

By Representative Chandler

**SSB 5566** - H COMM AMD TO 5566-S AMH SGTA KERR 066  
By Committee on State Government & Tribal Affairs

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

1 (c) Codes, passwords, social security numbers, tax  
2 identification numbers, driver's license or permit numbers, state  
3 identicard numbers issued by the department of licensing, and other  
4 information held for the purpose of account access or transaction  
5 initiation.

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

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

22 (~~(4)~~) (5) "Person" means a person as defined in RCW  
23 9A.04.110.

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

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

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

35 (1) No person may obtain or attempt to obtain, or cause to be  
36 disclosed or attempt to cause to be disclosed to any person,  
37 financial information from a financial information repository,

1 financial services provider, merchant, corporation, trust,  
2 partnership, or unincorporated association:

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

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

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

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

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

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

1 with the intent to deceive the officer, employee, or agent to  
2 release the voter registration information.

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

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

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

26 ~~((4))~~ (5) This section does not apply to:

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

31 (b) Investigation of alleged employee misconduct or negligence;  
32 or

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

37 ~~((5))~~ (6) Violation of this section is a class C felony.

1           (~~(6)~~) (7) A person who violates this section is liable for  
2 five hundred dollars or actual damages, whichever is greater, and  
3 reasonable attorneys' fees.

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

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

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

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

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

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

37           (6) The provisions of this section do not apply to any person  
38 who obtains another person's driver's license or other form of

1 identification for the sole purpose of misrepresenting his or her  
2 age.

3 (7) In a proceeding under this section in which a person's  
4 means of identification (~~(or)~~), financial information, or voter  
5 registration information was used without that person's  
6 authorization, and when there has been a conviction, the sentencing  
7 court may issue such orders as are necessary to correct a public  
8 record that contains false information resulting from a violation  
9 of this section.

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

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

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

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

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

24 (1) A person, financial information repository, financial  
25 service provider, merchant, corporation, trust, partnership, or  
26 unincorporated association possessing information relating to an  
27 actual or potential violation of this chapter, and who may have  
28 entered into a transaction, provided credit, products, goods, or  
29 services, accepted payment, or otherwise done business with a  
30 person who has used the victim's means of identification, must,  
31 upon written request of the victim, provide copies of all relevant  
32 application and transaction information related to the transaction  
33 being alleged as a potential or actual violation of this chapter.  
34 A person or custodian of voter registration information possessing  
35 information relating to an actual or potential violation of this  
36 chapter, and who may have entered into a transaction or otherwise  
37 done business with a person who has used the victim's means of

1 identification, must, upon written request of the victim, provide  
2 copies of all relevant application and transaction information  
3 related to the transaction being alleged as a potential or actual  
4 violation of this chapter. Nothing in this section requires the  
5 information provider to disclose information that it is otherwise  
6 prohibited from disclosing by law, except that a law that prohibits  
7 disclosing a person's information to third parties shall not be  
8 used to deny disclosure of such information to the victim under  
9 this section.

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

13 (a) The showing of a government-issued photo identification  
14 card or, if providing proof by mail, a copy of a government-issued  
15 photo identification card;

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

18 (c) A written statement from the state patrol showing that the  
19 state patrol has on file documentation of the victim's identity  
20 pursuant to the personal identification procedures in RCW  
21 43.43.760.

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

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

37 (5) A person, custodian of voter registration information,  
38 financial information repository, financial service provider,  
39 merchant, corporation, trust, partnership, or unincorporated

1 association may decline to provide information pursuant to this  
2 section when, in the exercise of good faith and reasonable  
3 judgment, it believes this section does not require disclosure of  
4 the information.

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

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

30 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.