
SENATE BILL 5533

State of Washington 59th Legislature 2005 Regular Session

By Senators Fairley, Benton, Keiser, Benson, Kohl-Welles and Franklin

Read first time 01/27/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1 AN ACT Relating to information provided to and by financial
2 institution employers; adding a new section to chapter 4.24 RCW; adding
3 a new section to chapter 49.12 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that financial
6 institution employers are becoming increasingly discouraged from
7 disclosing job reference information. The legislature finds that full
8 disclosure of such information will increase productivity, enhance the
9 safety of the workplace, and provide greater opportunities to
10 disadvantaged groups who may not have the educational background or
11 resumes of other workers. The legislature further finds that because
12 financial institution employees are exposed to nonpublic consumer
13 information, allowing financial institutions to disclose certain
14 performance and loss-related information will reduce instances of fraud
15 and identity theft in Washington state.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 4.24 RCW
17 to read as follows:

18 (1)(a) An employer who discloses information about a former or

1 current employee's job performance to a prospective financial
2 institution employer, at the specific request of that individual
3 employer, is presumed to be acting in good faith and is immune from
4 civil liability for such a disclosure or its consequences.

5 For purposes of this section, the presumption of good faith may
6 only be rebutted upon a showing by clear and convincing evidence that
7 the information disclosed by the employer was knowingly false or
8 deliberately misleading.

9 (b) The employer must retain a written record of the substance of
10 any information disclosed under this section for a minimum of two years
11 from the date of the disclosure. The written record shall become part
12 of the employee's personnel file, subject to the provisions of chapter
13 49.12 RCW. Failure to maintain a written record of the disclosure
14 waives the immunity provided under (a) of this subsection, and civil
15 liability for such disclosure shall be evaluated under common law
16 standards without regard to this section.

17 (2) The definitions in this subsection apply throughout this
18 section unless the context clearly requires otherwise.

19 (a) "Financial institution employer" means a person or persons
20 working for a financial institution as defined by RCW 30.22.041 or an
21 employment agency as defined by RCW 49.60.040 when engaged on behalf of
22 a financial institution.

23 (b) "Job performance" means the manner in which the employee
24 performs the duties of a position of employment and includes an
25 analysis of the employee's attendance at work; conduct, attitude,
26 effort, knowledge, behavior, and skills that are work related;
27 adherence to applicable statutes, regulations, and the employer's
28 lawful employment policies; whether, and under what circumstances a
29 bond claim has been filed relating to the employee; and adherence to
30 safety and health laws subject to the limitation of RCW 51.48.025.

31 NEW SECTION. **Sec. 3.** A new section is added to chapter 49.12 RCW
32 to read as follows:

33 Any written record made under section 2 of this act shall become
34 part of an employee's personnel file.

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