

SHB 2651 - H AMD 840

By Representative Pettigrew

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

3 "NEW SECTION. **Sec. 1.** The legislature finds that livestock
4 identification numbers, premise information, and animal movement data
5 are proprietary information that all have a role in defining a
6 livestock producer's position within the marketplace, including his or
7 her competitive advantage over other producers. The legislature
8 therefore finds that exempting certain voluntary livestock
9 identification, premise, and movement information from state public
10 disclosure requirements will foster an environment that is more
11 conducive to voluntary participation, and lead to a more effective
12 livestock identification system.

13 **Sec. 2.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005 c
14 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each
15 reenacted and amended to read as follows:

16 (1) The following are exempt from public inspection and copying:

17 (a) Personal information in any files maintained for students in
18 public schools, patients or clients of public institutions or public
19 health agencies, or welfare recipients.

20 (b) Personal information in files maintained for employees,
21 appointees, or elected officials of any public agency to the extent
22 that disclosure would violate their right to privacy.

23 (c) Information required of any taxpayer in connection with the
24 assessment or collection of any tax if the disclosure of the
25 information to other persons would (i) be prohibited to such persons by
26 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
27 taxpayer's right to privacy or result in unfair competitive
28 disadvantage to the taxpayer.

1 (d) Specific intelligence information and specific investigative
2 records compiled by investigative, law enforcement, and penology
3 agencies, and state agencies vested with the responsibility to
4 discipline members of any profession, the nondisclosure of which is
5 essential to effective law enforcement or for the protection of any
6 person's right to privacy.

7 (e) Information revealing the identity of persons who are witnesses
8 to or victims of crime or who file complaints with investigative, law
9 enforcement, or penology agencies, other than the public disclosure
10 commission, if disclosure would endanger any person's life, physical
11 safety, or property. If at the time a complaint is filed the
12 complainant, victim or witness indicates a desire for disclosure or
13 nondisclosure, such desire shall govern. However, all complaints filed
14 with the public disclosure commission about any elected official or
15 candidate for public office must be made in writing and signed by the
16 complainant under oath.

17 (f) Test questions, scoring keys, and other examination data used
18 to administer a license, employment, or academic examination.

19 (g) Except as provided by chapter 8.26 RCW, the contents of real
20 estate appraisals, made for or by any agency relative to the
21 acquisition or sale of property, until the project or prospective sale
22 is abandoned or until such time as all of the property has been
23 acquired or the property to which the sale appraisal relates is sold,
24 but in no event shall disclosure be denied for more than three years
25 after the appraisal.

26 (h) Valuable formulae, designs, drawings, computer source code or
27 object code, and research data obtained by any agency within five years
28 of the request for disclosure when disclosure would produce private
29 gain and public loss.

30 (i) Preliminary drafts, notes, recommendations, and intra-agency
31 memorandums in which opinions are expressed or policies formulated or
32 recommended except that a specific record shall not be exempt when
33 publicly cited by an agency in connection with any agency action.

34 (j) Records which are relevant to a controversy to which an agency
35 is a party but which records would not be available to another party
36 under the rules of pretrial discovery for causes pending in the
37 superior courts.

1 (k) Records, maps, or other information identifying the location of
2 archaeological sites in order to avoid the looting or depredation of
3 such sites.

4 (l) Any library record, the primary purpose of which is to maintain
5 control of library materials, or to gain access to information, which
6 discloses or could be used to disclose the identity of a library user.

7 (m) Financial information supplied by or on behalf of a person,
8 firm, or corporation for the purpose of qualifying to submit a bid or
9 proposal for (i) a ferry system construction or repair contract as
10 required by RCW 47.60.680 through 47.60.750 or (ii) highway
11 construction or improvement as required by RCW 47.28.070.

12 (n) Railroad company contracts filed prior to July 28, 1991, with
13 the utilities and transportation commission under RCW 81.34.070, except
14 that the summaries of the contracts are open to public inspection and
15 copying as otherwise provided by this chapter.

