
HOUSE BILL 2831

State of Washington 59th Legislature 2006 Regular Session

By Representatives Nixon and Simpson

Read first time 01/13/2006. Referred to Committee on State Government Operations & Accountability.

1 AN ACT Relating to prohibiting the commercial use of lists obtained
2 through the public records act; amending RCW 42.17.020 and 42.56.070;
3 adding a new section to chapter 42.56 RCW; prescribing penalties; and
4 providing an effective date.

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

6 **Sec. 1.** RCW 42.17.020 and 2005 c 445 s 6 are each amended to read
7 as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Actual malice" means to act with knowledge of falsity or with
11 reckless disregard as to truth or falsity.

12 (2) "Agency" includes all state agencies and all local agencies.
13 "State agency" includes every state office, department, division,
14 bureau, board, commission, or other state agency. "Local agency"
15 includes every county, city, town, municipal corporation, quasi-
16 municipal corporation, or special purpose district, or any office,
17 department, division, bureau, board, commission, or agency thereof, or
18 other local public agency.

1 (3) "Authorized committee" means the political committee authorized
2 by a candidate, or by the public official against whom recall charges
3 have been filed, to accept contributions or make expenditures on behalf
4 of the candidate or public official.

5 (4) "Ballot proposition" means any "measure" as defined by RCW
6 29A.04.091, or any initiative, recall, or referendum proposition
7 proposed to be submitted to the voters of the state or any municipal
8 corporation, political subdivision, or other voting constituency from
9 and after the time when the proposition has been initially filed with
10 the appropriate election officer of that constituency prior to its
11 circulation for signatures.

12 (5) "Benefit" means a commercial, proprietary, financial, economic,
13 or monetary advantage, or the avoidance of a commercial, proprietary,
14 financial, economic, or monetary disadvantage.

15 (6) "Bona fide political party" means:

16 (a) An organization that has filed a valid certificate of
17 nomination with the secretary of state under chapter 29A.20 RCW;

18 (b) The governing body of the state organization of a major
19 political party, as defined in RCW 29A.04.086, that is the body
20 authorized by the charter or bylaws of the party to exercise authority
21 on behalf of the state party; or

22 (c) The county central committee or legislative district committee
23 of a major political party. There may be only one legislative district
24 committee for each party in each legislative district.

25 (7) "Depository" means a bank designated by a candidate or
26 political committee pursuant to RCW 42.17.050.

27 (8) "Treasurer" and "deputy treasurer" mean the individuals
28 appointed by a candidate or political committee, pursuant to RCW
29 42.17.050, to perform the duties specified in that section.

30 (9) "Candidate" means any individual who seeks nomination for
31 election or election to public office. An individual seeks nomination
32 or election when he or she first:

33 (a) Receives contributions or makes expenditures or reserves space
34 or facilities with intent to promote his or her candidacy for office;

35 (b) Announces publicly or files for office;

36 (c) Purchases commercial advertising space or broadcast time to
37 promote his or her candidacy; or

1 (d) Gives his or her consent to another person to take on behalf of
2 the individual any of the actions in (a) or (c) of this subsection.

3 (10) "Caucus political committee" means a political committee
4 organized and maintained by the members of a major political party in
5 the state senate or state house of representatives.

6 (11) "Commercial advertiser" means any person who sells the service
7 of communicating messages or producing printed material for broadcast
8 or distribution to the general public or segments of the general public
9 whether through the use of newspapers, magazines, television and radio
10 stations, billboard companies, direct mail advertising companies,
11 printing companies, or otherwise.

12 (12) "Commercial purposes" includes, regardless of physical form or
13 characteristic: All direct marketing or other targeted contact of
14 persons or businesses related to any advertisement, offer, or
15 solicitation for anything of value. Commercial purposes does not
16 include the broadcast or distribution of information to the general
17 public or segments of the general public through the use of any form of
18 news media, whether or not a fee is charged for the service, or the
19 solicitation of votes by or on behalf of a political candidate or in
20 favor of or in opposition to ballot measures.

21 (13) "Commission" means the agency established under RCW 42.17.350.

