

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 2479

60th Legislature
2008 Regular Session

Passed by the House March 10, 2008
Yeas 94 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 2479** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 2479

AS AMENDED BY THE SENATE

Passed Legislature - 2008 Regular Session

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; creating a new
3 section; and prescribing penalties.

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) "Directory provider" means any person in the business of
2 marketing, selling, or sharing the phone number of any subscriber for
3 commercial purposes.

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

6 (3) "Reverse phone number search services" means a service that
7 provides the name of a subscriber associated with a phone number when
8 the phone number is supplied.

9 (4) "Subscriber" means a person who resides in the state of
10 Washington and subscribes to radio communications services, radio
11 paging, or cellular communications service.

12 (5) "Wireless phone number" means a phone number unique to the
13 subscriber that permits the subscriber to receive radio communications,
14 radio paging, or cellular communications from others.

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

17 (1) A radio communications service company(~~(, as defined in RCW~~
18 ~~80.04.010,)) or any direct or indirect affiliate or agent of a~~
19 ~~((provider)) radio communications service company shall not include the~~
20 wireless phone number of any subscriber for inclusion in any directory
21 of any form, nor shall it sell the contents of any directory database,
22 without first obtaining the express, opt-in consent of that subscriber.
23 The subscriber's consent must be obtained either in writing or
24 electronically, and a receipt must be provided to the subscriber. The
25 consent shall be a separate document or located on a separate screen or
26 web page that has the sole purpose of authorizing a radio
27 communications service company to include the subscriber's wireless
28 phone number in a publicly available directory assistance database.

29 (2) In obtaining the subscriber's consent, the ~~((provider))~~ radio
30 communications service company or direct or indirect affiliate or agent
31 of a radio communications service company shall unambiguously disclose
32 that, by consenting, the subscriber agrees to ~~((have))~~ the following:

33 (a) That the subscriber's wireless phone number may be sold or
34 licensed as part of a list of subscribers and that the wireless phone
35 number may be included in a publicly available directory assistance
36 database(~~(. The provider must also disclose that by consenting to be~~
37 ~~included in the directory,));~~

1 (b) That the subscriber may incur additional charges for receiving
2 unsolicited calls or text messages; and

3 (c) That the subscriber's express, opt-in consent will be construed
4 as consent for the subsequent publication of the wireless phone number
5 to and by third parties in other directories or databases.

6 ~~((2) A subscriber who provides express consent pursuant to~~
7 ~~subsection (1) of this section may revoke that consent at any time. A~~
8 ~~radio communications service company shall comply with the subscriber's~~
9 ~~request to opt out within a reasonable period of time, not to exceed~~
10 ~~sixty days.~~

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

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

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

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

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

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

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

1 ~~(f) A sales agent to provide the subscriber's cell phone numbers to~~
2 ~~the cellular provider for the limited purpose of billing and customer~~
3 ~~service.~~

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

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

10 ~~(7) No telecommunications company, nor any official or employee of~~
11 ~~a telecommunications company, shall be subject to criminal or civil~~
12 ~~liability for the release of customer information as authorized by this~~
13 ~~section.))~~

14 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.250 RCW
15 to read as follows:

16 (1) A directory provider shall not include any phone number that
17 belongs to a Washington state resident in any directory of any form, or
18 sell the contents of any directory database, without first undertaking
19 a reasonable ongoing investigation as to whether the phone number is a
20 wireless phone number. An investigation under this section is presumed
21 reasonable if the directory provider compares the phone number at least
22 every thirty days against: (a) A commercially available list of
23 central office code assignment records offered through the North
24 American numbering plan administration or other similar service; or (b)
25 a commercially available list of intermodal ports of telephone numbers
26 between wireline-to-wireless ports and wireless-to-wireline ports. A
27 directory provider also has a duty to continually use up-to-date,
28 commercially available technology when conducting its investigation of
29 a phone number. If an investigation reveals that the phone number is
30 a wireless phone number, the directory provider shall not include the
31 number in any directory of any form, or sell the contents of any
32 directory database without first obtaining the subscriber's express,
33 opt-in consent. The subscriber's consent must be obtained either in
34 writing or electronically, and a receipt must be provided to the
35 subscriber. The consent must be a separate document or located on a
36 separate screen or web page that has the sole purpose of authorizing a

1 directory provider to include the subscriber's wireless phone number in
2 a publicly available directory assistance database.

3 (2) In obtaining the subscriber's consent, the directory provider
4 shall unambiguously disclose that, by consenting, the subscriber agrees
5 to the following:

6 (a) That the subscriber's wireless phone number may be sold or
7 licensed as part of a list of subscribers and that the wireless phone
8 number may be included in a publicly available directory assistance
9 database;

10 (b) That the subscriber may incur additional charges for receiving
11 unsolicited calls or text messages; and

12 (c) That the subscriber's express, opt-in consent will be construed
13 as consent for the subsequent publication of the wireless phone number
14 to and by third parties in other directories or databases.

15 (3) This section does not preclude a directory provider from
16 providing a reverse phone number search service. However, a subscriber
17 whose wireless phone number is contained in a reverse phone number
18 search service may utilize the opt-out provisions set forth in section
19 5 of this act.

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 19.250 RCW
21 to read as follows:

22 (1) A subscriber who provides express, opt-in consent under RCW
23 19.250.010 and section 4 of this act may revoke that consent at any
24 time. A radio communications service company and a directory provider
25 shall comply with the subscriber's request to opt out within a
26 reasonable period of time, not to exceed sixty days for printed
27 directories and not to exceed thirty days for online directories.