16 (o) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided pursuant to
18 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
19 export projects pursuant to RCW 43.23.035.

20 (p) Financial disclosures filed by private vocational schools under
21 chapters 28B.85 and 28C.10 RCW.

22 (q) Records filed with the utilities and transportation commission
23 or attorney general under RCW 80.04.095 that a court has determined are
24 confidential under RCW 80.04.095.

25 (r) Financial and commercial information and records supplied by
26 businesses or individuals during application for loans or program
27 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
28 or during application for economic development loans or program
29 services provided by any local agency.

30 (s) Membership lists or lists of members or owners of interests of
31 units in timeshare projects, subdivisions, camping resorts,
32 condominiums, land developments, or common-interest communities
33 affiliated with such projects, regulated by the department of
34 licensing, in the files or possession of the department.

35 (t) All applications for public employment, including the names of
36 applicants, resumes, and other related materials submitted with respect
37 to an applicant.

1 (u) The residential addresses, residential telephone numbers,
2 personal wireless telephone numbers, personal electronic mail
3 addresses, Social Security numbers, and emergency contact information
4 of employees or volunteers of a public agency, and the names, dates of
5 birth, residential addresses, residential telephone numbers, personal
6 wireless telephone numbers, personal electronic mail addresses, Social
7 Security numbers, and emergency contact information of dependents of
8 employees or volunteers of a public agency, which are held by any
9 public agency in personnel records, public employment related records,
10 or volunteer rosters, or are included in any mailing list of employees
11 or volunteers of any public agency. For purposes of this subsection,
12 "employees" includes independent provider home care workers as defined
13 in RCW 74.39A.240.

14 (v) The residential addresses and residential telephone numbers of
15 the customers of a public utility contained in the records or lists
16 held by the public utility of which they are customers, except that
17 this information may be released to the division of child support or
18 the agency or firm providing child support enforcement for another
19 state under Title IV-D of the federal social security act, for the
20 establishment, enforcement, or modification of a support order.

21 (w)(i) The federal social security number of individuals governed
22 under chapter 18.130 RCW maintained in the files of the department of
23 health, except this exemption does not apply to requests made directly
24 to the department from federal, state, and local agencies of
25 government, and national and state licensing, credentialing,
26 investigatory, disciplinary, and examination organizations; (ii) the
27 current residential address and current residential telephone number of
28 a health care provider governed under chapter 18.130 RCW maintained in
29 the files of the department, if the provider requests that this
30 information be withheld from public inspection and copying, and
31 provides to the department an accurate alternate or business address
32 and business telephone number. On or after January 1, 1995, the
33 current residential address and residential telephone number of a
34 health care provider governed under RCW 18.130.040 maintained in the
35 files of the department shall automatically be withheld from public
36 inspection and copying unless the provider specifically requests the
37 information be released, and except as provided for under RCW
38 42.17.260(9).

1 (x) Information obtained by the board of pharmacy as provided in
2 RCW 69.45.090.

3 (y) Information obtained by the board of pharmacy or the department
4 of health and its representatives as provided in RCW 69.41.044,
5 69.41.280, and 18.64.420.

6 (z) Financial information, business plans, examination reports, and
7 any information produced or obtained in evaluating or examining a
8 business and industrial development corporation organized or seeking
9 certification under chapter 31.24 RCW.

10 (aa) Financial and commercial information supplied to the state
11 investment board by any person when the information relates to the
12 investment of public trust or retirement funds and when disclosure
13 would result in loss to such funds or in private loss to the providers
14 of this information.

15 (bb) Financial and valuable trade information under RCW 51.36.120.

16 (cc) Client records maintained by an agency that is a domestic
17 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
18 crisis center as defined in RCW 70.125.030.

