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**SUBSTITUTE HOUSE BILL 2015**

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**State of Washington**

**57th Legislature**

**2002 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives McIntire, Hatfield, Benson, Bush, Ruderman, Schual-Berke, Conway, Kenney, Keiser and Hurst)

Read first time 02/08/2002. Referred to Committee on .

1 AN ACT Relating to protecting personal information; adding a new  
2 chapter to Title 19 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that the careless  
5 disposal of personal information by commercial, governmental, or other  
6 entities poses a significant threat of identity theft, thus risking a  
7 person's privacy, financial security, and other interests. The  
8 alarming increase in identity theft crimes and other problems  
9 associated with the improper disposal of personal information can be  
10 traced, in part, to disposal policies and methods that make it easy for  
11 unscrupulous persons to obtain and use that information to the  
12 detriment of the public. Accordingly, the legislature declares that  
13 all organizations and individuals have a continuing obligation to  
14 ensure the security and confidentiality of personal information during  
15 the process of disposing of that information.

16 NEW SECTION. **Sec. 2.** The definitions in this section apply  
17 throughout this chapter unless the context clearly requires otherwise.

1 (1) "Entity" includes a sole proprietor, partnership, corporation,  
2 limited liability company, trust, association, financial institution,  
3 governmental entity, other than the federal government, and any other  
4 individual or group, engaged in a trade, occupation, enterprise,  
5 governmental function, or similar activity in this state, however  
6 organized and whether organized to operate at a profit.

7 (2) "Destroy personal information" means shredding, erasing, or  
8 otherwise modifying personal information in records to make the  
9 personal information unreadable or undecipherable through any  
10 reasonable means.

11 (3) "Individual" means a natural person, except that if the  
12 individual is under a legal disability, "individual" includes a parent  
13 or duly appointed legal representative.

14 (4) "Personal financial" and "health information" mean information  
15 that is identifiable to an individual and that is commonly used for  
16 financial or health care purposes, including account numbers, access  
17 codes or passwords, information gathered for account security purposes,  
18 credit card numbers, information held for the purpose of account access  
19 or transaction initiation, or information that relates to medical  
20 history or status.

21 (5) "Personal identification number issued by a government entity"  
22 means a tax identification number, social security number, driver's  
23 license or permit number, state identification card number issued by  
24 the department of licensing, or any other number or code issued by a  
25 government entity for the purpose of personal identification that is  
26 protected and is not available to the public under any circumstances.

27 (6) "Record" includes any material, regardless of the physical  
28 form, on which information is recorded or preserved by any means,  
29 including in written or spoken words, graphically depicted, printed, or  
30 electromagnetically transmitted. "Record" does not include publicly  
31 available directories containing information an individual has  
32 voluntarily consented to have publicly disseminated or listed, such as  
33 name, address, or telephone number.

34 NEW SECTION. **Sec. 3.** (1) An entity must take all reasonable steps  
35 to destroy, or arrange for the destruction of, personal financial and  
36 health information and personal identification numbers issued by  
37 government entities in an individual's records within its custody or

1 control when the entity is disposing of records that it will no longer  
2 retain.

3 (2) An entity is not liable under this section for records it has  
4 relinquished to the custody and control of the individual to whom the  
5 records pertain.

6 (3) This subsection does not apply to the disposal of records by a  
7 transfer of the records, not otherwise prohibited by law, to another  
8 entity, including a transfer to archive or otherwise preserve public  
9 records as required by law.

10 (4) An individual injured by the failure of an entity to comply  
11 with subsection (1) of this section may bring a civil action in a court  
12 of competent jurisdiction. The court may:

13 (a) If the failure to comply is due to negligence, award a penalty  
14 of two hundred dollars or actual damages, whichever is greater, and  
15 costs and reasonable attorneys' fees; and

16 (b) If the failure to comply is willful, award a penalty of six  
17 hundred dollars or damages equal to three times actual damages,  
18 whichever is greater, and costs and reasonable attorneys' fees.  
19 However, treble damages may not exceed ten thousand dollars.

20 (5) An individual having reason to believe that he or she may be  
21 injured by an act or failure to act that does not comply with  
22 subsection (1) of this section may apply to a court of competent  
23 jurisdiction to enjoin the act or failure to act. The court may grant  
24 an injunction with terms and conditions as the court may deem  
25 equitable.

26 (6) The attorney general may bring a civil action in the name of  
27 the state for damages, injunctive relief, or both, against an entity  
28 that fails to comply with subsection (1) of this section. The court  
29 may award damages that are the same as those awarded to individual  
30 plaintiffs under subsection (4) of this section.

31 (7) The rights and remedies provided under this section are in  
32 addition to any other rights or remedies provided by law.

33 NEW SECTION. **Sec. 4.** Any bank, financial institution, health care  
34 organization, or other entity that is subject to the federal  
35 regulations under the interagency guidelines establishing standards for  
36 safeguarding customer information (12 C.F.R. 208 Appendix D-2, 12  
37 C.F.R. 364 Appendix B, 12 C.F.R. 30 Appendix B, 12 C.F.R. 570 Appendix  
38 B); the guidelines for safeguarding member information (12 C.F.R. 748

1 Appendix A); and the standards for privacy of individually identifiable  
2 health information (45 C.F.R. 160 and 164), and which is in compliance  
3 with these federal guidelines, is in compliance with the requirements  
4 of this chapter.

5 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute  
6 a new chapter in Title 19 RCW.

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