

HOUSE BILL REPORT

ESSB 6776

As Reported by House Committee On:
Technology, Energy & Communications

Title: An act relating to prohibiting the unauthorized sale of telephone records.

Brief Description: Prohibiting the unauthorized sale of telephone records.

Sponsors: Senate Committee on Water, Energy & Environment (originally sponsored by Senators Finkbeiner, Poulsen, Weinstein, Esser, Rasmussen, Keiser, Oke, Kline and Kohl-Welles).

Brief History:

Committee Activity:

Technology, Energy & Communications: 2/16/06, 2/21/06 [DP].

Brief Summary of Engrossed Substitute Bill

- Creates criminal and civil penalties for disclosure of a person's telephone records.

HOUSE COMMITTEE ON TECHNOLOGY, ENERGY & COMMUNICATIONS

Majority Report: Do pass. Signed by 11 members: Representatives Morris, Chair; Kilmer, Vice Chair; Crouse, Ranking Minority Member; Haler, Assistant Ranking Minority Member; Ericks, Hankins, Hudgins, Nixon, P. Sullivan, Sump and Takko.

Staff: Kara Durbin (786-7133).

Background:

Customer Proprietary Network Information (CPNI) is data collected by a telecommunications company about a consumer's telephone calls. It may include the time, date, duration and destination number of each call, as well as information about any subscribed services. Federal and state laws generally require telecommunications companies to protect a customer's CPNI, unless the customer consents to disclosure.

"Pretexting" is the practice of obtaining an individual's personal information under false pretenses. It may include cracking on-line accounts and impersonating customers. According to the Electronic Privacy Information Center, a public interest research group, in July of 2005 there were over 40 websites selling telephone calling records and other confidential information. The Federal Trade Commission and the Federal Communications Commission are currently investigating several companies that appear to be engaging in telephone pretexting.

While federal law expressly prohibits pretexting to obtain financial data under the Gramm-Leach-Bliley Act, it does not expressly cover pretexting to procure telephone records. Currently, Congress is considering a number of legislative proposals that target pretexting for telephone records.

There are no state laws prescribing civil or criminal penalties for wrongful disclosure of a person's telephone records.

Summary of Bill:

It is a class C felony to intentionally sell, knowingly purchase, or fraudulently obtain a person's telephone records without the person's permission. It is a gross misdemeanor to knowingly receive a person's telephone records without the person's permission. The Criminal Profiteering Act is amended to include the unauthorized sale or procurement of telephone records, which allows special remedies such as civil forfeiture and triple damages.

The following exceptions are made: (1) any actions by a government agency or its employees in the performance of official duties; and (2) specified actions by a telecommunications company that are necessary to conduct business, authorized by law, consented to by the customer, or in connection with the sale, transfer, or purchase of all or part of a business.

In addition to criminal penalties, violators may also be subject to injunctive relief and damages of at least \$5,000 per violation. Reasonable attorneys' fees and costs are also recoverable.

Appropriation: None.

Fiscal Note: Fiscal note available on substitute bill.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: The committee considered the companion bill. The Senate added an exception to allow telecommunications companies to purchase or sell all or part of a business. This bill has been introduced as model legislation in several states. We cannot wait for the federal government to act on this. We are making progress against these companies.

Testimony Against: None.

Persons Testifying: Steve Gano, Cingular Wireless.

Persons Signed In To Testify But Not Testifying: None.