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**SUBSTITUTE HOUSE BILL 2651**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Pettigrew, Kristiansen, Haigh, Buri, Walsh, Linville, Kretz, Grant, Cox, Newhouse, Holmquist, Blake, Armstrong and Springer)

READ FIRST TIME 2/3/06.

1 AN ACT Relating to disclosure of animal information; amending RCW  
2 42.56.380; reenacting and amending RCW 42.17.310; creating a new  
3 section; providing an effective date; and providing an expiration date.

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

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

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

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

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

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

7 (c) Information required of any taxpayer in connection with the  
8 assessment or collection of any tax if the disclosure of the  
9 information to other persons would (i) be prohibited to such persons by  
10 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
11 taxpayer's right to privacy or result in unfair competitive  
12 disadvantage to the taxpayer.

13 (d) Specific intelligence information and specific investigative  
14 records compiled by investigative, law enforcement, and penology  
15 agencies, and state agencies vested with the responsibility to  
16 discipline members of any profession, the nondisclosure of which is  
17 essential to effective law enforcement or for the protection of any  
18 person's right to privacy.

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

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

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

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

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

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

13 (k) Records, maps, or other information identifying the location of  
14 archaeological sites in order to avoid the looting or depredation of  
15 such sites.

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

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

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

28 (o) Financial and commercial information and records supplied by  
29 private persons pertaining to export services provided pursuant to  
30 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
31 export projects pursuant to RCW 43.23.035.

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

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

37 (r) Financial and commercial information and records supplied by  
38 businesses or individuals during application for loans or program

1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
2 or during application for economic development loans or program  
3 services provided by any local agency.

4 (s) Membership lists or lists of members or owners of interests of  
5 units in timeshare projects, subdivisions, camping resorts,  
6 condominiums, land developments, or common-interest communities  
7 affiliated with such projects, regulated by the department of  
8 licensing, in the files or possession of the department.

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

12 (u) The residential addresses, residential telephone numbers,  
13 personal wireless telephone numbers, personal electronic mail  
14 addresses, Social Security numbers, and emergency contact information  
15 of employees or volunteers of a public agency, and the names, dates of  
16 birth, residential addresses, residential telephone numbers, personal  
17 wireless telephone numbers, personal electronic mail addresses, Social  
18 Security numbers, and emergency contact information of dependents of  
19 employees or volunteers of a public agency, which are held by any  
20 public agency in personnel records, public employment related records,  
21 or volunteer rosters, or are included in any mailing list of employees  
22 or volunteers of any public agency. For purposes of this subsection,  
23 "employees" includes independent provider home care workers as defined  
24 in RCW 74.39A.240.

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

32 (w)(i) The federal social security number of individuals governed  
33 under chapter 18.130 RCW maintained in the files of the department of  
34 health, except this exemption does not apply to requests made directly  
35 to the department from federal, state, and local agencies of  
36 government, and national and state licensing, credentialing,  
37 investigatory, disciplinary, and examination organizations; (ii) the  
38 current residential address and current residential telephone number of

1 a health care provider governed under chapter 18.130 RCW maintained in  
2 the files of the department, if the provider requests that this  
3 information be withheld from public inspection and copying, and  
4 provides to the department an accurate alternate or business address  
5 and business telephone number. On or after January 1, 1995, the  
6 current residential address and residential telephone number of a  
7 health care provider governed under RCW 18.130.040 maintained in the  
8 files of the department shall automatically be withheld from public  
9 inspection and copying unless the provider specifically requests the  
10 information be released, and except as provided for under RCW  
11 42.17.260(9).

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

14 (y) Information obtained by the board of pharmacy or the department  
15 of health and its representatives as provided in RCW 69.41.044,  
16 69.41.280, and 18.64.420.

17 (z) Financial information, business plans, examination reports, and  
18 any information produced or obtained in evaluating or examining a  
19 business and industrial development corporation organized or seeking  
20 certification under chapter 31.24 RCW.

21 (aa) Financial and commercial information supplied to the state  
22 investment board by any person when the information relates to the  
23 investment of public trust or retirement funds and when disclosure  
24 would result in loss to such funds or in private loss to the providers  
25 of this information.

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

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

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

36 (ee) Investigative records compiled by an employing agency  
37 conducting a current investigation of a possible unfair practice under

1 chapter 49.60 RCW or of a possible violation of other federal, state,  
2 or local laws prohibiting discrimination in employment.

