

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1445**

60th Legislature  
2007 Regular Session

Passed by the House February 23, 2007  
Yeas 94 Nays 0

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**Speaker of the House of Representatives**

Passed by the Senate April 13, 2007  
Yeas 48 Nays 0

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**President of the Senate**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1445** as passed by the House of Representatives and the Senate on the dates hereon set forth.

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**Chief Clerk**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 1445**

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Passed Legislature - 2007 Regular Session

**State of Washington                      60th Legislature                      2007 Regular Session**

**By** House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Kessler, Rodne, Chandler, Hunt, Upthegrove and Miloscia; by request of Attorney General)

READ FIRST TIME 02/08/07.

1            AN ACT Relating to making adjustments to the recodification of the  
2 public records act; amending RCW 42.56.010, 42.56.030, 42.56.330, and  
3 42.56.590; reenacting and amending RCW 42.56.270, 42.56.270, 42.56.400,  
4 and 42.56.570; adding a new section to chapter 42.56 RCW; providing an  
5 effective date; and providing an expiration date.

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

7            **Sec. 1.** RCW 42.56.010 and 2005 c 274 s 101 are each amended to  
8 read as follows:

9            The definitions in ((RCW 42.17.020)) this section apply throughout  
10 this chapter unless the context clearly requires otherwise.

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

18            (2) "Public record" includes any writing containing information  
19 relating to the conduct of government or the performance of any

1 governmental or proprietary function prepared, owned, used, or retained  
2 by any state or local agency regardless of physical form or  
3 characteristics. For the office of the secretary of the senate and the  
4 office of the chief clerk of the house of representatives, public  
5 records means legislative records as defined in RCW 40.14.100 and also  
6 means the following: All budget and financial records; personnel  
7 leave, travel, and payroll records; records of legislative sessions;  
8 reports submitted to the legislature; and any other record designated  
9 a public record by any official action of the senate or the house of  
10 representatives.

11 (3) "Writing" means handwriting, typewriting, printing,  
12 photostating, photographing, and every other means of recording any  
13 form of communication or representation including, but not limited to,  
14 letters, words, pictures, sounds, or symbols, or combination thereof,  
15 and all papers, maps, magnetic or paper tapes, photographic films and  
16 prints, motion picture, film and video recordings, magnetic or punched  
17 cards, discs, drums, diskettes, sound recordings, and other documents  
18 including existing data compilations from which information may be  
19 obtained or translated.

20 **Sec. 2.** RCW 42.56.030 and 2005 c 274 s 283 are each amended to  
21 read as follows:

22 The people of this state do not yield their sovereignty to the  
23 agencies that serve them. The people, in delegating authority, do not  
24 give their public servants the right to decide what is good for the  
25 people to know and what is not good for them to know. The people  
26 insist on remaining informed so that they may maintain control over the  
27 instruments that they have created. This chapter shall be liberally  
28 construed and its exemptions narrowly construed to promote this public  
29 policy and to assure that the public interest will be fully protected.  
30 In the event of conflict between the provisions of this chapter and any  
31 other act, the provisions of this chapter shall govern.

32 **Sec. 3.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c  
33 338 s 5, 2006 c 302 s 12, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c  
34 171 s 8 are each reenacted and amended to read as follows:

35 The following financial, commercial, and proprietary information is  
36 exempt from disclosure under this chapter:

1 (1) Valuable formulae, designs, drawings, computer source code or  
2 object code, and research data obtained by any agency within five years  
3 of the request for disclosure when disclosure would produce private  
4 gain and public loss;

5 (2) Financial information supplied by or on behalf of a person,  
6 firm, or corporation for the purpose of qualifying to submit a bid or  
7 proposal for (a) a ferry system construction or repair contract as  
8 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
9 or improvement as required by RCW 47.28.070;