19 (dd) Information that identifies a person who, while an agency
20 employee: (i) Seeks advice, under an informal process established by
21 the employing agency, in order to ascertain his or her rights in
22 connection with a possible unfair practice under chapter 49.60 RCW
23 against the person; and (ii) requests his or her identity or any
24 identifying information not be disclosed.

25 (ee) Investigative records compiled by an employing agency
26 conducting a current investigation of a possible unfair practice under
27 chapter 49.60 RCW or of a possible violation of other federal, state,
28 or local laws prohibiting discrimination in employment.

29 (ff) Business related information protected from public inspection
30 and copying under RCW 15.86.110.

31 (gg) Financial, commercial, operations, and technical and research
32 information and data submitted to or obtained by the clean Washington
33 center in applications for, or delivery of, program services under
34 chapter 70.95H RCW.

35 (hh) Information and documents created specifically for, and
36 collected and maintained by, a quality improvement committee pursuant
37 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW

1 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
2 or 18.20.390, regardless of which agency is in possession of the
3 information and documents.

4 (ii) Personal information in files maintained in a data base
5 created under RCW 43.07.360.

6 (jj) Financial and commercial information requested by the public
7 stadium authority from any person or organization that leases or uses
8 the stadium and exhibition center as defined in RCW 36.102.010.

9 (kk) Names of individuals residing in emergency or transitional
10 housing that are furnished to the department of revenue or a county
11 assessor in order to substantiate a claim for property tax exemption
12 under RCW 84.36.043.

13 (ll) The names, residential addresses, residential telephone
14 numbers, and other individually identifiable records held by an agency
15 in relation to a vanpool, carpool, or other ride-sharing program or
16 service. However, these records may be disclosed to other persons who
17 apply for ride-matching services and who need that information in order
18 to identify potential riders or drivers with whom to share rides.

19 (mm) The personally identifying information of current or former
20 participants or applicants in a paratransit or other transit service
21 operated for the benefit of persons with disabilities or elderly
22 persons.

23 (nn) The personally identifying information of persons who acquire
24 and use transit passes and other fare payment media including, but not
25 limited to, stored value smart cards and magnetic strip cards, except
26 that an agency may disclose this information to a person, employer,
27 educational institution, or other entity that is responsible, in whole
28 or in part, for payment of the cost of acquiring or using a transit
29 pass or other fare payment media, or to the news media when reporting
30 on public transportation or public safety. This information may also
31 be disclosed at the agency's discretion to governmental agencies or
32 groups concerned with public transportation or public safety.

33 (oo) Proprietary financial and commercial information that the
34 submitting entity, with review by the department of health,
35 specifically identifies at the time it is submitted and that is
36 provided to or obtained by the department of health in connection with
37 an application for, or the supervision of, an antitrust exemption
38 sought by the submitting entity under RCW 43.72.310. If a request for

1 such information is received, the submitting entity must be notified of
2 the request. Within ten business days of receipt of the notice, the
3 submitting entity shall provide a written statement of the continuing
4 need for confidentiality, which shall be provided to the requester.
5 Upon receipt of such notice, the department of health shall continue to
6 treat information designated under this section as exempt from
7 disclosure. If the requester initiates an action to compel disclosure
8 under this chapter, the submitting entity must be joined as a party to
9 demonstrate the continuing need for confidentiality.

10 (pp) Records maintained by the board of industrial insurance
11 appeals that are related to appeals of crime victims' compensation
12 claims filed with the board under RCW 7.68.110.

13 (qq) Financial and commercial information supplied by or on behalf
14 of a person, firm, corporation, or entity under chapter 28B.95 RCW
15 relating to the purchase or sale of tuition units and contracts for the
16 purchase of multiple tuition units.

17 (rr) Any records of investigative reports prepared by any state,
18 county, municipal, or other law enforcement agency pertaining to sex
19 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
20 defined in RCW 71.09.020, which have been transferred to the Washington
21 association of sheriffs and police chiefs for permanent electronic
22 retention and retrieval pursuant to RCW 40.14.070(2)(b).

