CERTIFICATION OF ENROLLMENT

THIRD SUBSTITUTE SENATE BILL 5412

Chapter 273, Laws of 2004

58th Legislature
2004 Regular Session

IDENTITY THEFT--BIOMETRIC MATCHING SYSTEM

EFFECTIVE DATE: 7/1/04

Passed by the Senate March 10, 2004
YEAS 47  NAYS 2

BRAD OWEN
President of the Senate

Passed by the House March 5, 2004
YEAS 66  NAYS 28

FRANK CHOPP
Speaker of the House of Representatives

Approved April 1, 2004.

I, Milton H. Doumit, Jr., Secretary of the Senate of the State of Washington, do hereby certify that the attached is THIRD SUBSTITUTE SENATE BILL 5412 as passed by the Senate and the House of Representatives on the dates hereon set forth.

MILTON H. DOUMIT JR.
Secretary

FILED
April 1, 2004 - 12:29 p.m.

GARY F. LOCKE
Governor of the State of Washington

SECRETARY OF STATE
State of Washington
AN ACT Relating to identity theft penalties and prevention; amending RCW 9.35.020; adding new sections to chapter 46.20 RCW; creating new sections; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that identity theft and the other types of fraud is a significant problem in the state of Washington, costing our citizens and businesses millions each year. The most common method of accomplishing identity theft and other fraudulent activity is by securing a fraudulently issued driver's license. It is the purpose of this act to significantly reduce identity theft and other fraud by preventing the fraudulent issuance of driver’s licenses and identicards.

Sec. 2. RCW 9.35.020 and 2003 c 53 s 22 are each amended to read as follows:

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

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

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

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

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

(6) The provisions of this section do not apply to any person who
obtains another person's driver's license or other form of
identification for the sole purpose of misrepresenting his or her age.

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

NEW SECTION. Sec. 3. A new section is added to chapter 46.20 RCW
to read as follows:
(1) No later than January 1, 2006, the department shall implement a voluntary biometric matching system for driver's licenses and identicards. The biometric matching system shall be used only to verify the identity of an applicant for a renewal or duplicate driver's license or identicard by matching a biometric identifier submitted by the applicant against the biometric identifier submitted when the license was last issued. This project requires a full review by the information services board using the criteria for projects of the highest visibility and risk.

(2) The biometric matching system selected by the department shall be capable of highly accurate matching, and shall be compliant with biometric standards established by the American association of motor vehicle administrators.

(3) The biometric matching system selected by the department must incorporate a process that allows the owner of a driver's license or identicard to present a personal identification number or other code along with the driver's license or identicard before the information may be verified by a third party.

(4) Upon the establishment of a biometric driver's license and identicard system as described in this section, the department shall allow every person applying for an original, renewal, or duplicate driver's license or identicard to voluntarily submit a biometric identifier. Each applicant shall be informed of all ways in which the biometric identifier may be used, all parties to whom the identifier may be disclosed and the conditions of disclosure, the expected error rates for the biometric matching system which shall be regularly updated as the technology changes or empirical data is collected, and the potential consequences of those errors. The department shall adopt rules to allow applicants to verify the accuracy of the system at the time that biometric information is submitted, including the use of at least two separate devices.

(5) The department may not disclose biometric information to the public or any governmental entity except when authorized by court order.

(6) All biometric information shall be stored with appropriate safeguards, including but not limited to encryption.

(7) The department shall develop procedures to handle instances in which the biometric matching system fails to verify the identity of an
applicant for a renewal or duplicate driver's license or identicard. These procedures shall allow an applicant to prove identity without using a biometric identifier.

(8) Any person who has voluntarily submitted a biometric identifier may choose to discontinue participation in the biometric matching program at any time, provided that the department utilizes a secure procedure to prevent fraudulent requests for a renewal or duplicate driver's license or identicard. When the person discontinues participation, any previously collected biometric information shall be destroyed.

(9) If Engrossed Substitute Senate Bill No. 5428 or House Bill No. 1681 is enacted into law, this section does not apply when an applicant renews his or her driver's license or identicard by mail or electronic commerce.

NEW SECTION. Sec. 4. A new section is added to chapter 46.20 RCW to read as follows:

(1) The department is authorized to charge persons opting to submit a biometric identifier under section 3 of this act an additional fee of no more than two dollars at the time of application for an original, renewal, or duplicate driver's license or identicard issued by the department. This fee shall be used exclusively to defray the cost of implementation and ongoing operation of a biometric security system.

(2) The biometric security account is created in the state treasury. All receipts from subsection (1) of this section shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account must be used only for the purpose of defraying the cost of implementation and ongoing operation of a biometric security system.

NEW SECTION. Sec. 5. This act takes effect July 1, 2004.

NEW SECTION. Sec. 6. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2004, in the omnibus transportation appropriations act, sections 1, 3, 4, and 5 of this act are null and void.

Passed by the Senate March 10, 2004.
Passed by the House March 5, 2004.
Approved by the Governor April 1, 2004.
Filed in Office of Secretary of State April 1, 2004.