10 (3) Financial and commercial information and records supplied by  
11 private persons pertaining to export services provided under chapters  
12 43.163 and 53.31 RCW, and by persons pertaining to export projects  
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by  
15 businesses or individuals during application for loans or program  
16 services provided by chapters 15.110, 43.163, 43.160, 43.330, and  
17 43.168 RCW, or during application for economic development loans or  
18 program services provided by any local agency;

19 (5) Financial information, business plans, examination reports, and  
20 any information produced or obtained in evaluating or examining a  
21 business and industrial development corporation organized or seeking  
22 certification under chapter 31.24 RCW;

23 (6) Financial and commercial information supplied to the state  
24 investment board by any person when the information relates to the  
25 investment of public trust or retirement funds and when disclosure  
26 would result in loss to such funds or in private loss to the providers  
27 of this information;

28 (7) Financial and valuable trade information under RCW 51.36.120;

29 (8) Financial, commercial, operations, and technical and research  
30 information and data submitted to or obtained by the clean Washington  
31 center in applications for, or delivery of, program services under  
32 chapter 70.95H RCW;

33 (9) Financial and commercial information requested by the public  
34 stadium authority from any person or organization that leases or uses  
35 the stadium and exhibition center as defined in RCW 36.102.010;

36 (10)(a) Financial information, including but not limited to account  
37 numbers and values, and other identification numbers supplied by or on  
38 behalf of a person, firm, corporation, limited liability company,

1 partnership, or other entity related to an application for a horse  
2 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
3 license, gambling license, or lottery retail license;

4 (b) Financial or proprietary information supplied to the liquor  
5 control board including the amount of beer or wine sold by a domestic  
6 winery, brewery, microbrewery, or certificate of approval holder under  
7 RCW 66.24.206(1) or 66.24.270(2)(a) and including the amount of beer or  
8 wine purchased by a retail licensee in connection with a retail  
9 licensee's obligation under RCW 66.24.210 or 66.24.290, for receipt of  
10 shipments of beer or wine.

11 (11) Proprietary data, trade secrets, or other information that  
12 relates to: (a) A vendor's unique methods of conducting business; (b)  
13 data unique to the product or services of the vendor; or (c)  
14 determining prices or rates to be charged for services, submitted by  
15 any vendor to the department of social and health services for purposes  
16 of the development, acquisition, or implementation of state purchased  
17 health care as defined in RCW 41.05.011;

18 (12)(a) When supplied to and in the records of the department of  
19 community, trade, and economic development:

20 (i) Financial and proprietary information collected from any person  
21 and provided to the department of community, trade, and economic  
22 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

23 (ii) Financial or proprietary information collected from any person  
24 and provided to the department of community, trade, and economic  
25 development or the office of the governor in connection with the  
26 siting, recruitment, expansion, retention, or relocation of that  
27 person's business and until a siting decision is made, identifying  
28 information of any person supplying information under this subsection  
29 and the locations being considered for siting, relocation, or expansion  
30 of a business;

31 (b) When developed by the department of community, trade, and  
32 economic development based on information as described in (a)(i) of  
33 this subsection, any work product is not exempt from disclosure;

34 (c) For the purposes of this subsection, "siting decision" means  
35 the decision to acquire or not to acquire a site;

36 (d) If there is no written contact for a period of sixty days to  
37 the department of community, trade, and economic development from a

1 person connected with siting, recruitment, expansion, retention, or  
2 relocation of that person's business, information described in (a)(ii)  
3 of this subsection will be available to the public under this chapter;

4 (13) Financial and proprietary information submitted to or obtained  
5 by the department of ecology or the authority created under chapter  
6 70.95N RCW to implement chapter 70.95N RCW;

7 (14) Financial, commercial, operations, and technical and research  
8 information and data submitted to or obtained by the life sciences  
9 discovery fund authority in applications for, or delivery of, grants  
10 under chapter 43.350 RCW, to the extent that such information, if  
11 revealed, would reasonably be expected to result in private loss to the  
12 providers of this information;

13 (15) Financial and commercial information provided as evidence to  
14 the department of licensing as required by RCW 19.112.110 or  
15 19.112.120, except information disclosed in aggregate form that does  
16 not permit the identification of information related to individual fuel  
17 licensees;

