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HOUSE BILL 1842

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State of Washington

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By Representatives Poulsen, Crouse, Ruderman, Dunshee, Morris, Dickerson, Lantz, Kagi, Romero, Simpson, Berkey, Bush, Linville, Kenney and Esser

Read first time 02/06/2001. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to cable subscriber information practices; adding  
2 a new chapter to Title 19 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that cable operators  
5 collect personal information about their subscribers as a necessary  
6 part of providing cable service. This information may reflect the  
7 subscriber's intimate life, including personal, political, and  
8 religious beliefs and interests, as well as financial status. The  
9 legislature further finds that cable subscribers desire and expect this  
10 information to be kept private, and used only as necessary to provide  
11 cable service. The legislature declares that it is a matter of public  
12 interest to ensure that individuals' privacy is protected, and finds  
13 the provisions of this chapter necessary to protect the privacy of  
14 cable subscribers.

15 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
16 otherwise, the definitions in this section apply throughout this  
17 chapter.

1 (1) "Cable operator" means any person or group of persons who  
2 provides cable service over a cable system and directly or through one  
3 or more affiliates owns a significant interest in such cable system, or  
4 who otherwise controls or is responsible for, through any arrangement,  
5 the management and operation of such a cable system.

6 (2) "Cable service" means programming, in any combination, or any  
7 other service provided by a cable operator on or in connection with a  
8 cable system, except for cable telephone and internet services.

9 (3) "Cable system" means all or part of the facilities owned,  
10 rented, leased, or otherwise controlled by a cable operator. This  
11 includes plant, facilities, equipment, and closed signal transmission  
12 paths; switches, software, hardware, and other processing equipment;  
13 antennas, cables, amplifiers, towers, microwave links, studios, and  
14 real and personal property; and any and all conductors, home terminals,  
15 converters, remote control units, and all associated equipment or  
16 facilities, the purposes of which include distributing cable service or  
17 programming or producing, receiving, amplifying, storing, processing,  
18 or distributing voice, data, video, multimedia, or other forms of  
19 electronic, optical, or other signals.

20 (4) "Personally identifiable information" means information that  
21 can be associated with a particular individual through one or more  
22 identifiers or other information or circumstances.

23 (5) "Programming" means the video, audio, voice, data, multimedia,  
24 or other material or programs prepared for or capable of transmission  
25 on a cable system.

26 (6) "Subscriber" means any person who is lawfully receiving, for  
27 any purpose or reason, any cable service whether or not a fee is paid,  
28 including each such person in a multiple unit building, except for  
29 purposes of reporting or cost allocation, where equivalent subscriber  
30 basis may be used.

31 NEW SECTION. **Sec. 3.** A cable operator shall not collect  
32 personally identifiable information concerning any subscriber without  
33 the prior written or electronic consent of the subscriber concerned,  
34 unless the information is necessary to provide requested cable service  
35 to the subscriber. A cable operator shall not observe or record, or  
36 allow any third party to observe or record, the viewing habits or  
37 communications of subscribers over the cable system except:

1 (1) For collecting personally identifiable information necessary to  
2 render, or conduct a legitimate business activity related to, a cable  
3 service provided by the cable operator; or

4 (2) To detect unauthorized reception of cable communications.

5 NEW SECTION. **Sec. 4.** (1) A cable operator shall not disclose  
6 personally identifiable information concerning any subscriber unless:

7 (a) The subscriber has provided written consent to the disclosure;

8 (b) The disclosure is necessary to provide cable service to the  
9 subscriber;

10 (c) The disclosure is made pursuant to a court order authorizing  
11 such disclosure, if the subscriber is notified of such order by the  
12 person to whom the order is directed; or

13 (d) The disclosure is limited to names and addresses of subscribers  
14 and the cable operator has provided the subscriber the opportunity to  
15 prohibit or limit such disclosure. At the time of entering into an  
16 agreement to provide any cable service, a cable operator shall provide  
17 to each subscriber a self-addressed, postage-paid postcard that clearly  
18 and conspicuously informs the subscriber that the mailing of the  
19 postcard will prohibit or limit the disclosure of the subscriber's name  
20 and address.

21 (2) A cable operator shall not reveal, directly or indirectly, to  
22 any third party which cable services an individual subscriber receives,  
23 or the extent or nature of any viewing or other use of a cable service  
24 by a subscriber. However, this section shall not be construed to  
25 prohibit references to programming tiers and other general descriptions  
26 of cable services that do not directly or indirectly disclose  
27 subscriber viewing preferences.

28 NEW SECTION. **Sec. 5.** The legislature finds that the practices  
29 covered by this chapter are matters vitally affecting the public  
30 interest for the purpose of applying the consumer protection act,  
31 chapter 19.86 RCW. A violation of this chapter is not reasonable in  
32 relation to the development and preservation of business and is an  
33 unfair or deceptive act in trade or commerce and an unfair method of  
34 competition for the purpose of applying the consumer protection act,  
35 chapter 19.86 RCW.

1        NEW SECTION.   **Sec. 6.**   A subscriber whose personally identifiable  
2 information is collected or disclosed in violation of this chapter may  
3 collect damages of one thousand dollars, or actual damages, whichever  
4 is greater.

5        NEW SECTION.   **Sec. 7.**   Sections 1 through 6 of this act constitute  
6 a new chapter in Title 19 RCW.

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