

SENATE BILL REPORT

ESSB 6776

As Passed Senate, February 8, 2006

Title: An act relating to prohibiting the unauthorized sale of telephone records.

Brief Description: Prohibiting the unauthorized sale of telephone records.

Sponsors: Senate Committee on Water, Energy & Environment (originally sponsored by Senators Finkbeiner, Poulsen, Weinstein, Esser, Rasmussen, Keiser, Oke, Kline and Kohl-Welles).

Brief History:

Committee Activity: Water, Energy & Environment: 2/2/06 [DPS, w/oRec].
Passed Senate: 2/8/06, 47-0.

SENATE COMMITTEE ON WATER, ENERGY & ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6776 be substituted therefor, and the substitute bill do pass.

Signed by Senators Poulsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Delvin, Fraser, Honeyford, Mulliken and Pridemore.

Minority Report: That it be referred without recommendation.

Signed by Senator Regala.

Staff: William Bridges (786-7424)

Background: Customer Proprietary Network Information (CPNI). Federal and state laws require telecommunications companies to protect a customer's CPNI, such as the customer's unlisted telephone number, what numbers are called, the length and price of such calls, and information about any subscribed services.

It has recently been reported that third-party data brokers have been using unscrupulous techniques, called "pretexting," to fool telecommunications companies into revealing a customer's CPNI. Pretexting includes cracking on-line accounts and impersonating customers. These brokers have been openly advertising on the internet. In July 2005, the Electronic Privacy Information Center, a public interest research center, identified 40 websites selling telephone calling records and other confidential information.

Summary of Bill: Creating the Crime of Unauthorized Sale or Procurement of Telephone Records. It is a class C felony to intentionally sell, knowingly purchase, or fraudulently obtain a person's telephone records without the person's permission. It is a gross misdemeanor to knowingly receive a person's telephone records without the person's permission. The Criminal Profiteering Act is amended to include the unauthorized sale or procurement of telephone records, which allows special remedies such as civil forfeiture and treble damages.

Exceptions. The following exceptions are made: (1) any actions by a government agency or its employees in the performance of official duties; and (2) specified actions by a telecommunications company that are necessary to conduct business or are authorized by law or the customer.

Additional Civil Remedies. In addition to criminal penalties, violators may also be subject to injunctive relief and damages of at least \$5,000 per violation. Reasonable attorneys' fees and other costs of litigation are also recoverable.

Definitions. Various terms are defined, such as "telephone record," which includes telephone numbers and calling records, but does not include caller ID or similar services.

Appropriation: None.

Fiscal Note: Requested on January 21, 2006.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is a great bill that fixes a real problem without causing harm to legitimate interests. There are over 40 websites that sell private phone information. The unauthorized selling and buying of telephone records is driven by thieves, persons involved in domestic quarrels, and those wanting to invade the privacy of others. Customers depend on their wireless service providers and data brokers are threatening the trust customers have in their carriers.

Testimony Against: None.

Who Testified: PRO: Sen. Finkbeiner, prime sponsor; Steve Gano, Cingular Wireless; Russell Sarazan, T-Mobile USA; Nancy Wildermuth, Sprint Nextel.