22 ((+13+)) (14) "Compensation" unless the context requires a narrower
23 meaning, includes payment in any form for real or personal property or
24 services of any kind: PROVIDED, That for the purpose of compliance
25 with RCW 42.17.241, the term "compensation" shall not include per diem
26 allowances or other payments made by a governmental entity to reimburse
27 a public official for expenses incurred while the official is engaged
28 in the official business of the governmental entity.

29 ((+14+)) (15) "Continuing political committee" means a political
30 committee that is an organization of continuing existence not
31 established in anticipation of any particular election campaign.

32 ((+15+)) (16)(a) "Contribution" includes:

33 (i) A loan, gift, deposit, subscription, forgiveness of
34 indebtedness, donation, advance, pledge, payment, transfer of funds
35 between political committees, or anything of value, including personal
36 and professional services for less than full consideration;

37 (ii) An expenditure made by a person in cooperation, consultation,

1 or concert with, or at the request or suggestion of, a candidate, a
2 political committee, or their agents;

3 (iii) The financing by a person of the dissemination, distribution,
4 or republication, in whole or in part, of broadcast, written, graphic,
5 or other form of political advertising or electioneering communication
6 prepared by a candidate, a political committee, or its authorized
7 agent;

8 (iv) Sums paid for tickets to fund-raising events such as dinners
9 and parties, except for the actual cost of the consumables furnished at
10 the event.

11 (b) "Contribution" does not include:

12 (i) Standard interest on money deposited in a political committee's
13 account;

14 (ii) Ordinary home hospitality;

15 (iii) A contribution received by a candidate or political committee
16 that is returned to the contributor within five business days of the
17 date on which it is received by the candidate or political committee;

18 (iv) A news item, feature, commentary, or editorial in a regularly
19 scheduled news medium that is of primary interest to the general
20 public, that is in a news medium controlled by a person whose business
21 is that news medium, and that is not controlled by a candidate or a
22 political committee;

23 (v) An internal political communication primarily limited to the
24 members of or contributors to a political party organization or
25 political committee, or to the officers, management staff, or
26 stockholders of a corporation or similar enterprise, or to the members
27 of a labor organization or other membership organization;

28 (vi) The rendering of personal services of the sort commonly
29 performed by volunteer campaign workers, or incidental expenses
30 personally incurred by volunteer campaign workers not in excess of
31 fifty dollars personally paid for by the worker. "Volunteer services,"
32 for the purposes of this section, means services or labor for which the
33 individual is not compensated by any person;

34 (vii) Messages in the form of reader boards, banners, or yard or
35 window signs displayed on a person's own property or property occupied
36 by a person. However, a facility used for such political advertising
37 for which a rental charge is normally made must be reported as an in-

1 kind contribution and counts towards any applicable contribution limit
2 of the person providing the facility;

3 (viii) Legal or accounting services rendered to or on behalf of:

4 (A) A political party or caucus political committee if the person
5 paying for the services is the regular employer of the person rendering
6 such services; or

7 (B) A candidate or an authorized committee if the person paying for
8 the services is the regular employer of the individual rendering the
9 services and if the services are solely for the purpose of ensuring
10 compliance with state election or public disclosure laws.

11 (c) Contributions other than money or its equivalent are deemed to
12 have a monetary value equivalent to the fair market value of the
13 contribution. Services or property or rights furnished at less than
14 their fair market value for the purpose of assisting any candidate or
15 political committee are deemed a contribution. Such a contribution
16 must be reported as an in-kind contribution at its fair market value
17 and counts towards any applicable contribution limit of the provider.

18 ~~((16))~~ (17) "Elected official" means any person elected at a
19 general or special election to any public office, and any person
20 appointed to fill a vacancy in any such office.

21 ~~((17))~~ (18) "Election" includes any primary, general, or special
22 election for public office and any election in which a ballot
23 proposition is submitted to the voters: PROVIDED, That an election in
24 which the qualifications for voting include other than those
25 requirements set forth in Article VI, section 1 (Amendment 63) of the
26 Constitution of the state of Washington shall not be considered an
27 election for purposes of this chapter.

