law protecting viewing choices and habits. Cable operators are moving beyond pricing tiers such as basic– and expanded basic– and offering specialized programming such as Encore Mystery– and Encore Westerns.– Information about who is receiving specialized programming is valuable to advertisers and could lead to increased junk mail. Some cable operators have been notifying their subscribers that they will tell third parties what specialized programming their subscribers receive. This bill deals with growing consumer concerns about privacy.

Testimony Against: Federal law and local franchise agreements give cable customers more privacy rights than other services, such as internet and satellite services. Federal law already covers the collection and disclosure of personally identifying data. Cable companies collect personal information for legitimate business purposes. The bill is so restrictive that it may prevent cable operators from releasing information that federal law would allow. The bill might also make it impossible to market pay-per-view programs.

Testified: Steven Holmes, Director, Office of Cable Communications, City of Seattle (pro); Jerry Sheehan, ACLU-WA (pro); Ron Main, Washington State Cable Communications Assoc. (con).