

3SSB 5412 - H AMD 1167

By Representative Morris

ADOPTED 03/05/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that identity theft
4 and the other types of fraud is a significant problem in the state of
5 Washington, costing our citizens and businesses millions each year.
6 The most common method of accomplishing identity theft and other
7 fraudulent activity is by securing a fraudulently issued driver's
8 license. It is the purpose of this act to significantly reduce
9 identity theft and other fraud by preventing the fraudulent issuance of
10 driver's licenses and identicards.

11 **Sec. 2.** RCW 9.35.020 and 2003 c 53 s 22 are each amended to read
12 as follows:

13 (1) No person may knowingly obtain, possess, use, or transfer a
14 means of identification or financial information of another person,
15 living or dead, with the intent to commit, or to aid or abet, any
16 crime.

17 (2) Violation of this section when the accused or an accomplice
18 uses the victim's means of identification or financial information and
19 obtains an aggregate total of credit, money, goods, services, or
20 anything else of value in excess of one thousand five hundred dollars
21 in value shall constitute identity theft in the first degree. Identity
22 theft in the first degree is a class B felony punishable according to
23 chapter 9A.20 RCW.

24 (3) Violation of this section when the accused or an accomplice
25 uses the victim's means of identification or financial information and
26 obtains an aggregate total of credit, money, goods, services, or
27 anything else of value that is less than one thousand five hundred
28 dollars in value, or when no credit, money, goods, services, or
29 anything of value is obtained shall constitute identity theft in the

1 second degree. Identity theft in the second degree is a class C felony
2 punishable according to chapter 9A.20 RCW.

3 (4) A person who violates this section is liable for civil damages
4 of ((~~five hundred~~)) one thousand dollars or actual damages, whichever
5 is greater, including costs to repair the victim's credit record, and
6 reasonable attorneys' fees as determined by the court.

7 (5) In a proceeding under this section, the crime will be
8 considered to have been committed in any locality where the person
9 whose means of identification or financial information was appropriated
10 resides, or in which any part of the offense took place, regardless of
11 whether the defendant was ever actually in that locality.

12 (6) The provisions of this section do not apply to any person who
13 obtains another person's driver's license or other form of
14 identification for the sole purpose of misrepresenting his or her age.

15 (7) In a proceeding under this section in which a person's means of
16 identification or financial information was used without that person's
17 authorization, and when there has been a conviction, the sentencing
18 court may issue such orders as are necessary to correct a public record
19 that contains false information resulting from a violation of this
20 section.

21 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.20 RCW
22 to read as follows:

23 (1) No later than January 1, 2006, the department shall implement
24 a voluntary biometric matching system for driver's licenses and
25 identicards. The biometric matching system shall be used only to
26 verify the identity of an applicant for a renewal or duplicate driver's
27 license or identicard by matching a biometric identifier submitted by
28 the applicant against the biometric identifier submitted when the
29 license was last issued. This project requires a full review by the
30 information services board using the criteria for projects of the
31 highest visibility and risk.

32 (2) The biometric matching system selected by the department shall
33 be capable of highly accurate matching, and shall be compliant with
34 biometric standards established by the American association of motor
35 vehicle administrators.

36 (3) The biometric matching system selected by the department must
37 incorporate a process that allows the owner of a driver's license or

1 identicard to present a personal identification number or other code
2 along with the driver's license or identicard before the information
3 may be verified by a third party.

4 (4) Upon the establishment of a biometric driver's license and
5 identicard system as described in this section, the department shall
6 allow every person applying for an original, renewal, or duplicate
7 driver's license or identicard to voluntarily submit a biometric
8 identifier. Each applicant shall be informed of all ways in which the
9 biometric identifier may be used, all parties to whom the identifier
10 may be disclosed and the conditions of disclosure, the expected error
11 rates for the biometric matching system which shall be regularly
12 updated as the technology changes or empirical data is collected, and
13 the potential consequences of those errors. The department shall adopt
14 rules to allow applicants to verify the accuracy of the system at the
15 time that biometric information is submitted, including the use of at
16 least two separate devices.

17 (5) The department may not disclose biometric information to the
18 public or any governmental entity except when authorized by court
19 order.

20 (6) All biometric information shall be stored with appropriate
21 safeguards, including but not limited to encryption.

22 (7) The department shall develop procedures to handle instances in
23 which the biometric matching system fails to verify the identity of an
24 applicant for a renewal or duplicate driver's license or identicard.
25 These procedures shall allow an applicant to prove identity without
26 using a biometric identifier.

27 (8) Any person who has voluntarily submitted a biometric identifier
28 may choose to discontinue participation in the biometric matching
29 program at any time, provided that the department utilizes a secure
30 procedure to prevent fraudulent requests for a renewal or duplicate
31 driver's license or identicard. When the person discontinues
32 participation, any previously collected biometric information shall be
33 destroyed.

34 (9) If Engrossed Substitute Senate Bill No. 5428 or House Bill No.
35 1681 is enacted into law, this section does not apply when an applicant
36 renews his or her driver's license or identicard by mail or electronic
37 commerce.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.20 RCW
2 to read as follows:

3 (1) The department is authorized to charge persons opting to submit
4 a biometric identifier under section 3 of this act an additional fee of
5 no more than two dollars at the time of application for an original,
6 renewal, or duplicate driver's license or identicard issued by the
7 department. This fee shall be used exclusively to defray the cost of
8 implementation and ongoing operation of a biometric security system.

9 (2) The biometric security account is created in the state
10 treasury. All receipts from subsection (1) of this section shall be
11 deposited into the account. Moneys in the account may be spent only
12 after appropriation. Expenditures from the account must be used only
13 for the purpose of defraying the cost of implementation and ongoing
14 operation of a biometric security system.

15 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2004.

16 NEW SECTION. **Sec. 6.** If specific funding for the purposes of this
17 act, referencing this act by bill or chapter number, is not provided by
18 June 30, 2004, in the omnibus transportation appropriations act,
19 sections 1, 3, 4, and 5 of this act are null and void."

20 Correct the title.

EFFECT: (1) Clarifies that the biometric matching system selected
by the Department of Licensing (DOL) be used only to verify the
identity of an applicant for renewal of a license or issuance of a
duplicate license against the biometric information submitted when the
license was last issued (one to one match);

(2) Requires that the selection of a biometric matching system be
fully reviewed by the Information Services Board (ISB) using the
criteria for projects of the highest visibility and risk;

(3) Requires that applicants for driver's licenses and identicards
who choose to provide biometric information be informed of the
following: (a) Ways in which the biometric identifier may be used; (b)
Parties to whom the identifier may be disclosed; and (c) Expected error
rates for the matching system chosen and the potential consequences of
the errors;

(4) Directs the DOL to adopt rules to allow applicants to verify
the accuracy of the system at the time the biometric information is
submitted including the use of verification through separate devices;

(5) Requires that the system selected by the DOL incorporate the use of personal identification numbers or codes to be used with driver's licenses and identicards before verification can be made by a third party;

(6) Requires that biometric information be stored with appropriate safeguards;

(7) Requires the DOL to develop procedures to handle circumstances when the matching system fails and must allow applicants to prove identity without using a biometric identifier;

(8) Allows a person to discontinue participation at any time provided that the DOL uses a secure procedure to prevent fraudulent requests for renewal or duplicate driver's licenses or identicards; and

(9) Requires that biometric information be destroyed when a person discontinues their participation.

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