28 ~~((18))~~ (19) "Election campaign" means any campaign in support of
29 or in opposition to a candidate for election to public office and any
30 campaign in support of, or in opposition to, a ballot proposition.

31 ~~((19))~~ (20) "Election cycle" means the period beginning on the
32 first day of December after the date of the last previous general
33 election for the office that the candidate seeks and ending on November
34 30th after the next election for the office. In the case of a special
35 election to fill a vacancy in an office, "election cycle" means the
36 period beginning on the day the vacancy occurs and ending on November
37 30th after the special election.

1 (~~(20)~~) (21) "Electioneering communication" means any broadcast,
2 cable, or satellite television or radio transmission, United States
3 postal service mailing, billboard, newspaper, or periodical that:

4 (a) Clearly identifies a candidate for a state, local, or judicial
5 office either by specifically naming the candidate, or identifying the
6 candidate without using the candidate's name;

7 (b) Is broadcast, transmitted, mailed, erected, distributed, or
8 otherwise published within sixty days before any election for that
9 office in the jurisdiction in which the candidate is seeking election;
10 and

11 (c) Either alone, or in combination with one or more communications
12 identifying the candidate by the same sponsor during the sixty days
13 before an election, has a fair market value of five thousand dollars or
14 more.

15 (~~(21)~~) (22) "Electioneering communication" does not include:

16 (a) Usual and customary advertising of a business owned by a
17 candidate, even if the candidate is mentioned in the advertising when
18 the candidate has been regularly mentioned in that advertising
19 appearing at least twelve months preceding his or her becoming a
20 candidate;

21 (b) Advertising for candidate debates or forums when the
22 advertising is paid for by or on behalf of the debate or forum sponsor,
23 so long as two or more candidates for the same position have been
24 invited to participate in the debate or forum;

25 (c) A news item, feature, commentary, or editorial in a regularly
26 scheduled news medium that is:

27 (i) Of primary interest to the general public;

28 (ii) In a news medium controlled by a person whose business is that
29 news medium; and

30 (iii) Not a medium controlled by a candidate or a political
31 committee;

32 (d) Slate cards and sample ballots;

33 (e) Advertising for books, films, dissertations, or similar works
34 (i) written by a candidate when the candidate entered into a contract
35 for such publications or media at least twelve months before becoming
36 a candidate, or (ii) written about a candidate;

37 (f) Public service announcements;

1 (g) A mailed internal political communication primarily limited to
2 the members of or contributors to a political party organization or
3 political committee, or to the officers, management staff, or
4 stockholders of a corporation or similar enterprise, or to the members
5 of a labor organization or other membership organization;

6 (h) An expenditure by or contribution to the authorized committee
7 of a candidate for state, local, or judicial office; or

8 (i) Any other communication exempted by the commission through rule
9 consistent with the intent of this chapter.

10 ~~((+22+))~~ (23) "Expenditure" includes a payment, contribution,
11 subscription, distribution, loan, advance, deposit, or gift of money or
12 anything of value, and includes a contract, promise, or agreement,
13 whether or not legally enforceable, to make an expenditure. The term
14 "expenditure" also includes a promise to pay, a payment, or a transfer
15 of anything of value in exchange for goods, services, property,
16 facilities, or anything of value for the purpose of assisting,
17 benefiting, or honoring any public official or candidate, or assisting
18 in furthering or opposing any election campaign. For the purposes of
19 this chapter, agreements to make expenditures, contracts, and promises
20 to pay may be reported as estimated obligations until actual payment is
21 made. The term "expenditure" shall not include the partial or complete
22 repayment by a candidate or political committee of the principal of a
23 loan, the receipt of which loan has been properly reported.

24 ~~((+23+))~~ (24) "Final report" means the report described as a final
25 report in RCW 42.17.080(2).

26 ~~((+24+))~~ (25) "General election" for the purposes of RCW 42.17.640
27 means the election that results in the election of a person to a state
28 office. It does not include a primary.

29 ~~((+25+))~~ (26) "Gift," is as defined in RCW 42.52.010.

