2729-S AMS TRAN S5900.1

<u>SHB 2729</u> - S COMM AMD By Committee on Transportation

## ADOPTED 03/07/2008

Strike everything after the enacting clause and insert the following:

3 "<u>NEW SECTION.</u> Sec. 1. The legislature finds that:

4 (1) Washington state recognizes the importance of protecting5 its citizens from unwanted wireless surveillance.

6 (2) Enhanced drivers' licenses and enhanced identicards are 7 intended to facilitate efficient travel at land and sea borders between 8 the United States, Canada, and Mexico, not to facilitate the profiling 9 and tracking of individuals.

10 (3) Easy access to the information found on enhanced drivers' 11 licenses and enhanced identicards could facilitate the commission of 12 other unwanted offenses, such as identity theft.

13 <u>NEW SECTION.</u> Sec. 2. The definitions in this section apply 14 throughout this chapter unless the context clearly requires otherwise.

(1) "Enhanced driver's license" means a driver's license that isissued under RCW 46.20.202.

17 (2) "Enhanced identicard" means an identicard that is issued under18 RCW 46.20.202.

(3) "Identification document" means an enhanced driver's license oran enhanced identicard.

(4) "Radio frequency identification" means a technology that usesradio waves to transmit data remotely to readers.

(5) "Reader" means a scanning device that is capable of using radio waves to communicate with an identification document and read the data transmitted by the identification document.

26 (6) "Remotely" means that no physical contact between the 27 identification document and a reader is necessary in order to transmit 28 data using radio waves. 1 (7) "Unique personal identifier number" means a randomly assigned 2 string of numbers or symbols issued by the department of licensing that 3 is encoded on an identification document and is intended to be read 4 remotely by a reader to identify the identification document that has 5 been issued to a particular individual.

6 <u>NEW SECTION.</u> Sec. 3. (1) Except as provided in subsection (2) of 7 this section, a person is guilty of a class C felony if the person 8 intentionally possesses, or reads or captures remotely using radio 9 waves, information contained on another person's identification 10 document, including the unique personal identifier number encoded on 11 the identification document, without that person's express knowledge or 12 consent.

13 (2) This section does not apply to:

14 (a) A person or entity that reads an identification document to15 facilitate border crossing;

(b) A person or entity that reads a person's identification document in the course of an act of good faith security research, experimentation, or scientific inquiry including, but not limited to, activities useful in identifying and analyzing security flaws and vulnerabilities; or

(c) A person or entity that unintentionally reads an identification document remotely in the course of operating its own radio frequency identification system, provided that the inadvertently received information:

25 (i) Is not disclosed to any other party;

26 (ii) Is not used for any purpose; and

27 (iii) Is not stored or is promptly destroyed.

NEW SECTION. Sec. 4. The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying chapter 19.86 RCW. 1 **Sec. 5.** RCW 42.56.230 and 2005 c 274 s 403 are each amended to 2 read as follows:

3 The following personal information is exempt from public inspection 4 and copying under this chapter:

5 (1) Personal information in any files maintained for students in 6 public schools, patients or clients of public institutions or public 7 health agencies, or welfare recipients;

8 (2) Personal information in files maintained for employees, 9 appointees, or elected officials of any public agency to the extent 10 that disclosure would violate their right to privacy;

(3) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (a) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer; ((and))

17 (4) Credit card numbers, debit card numbers, electronic check 18 numbers, card expiration dates, or bank or other financial account 19 numbers, except when disclosure is expressly required by or governed by 20 other law<u>; and</u>

21 (5) Documents and related materials and scanned images of documents 22 and related materials used to prove identity, age, residential address, 23 social security number, or other personal information required to apply 24 for a driver's license or identicard.

25 **Sec. 6.** RCW 42.56.330 and 2007 c 197 s 5 are each amended to read 26 as follows:

The following information relating to public utilities and transportation is exempt from disclosure under this chapter:

(1) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095;

32 (2) The residential addresses and residential telephone numbers of 33 the customers of a public utility contained in the records or lists 34 held by the public utility of which they are customers, except that 35 this information may be released to the division of child support or 36 the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the
establishment, enforcement, or modification of a support order;

3 (3) The names, residential addresses, residential telephone 4 numbers, and other individually identifiable records held by an agency 5 in relation to a vanpool, carpool, or other ride-sharing program or 6 service; however, these records may be disclosed to other persons who 7 apply for ride-matching services and who need that information in order 8 to identify potential riders or drivers with whom to share rides;

9 (4) The personally identifying information of current or former 10 participants or applicants in a paratransit or other transit service 11 operated for the benefit of persons with disabilities or elderly 12 persons;

13 (5) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not 14 limited to, stored value smart cards and magnetic strip cards, except 15 16 that an agency may disclose this information to a person, employer, 17 educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit 18 pass or other fare payment media, or to the news media when reporting 19 on public transportation or public safety. This information may also 20 21 be disclosed at the agency's discretion to governmental agencies or 22 groups concerned with public transportation or public safety;

(6) Any information obtained by governmental agencies that is 23 24 collected by the use of a motor carrier intelligent transportation 25 system or any comparable information equipment attached to a truck, tractor, or trailer; however, the information may be given to other 26 27 governmental agencies or the owners of the truck, tractor, or trailer from which the information is obtained. As used in this subsection, 28 "motor carrier" has the same definition as provided in RCW 81.80.010; 29 30 ((<del>and</del>))

(7) The personally identifying information of persons who acquire 31 32 and use transponders or other technology to facilitate payment of tolls. This information may be disclosed in aggregate form as long as 33 the data does not contain any personally identifying information. For 34 these purposes aggregate data may include the census tract of the 35 account holder as long as any individual personally identifying 36 37 information is not released. Personally identifying information may be 38 released to law enforcement agencies only for toll enforcement

1 purposes. Personally identifying information may be released to law 2 enforcement agencies for other purposes only if the request is 3 accompanied by a court order; and

(8) The personally identifying information of persons who acquire 4 and use a driver's license or identicard that includes a radio 5 frequency identification chip or similar technology to facilitate 6 7 border crossing. This information may be disclosed in aggregate form as long as the data does not contain any personally identifying 8 information. Personally identifying information may be released to law 9 enforcement agencies only for United States customs and border 10 protection enforcement purposes. Personally identifying information 11 may be released to law enforcement agencies for other purposes only if 12 13 the request is accompanied by a court order.

14 <u>NEW SECTION.</u> Sec. 7. Sections 1 through 4 of this act constitute 15 a new chapter in Title 9A RCW."

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16 On page 1, line 1 of the title, after "documents;" strike the 17 remainder of the title and insert "amending RCW 42.56.230 and 18 42.56.330; adding a new chapter to Title 9A RCW; and prescribing 19 penalties."

<u>EFFECT:</u> Strikes all of the provisions of the underlying bill, except for the exemptions from the Public Records Act. Adds that a person is guilty of a class C felony if the person intentionally possesses, or reads or captures remotely using radio waves, information contained on another person's enhanced driver's license without that person's express knowledge or consent. Exceptions are included for: Border crossing; inadvertent scanning (if the information is promptly destroyed); and security-related research.

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