
HOUSE BILL 1185

State of Washington

59th Legislature

2005 Regular Session

By Representatives Morrell, Haler, Morris, Tom, Green, Jarrett, Clibborn, Moeller, Upthegrove, Pettigrew, Chase, Flannigan, Cody, Newhouse, Wallace, Hasegawa, Quall, Linville, Simpson, B. Sullivan, Sells, Lantz, Schual-Berke, Appleton, Campbell, Darneille, Dickerson, Armstrong, Kenney, Condotta, Kagi, Ormsby, Hunt, McIntire, Haigh and Kilmer

Read first time 01/18/2005. Referred to Committee on Technology, Energy & Communications.

1 AN ACT Relating to use and disclosure of personal wireless numbers;
2 reenacting and amending RCW 42.17.310; adding a new section to chapter
3 80.36 RCW; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 80.36 RCW
6 to read as follows:

7 (1) A provider of personal wireless services, as defined in RCW
8 35.99.010, or any direct or indirect affiliate or agent of a provider,
9 shall not include the dialing number of any subscriber for inclusion in
10 any directory of any form, nor shall it sell the contents of any
11 directory data base, without first obtaining the express written
12 consent of that subscriber. The provider's form for obtaining the
13 subscriber's express consent shall meet all of the following
14 requirements:

15 (a) The form shall be a separate document that is not attached to
16 any other document;

17 (b) The form shall be signed and dated by the subscriber;

18 (c) The form shall be legible, unambiguous, and conspicuously
19 disclose that, by signing, the subscriber is consenting to have the

1 subscriber's dialing number sold or licensed as part of a list of
2 subscribers, and that the dialing number may be included in a publicly
3 available directory; and

4 (d) If under the subscriber's calling plan the subscriber may be
5 billed for receiving unsolicited calls or text messaging, the
6 provider's form shall include a disclosure, which shall be legible and
7 unambiguous in disclosing to the subscriber that by consenting to have
8 the subscriber's dialing number sold or licensed as part of a list of
9 subscribers or included in a publicly available directory, the
10 subscriber may incur additional charges for receiving unsolicited calls
11 or text messages.

12 (2) A subscriber who provides express written consent pursuant to
13 subsection (1) of this section may revoke that consent at any time. A
14 provider of personal wireless services shall comply with the
15 subscriber's request to opt out within a reasonable period of time, not
16 to exceed sixty days.

17 (3) A subscriber shall not be charged for opting not to be listed
18 in the directory.

19 (4) This section does not apply to the provision of telephone
20 numbers, for the purposes indicated, to:

21 (a) Any law enforcement agency, fire protection agency, public
22 health agency, public environmental health agency, city or county
23 emergency services planning agency, or private for-profit corporation
24 operating under contract with, and at the direction of, one or more of
25 these agencies, for the exclusive purpose of responding to a 911 call
26 or communicating an imminent threat to life or property. Information
27 or records provided to a private for-profit corporation pursuant to (b)
28 of this subsection shall be held in confidence by that corporation and
29 by any individual employed by or associated with that corporation.
30 Such information or records shall not be open to examination for any
31 purpose not directly connected with the administration of the services
32 specified in this subsection;

33 (b) A lawful process issued under state or federal law;

34 (c) A telephone corporation providing service between service areas
35 for the provision of telephone services to the subscriber between
36 service areas, or to third parties for the limited purpose of providing
37 billing services;

1 (d) A telephone corporation to effectuate a customer's request to
2 transfer the customer's assigned telephone number from the customer's
3 existing provider of telecommunications services to a new provider of
4 telecommunications services; and

5 (e) The utilities and transportation commission pursuant to its
6 jurisdiction and control over telephone and telegraph corporations.

7 (5) Every knowing violation of this section is punishable by a fine
8 of up to five hundred dollars for each violation.

9 (6) The attorney general may bring actions to enforce compliance
10 with this section. For the first violation by any company or
11 organization of this section, the attorney general shall notify the
12 company with a letter of warning that the section has been violated.

13 (7) A person aggrieved by repeated violations of this section may
14 bring a civil action in superior court to enjoin future violations, to
15 recover damages, or both. The court shall award damages of at least
16 five hundred dollars for each individual violation of this section. If
17 the aggrieved person prevails in a civil action under this subsection,
18 the court shall award the aggrieved person reasonable attorneys' fees
19 and cost of the suit.