30 ~~((+26+))~~ (27) "Immediate family" includes the spouse, dependent
31 children, and other dependent relatives, if living in the household.
32 For the purposes of RCW 42.17.640 through 42.17.790, "immediate family"
33 means an individual's spouse, and child, stepchild, grandchild, parent,
34 stepparent, grandparent, brother, half brother, sister, or half sister
35 of the individual and the spouse of any such person and a child,
36 stepchild, grandchild, parent, stepparent, grandparent, brother, half
37 brother, sister, or half sister of the individual's spouse and the
38 spouse of any such person.

1 (~~(+27)~~) (28) "Incumbent" means a person who is in present
2 possession of an elected office.

3 (~~(+28)~~) (29) "Independent expenditure" means an expenditure that
4 has each of the following elements:

5 (a) It is made in support of or in opposition to a candidate for
6 office by a person who is not (i) a candidate for that office, (ii) an
7 authorized committee of that candidate for that office, (iii) a person
8 who has received the candidate's encouragement or approval to make the
9 expenditure, if the expenditure pays in whole or in part for political
10 advertising supporting that candidate or promoting the defeat of any
11 other candidate or candidates for that office, or (iv) a person with
12 whom the candidate has collaborated for the purpose of making the
13 expenditure, if the expenditure pays in whole or in part for political
14 advertising supporting that candidate or promoting the defeat of any
15 other candidate or candidates for that office;

16 (b) The expenditure pays in whole or in part for political
17 advertising that either specifically names the candidate supported or
18 opposed, or clearly and beyond any doubt identifies the candidate
19 without using the candidate's name; and

20 (c) The expenditure, alone or in conjunction with another
21 expenditure or other expenditures of the same person in support of or
22 opposition to that candidate, has a value of (~~(five)~~) six hundred
23 seventy-five dollars or more. A series of expenditures, each of which
24 is under five hundred dollars, constitutes one independent expenditure
25 if their cumulative value is five hundred dollars or more.

26 (~~(+29)~~) (30)(a) "Intermediary" means an individual who transmits
27 a contribution to a candidate or committee from another person unless
28 the contribution is from the individual's employer, immediate family as
29 defined for purposes of RCW 42.17.640 through 42.17.790, or an
30 association to which the individual belongs.

31 (b) A treasurer or a candidate is not an intermediary for purposes
32 of the committee that the treasurer or candidate serves.

33 (c) A professional fund-raiser is not an intermediary if the fund-
34 raiser is compensated for fund-raising services at the usual and
35 customary rate.

36 (d) A volunteer hosting a fund-raising event at the individual's
37 home is not an intermediary for purposes of that event.

1 (~~(+30+)~~) (31) "Legislation" means bills, resolutions, motions,
2 amendments, nominations, and other matters pending or proposed in
3 either house of the state legislature, and includes any other matter
4 that may be the subject of action by either house or any committee of
5 the legislature and all bills and resolutions that, having passed both
6 houses, are pending approval by the governor.

7 (~~(+31+)~~) (32) "List" has its ordinary meaning, and also means any
8 collection of similar forms or records, whether obtained as a result of
9 a single or multiple request from any state or local government agency.

10 (33) "Lobby" and "lobbying" each mean attempting to influence the
11 passage or defeat of any legislation by the legislature of the state of
12 Washington, or the adoption or rejection of any rule, standard, rate,
13 or other legislative enactment of any state agency under the state
14 Administrative Procedure Act, chapter 34.05 RCW. Neither "lobby" nor
15 "lobbying" includes an association's or other organization's act of
16 communicating with the members of that association or organization.

17 (~~(+32+)~~) (34) "Lobbyist" includes any person who lobbies either in
18 his or her own or another's behalf.

19 (~~(+33+)~~) (35) "Lobbyist's employer" means the person or persons by
20 whom a lobbyist is employed and all persons by whom he or she is
21 compensated for acting as a lobbyist.

