

SSB 5566 - H AMD TO SGTA COMM AMD (5566-S AMH SGTA KERR 066) **677**
By Representative Chandler

1 Beginning on page 1, at the beginning of line 3 of the
2 amendment, strike all material through "section." on page 2, line
3 6, and insert the following:

4 "Sec. 1. RCW 9.35.001 and 1999 c 368 s 1 are each amended to
5 read as follows:

6 The legislature finds that financial information and voter
7 registration information is personal and sensitive information that
8 if unlawfully obtained by others may do significant harm to a
9 person's privacy, financial security, and other interests. The
10 legislature finds that unscrupulous persons find ever more clever
11 ways, including identity theft, to improperly obtain and use
12 financial information and voter registration information. The
13 legislature intends to penalize unscrupulous people for improperly
14 obtaining financial information and voter registration information.

15 **Sec. 2.** RCW 9.35.005 and 2001 c 217 s 1 are each amended to
16 read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Custodian of voter registration information" means any
20 state office or officer charged with maintaining voter registration
21 information records, including but not limited to county auditors
22 and the office of the secretary of state.

23 (2) "Financial information" means any of the following
24 information identifiable to the individual that concerns the amount
25 and conditions of an individual's assets, liabilities, or credit:

- 26 (a) Account numbers and balances;
- 27 (b) Transactional information concerning an account; and
- 28 (c) Codes, passwords, social security numbers, tax
- 29 identification numbers, driver's license or permit numbers, state

1 identicard numbers issued by the department of licensing, and other
2 information held for the purpose of account access or transaction
3 initiation.

4 ((+2+)) (3) "Financial information repository" means a person
5 engaged in the business of providing services to customers who have
6 a credit, deposit, trust, stock, or other financial account or
7 relationship with the person.

8 ((+3+)) (4) "Means of identification" means information or an
9 item that is not describing finances or credit but is personal to
10 or identifiable with an individual or other person, including: A
11 current or former name of the person, telephone number, an
12 electronic address, or identifier of the individual or a member of
13 his or her family, including the ancestor of the person;
14 information relating to a change in name, address, telephone
15 number, or electronic address or identifier of the individual or
16 his or her family; a social security, driver's license, or tax
17 identification number of the individual or a member of his or her
18 family; and other information that could be used to identify the
19 person, including unique biometric data.

20 ((+4+)) (5) "Person" means a person as defined in RCW
21 9A.04.110.

22 ((+5+)) (6) "Victim" means a person whose means of
23 identification or financial information has been used or
24 transferred with the intent to commit, or to aid or abet, any
25 unlawful activity.

26 (7) "Voter registration information" means any information from
27 voter registration records or files, including but not limited to
28 a voter's name, address, political jurisdiction, gender, date of
29 birth, voting record, date of registration, registration number,
30 signature, and telephone number.

31 **Sec. 3.** RCW 9.35.010 and 2001 c 217 s 8 are each amended to
32 read as follows:

33 (1) No person may obtain or attempt to obtain, or cause to be
34 disclosed or attempt to cause to be disclosed to any person,
35 financial information from a financial information repository,
36 financial services provider, merchant, corporation, trust,
37 partnership, or unincorporated association:

1 (a) By knowingly making a false, fictitious, or fraudulent
2 statement or representation to an officer, employee, or agent of a
3 financial information repository with the intent to deceive the
4 officer, employee, or agent into relying on that statement or
5 representation for purposes of releasing the financial information;

6 (b) By knowingly making a false, fictitious, or fraudulent
7 statement or representation to a customer of a financial
8 information repository, financial services provider, merchant,
9 corporation, trust, partnership, or unincorporated association with
10 the intent to deceive the customer into releasing financial
11 information or authorizing the release of such information;

12 (c) By knowingly providing any document to an officer,
13 employee, or agent of a financial information repository, financial
14 services provider, merchant, corporation, trust, partnership, or
15 unincorporated association, knowing that the document is forged,
16 counterfeit, lost, or stolen; was fraudulently obtained; or
17 contains a false, fictitious, or fraudulent statement or
18 representation, if the document is provided with the intent to
19 deceive the officer, employee, or agent to release the financial
20 information.

21 (2) Subject to the public disclosure requirements of RCW
22 29A.08.710 and RCW 29A.08.720, no person may obtain or attempt to
23 obtain, or cause to be disclosed or attempt to cause to be
24 disclosed to any person, voter registration information from a
25 custodian of voter registration information:

26 (a) By knowingly making a false, fictitious, or fraudulent
27 statement or representation to an officer, employee, or agent of a
28 custodian of voter registration information with the intent to
29 deceive the officer, employee, or agent into relying on that
30 statement or representation for purposes of releasing the voter
31 registration information;

32 (b) By knowingly providing any document to an officer,
33 employee, or agent of a custodian of voter registration information
34 knowing that the document is forged, counterfeit, lost, or stolen;
35 was fraudulently obtained; or contains a false, fictitious, or
36 fraudulent statement or representation, if the document is provided
37 with the intent to deceive the officer, employee, or agent to
38 release the voter registration information.