23 (ss) Credit card numbers, debit card numbers, electronic check
24 numbers, card expiration dates, or bank or other financial account
25 numbers, except when disclosure is expressly required by or governed by
26 other law.

27 (tt) Financial information, including but not limited to account
28 numbers and values, and other identification numbers supplied by or on
29 behalf of a person, firm, corporation, limited liability company,
30 partnership, or other entity related to an application for a horse
31 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
32 license, gambling license, or lottery retail license.

33 (uu) Records maintained by the employment security department and
34 subject to chapter 50.13 RCW if provided to another individual or
35 organization for operational, research, or evaluation purposes.

36 (vv) Individually identifiable information received by the work
37 force training and education coordinating board for research or
38 evaluation purposes.

1 (ww) Those portions of records assembled, prepared, or maintained
2 to prevent, mitigate, or respond to criminal terrorist acts, which are
3 acts that significantly disrupt the conduct of government or of the
4 general civilian population of the state or the United States and that
5 manifest an extreme indifference to human life, the public disclosure
6 of which would have a substantial likelihood of threatening public
7 safety, consisting of:

8 (i) Specific and unique vulnerability assessments or specific and
9 unique response or deployment plans, including compiled underlying data
10 collected in preparation of or essential to the assessments, or to the
11 response or deployment plans; and

12 (ii) Records not subject to public disclosure under federal law
13 that are shared by federal or international agencies, and information
14 prepared from national security briefings provided to state or local
15 government officials related to domestic preparedness for acts of
16 terrorism.

17 (xx) Commercial fishing catch data from logbooks required to be
18 provided to the department of fish and wildlife under RCW 77.12.047,
19 when the data identifies specific catch location, timing, or
20 methodology and the release of which would result in unfair competitive
21 disadvantage to the commercial fisher providing the catch data.
22 However, this information may be released to government agencies
23 concerned with the management of fish and wildlife resources.

24 (yy) Sensitive wildlife data obtained by the department of fish and
25 wildlife. However, sensitive wildlife data may be released to
26 government agencies concerned with the management of fish and wildlife
27 resources. Sensitive wildlife data includes:

28 (i) The nesting sites or specific locations of endangered species
29 designated under RCW 77.12.020, or threatened or sensitive species
30 classified by rule of the department of fish and wildlife;

31 (ii) Radio frequencies used in, or locational data generated by,
32 telemetry studies; or

33 (iii) Other location data that could compromise the viability of a
34 specific fish or wildlife population, and where at least one of the
35 following criteria are met:

36 (A) The species has a known commercial or black market value;

37 (B) There is a history of malicious take of that species; or

1 (C) There is a known demand to visit, take, or disturb, and the
2 species behavior or ecology renders it especially vulnerable or the
3 species has an extremely limited distribution and concentration.

4 (zz) The personally identifying information of persons who acquire
5 recreational licenses under RCW 77.32.010 or commercial licenses under
6 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
7 department, and type of license, endorsement, or tag. However, the
8 department of fish and wildlife may disclose personally identifying
9 information to:

10 (i) Government agencies concerned with the management of fish and
11 wildlife resources;

12 (ii) The department of social and health services, child support
13 division, and to the department of licensing in order to implement RCW
14 77.32.014 and 46.20.291; and

15 (iii) Law enforcement agencies for the purpose of firearm
16 possession enforcement under RCW 9.41.040.

17 (aaa)(i) Discharge papers of a veteran of the armed forces of the
18 United States filed at the office of the county auditor before July 1,
19 2002, that have not been commingled with other recorded documents.
20 These records will be available only to the veteran, the veteran's next
21 of kin, a deceased veteran's properly appointed personal representative
22 or executor, a person holding that veteran's general power of attorney,
23 or to anyone else designated in writing by that veteran to receive the
24 records.