18 (16) Any production records, mineral assessments, and trade secrets  
19 submitted by a permit holder, mine operator, or landowner to the  
20 department of natural resources under RCW 78.44.085; ~~((and))~~

21 (17)(a) Farm plans developed by conservation districts, unless  
22 permission to release the farm plan is granted by the landowner or  
23 operator who requested the plan, or the farm plan is used for the  
24 application or issuance of a permit~~((-))~~;

25 (b) Farm plans developed under chapter 90.48 RCW and not under the  
26 federal clean water act, 33 U.S.C. Sec. 1251 are subject to RCW  
27 42.56.610 and 90.64.190; and

28 (18) Information gathered under chapter 19.85 RCW or RCW 34.05.328  
29 that can be identified to a particular business.

30 **Sec. 4.** RCW 42.56.270 and 2006 c 369 s 2, 2006 c 341 s 6, 2006 c  
31 338 s 5, 2006 c 209 s 7, 2006 c 183 s 37, and 2006 c 171 s 8 are each  
32 reenacted and amended to read as follows:

33 The following financial, commercial, and proprietary information is  
34 exempt from disclosure under this chapter:

35 (1) Valuable formulae, designs, drawings, computer source code or  
36 object code, and research data obtained by any agency within five years

1 of the request for disclosure when disclosure would produce private  
2 gain and public loss;

3 (2) Financial information supplied by or on behalf of a person,  
4 firm, or corporation for the purpose of qualifying to submit a bid or  
5 proposal for (a) a ferry system construction or repair contract as  
6 required by RCW 47.60.680 through 47.60.750 or (b) highway construction  
7 or improvement as required by RCW 47.28.070;

8 (3) Financial and commercial information and records supplied by  
9 private persons pertaining to export services provided under chapters  
10 43.163 and 53.31 RCW, and by persons pertaining to export projects  
11 under RCW 43.23.035;

12 (4) Financial and commercial information and records supplied by  
13 businesses or individuals during application for loans or program  
14 services provided by chapters 15.110, 43.163, 43.160, 43.330, and  
15 43.168 RCW, or during application for economic development loans or  
16 program services provided by any local agency;

17 (5) Financial information, business plans, examination reports, and  
18 any information produced or obtained in evaluating or examining a  
19 business and industrial development corporation organized or seeking  
20 certification under chapter 31.24 RCW;

21 (6) Financial and commercial information supplied to the state  
22 investment board by any person when the information relates to the  
23 investment of public trust or retirement funds and when disclosure  
24 would result in loss to such funds or in private loss to the providers  
25 of this information;

26 (7) Financial and valuable trade information under RCW 51.36.120;

27 (8) Financial, commercial, operations, and technical and research  
28 information and data submitted to or obtained by the clean Washington  
29 center in applications for, or delivery of, program services under  
30 chapter 70.95H RCW;

31 (9) Financial and commercial information requested by the public  
32 stadium authority from any person or organization that leases or uses  
33 the stadium and exhibition center as defined in RCW 36.102.010;

34 (10) Financial information, including but not limited to account  
35 numbers and values, and other identification numbers supplied by or on  
36 behalf of a person, firm, corporation, limited liability company,  
37 partnership, or other entity related to an application for a horse

1 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor  
2 license, gambling license, or lottery retail license;

3 (11) Proprietary data, trade secrets, or other information that  
4 relates to: (a) A vendor's unique methods of conducting business; (b)  
5 data unique to the product or services of the vendor; or (c)  
6 determining prices or rates to be charged for services, submitted by  
7 any vendor to the department of social and health services for purposes  
8 of the development, acquisition, or implementation of state purchased  
9 health care as defined in RCW 41.05.011;

10 (12)(a) When supplied to and in the records of the department of  
11 community, trade, and economic development:

12 (i) Financial and proprietary information collected from any person  
13 and provided to the department of community, trade, and economic  
14 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