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

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

9 (hh) Information and documents created specifically for, and  
10 collected and maintained by, a quality improvement committee pursuant  
11 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW  
12 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640  
13 or 18.20.390, regardless of which agency is in possession of the  
14 information and documents.

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

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

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

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

30 (mm) The personally identifying information of current or former  
31 participants or applicants in a paratransit or other transit service  
32 operated for the benefit of persons with disabilities or elderly  
33 persons.

34 (nn) The personally identifying information of persons who acquire  
35 and use transit passes and other fare payment media including, but not  
36 limited to, stored value smart cards and magnetic strip cards, except  
37 that an agency may disclose this information to a person, employer,  
38 educational institution, or other entity that is responsible, in whole

1 or in part, for payment of the cost of acquiring or using a transit  
2 pass or other fare payment media, or to the news media when reporting  
3 on public transportation or public safety. This information may also  
4 be disclosed at the agency's discretion to governmental agencies or  
5 groups concerned with public transportation or public safety.

6 (oo) Proprietary financial and commercial information that the  
7 submitting entity, with review by the department of health,  
8 specifically identifies at the time it is submitted and that is  
9 provided to or obtained by the department of health in connection with  
10 an application for, or the supervision of, an antitrust exemption  
11 sought by the submitting entity under RCW 43.72.310. If a request for  
12 such information is received, the submitting entity must be notified of  
13 the request. Within ten business days of receipt of the notice, the  
14 submitting entity shall provide a written statement of the continuing  
15 need for confidentiality, which shall be provided to the requester.  
16 Upon receipt of such notice, the department of health shall continue to  
17 treat information designated under this section as exempt from  
18 disclosure. If the requester initiates an action to compel disclosure  
19 under this chapter, the submitting entity must be joined as a party to  
20 demonstrate the continuing need for confidentiality.

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

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

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

34 (ss) Credit card numbers, debit card numbers, electronic check  
35 numbers, card expiration dates, or bank or other financial account  
36 numbers, except when disclosure is expressly required by or governed by  
37 other law.

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

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

10 (vv) Individually identifiable information received by the work  
11 force training and education coordinating board for research or  
12 evaluation purposes.

13 (ww) Those portions of records assembled, prepared, or maintained  
14 to prevent, mitigate, or respond to criminal terrorist acts, which are  
15 acts that significantly disrupt the conduct of government or of the  
16 general civilian population of the state or the United States and that  
17 manifest an extreme indifference to human life, the public disclosure  
18 of which would have a substantial likelihood of threatening public  
19 safety, consisting of:

20 (i) Specific and unique vulnerability assessments or specific and  
21 unique response or deployment plans, including compiled underlying data  
22 collected in preparation of or essential to the assessments, or to the  
23 response or deployment plans; and

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

29 (xx) Commercial fishing catch data from logbooks required to be  
30 provided to the department of fish and wildlife under RCW 77.12.047,  
31 when the data identifies specific catch location, timing, or  
32 methodology and the release of which would result in unfair competitive  
33 disadvantage to the commercial fisher providing the catch data.  
34 However, this information may be released to government agencies  
35 concerned with the management of fish and wildlife resources.

36 (yy) Sensitive wildlife data obtained by the department of fish and  
37 wildlife. However, sensitive wildlife data may be released to

1 government agencies concerned with the management of fish and wildlife  
2 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

16 (zz) The personally identifying information of persons who acquire  
17 recreational licenses under RCW 77.32.010 or commercial licenses under  
18 chapter 77.65 or 77.70 RCW, except name, address of contact used by the  
19 department, and type of license, endorsement, or tag. However, the  
20 department of fish and wildlife may disclose personally identifying  
21 information to:

22 (i) Government agencies concerned with the management of fish and  
23 wildlife resources;

24 (ii) The department of social and health services, child support  
25 division, and to the department of licensing in order to implement RCW  
26 77.32.014 and 46.20.291; and

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

29 (aaa)(i) Discharge papers of a veteran of the armed forces of the  
30 United States filed at the office of the county auditor before July 1,  
31 2002, that have not been commingled with other recorded documents.  
32 These records will be available only to the veteran, the veteran's next  
33 of kin, a deceased veteran's properly appointed personal representative  
34 or executor, a person holding that veteran's general power of attorney,  
35 or to anyone else designated in writing by that veteran to receive the  
36 records.