1 (3)(a) No person may request another person to obtain financial
2 information from a financial information repository, financial
3 services provider, merchant, corporation, trust, partnership, or
4 unincorporated association and knows or should have known that the
5 person will obtain or attempt to obtain the information from the
6 financial institution repository, financial services provider,
7 merchant, corporation, trust, partnership, or unincorporated
8 association in any manner described in subsection (1) of this
9 section.

10 (b) No person may request another person to obtain voter
11 registration information from a custodian of voter registration
12 information who knows or should have known that the other person
13 will obtain or attempt to obtain the information from the custodian
14 of voter registration information in any manner described in
15 subsection (1) of this section.

16 ~~((3))~~ (4) No provision of this section shall be construed so
17 as to prevent any action by a law enforcement agency, or any
18 officer, employee, or agent of such agency, or any action of an
19 agent of the custodian of voter registration information or the
20 financial information repository, financial services provider,
21 merchant, corporation, trust, partnership, or unincorporated
22 association when working in conjunction with a law enforcement
23 agency.

24 ~~((4))~~ (5) This section does not apply to:

25 (a) Efforts by the financial information repository to test
26 security procedures or systems of the financial institution
27 repository for maintaining the confidentiality of customer
28 information;

29 (b) Investigation of alleged employee misconduct or negligence;
30 or

31 (c) Efforts to recover financial or personal information of the
32 financial institution obtained or received by another person in any
33 manner described in subsection (1) or ~~((2))~~ (3)(a) of this
34 section.

35 ~~((5))~~ (6) Violation of this section is a class C felony.

36 ~~((6))~~ (7) A person who violates this section is liable for
37 five hundred dollars or actual damages, whichever is greater, and
38 reasonable attorneys' fees.

1 **Sec. 4.** RCW 9.35.020 and 2004 c 273 s 2 are each amended to
2 read as follows:

3 (1) No person may knowingly obtain, possess, use, or transfer
4 a means of identification ((~~or~~)) financial information, or voter
5 registration information of another person, living or dead, with
6 the intent to commit, or to aid or abet, any crime.

7 (2) Violation of this section when the accused or an accomplice
8 uses the victim's means of identification ((~~or~~)) financial
9 information, or voter registration information and obtains an
10 aggregate total of credit, money, goods, services, or anything else
11 of value in excess of one thousand five hundred dollars in value
12 shall constitute identity theft in the first degree. Identity
13 theft in the first degree is a class B felony punishable according
14 to chapter 9A.20 RCW.

15 (3) Violation of this section when the accused or an accomplice
16 uses the victim's means of identification ((~~or~~)) financial
17 information, or voter registration information and obtains an
18 aggregate total of credit, money, goods, services, or anything else
19 of value that is less than one thousand five hundred dollars in
20 value, or when no credit, money, goods, services, or anything of
21 value is obtained shall constitute identity theft in the second
22 degree. Identity theft in the second degree is a class C felony
23 punishable according to chapter 9A.20 RCW.

24 (4) A person who violates this section is liable for civil
25 damages of one thousand dollars or actual damages, whichever is
26 greater, including costs to repair the victim's credit record, and
27 reasonable attorneys' fees as determined by the court.

28 (5) In a proceeding under this section, the crime will be
29 considered to have been committed in any locality where the person
30 whose means of identification ((~~or~~)) financial information, or
31 voter registration information was appropriated resides, or in
32 which any part of the offense took place, regardless of whether the
33 defendant was ever actually in that locality.

34 (6) The provisions of this section do not apply to any person
35 who obtains another person's driver's license or other form of
36 identification for the sole purpose of misrepresenting his or her
37 age.

38 (7) In a proceeding under this section in which a person's
39 means of identification ((~~or~~)) financial information, or voter

1 registration information was used without that person's
2 authorization, and when there has been a conviction, the sentencing
3 court may issue such orders as are necessary to correct a public
4 record that contains false information resulting from a violation
5 of this section.

6 **Sec. 5.** RCW 9.35.030 and 2001 c 217 s 10 are each amended to
7 read as follows:

8 (1) It is unlawful for any person to knowingly use a means of
9 identification (~~(or)~~) financial information, or voter registration
10 information of another person to solicit undesired mail with the
11 intent to annoy, harass, intimidate, torment, or embarrass that
12 person.

13 (2) Violation of this section is a misdemeanor.