20 (8) No telephone corporation, nor any official or employee of a
21 telephone corporation, shall be subject to criminal or civil liability
22 for the release of customer information as authorized by this section.

23 (9) Nothing in this section prevents the utilities and
24 transportation commission from adopting additional rules regulating
25 disclosure of personal wireless numbers.

26 **Sec. 2.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
27 each reenacted and amended to read as follows:

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

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

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

35 (c) Information required of any taxpayer in connection with the
36 assessment or collection of any tax if the disclosure of the
37 information to other persons would (i) be prohibited to such persons by

1 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
2 taxpayer's right to privacy or result in unfair competitive
3 disadvantage to the taxpayer.

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

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

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

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

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

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

37 (j) Records which are relevant to a controversy to which an agency

1 is a party but which records would not be available to another party
2 under the rules of pretrial discovery for causes pending in the
3 superior courts.

4 (k) Records, maps, or other information identifying the location of
5 archaeological sites in order to avoid the looting or depredation of
6 such sites.

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

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

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

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

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

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

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

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

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

4 (u) The residential addresses or residential telephone numbers of
5 employees or volunteers of a public agency which are held by any public
6 agency in personnel records, public employment related records, or
7 volunteer rosters, or are included in any mailing list of employees or
8 volunteers of any public agency.

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

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

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

36 (y) Information obtained by the board of pharmacy or the department
37 of health and its representatives as provided in RCW 69.41.044,
38 69.41.280, and 18.64.420.

1 (z) Financial information, business plans, examination reports, and
2 any information produced or obtained in evaluating or examining a
3 business and industrial development corporation organized or seeking
4 certification under chapter 31.24 RCW.

5 (aa) Financial and commercial information supplied to the state
6 investment board by any person when the information relates to the
7 investment of public trust or retirement funds and when disclosure
8 would result in loss to such funds or in private loss to the providers
9 of this information.

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

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

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

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

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

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

30 (hh) Information and documents created specifically for, and
31 collected and maintained by a quality improvement committee pursuant to
32 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
33 4.24.250, regardless of which agency is in possession of the
34 information and documents.

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

37 (jj) Financial and commercial information requested by the public

1 stadium authority from any person or organization that leases or uses
2 the stadium and exhibition center as defined in RCW 36.102.010.

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

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

13 (mm) The personally identifying information of current or former
14 participants or applicants in a paratransit or other transit service
15 operated for the benefit of persons with disabilities or elderly
16 persons.

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

27 (oo) Proprietary financial and commercial information that the
28 submitting entity, with review by the department of health,
29 specifically identifies at the time it is submitted and that is
30 provided to or obtained by the department of health in connection with
31 an application for, or the supervision of, an antitrust exemption
32 sought by the submitting entity under RCW 43.72.310. If a request for
33 such information is received, the submitting entity must be notified of
34 the request. Within ten business days of receipt of the notice, the
35 submitting entity shall provide a written statement of the continuing
36 need for confidentiality, which shall be provided to the requester.
37 Upon receipt of such notice, the department of health shall continue to
38 treat information designated under this section as exempt from

1 disclosure. If the requester initiates an action to compel disclosure
2 under this chapter, the submitting entity must be joined as a party to
3 demonstrate the continuing need for confidentiality.

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

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

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

17 (ss) Credit card numbers, debit card numbers, electronic check
18 numbers, card expiration dates, or bank or other financial account
19 numbers, except when disclosure is expressly required by or governed by
20 other law.

21 (tt) Financial information, including but not limited to account
22 numbers and values, and other identification numbers supplied by or on
23 behalf of a person, firm, corporation, limited liability company,
24 partnership, or other entity related to an application for a liquor
25 license, gambling license, or lottery retail license.

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

29 (vv) Individually identifiable information received by the work
30 force training and education coordinating board for research or
31 evaluation purposes.