28 (2) At the subscriber's request, a provider of a reverse phone
29 number search service must allow a subscriber to perform a reverse
30 phone number search free of charge to determine whether the
31 subscriber's wireless phone number is listed in the reverse phone
32 number search service. If the subscriber finds that his or her
33 wireless phone number is contained in the reverse phone number search
34 service, the subscriber may opt out of having his or her wireless phone
35 number included in the reverse phone number search service at any time.
36 The provider of the reverse phone number search service must comply

1 with the subscriber's request to opt out within a reasonable period of
2 time, not to exceed thirty days.

3 (3) A subscriber shall not be charged for opting out of having his
4 or her wireless phone number listed in a directory or reverse phone
5 number search service.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 19.250 RCW
7 to read as follows:

8 The legislature finds that allowing a subscriber to opt out of a
9 reverse phone number search service vitally affects the public interest
10 for the purpose of applying chapter 19.86 RCW. A violation of section
11 5 of this act by a provider of a reverse phone number search service is
12 not reasonable in relation to the development and preservation of
13 business and is an unfair or deceptive act in trade or commerce and an
14 unfair method of competition for the purpose of applying chapter 19.86
15 RCW.

16 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.250 RCW
17 to read as follows:

18 (1) Every knowing violation of RCW 19.250.010 is punishable by a
19 fine of not less than two thousand dollars and no more than fifty
20 thousand dollars for each violation. Including a wireless phone number
21 in a directory without a subscriber's express, opt-in consent pursuant
22 to section 4 of this act is a violation of this chapter and is
23 punishable by a fine of up to fifty thousand dollars unless the
24 directory provider first conducted a reasonable investigation as
25 required in section 4 of this act and was unable to determine if the
26 published number was a wireless phone number.

27 (2) The attorney general may bring actions to enforce compliance
28 with this section. For the first violation by any company,
29 organization, or person under this chapter, the attorney general may
30 notify the company, organization, or person with a letter of warning
31 that this chapter has been violated.

32 (3) A telecommunications company or directory provider, or any
33 official or employee of a telecommunications company or directory
34 provider, is not subject to criminal or civil liability for the release
35 of customer information as authorized by this chapter.

1 NEW SECTION. **Sec. 8.** A new section is added to chapter 19.250 RCW
2 to read as follows:

3 (1) A radio communications service company or a directory provider,
4 who has maintained a directory before the effective date of this
5 section, must within thirty days either:

6 (a) Secure the express, opt-in consent of each subscriber listed in
7 the directory as specified in RCW 19.250.010 or section 4 of this act;
8 or

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

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

12 (a) A directory provider that has undertaken a reasonable
13 investigation pursuant to section 4 of this act and is unable to
14 determine whether the phone number is a wireless phone number;

15 (b) A directory provider that publishes a subscriber's wireless
16 phone number in a directory that is obtained directly from a radio
17 communications service company and that radio communications service
18 company has obtained the required express, opt-in consent for including
19 in any directory the subscriber's wireless phone number as specified in
20 RCW 19.250.010;

21 (c) A person that publishes a subscriber's wireless phone number in
22 a directory where the subscriber pays a fee to have the number
23 published for commercial purposes; and

24 (d) A person that publishes a subscriber's wireless phone number
25 that was ported from listed wireline service to wireless service within
26 the previous fifteen months.

27 (3) This section does not preclude a directory provider from
28 providing a reverse phone number search service. However, a subscriber
29 whose wireless phone number is contained in a reverse phone number
30 search service may utilize the opt-out provisions set forth in section
31 5 of this act.

32 NEW SECTION. **Sec. 9.** A new section is added to chapter 19.250 RCW
33 to read as follows:

34 This chapter does not apply to the provision of wireless phone
35 numbers, for the purposes indicated, to:

36 (1) Any law enforcement agency, fire protection agency, public
37 health agency, public environmental health agency, city or county

1 emergency services planning agency, or private for-profit corporation
2 operating under contract with, and at the direction of, one or more of
3 these agencies, for the exclusive purpose of responding to a 911 call
4 or communicating an imminent threat to life or property. Information
5 or records provided to a private for-profit corporation pursuant to
6 subsection (2) of this section must be held in confidence by that
7 corporation and by any individual employed by or associated with that
8 corporation. Such information or records are not open to examination
9 for any purpose not directly connected with the administration of the
10 services specified in this subsection;

11 (2) A lawful process issued under state or federal law;

12 (3) A telecommunications company providing service between service
13 areas for the provision of telephone services to the subscriber between
14 service areas, or to third parties for the limited purpose of providing
15 billing services;

16 (4) A telecommunications company to effectuate a customer's request
17 to transfer the customer's assigned telephone number from the
18 customer's existing provider of telecommunications services to a new
19 provider of telecommunications services;

20 (5) The utilities and transportation commission pursuant to its
21 jurisdiction and control over telecommunications companies;

22 (6) A sales agent to provide the subscriber's wireless phone
23 numbers to the radio communications service company for the limited
24 purpose of billing and customer service;

25 (7) A directory provider that has undertaken a reasonable
26 investigation pursuant to section 4 of this act and is unable to
27 determine whether the phone number is a wireless phone number;

28 (8) A directory provider that publishes a subscriber's wireless
29 phone number in a directory that is obtained directly from a radio
30 communications service company and that radio communications service
31 company has obtained the required express, opt-in consent for including
32 in any directory the subscriber's wireless phone number as specified in
33 RCW 19.250.010;

34 (9) A person that publishes a subscriber's wireless phone number in
35 a directory where the subscriber pays a fee to have the number
36 published for commercial purposes;

37 (10) A person that publishes a subscriber's wireless phone number

1 that was ported from listed wireline service to wireless service within
2 the previous fifteen months; and

3 (11) A consumer reporting agency as defined in RCW 19.182.010 for
4 use as a unique identifier of a consumer in a consumer report as
5 defined in RCW 19.182.010.

--- END ---