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**SUBSTITUTE HOUSE BILL 3076**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Finance (originally sponsored by Representatives H. Sommers, Cooke, Dickerson, Anderson, Gardner and Ogden)

Read first time 02/04/98. Referred to Committee on .

1 AN ACT Relating to sharing confidential tax information with the  
2 United States department of agriculture for the limited purpose of  
3 investigating food stamp fraud by retailers; and amending RCW  
4 82.32.330.

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

6 **Sec. 1.** RCW 82.32.330 and 1996 c 184 s 5 are each amended to read  
7 as follows:

8 (1) For purposes of this section:

9 (a) "Disclose" means to make known to any person in any manner  
10 whatever a return or tax information;

11 (b) "Return" means a tax or information return or claim for refund  
12 required by, or provided for or permitted under, the laws of this state  
13 which is filed with the department of revenue by, on behalf of, or with  
14 respect to a person, and any amendment or supplement thereto, including  
15 supporting schedules, attachments, or lists that are supplemental to,  
16 or part of, the return so filed;

17 (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
18 nature, source, or amount of the taxpayer's income, payments, receipts,  
19 deductions, exemptions, credits, assets, liabilities, net worth, tax

1 liability deficiencies, overassessments, or tax payments, whether taken  
2 from the taxpayer's books and records or any other source, (iii)  
3 whether the taxpayer's return was, is being, or will be examined or  
4 subject to other investigation or processing, (iv) a part of a written  
5 determination that is not designated as a precedent and disclosed  
6 pursuant to RCW 82.32.410, or a background file document relating to a  
7 written determination, and (v) other data received by, recorded by,  
8 prepared by, furnished to, or collected by the department of revenue  
9 with respect to the determination of the existence, or possible  
10 existence, of liability, or the amount thereof, of a person under the  
11 laws of this state for a tax, penalty, interest, fine, forfeiture, or  
12 other imposition, or offense: PROVIDED, That data, material, or  
13 documents that do not disclose information related to a specific or  
14 identifiable taxpayer do not constitute tax information under this  
15 section. Except as provided by RCW 82.32.410, nothing in this chapter  
16 shall require any person possessing data, material, or documents made  
17 confidential and privileged by this section to delete information from  
18 such data, material, or documents so as to permit its disclosure;

19 (d) "State agency" means every Washington state office, department,  
20 division, bureau, board, commission, or other state agency;

21 (e) "Taxpayer identity" means the taxpayer's name, address,  
22 telephone number, registration number, or any combination thereof, or  
23 any other information disclosing the identity of the taxpayer; and

24 (f) "Department" means the department of revenue or its officer,  
25 agent, employee, or representative.

26 (2) Returns and tax information shall be confidential and  
27 privileged, and except as authorized by this section, neither the  
28 department of revenue nor any other person may disclose any return or  
29 tax information.

30 (3) The foregoing, however, shall not prohibit the department of  
31 revenue from:

32 (a) Disclosing such return or tax information in a civil or  
33 criminal judicial proceeding or an administrative proceeding:

34 (i) In respect of any tax imposed under the laws of this state if  
35 the taxpayer or its officer or other person liable under Title 82 RCW  
36 is a party in the proceeding; or

37 (ii) In which the taxpayer about whom such return or tax  
38 information is sought and another state agency are adverse parties in  
39 the proceeding;

1 (b) Disclosing, subject to such requirements and conditions as the  
2 director shall prescribe by rules adopted pursuant to chapter 34.05  
3 RCW, such return or tax information regarding a taxpayer to such  
4 taxpayer or to such person or persons as that taxpayer may designate in  
5 a request for, or consent to, such disclosure, or to any other person,  
6 at the taxpayer's request, to the extent necessary to comply with a  
7 request for information or assistance made by the taxpayer to such  
8 other person: PROVIDED, That tax information not received from the  
9 taxpayer shall not be so disclosed if the director determines that such  
10 disclosure would compromise any investigation or litigation by any  
11 federal, state, or local government agency in connection with the civil  
12 or criminal liability of the taxpayer or another person, or that such  
13 disclosure would identify a confidential informant, or that such  
14 disclosure is contrary to any agreement entered into by the department  
15 that provides for the reciprocal exchange of information with other  
16 government agencies which agreement requires confidentiality with  
17 respect to such information unless such information is required to be  
18 disclosed to the taxpayer by the order of any court;

19 (c) Disclosing the name of a taxpayer with a deficiency greater  
20 than five thousand dollars and against whom a warrant under RCW  
21 82.32.210 has been either issued or filed and remains outstanding for  
22 a period of at least ten working days. The department shall not be  
23 required to disclose any information under this subsection if a  
24 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued  
25 a warrant that has not been filed; and (iii) has entered a deferred  
26 payment arrangement with the department of revenue and is making  
27 payments upon such deficiency that will fully satisfy the indebtedness  
28 within twelve months;

29 (d) Disclosing the name of a taxpayer with a deficiency greater  
30 than five thousand dollars and against whom a warrant under RCW  
31 82.32.210 has been filed with a court of record and remains  
32 outstanding;

33 (e) Publishing statistics so classified as to prevent the  
34 identification of particular returns or reports or items thereof;

35 (f) Disclosing such return or tax information, for official  
36 purposes only, to the governor or attorney general, or to any state  
37 agency, or to any committee or subcommittee of the legislature dealing  
38 with matters of taxation, revenue, trade, commerce, the control of  
39 industry or the professions;