15 (ii) Financial or proprietary information collected from any person  
16 and provided to the department of community, trade, and economic  
17 development or the office of the governor in connection with the  
18 siting, recruitment, expansion, retention, or relocation of that  
19 person's business and until a siting decision is made, identifying  
20 information of any person supplying information under this subsection  
21 and the locations being considered for siting, relocation, or expansion  
22 of a business;

23 (b) When developed by the department of community, trade, and  
24 economic development based on information as described in (a)(i) of  
25 this subsection, any work product is not exempt from disclosure;

26 (c) For the purposes of this subsection, "siting decision" means  
27 the decision to acquire or not to acquire a site;

28 (d) If there is no written contact for a period of sixty days to  
29 the department of community, trade, and economic development from a  
30 person connected with siting, recruitment, expansion, retention, or  
31 relocation of that person's business, information described in (a)(ii)  
32 of this subsection will be available to the public under this chapter;

33 (13) Financial and proprietary information submitted to or obtained  
34 by the department of ecology or the authority created under chapter  
35 70.95N RCW to implement chapter 70.95N RCW;

36 (14) Financial, commercial, operations, and technical and research  
37 information and data submitted to or obtained by the life sciences  
38 discovery fund authority in applications for, or delivery of, grants



1 under chapter 43.350 RCW, to the extent that such information, if  
2 revealed, would reasonably be expected to result in private loss to the  
3 providers of this information;

4 (15) Financial and commercial information provided as evidence to  
5 the department of licensing as required by RCW 19.112.110 or  
6 19.112.120, except information disclosed in aggregate form that does  
7 not permit the identification of information related to individual fuel  
8 licensees;

9 (16) Any production records, mineral assessments, and trade secrets  
10 submitted by a permit holder, mine operator, or landowner to the  
11 department of natural resources under RCW 78.44.085; ~~((and))~~

12 (17)(a) Farm plans developed by conservation districts, unless  
13 permission to release the farm plan is granted by the landowner or  
14 operator who requested the plan, or the farm plan is used for the  
15 application or issuance of a permit~~((-))~~;

16 (b) Farm plans developed under chapter 90.48 RCW and not under the  
17 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to  
18 RCW 42.56.610 and 90.64.190; and

19 (18) Information gathered under chapter 19.85 RCW or RCW 34.05.328  
20 that can be identified to a particular business.

21 **Sec. 5.** RCW 42.56.330 and 2006 c 209 s 8 are each amended to read  
22 as follows:

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

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

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

35 (3) The names, residential addresses, residential telephone  
36 numbers, and other individually identifiable records held by an agency  
37 in relation to a vanpool, carpool, or other ride-sharing program or

1 service; however, these records may be disclosed to other persons who  
2 apply for ride-matching services and who need that information in order  
3 to identify potential riders or drivers with whom to share rides;

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

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

18 ~~((Records of any person that belong to a public utility  
19 district or a municipally owned electrical utility, unless the law  
20 enforcement authority provides the public utility district or  
21 municipally owned electrical utility with a written statement in which  
22 the authority states that it suspects that the particular person to  
23 whom the records pertain has committed a crime and the authority has a  
24 reasonable belief that the records could determine or help determine  
25 whether the suspicion might be true. Information obtained in violation  
26 of this subsection is inadmissible in any criminal proceeding;~~

27 ~~(7))~~ Any information obtained by governmental agencies that is  
28 collected by the use of a motor carrier intelligent transportation  
29 system or any comparable information equipment attached to a truck,  
30 tractor, or trailer; however, the information may be given to other  
31 governmental agencies or the owners of the truck, tractor, or trailer  
32 from which the information is obtained. As used in this subsection,  
33 "motor carrier" has the same definition as provided in RCW 81.80.010;  
34 and

35 ~~((8))~~ (7) The personally identifying information of persons who  
36 acquire and use transponders or other technology to facilitate payment  
37 of tolls. This information may be disclosed in aggregate form as long  
38 as the data does not contain any personally identifying information.