22 (~~(+34+)~~) (36) "Participate" means that, with respect to a
23 particular election, an entity:

24 (a) Makes either a monetary or in-kind contribution to a candidate;

25 (b) Makes an independent expenditure or electioneering
26 communication in support of or opposition to a candidate;

27 (c) Endorses a candidate prior to contributions being made by a
28 subsidiary corporation or local unit with respect to that candidate or
29 that candidate's opponent;

30 (d) Makes a recommendation regarding whether a candidate should be
31 supported or opposed prior to a contribution being made by a subsidiary
32 corporation or local unit with respect to that candidate or that
33 candidate's opponent; or

34 (e) Directly or indirectly collaborates or consults with a
35 subsidiary corporation or local unit on matters relating to the support
36 of or opposition to a candidate, including, but not limited to, the
37 amount of a contribution, when a contribution should be given, and what

1 assistance, services or independent expenditures, or electioneering
2 communications, if any, will be made or should be made in support of or
3 opposition to a candidate.

4 ~~((+35+))~~ (37) "Person" includes an individual, partnership, joint
5 venture, public or private corporation, association, federal, state, or
6 local governmental entity or agency however constituted, candidate,
7 committee, political committee, political party, executive committee
8 thereof, or any other organization or group of persons, however
9 organized.

10 ~~((+36+))~~ (38) "Person in interest" means the person who is the
11 subject of a record or any representative designated by that person,
12 except that if that person is under a legal disability, the term
13 "person in interest" means and includes the parent or duly appointed
14 legal representative.

15 ~~((+37+))~~ (39) "Political advertising" includes any advertising
16 displays, newspaper ads, billboards, signs, brochures, articles,
17 tabloids, flyers, letters, radio or television presentations, or other
18 means of mass communication, used for the purpose of appealing,
19 directly or indirectly, for votes or for financial or other support or
20 opposition in any election campaign.

21 ~~((+38+))~~ (40) "Political committee" means any person (except a
22 candidate or an individual dealing with his or her own funds or
23 property) having the expectation of receiving contributions or making
24 expenditures in support of, or opposition to, any candidate or any
25 ballot proposition.

26 ~~((+39+))~~ (41) "Primary" for the purposes of RCW 42.17.640 means the
27 procedure for nominating a candidate to state office under chapter
28 29A.52 RCW or any other primary for an election that uses, in large
29 measure, the procedures established in chapter 29A.52 RCW.

30 ~~((+40+))~~ (42) "Public office" means any federal, state, judicial,
31 county, city, town, school district, port district, special district,
32 or other state political subdivision elective office.

33 ~~((+41+))~~ (43) "Public record" includes any writing containing
34 information relating to the conduct of government or the performance of
35 any governmental or proprietary function prepared, owned, used, or
36 retained by any state or local agency regardless of physical form or
37 characteristics. For the office of the secretary of the senate and the
38 office of the chief clerk of the house of representatives, public

1 records means legislative records as defined in RCW 40.14.100 and also
2 means the following: All budget and financial records; personnel
3 leave, travel, and payroll records; records of legislative sessions;
4 reports submitted to the legislature; and any other record designated
5 a public record by any official action of the senate or the house of
6 representatives.

7 ~~((42))~~ (44) "Recall campaign" means the period of time beginning
8 on the date of the filing of recall charges under RCW 29A.56.120 and
9 ending thirty days after the recall election.

10 ~~((43))~~ (45) "Sponsor of an electioneering communications,
11 independent expenditures, or political advertising" means the person
12 paying for the electioneering communication, independent expenditure,
13 or political advertising. If a person acts as an agent for another or
14 is reimbursed by another for the payment, the original source of the
15 payment is the sponsor.

16 ~~((44))~~ (46) "State legislative office" means the office of a
17 member of the state house of representatives or the office of a member
18 of the state senate.

19 ~~((45))~~ (47) "State office" means state legislative office or the
20 office of governor, lieutenant governor, secretary of state, attorney
21 general, commissioner of public lands, insurance commissioner,
22 superintendent of public instruction, state auditor, or state
23 treasurer.

24 ~~((46))~~ (48) "State official" means a person who holds a state
25 office.