25 (ii) Discharge papers of a veteran of the armed forces of the
26 United States filed at the office of the county auditor before July 1,
27 2002, that have been commingled with other records, if the veteran has
28 recorded a "request for exemption from public disclosure of discharge
29 papers" with the county auditor. If such a request has been recorded,
30 these records may be released only to the veteran filing the papers,
31 the veteran's next of kin, a deceased veteran's properly appointed
32 personal representative or executor, a person holding the veteran's
33 general power of attorney, or anyone else designated in writing by the
34 veteran to receive the records.

35 (iii) Discharge papers of a veteran filed at the office of the
36 county auditor after June 30, 2002, are not public records, but will be
37 available only to the veteran, the veteran's next of kin, a deceased

1 veteran's properly appointed personal representative or executor, a
2 person holding the veteran's general power of attorney, or anyone else
3 designated in writing by the veteran to receive the records.

4 (iv) For the purposes of this subsection (1)(aaa), next of kin of
5 deceased veterans have the same rights to full access to the record.
6 Next of kin are the veteran's widow or widower who has not remarried,
7 son, daughter, father, mother, brother, and sister.

8 (bbb) Those portions of records containing specific and unique
9 vulnerability assessments or specific and unique emergency and escape
10 response plans at a city, county, or state adult or juvenile
11 correctional facility, the public disclosure of which would have a
12 substantial likelihood of threatening the security of a city, county,
13 or state adult or juvenile correctional facility or any individual's
14 safety.

15 (ccc) Information compiled by school districts or schools in the
16 development of their comprehensive safe school plans pursuant to RCW
17 28A.320.125, to the extent that they identify specific vulnerabilities
18 of school districts and each individual school.

19 (ddd) Information regarding the infrastructure and security of
20 computer and telecommunications networks, consisting of security
21 passwords, security access codes and programs, access codes for secure
22 software applications, security and service recovery plans, security
23 risk assessments, and security test results to the extent that they
24 identify specific system vulnerabilities.

25 (eee) Information obtained and exempted or withheld from public
26 inspection by the health care authority under RCW 41.05.026, whether
27 retained by the authority, transferred to another state purchased
28 health care program by the authority, or transferred by the authority
29 to a technical review committee created to facilitate the development,
30 acquisition, or implementation of state purchased health care under
31 chapter 41.05 RCW.

32 (fff) Proprietary data, trade secrets, or other information that
33 relates to: (i) A vendor's unique methods of conducting business; (ii)
34 data unique to the product or services of the vendor; or (iii)
35 determining prices or rates to be charged for services, submitted by
36 any vendor to the department of social and health services for purposes
37 of the development, acquisition, or implementation of state purchased
38 health care as defined in RCW 41.05.011.

1 (ggg) The personally identifying information of persons who acquire
2 and use transponders or other technology to facilitate payment of
3 tolls. This information may be disclosed in aggregate form as long as
4 the data does not contain any personally identifying information. For
5 these purposes aggregate data may include the census tract of the
6 account holder as long as any individual personally identifying
7 information is not released. Personally identifying information may be
8 released to law enforcement agencies only for toll enforcement
9 purposes. Personally identifying information may be released to law
10 enforcement agencies for other purposes only if the request is
11 accompanied by a court order.

12 (hhh) Financial, commercial, operations, and technical and research
13 information and data submitted to or obtained by the life sciences
14 discovery fund authority in applications for, or delivery of, grants
15 under chapter 43.350 RCW, to the extent that such information, if
16 revealed, would reasonably be expected to result in private loss to the
17 providers of this information.

18 (iii) Records of mediation communications that are privileged under
19 chapter 7.07 RCW.

20 (jjj) Information submitted by an individual or business for the
21 purpose of participating in a state or national animal identification
22 system. Disclosure to local, state, and federal officials is not
23 public disclosure. This exemption does not affect the disclosure of
24 information used in reportable animal health investigations under
25 chapter 16.36 RCW once they are complete.

