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SECOND SUBSTITUTE HOUSE BILL 2479

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State of Washington

60th Legislature

2008 Regular Session

**By** House Appropriations (originally sponsored by Representatives Morrell, Bailey, Cody, Pedersen, Appleton, Sells, Lantz, Hasegawa, Ormsby, Conway, Condotta, Hurst, McIntire, Roberts, Kenney, Haigh, Schual-Berke, Campbell, VanDeWege, Rolfes, Kagi, Chase, Lias, Simpson, Barlow, Ericks, Green, Kelley, and McDonald)

READ FIRST TIME 02/01/08.

1 AN ACT Relating to disclosure of wireless numbers; amending RCW  
2 19.250.010; adding new sections to chapter 19.250 RCW; and creating a  
3 new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the right to  
6 privacy is a personal and fundamental right protected by Article I,  
7 section 7 of the state Constitution. The legislature also finds that,  
8 in the vast majority of cases, subscribers pay for both incoming and  
9 outgoing calls, and that subscribers purchase cell phone service with  
10 an expectation that their numbers will not be made public. Therefore,  
11 the legislature recognizes that a subscriber's cell phone number should  
12 be kept private, unless that subscriber knowingly provides their  
13 express, opt-in consent to have that number made available in a public  
14 directory.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.250 RCW  
16 to read as follows:

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

1 (1) "Radio communications service company" has the same meaning as  
2 in RCW 80.04.010.

3 (2) "Subscriber" means a person who subscribes to radio  
4 communications services, radio paging, or cellular communications  
5 service.

6 **Sec. 3.** RCW 19.250.010 and 2005 c 322 s 1 are each amended to read  
7 as follows:

8 (1) A radio communications service company(~~(, as defined in RCW~~  
9 ~~80.04.010,)) or any direct or indirect affiliate or agent of a~~  
10 ~~((provider)) radio communications service company, or any person in the~~  
11 ~~business of marketing, selling, and sharing the phone number of any~~  
12 ~~subscriber for commercial purposes,~~ shall not include the phone number  
13 of any subscriber for inclusion in any directory of any form, nor shall  
14 it sell the contents of any directory database, without first obtaining  
15 the express, opt-in consent of that subscriber. The subscriber's  
16 consent must be obtained either in writing or electronically, and a  
17 receipt must be provided to the subscriber. The consent shall be a  
18 separate document or located on a separate screen or web page that has  
19 the sole purpose of authorizing a radio communications service company,  
20 person, or direct or indirect affiliate or agent of a radio  
21 communications service company to include the subscriber's phone number  
22 in a publicly available directory assistance database. In obtaining  
23 the subscriber's consent, the ~~((provider))~~ radio communications service  
24 company, person, or direct or indirect affiliate or agent of a radio  
25 communications service company shall unambiguously disclose that, by  
26 consenting, the subscriber agrees to have the subscriber's phone number  
27 sold or licensed as part of a list of subscribers and that the phone  
28 number may be included in a publicly available directory assistance  
29 database. The ~~((provider))~~ radio communications service company,  
30 person, or direct or indirect affiliate or agent of a radio  
31 communications service company must also disclose that by consenting to  
32 be included in the directory, the subscriber may incur additional  
33 charges for receiving unsolicited calls or text messages. The radio  
34 communications service company, person, or direct or indirect affiliate  
35 or agent of a radio communications service company also must disclose  
36 to the subscriber that the subscriber's express, opt-in consent will be

1 construed as consent for the subsequent publication of the phone number  
2 to and by third parties in other directories or databases.

3 (2) A subscriber who provides express, opt-in consent pursuant to  
4 subsection (1) of this section may opt out or revoke that consent at  
5 any time. A radio communications service company, person, or direct or  
6 indirect affiliate or agent of a radio communications service company  
7 shall comply with the subscriber's request to opt out within a  
8 reasonable period of time, not to exceed sixty days for printed  
9 directories and not to exceed thirty days for online directories.

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

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

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

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

27 (c) A telecommunications company providing service between service  
28 areas for the provision of telephone services to the subscriber between  
29 service areas, or to third parties for the limited purpose of providing  
30 billing services;

31 (d) A telecommunications company to effectuate a customer's request  
32 to transfer the customer's assigned telephone number from the  
33 customer's existing provider of telecommunications services to a new  
34 provider of telecommunications services;

35 (e) The utilities and transportation commission pursuant to its  
36 jurisdiction and control over telecommunications companies; (~~and~~)

37 (f) A sales agent to provide the subscriber's (~~cell~~) phone

1 number(~~s~~) to the (~~cellular provider~~) radio communications service  
2 company for the limited purpose of billing and customer service;

3 (g) A person that publishes a subscriber's phone number in a  
4 directory that is obtained directly from a radio communications service  
5 company and that radio communications service company has obtained the  
6 required express, opt-in consent for including in any directory the  
7 subscriber's phone number as specified in RCW 19.250.010(1);

8 (h) A person that publishes a subscriber's phone number in a  
9 directory, at the subscriber's request, where the subscriber pays a fee  
10 to have the number published for commercial purposes; and

11 (i) A person that publishes a subscriber's phone number that was  
12 ported from listed wireline service to wireless service within the  
13 previous fifteen months.

14 (5) Every knowing violation of this section is punishable by a fine  
15 of up to fifty thousand dollars for each violation.

16 (6) The attorney general may bring actions to enforce compliance  
17 with this section. For the first violation by any company or  
18 organization of this section, the attorney general may notify the  
19 company with a letter of warning that the section has been violated.

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

24 NEW SECTION. Sec. 4. A new section is added to chapter 19.250 RCW  
25 to read as follows:

26 (1) A radio communications service company, or any direct or  
27 indirect affiliate or agent of a radio communications service company,  
28 or any person in the business of marketing, selling, and sharing the  
29 phone number of any subscriber for commercial purposes, who has  
30 maintained a directory before the effective date of this section, must  
31 within thirty days either:

32 (a) Secure the express, opt-in consent of each subscriber listed in  
33 the directory as specified in RCW 19.250.010; or

34 (b) Remove the phone numbers of any subscribers who have not  
35 provided their express, opt-in consent.

36 (2) This section does not apply to the following:

1           (a) A person that publishes a subscriber's phone number in a  
2 directory that is obtained directly from a radio communications service  
3 company and that radio communications service company has obtained the  
4 required express, opt-in consent for including in any directory the  
5 subscriber's phone number as specified in RCW 19.250.010(1);

6           (b) A person that publishes a subscriber's phone number in a  
7 directory where the subscriber pays a fee to have the number published  
8 for commercial purposes; and

9           (c) A person that publishes a subscriber's phone number that was  
10 ported from listed wireline service to wireless service within the  
11 previous fifteen months. A subscriber whose phone number was ported  
12 from listed wireline service to wireless service can utilize the opt-  
13 out provisions set forth in RCW 19.250.010.

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