26 ~~((47))~~ (49) "Surplus funds" mean, in the case of a political
27 committee or candidate, the balance of contributions that remain in the
28 possession or control of that committee or candidate subsequent to the
29 election for which the contributions were received, and that are in
30 excess of the amount necessary to pay remaining debts incurred by the
31 committee or candidate prior to that election. In the case of a
32 continuing political committee, "surplus funds" mean those
33 contributions remaining in the possession or control of the committee
34 that are in excess of the amount necessary to pay all remaining debts
35 when it makes its final report under RCW 42.17.065.

36 ~~((48))~~ (50) "Writing" means handwriting, typewriting, printing,
37 photostating, photographing, and every other means of recording any
38 form of communication or representation, including, but not limited to,

1 letters, words, pictures, sounds, or symbols, or combination thereof,
2 and all papers, maps, magnetic or paper tapes, photographic films and
3 prints, motion picture, film and video recordings, magnetic or punched
4 cards, discs, drums, diskettes, sound recordings, and other documents
5 including existing data compilations from which information may be
6 obtained or translated.

7 As used in this chapter, the singular shall take the plural and any
8 gender, the other, as the context requires.

9 **Sec. 2.** RCW 42.56.070 and 2005 c 274 s 284 are each amended to
10 read as follows:

11 (1) Each agency, in accordance with published rules, shall make
12 available for public inspection and copying all public records, unless
13 the record falls within the specific exemptions of subsection (6) of
14 this section, this chapter, or other statute which exempts or prohibits
15 disclosure of specific information or records. To the extent required
16 to prevent an unreasonable invasion of personal privacy interests
17 protected by this chapter, an agency shall delete identifying details
18 in a manner consistent with this chapter when it makes available or
19 publishes any public record; however, in each case, the justification
20 for the deletion shall be explained fully in writing.

21 (2) For informational purposes, each agency shall publish and
22 maintain a current list containing every law, other than those listed
23 in this chapter, that the agency believes exempts or prohibits
24 disclosure of specific information or records of the agency. An
25 agency's failure to list an exemption shall not affect the efficacy of
26 any exemption.

27 (3) Each local agency shall maintain and make available for public
28 inspection and copying a current index providing identifying
29 information as to the following records issued, adopted, or promulgated
30 after January 1, 1973:

31 (a) Final opinions, including concurring and dissenting opinions,
32 as well as orders, made in the adjudication of cases;

33 (b) Those statements of policy and interpretations of policy,
34 statute, and the Constitution which have been adopted by the agency;

35 (c) Administrative staff manuals and instructions to staff that
36 affect a member of the public;

1 (d) Planning policies and goals, and interim and final planning
2 decisions;

3 (e) Factual staff reports and studies, factual consultant's reports
4 and studies, scientific reports and studies, and any other factual
5 information derived from tests, studies, reports, or surveys, whether
6 conducted by public employees or others; and

7 (f) Correspondence, and materials referred to therein, by and with
8 the agency relating to any regulatory, supervisory, or enforcement
9 responsibilities of the agency, whereby the agency determines, or
10 opines upon, or is asked to determine or opine upon, the rights of the
11 state, the public, a subdivision of state government, or of any private
12 party.

13 (4) A local agency need not maintain such an index, if to do so
14 would be unduly burdensome, but it shall in that event:

15 (a) Issue and publish a formal order specifying the reasons why and
16 the extent to which compliance would unduly burden or interfere with
17 agency operations; and

18 (b) Make available for public inspection and copying all indexes
19 maintained for agency use.

20 (5) Each state agency shall, by rule, establish and implement a
21 system of indexing for the identification and location of the following
22 records:

23 (a) All records issued before July 1, 1990, for which the agency
24 has maintained an index;

25 (b) Final orders entered after June 30, 1990, that are issued in
26 adjudicative proceedings as defined in RCW 34.05.010 and that contain
27 an analysis or decision of substantial importance to the agency in
28 carrying out its duties;

29 (c) Declaratory orders entered after June 30, 1990, that are issued
30 pursuant to RCW 34.05.240 and that contain an analysis or decision of
31 substantial importance to the agency in carrying out its duties;

32 (d) Interpretive statements as defined in RCW 34.05.010 that were
33 entered after June 30, 1990; and

34 (e) Policy statements as defined in RCW 34.05.010 that were entered
35 after June 30, 1990.