37 (ii) Discharge papers of a veteran of the armed forces of the  
38 United States filed at the office of the county auditor before July 1,

1 2002, that have been commingled with other records, if the veteran has  
2 recorded a "request for exemption from public disclosure of discharge  
3 papers" with the county auditor. If such a request has been recorded,  
4 these records may be released only to the veteran filing the papers,  
5 the veteran's next of kin, a deceased veteran's properly appointed  
6 personal representative or executor, a person holding the veteran's  
7 general power of attorney, or anyone else designated in writing by the  
8 veteran to receive the records.

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

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

19 (bbb) Those portions of records containing specific and unique  
20 vulnerability assessments or specific and unique emergency and escape  
21 response plans at a city, county, or state adult or juvenile  
22 correctional facility, the public disclosure of which would have a  
23 substantial likelihood of threatening the security of a city, county,  
24 or state adult or juvenile correctional facility or any individual's  
25 safety.

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

30 (ddd) Information regarding the infrastructure and security of  
31 computer and telecommunications networks, consisting of security  
32 passwords, security access codes and programs, access codes for secure  
33 software applications, security and service recovery plans, security  
34 risk assessments, and security test results to the extent that they  
35 identify specific system vulnerabilities.

36 (eee) Information obtained and exempted or withheld from public  
37 inspection by the health care authority under RCW 41.05.026, whether  
38 retained by the authority, transferred to another state purchased

1 health care program by the authority, or transferred by the authority  
2 to a technical review committee created to facilitate the development,  
3 acquisition, or implementation of state purchased health care under  
4 chapter 41.05 RCW.

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

12 (ggg) The personally identifying information of persons who acquire  
13 and use transponders or other technology to facilitate payment of  
14 tolls. This information may be disclosed in aggregate form as long as  
15 the data does not contain any personally identifying information. For  
16 these purposes aggregate data may include the census tract of the  
17 account holder as long as any individual personally identifying  
18 information is not released. Personally identifying information may be  
19 released to law enforcement agencies only for toll enforcement  
20 purposes. Personally identifying information may be released to law  
21 enforcement agencies for other purposes only if the request is  
22 accompanied by a court order.

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

29 (iii) Records of mediation communications that are privileged under  
30 chapter 7.07 RCW.

31 (jjj) The application for animal premise registration; a premise  
32 number; individual animal identification numbers; group lot  
33 identification numbers; individual or group lot animal movement data;  
34 and passwords necessary for meeting the requirements of a state or  
35 national animal identification program. These are exempt from  
36 disclosure due to their proprietary nature. These exemptions do not  
37 apply to disclosure to local, state, and federal officials when

1 necessary for animal disease investigation and response, or when  
2 necessary for purposes of participation in the national animal  
3 identification system.

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

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

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

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

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

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

27 (2) Information provided under RCW 15.54.362;

28 (3) Production or sales records required to determine assessment  
29 levels and actual assessment payments to commodity boards and  
30 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,  
31 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the  
32 department of agriculture to administer these chapters or the  
33 department's programs;

34 (4) Consignment information contained on phytosanitary certificates  
35 issued by the department of agriculture under chapters 15.13, 15.49,  
36 and 15.17 RCW or federal phytosanitary certificates issued under 7  
37 C.F.R. 353 through cooperative agreements with the animal and plant

1 health inspection service, United States department of agriculture, or  
2 on applications for phytosanitary certification required by the  
3 department of agriculture;

4 (5) Financial and commercial information and records supplied by  
5 persons (a) to the department of agriculture for the purpose of  
6 conducting a referendum for the potential establishment of a commodity  
7 board or commission; or (b) to the department of agriculture or  
8 commodity boards or commissions formed under chapter 15.24, 15.28,  
9 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, or 16.67 RCW with respect to  
10 domestic or export marketing activities or individual producer's  
11 production information;

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

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

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

19 (9) The application for animal premise registration; a premise  
20 number; individual animal identification numbers; group lot  
21 identification numbers; individual or group lot animal movement data;  
22 and passwords necessary for meeting the requirements of a state or  
23 national animal identification program. These are exempt from  
24 disclosure due to their proprietary nature. These exemptions do not  
25 apply to disclosure to local, state, and federal officials when  
26 necessary for animal disease investigation and response, or when  
27 necessary for purposes of participation in the national animal  
28 identification system.

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

30 NEW SECTION. Sec. 5. Section 3 of this act takes effect July 1,  
31 2006.

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