1 (g) Permitting the department of revenue's records to be audited  
2 and examined by the proper state officer, his or her agents and  
3 employees;

4 (h) Disclosing any such return or tax information to a peace  
5 officer as defined in RCW 9A.04.110 or county prosecuting attorney, for  
6 official purposes. The disclosure may be made only in response to a  
7 search warrant, subpoena, or other court order, unless the disclosure  
8 is for the purpose of criminal tax enforcement. A peace officer or  
9 county prosecuting attorney who receives the return or tax information  
10 may disclose that return or tax information only for use in the  
11 investigation and a related court proceeding, or in the court  
12 proceeding for which the return or tax information originally was  
13 sought;

14 (i) Disclosing any such return or tax information to the proper  
15 officer of the internal revenue service of the United States, the  
16 Canadian government or provincial governments of Canada, or to the  
17 proper officer of the tax department of any state or city or town or  
18 county, for official purposes, but only if the statutes of the United  
19 States, Canada or its provincial governments, or of such other state or  
20 city or town or county, as the case may be, grants substantially  
21 similar privileges to the proper officers of this state;

22 (j) Disclosing any such return or tax information to the Department  
23 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the  
24 Department of the Treasury, the Department of Defense, the United  
25 States Customs Service, the Coast Guard of the United States, and the  
26 United States Department of Transportation, or any authorized  
27 representative thereof, for official purposes;

28 (k) Publishing or otherwise disclosing the text of a written  
29 determination designated by the director as a precedent pursuant to RCW  
30 82.32.410;

31 (l) Disclosing, in a manner that is not associated with other tax  
32 information, the taxpayer name, entity type, business address, mailing  
33 address, revenue tax registration numbers, standard industrial  
34 classification code of a taxpayer, and the dates of opening and closing  
35 of business. This subsection shall not be construed as giving  
36 authority to the department to give, sell, or provide access to any  
37 list of taxpayers for any commercial purpose; ((or))

38 (m) Disclosing such return or tax information that is also  
39 maintained by another Washington state or local governmental agency as

1 a public record available for inspection and copying under the  
2 provisions of chapter 42.17 RCW or is a document maintained by a court  
3 of record not otherwise prohibited from disclosure; or

4 (n) Disclosing such return or tax information to the United States  
5 department of agriculture for the limited purpose of investigating food  
6 stamp fraud by retailers.

7 (4)(a) The department may disclose return or taxpayer information  
8 to a person under investigation or during any court or administrative  
9 proceeding against a person under investigation as provided in this  
10 subsection (4). The disclosure must be in connection with the  
11 department's official duties relating to an audit, collection activity,  
12 or a civil or criminal investigation. The disclosure may occur only  
13 when the person under investigation and the person in possession of  
14 data, materials, or documents are parties to the return or tax  
15 information to be disclosed. The department may disclose return or tax  
16 information such as invoices, contracts, bills, statements, resale or  
17 exemption certificates, or checks. However, the department may not  
18 disclose general ledgers, sales or cash receipt journals, check  
19 registers, accounts receivable/payable ledgers, general journals,  
20 financial statements, expert's workpapers, income tax returns, state  
21 tax returns, tax return workpapers, or other similar data, materials,  
22 or documents.

23 (b) Before disclosure of any tax return or tax information under  
24 this subsection (4), the department shall, through written  
25 correspondence, inform the person in possession of the data, materials,  
26 or documents to be disclosed. The correspondence shall clearly  
27 identify the data, materials, or documents to be disclosed. The  
28 department may not disclose any tax return or tax information under  
29 this subsection (4) until the time period allowed in (c) of this  
30 subsection has expired or until the court has ruled on any challenge  
31 brought under (c) of this subsection.

32 (c) The person in possession of the data, materials, or documents  
33 to be disclosed by the department has twenty days from the receipt of  
34 the written request required under (b) of this subsection to petition  
35 the superior court of the county in which the petitioner resides for  
36 injunctive relief. The court shall limit or deny the request of the  
37 department if the court determines that:

1 (i) The data, materials, or documents sought for disclosure are  
2 cumulative or duplicative, or are obtainable from some other source  
3 that is more convenient, less burdensome, or less expensive;

4 (ii) The production of the data, materials, or documents sought  
5 would be unduly burdensome or expensive, taking into account the needs  
6 of the department, the amount in controversy, limitations on the  
7 petitioner's resources, and the importance of the issues at stake; or

8 (iii) The data, materials, or documents sought for disclosure  
9 contain trade secret information that, if disclosed, could harm the  
10 petitioner.

11 (d) The department shall reimburse reasonable expenses for the  
12 production of data, materials, or documents incurred by the person in  
13 possession of the data, materials, or documents to be disclosed.

14 (e) Requesting information under (b) of this subsection that may  
15 indicate that a taxpayer is under investigation does not constitute a  
16 disclosure of tax return or tax information under this section.

17 (5) Any person acquiring knowledge of any return or tax information  
18 in the course of his or her employment with the department of revenue  
19 and any person acquiring knowledge of any return or tax information as  
20 provided under subsection (3)(f), (g), (h), (i), ~~((e))~~ (j), or (n) of  
21 this section, who discloses any such return or tax information to  
22 another person not entitled to knowledge of such return or tax  
23 information under the provisions of this section, is guilty of a  
24 misdemeanor. If the person guilty of such violation is an officer or  
25 employee of the state, such person shall forfeit such office or  
26 employment and shall be incapable of holding any public office or  
27 employment in this state for a period of two years thereafter.

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