36 Rules establishing systems of indexing shall include, but not be
37 limited to, requirements for the form and content of the index, its
38 location and availability to the public, and the schedule for revising

1 or updating the index. State agencies that have maintained indexes for
2 records issued before July 1, 1990, shall continue to make such indexes
3 available for public inspection and copying. Information in such
4 indexes may be incorporated into indexes prepared pursuant to this
5 subsection. State agencies may satisfy the requirements of this
6 subsection by making available to the public indexes prepared by other
7 parties but actually used by the agency in its operations. State
8 agencies shall make indexes available for public inspection and
9 copying. State agencies may charge a fee to cover the actual costs of
10 providing individual mailed copies of indexes.

11 (6) A public record may be relied on, used, or cited as precedent
12 by an agency against a party other than an agency and it may be invoked
13 by the agency for any other purpose only if:

- 14 (a) It has been indexed in an index available to the public; or
15 (b) Parties affected have timely notice (actual or constructive) of
16 the terms thereof.

17 (7) Each agency shall establish, maintain, and make available for
18 public inspection and copying a statement of the actual per page cost
19 or other costs, if any, that it charges for providing photocopies of
20 public records and a statement of the factors and manner used to
21 determine the actual per page cost or other costs, if any.

22 (a) In determining the actual per page cost for providing
23 photocopies of public records, an agency may include all costs directly
24 incident to copying such public records including the actual cost of
25 the paper and the per page cost for use of agency copying equipment.
26 In determining other actual costs for providing photocopies of public
27 records, an agency may include all costs directly incident to shipping
28 such public records, including the cost of postage or delivery charges
29 and the cost of any container or envelope used.

30 (b) In determining the actual per page cost or other costs for
31 providing copies of public records, an agency may not include staff
32 salaries, benefits, or other general administrative or overhead
33 charges, unless those costs are directly related to the actual cost of
34 copying the public records. Staff time to copy and mail the requested
35 public records may be included in an agency's costs.

36 (8) An agency need not calculate the actual per page cost or other
37 costs it charges for providing photocopies of public records if to do
38 so would be unduly burdensome, but in that event: The agency may not

1 charge in excess of fifteen cents per page for photocopies of public
2 records or for the use of agency equipment to photocopy public records
3 and the actual postage or delivery charge and the cost of any container
4 or envelope used to mail the public records to the requestor.

5 (9) A list obtained from any state or local government agency,
6 whether or not obtained as a result of a public records request, and
7 whether the request was made directly by the person himself or herself
8 or by another person, may not be used for commercial purposes or for
9 any type of solicitation by or on behalf of a nonprofit or charitable
10 organization. This chapter shall not be construed as giving authority
11 to any agency, the office of the secretary of the senate, or the office
12 of the chief clerk of the house of representatives to give, sell or
13 provide access to lists of individuals or businesses requested for
14 commercial purposes, and agencies, the office of the secretary of the
15 senate, and the office of the chief clerk of the house of
16 representatives shall not do so unless specifically authorized or
17 directed by law: PROVIDED, HOWEVER, That lists of applicants for
18 professional licenses and of professional licensees shall be made
19 available to those professional associations or educational
20 organizations recognized by their professional licensing or examination
21 board, upon payment of a reasonable charge therefor: PROVIDED FURTHER,
22 That such recognition may be refused only for a good cause pursuant to
23 a hearing under the provisions of chapter 34.05 RCW, the Administrative
24 Procedure Act.

25 NEW SECTION. Sec. 3. A new section is added to chapter 42.56 RCW
26 to read as follows:

27 A person is guilty of a gross misdemeanor punishable under RCW
28 9A.20.021 if he or she:

29 (1) Uses a list obtained, either by the person himself or herself
30 or by another person, from any state or local agency for commercial
31 purposes or for any type of solicitation by or on behalf of a nonprofit
32 or charitable organization, and does so knowing that the list came from
33 or was compiled, whether by the person himself or herself or by a third
34 party, from records obtained from a state or local government agency;
35 or

1 (2) Induces another to violate this section.

2 NEW SECTION. **Sec. 4.** This act takes effect July 1, 2006.

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