26 (kkk) Results of testing for animal diseases not required to be
27 reported under chapter 16.36 RCW that is done at the request of the
28 animal owner or his or her designee that can be identified to a
29 particular business or individual.

30 (2) Except for information described in subsection (1)(c)(i) of
31 this section and confidential income data exempted from public
32 inspection pursuant to RCW 84.40.020, the exemptions of this section
33 are inapplicable to the extent that information, the disclosure of
34 which would violate personal privacy or vital governmental interests,
35 can be deleted from the specific records sought. No exemption may be
36 construed to permit the nondisclosure of statistical information not
37 descriptive of any readily identifiable person or persons.

1 (3) Inspection or copying of any specific records exempt under the
2 provisions of this section may be permitted if the superior court in
3 the county in which the record is maintained finds, after a hearing
4 with notice thereof to every person in interest and the agency, that
5 the exemption of such records is clearly unnecessary to protect any
6 individual's right of privacy or any vital governmental function.

7 (4) Agency responses refusing, in whole or in part, inspection of
8 any public record shall include a statement of the specific exemption
9 authorizing the withholding of the record (or part) and a brief
10 explanation of how the exemption applies to the record withheld.

11 **Sec. 3.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to
12 read as follows:

13 The following information relating to agriculture and livestock is
14 exempt from disclosure under this chapter:

15 (1) Business-related information under RCW 15.86.110;

16 (2) Information provided under RCW 15.54.362;

17 (3) Production or sales records required to determine assessment
18 levels and actual assessment payments to commodity boards and
19 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
20 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the
21 department of agriculture to administer these chapters or the
22 department's programs;

23 (4) Consignment information contained on phytosanitary certificates
24 issued by the department of agriculture under chapters 15.13, 15.49,
25 and 15.17 RCW or federal phytosanitary certificates issued under 7
26 C.F.R. 353 through cooperative agreements with the animal and plant
27 health inspection service, United States department of agriculture, or
28 on applications for phytosanitary certification required by the
29 department of agriculture;

30 (5) Financial and commercial information and records supplied by
31 persons (a) to the department of agriculture for the purpose of
32 conducting a referendum for the potential establishment of a commodity
33 board or commission; or (b) to the department of agriculture or
34 commodity boards or commissions formed under chapter 15.24, 15.28,
35 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, or 16.67 RCW with respect to
36 domestic or export marketing activities or individual producer's
37 production information;

1 (6) Except under RCW 15.19.080, information obtained regarding the
2 purchases, sales, or production of an individual American ginseng
3 grower or dealer;

4 (7) Information that can be identified to a particular business and
5 that is collected under section 3(1), chapter 235, Laws of 2002;
6 (~~and~~)

7 (8) Financial statements provided under RCW 16.65.030(1)(d);

8 (9) Information submitted by an individual or business for the
9 purpose of participating in a state or national animal identification
10 system. Disclosure to local, state, and federal officials is not
11 public disclosure. This exemption does not affect the disclosure of
12 information used in reportable animal health investigations under
13 chapter 16.36 RCW once they are complete; and

14 (10) Results of testing for animal diseases not required to be
15 reported under chapter 16.36 RCW that is done at the request of the
16 animal owner or his or her designee that can be identified to a
17 particular business or individual.

18 NEW SECTION. Sec. 4. Section 2 of this act expires July 1, 2006.

19 NEW SECTION. Sec. 5. Section 3 of this act takes effect July 1,
20 2006."

EFFECT: Exempts from disclosure "information" submitted by an individual or business for participation in a state or national animal identification system. Clarifies that once a reportable animal health disease investigation is completed, disclosure of information used in the investigation is not affected by this exemption. Clarifies that government officials disclosing information to one another is not public disclosure. Exempts from disclosure the results of nonreportable disease testing requested by a livestock owner that can be identified to a particular business or individual.

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