14 (3) Additionally, a person who violates this section is liable
15 for civil damages of five hundred dollars or actual damages,
16 including costs to repair the person's credit record, whichever is
17 greater, and reasonable attorneys' fees as determined by the court.

18 **Sec. 6.** RCW 9.35.040 and 2001 c 217 s 2 are each amended to
19 read as follows:

20 (1) A person, financial information repository, financial
21 service provider, merchant, corporation, trust, partnership, or
22 unincorporated association possessing information relating to an
23 actual or potential violation of this chapter, and who may have
24 entered into a transaction, provided credit, products, goods, or
25 services, accepted payment, or otherwise done business with a
26 person who has used the victim's means of identification, must,
27 upon written request of the victim, provide copies of all relevant
28 application and transaction information related to the transaction
29 being alleged as a potential or actual violation of this chapter.
30 A person or custodian of voter registration information possessing
31 information relating to an actual or potential violation of this
32 chapter, and who may have entered into a transaction or otherwise
33 done business with a person who has used the victim's means of
34 identification, must, upon written request of the victim, provide
35 copies of all relevant application and transaction information
36 related to the transaction being alleged as a potential or actual
37 violation of this chapter. Nothing in this section requires the

1 information provider to disclose information that it is otherwise
2 prohibited from disclosing by law, except that a law that prohibits
3 disclosing a person's information to third parties shall not be
4 used to deny disclosure of such information to the victim under
5 this section.

6 (2) Unless the information provider is otherwise willing to
7 verify the victim's identification, the victim shall provide the
8 following as proof of positive identification:

9 (a) The showing of a government-issued photo identification
10 card or, if providing proof by mail, a copy of a government-issued
11 photo identification card;

12 (b) A copy of a filed police report evidencing the victim's
13 claim; and

14 (c) A written statement from the state patrol showing that the
15 state patrol has on file documentation of the victim's identity
16 pursuant to the personal identification procedures in RCW
17 43.43.760.

18 (3) The provider may require compensation for the reasonable
19 cost of providing the information requested.

20 (4) No person, custodian of voter registration information,
21 financial information repository, financial service provider,
22 merchant, corporation, trust, partnership, or unincorporated
23 association may be held liable for an action taken in good faith to
24 provide information regarding potential or actual violations of
25 this chapter to other financial information repositories, financial
26 service providers, merchants, law enforcement authorities, victims,
27 or any persons alleging to be a victim who comply with subsection
28 (2) of this section which evidences the alleged victim's claim for
29 the purpose of identification and prosecution of violators of this
30 chapter, or to assist a victim in recovery of fines, restitution,
31 rehabilitation of the victim's credit, or such other relief as may
32 be appropriate.

33 (5) A person, custodian of voter registration information,
34 financial information repository, financial service provider,
35 merchant, corporation, trust, partnership, or unincorporated
36 association may decline to provide information pursuant to this
37 section when, in the exercise of good faith and reasonable
38 judgment, it believes this section does not require disclosure of
39 the information.

1 (6) Nothing in this section creates an obligation on the part
2 of a person, custodian of voter registration information, financial
3 information repository, financial services provider, merchant,
4 corporation, trust, partnership, or unincorporated association to
5 retain or maintain information or records that they are not
6 otherwise required to retain or maintain in the ordinary course of
7 its business.

8 (7) The legislature finds that the practices covered by this
9 section are matters vitally affecting the public interest for the
10 purpose of applying the Consumer Protection Act, chapter 19.86 RCW.
11 Violations of this section are not reasonable in relation to the
12 development and preservation of business. It is an unfair or
13 deceptive act in trade or commerce and an unfair method of
14 competition for the purpose of applying the Consumer Protection
15 Act, chapter 19.86 RCW. The burden of proof in an action alleging
16 a violation of this section shall be by a preponderance of the
17 evidence, and the applicable statute of limitation shall be as set
18 forth in RCW 19.182.120. For purposes of a judgment awarded
19 pursuant to an action by a consumer under chapter 19.86 RCW, the
20 consumer shall be awarded actual damages. However, where there has
21 been willful failure to comply with any requirement imposed under
22 this section, the consumer shall be awarded actual damages, a
23 monetary penalty of one thousand dollars, and the costs of the
24 action together with reasonable attorneys' fees as determined by
25 the court. ""

26 Correct the title.

EFFECT: Strikes the underlying striking amendment that allows public inspection of voter signature and telephone numbers but not copying. Inserts and amends Chapter 9.35 RCW governing identity crimes and adds voter registration information to the types of protected information. Misuse of voter registration information is a felony, and also subject to prosecution under the Consumer Protection Act. The information remains subject to public disclosure, both inspection and copying, pursuant to RCW 29A.08.710 and 29A.08.720.