32 (ww) Those portions of records assembled, prepared, or maintained
33 to prevent, mitigate, or respond to criminal terrorist acts, which are
34 acts that significantly disrupt the conduct of government or of the
35 general civilian population of the state or the United States and that
36 manifest an extreme indifference to human life, the public disclosure
37 of which would have a substantial likelihood of threatening public
38 safety, consisting of:

1 (i) Specific and unique vulnerability assessments or specific and
2 unique response or deployment plans, including compiled underlying data
3 collected in preparation of or essential to the assessments, or to the
4 response or deployment plans; and

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

10 (xx) Commercial fishing catch data from logbooks required to be
11 provided to the department of fish and wildlife under RCW 77.12.047,
12 when the data identifies specific catch location, timing, or
13 methodology and the release of which would result in unfair competitive
14 disadvantage to the commercial fisher providing the catch data.
15 However, this information may be released to government agencies
16 concerned with the management of fish and wildlife resources.

17 (yy) Sensitive wildlife data obtained by the department of fish and
18 wildlife. However, sensitive wildlife data may be released to
19 government agencies concerned with the management of fish and wildlife
20 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

34 (zz) The personally identifying information of persons who acquire
35 recreational licenses under RCW 77.32.010 or commercial licenses under
36 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
37 department, and type of license, endorsement, or tag. However, the

1 department of fish and wildlife may disclose personally identifying
2 information to:

3 (i) Government agencies concerned with the management of fish and
4 wildlife resources;

5 (ii) The department of social and health services, child support
6 division, and to the department of licensing in order to implement RCW
7 77.32.014 and 46.20.291; and

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

10 (aaa)(i) Discharge papers of a veteran of the armed forces of the
11 United States filed at the office of the county auditor before July 1,
12 2002, that have not been commingled with other recorded documents.
13 These records will be available only to the veteran, the veteran's next
14 of kin, a deceased veteran's properly appointed personal representative
15 or executor, a person holding that veteran's general power of attorney,
16 or to anyone else designated in writing by that veteran to receive the
17 records.

18 (ii) Discharge papers of a veteran of the armed forces of the
19 United States filed at the office of the county auditor before July 1,
20 2002, that have been commingled with other records, if the veteran has
21 recorded a "request for exemption from public disclosure of discharge
22 papers" with the county auditor. If such a request has been recorded,
23 these records may be released only to the veteran filing the papers,
24 the veteran's next of kin, a deceased veteran's properly appointed
25 personal representative or executor, a person holding the veteran's
26 general power of attorney, or anyone else designated in writing by the
27 veteran to receive the records.

28 (iii) Discharge papers of a veteran filed at the office of the
29 county auditor after June 30, 2002, are not public records, but will be
30 available only to the veteran, the veteran's next of kin, a deceased
31 veteran's properly appointed personal representative or executor, a
32 person holding the veteran's general power of attorney, or anyone else
33 designated in writing by the veteran to receive the records.

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

1 (bbb) Those portions of records containing specific and unique
2 vulnerability assessments or specific and unique emergency and escape
3 response plans at a city, county, or state adult or juvenile
4 correctional facility, the public disclosure of which would have a
5 substantial likelihood of threatening the security of a city, county,
6 or state adult or juvenile correctional facility or any individual's
7 safety.

8 (ccc) Information compiled by school districts or schools in the
9 development of their comprehensive safe school plans pursuant to RCW
10 28A.320.125, to the extent that they identify specific vulnerabilities
11 of school districts and each individual school.

12 (ddd) Information regarding the infrastructure and security of
13 computer and telecommunications networks, consisting of security
14 passwords, security access codes and programs, access codes for secure
15 software applications, security and service recovery plans, security
16 risk assessments, and security test results to the extent that they
17 identify specific system vulnerabilities.

18 (eee) Information obtained and exempted or withheld from public
19 inspection by the health care authority under RCW 41.05.026, whether
20 retained by the authority, transferred to another state purchased
21 health care program by the authority, or transferred by the authority
22 to a technical review committee created to facilitate the development,
23 acquisition, or implementation of state purchased health care under
24 chapter 41.05 RCW.

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

32 (ggg) Personal wireless numbers if the use of such numbers is not
33 directly connected with the administration of services under section
34 1(4)(a) of this act.

35 (2) Except for information described in subsection (1)(c)(i) of
36 this section and confidential income data exempted from public
37 inspection pursuant to RCW 84.40.020, the exemptions of this section
38 are inapplicable to the extent that information, the disclosure of

1 which would violate personal privacy or vital governmental interests,
2 can be deleted from the specific records sought. No exemption may be
3 construed to permit the nondisclosure of statistical information not
4 descriptive of any readily identifiable person or persons.

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

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

15 NEW SECTION. **Sec. 3.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

--- END ---