

HOUSE BILL ANALYSIS

SSB 6034

Title: An act relating to cable subscriber information practices.

Brief Description: Restricting information about cable subscribers.

Sponsors: Senate Committee on Energy, Technology & Telecommunications (originally sponsored by Senators Brown, Hochstatter and Winsley).

HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS AND ENERGY

Meeting Date: February 22, 2000.

Staff: Scott MacColl (786-7106).

Background:

The attorney general may bring an action against any person to restrain and prevent unfair methods of competition and unfair or deceptive acts. In addition, any person can bring a private action to enjoin further violations of the consumer protection act to recover actual damages, costs, attorneys' fees, and in the court's discretion, three times the actual damages sustained (up to \$10,000).

The federal cable act permits cable operators to collect personally identifiable information about subscribers in order to do business. Information may not be disclosed to third parties without the written consent of the subscriber. There is limited authority for cable operators to disclose a subscriber's name and address if: (a) the subscriber is given an opportunity to stop or limit the disclosure and the subscriber does not respond; or (b) the disclosure does not reveal, directly or indirectly, the extent of any viewing or other use of a cable service by the subscriber or the nature of any transaction made by the subscriber over the cable system.

Local franchising authorities, as units of local government may grant nonexclusive cable franchises. As part of a franchise agreement, a local franchising authority may impose franchising fees and require a cable company to carry public, education, and governmental or other specified programming.

Summary of Bill:

A new chapter is added to the consumer protection act regarding personally identifiable information collected by cable operators. A violation to the act is to be considered an unfair or deceptive act and an unfair method of competition for the purpose of applying the consumer protection act. The act provides for a subscriber whose information was disclosed in violation of the act may use the process set out in the consumer protection act to collect \$1,000, or actual damages, whichever is greater.

Terms defined for the purposes of this act are cable operator, cable service, cable system, personally identifiable information, programming, and subscriber.

Cable operators are prohibited from collecting personally identifiable information concerning any subscriber without written consent of the subscriber, unless the information is necessary to provide requested cable service. Disclosure of personally identifiable information is acceptable when:

- (a) there is written consent of a subscriber;
- (b) disclosure is necessary to provide cable service to the subscriber;
- (c) disclosure is pursuant to a court order, if the subscriber is notified of such an order by the person to whom the order is directed; or
- (d) disclosure is limited to names and addresses of subscribers, and the cable operator has provided opportunity for the subscriber to prohibit or limit such disclosure. Cable operators must provide with any new subscription a self addressed, postage paid postcard that clearly and conspicuously informs the subscriber that the subscriber can prohibit or limit the disclosure by mailing the postcard.

Cable operators are expressly prohibited from observing or recording, or allowing anyone else to observe and record, the viewing habits of subscribers. Exemptions to this rule are for collecting personally identifiable information necessary to conduct a legitimate activity related to a cable service or to detect unauthorized reception of cable. Cable operators are also prohibited from revealing to any other person which specific services a individual subscriber receives, or how often that individual views or uses such service.

References to programming tiers and other general descriptions of cable services that do not directly or indirectly disclose subscriber viewing preferences are expressly allowed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Bill: Ninety days after adjournment of session in which bill is passed.