
**State Government Operations &
Accountability Committee**

HB 2831

Brief Description: Prohibiting the commercial use of lists obtained through the public records act.

Sponsors: Representatives Nixon and Simpson.

Brief Summary of Bill

- Prohibits the use of any list obtained from any state or local government agency for commercial purposes, or for any type of solicitation, by or on behalf of nonprofit or charitable organizations.
- Establishes that any person who knowingly violates this prohibition, or induces another person to violate this prohibition, is guilty of a gross misdemeanor.
- Defines "commercial purposes" and "list."

Hearing Date: 1/27/06

Staff: Kathryn Leathers (786-7114).

Background:

The Public Disclosure Act requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally, and the exceptions narrowly, in order to effectuate a general policy favoring disclosure.

Among other express exclusions, the following public records are not available for inspection and copying by the public: (1) personal information in files the disclosure of which would violate the right to privacy; (2) certain taxpayer information; (3) preliminary drafts or notes; (4) certain financial and commercial information supplied by individuals applying for various programs; and (5) valuable formulae or designs.

A person's right to privacy is invaded or violated only if disclosure of information about the person would be highly offensive to a reasonable person and the disclosure of such information is not of legitimate concern to the public. Except in limited circumstances related to confidential income data, exemptions related to records containing private data or vital governmental interests

do not provide a blanket protection of an entire record from disclosure; that is, to the extent possible, the exempt information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted and the remainder of the records disclosed.

The Public Disclosure Act prohibits any agency, the Office of the Secretary of the Senate, and the Chief Clerk of the House of Representatives from giving, selling, or providing access to lists of individuals that are requested for commercial purposes. The terms "commercial purposes" and "list" are not defined in the Public Records Act.

Summary of Bill:

The use of any list obtained from any state or local government agency for commercial purposes, or for any type of solicitation, by or on behalf of nonprofit or charitable organizations, is prohibited. This prohibition applies whether or not the list was obtained as a result of a public records request, and it also applies regardless of whether the request was made directly by the person himself or herself or by another person. Any person who knowingly violates this prohibition, or induces another person to violate this prohibition, is guilty of a gross misdemeanor.

"Commercial purposes" is defined to include, regardless of physical form or characteristic, all direct marketing or other targeted contact of persons or businesses related to any advertisement, offer, or solicitation for anything of value. The definition specifies that commercial purposes does not include (1) the broadcast or distribution of information to the general public through the use of any form of news media, whether or not a fee is charged for the service; or (2) the solicitation of votes by or on behalf of a political candidate or in favor of or in opposition to ballot measures.

"List" is defined to have its ordinary meaning as well as any collection of similar forms or records, whether obtained as a result of a single or multiple request from any state or local government agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.