

**SSB 5728 - S AMD 167**

By Senators Kastama, Winsley, Keiser

NOT ADOPTED 03/14/2003

1 Beginning on page 3, line 28, strike all of section 202 and insert  
2 the following:

3 "NEW SECTION. **Sec. 202.** A new section is added to chapter 4.24  
4 RCW to read as follows:

5 (1) An employer who discloses information about a former or current  
6 employee's job performance to an entity or person that it reasonably  
7 believes is a prospective employer, or employment agency as defined by  
8 RCW 49.60.040, at the specific request of that individual employer or  
9 employment agency, is presumed to be acting in good faith and is immune  
10 from civil liability for such disclosure or its consequences. Within  
11 a reasonable period of time after an employee or former employee  
12 submits a written request, an employer shall make available, in  
13 writing, information disclosed during a reference by the employer to a  
14 prospective employer or employment agency. For purposes of this  
15 section, the presumption of good faith may only be rebutted upon a  
16 showing by clear and convincing evidence that the information disclosed  
17 by the employer was knowingly or recklessly false, or deliberately  
18 misleading.

19 (2) For the purposes of this section, "job performance" means the  
20 manner in which the employee performs the duties of a position of  
21 employment and includes an analysis of the employee's attendance at  
22 work; conduct, attitude, effort, knowledge, behavior, and skills, that  
23 are work-related; and adherence to the employer's employment policies  
24 and to safety and health laws; subject to the limitation of RCW  
25 51.48.025."

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