1 For these purposes aggregate data may include the census tract of the  
2 account holder as long as any individual personally identifying  
3 information is not released. Personally identifying information may be  
4 released to law enforcement agencies only for toll enforcement  
5 purposes. Personally identifying information may be released to law  
6 enforcement agencies for other purposes only if the request is  
7 accompanied by a court order.

8 NEW SECTION. **Sec. 6.** A new section is added to chapter 42.56 RCW  
9 to read as follows:

10 A law enforcement authority may not request inspection or copying  
11 of records of any person who belongs to a public utility district or a  
12 municipally owned electrical utility unless the authority provides the  
13 public utility district or municipally owned electrical utility with a  
14 written statement in which the authority states that it suspects that  
15 the particular person to whom the records pertain has committed a crime  
16 and the authority has a reasonable belief that the records could  
17 determine or help determine whether the suspicion might be true.  
18 Information obtained in violation of this section is inadmissible in  
19 any criminal proceeding.

20 **Sec. 7.** RCW 42.56.400 and 2006 c 284 s 17 and 2006 c 8 s 210 are  
21 each reenacted and amended to read as follows:

22 The following information relating to insurance and financial  
23 institutions is exempt from disclosure under this chapter:

24 (1) Records maintained by the board of industrial insurance appeals  
25 that are related to appeals of crime victims' compensation claims filed  
26 with the board under RCW 7.68.110;

27 (2) Information obtained and exempted or withheld from public  
28 inspection by the health care authority under RCW 41.05.026, whether  
29 retained by the authority, transferred to another state purchased  
30 health care program by the authority, or transferred by the authority  
31 to a technical review committee created to facilitate the development,  
32 acquisition, or implementation of state purchased health care under  
33 chapter 41.05 RCW;

34 (3) The names and individual identification data of all viators  
35 regulated by the insurance commissioner under chapter 48.102 RCW;

36 (4) Information provided under RCW 48.30A.045 through 48.30A.060;

1 (5) Information provided under RCW 48.05.510 through 48.05.535,  
2 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600  
3 through 48.46.625;

4 ~~((Information gathered under chapter 19.85 RCW or RCW 34.05.328  
5 that can be identified to a particular business;~~

6 ~~(7))~~ Examination reports and information obtained by the  
7 department of financial institutions from banks under RCW 30.04.075,  
8 from savings banks under RCW 32.04.220, from savings and loan  
9 associations under RCW 33.04.110, from credit unions under RCW  
10 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and  
11 from securities brokers and investment advisers under RCW 21.20.100,  
12 all of which is confidential and privileged information;

13 ~~((8))~~ (7) Information provided to the insurance commissioner  
14 under RCW 48.110.040(3);

15 ~~((9))~~ (8) Documents, materials, or information obtained by the  
16 insurance commissioner under RCW 48.02.065, all of which are  
17 confidential and privileged;

18 ~~((10))~~ (9) Confidential proprietary and trade secret information  
19 provided to the commissioner under RCW 48.31C.020 through 48.31C.050  
20 and 48.31C.070;

21 ~~((11))~~ (10) Data filed under RCW 48.140.020, 48.140.030,  
22 48.140.050, and 7.70.140 that, alone or in combination with any other  
23 data, may reveal the identity of a claimant, health care provider,  
24 health care facility, insuring entity, or self-insurer involved in a  
25 particular claim or a collection of claims. For the purposes of this  
26 subsection:

27 (a) "Claimant" has the same meaning as in RCW 48.140.010(2).

28 (b) "Health care facility" has the same meaning as in RCW  
29 48.140.010(6).

30 (c) "Health care provider" has the same meaning as in RCW  
31 48.140.010(7).

32 (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

33 (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

34 and

35 ~~((12))~~ (11) Documents, materials, or information obtained by the  
36 insurance commissioner under RCW 48.135.060.

1       **Sec. 8.** RCW 42.56.570 and 2005 c 483 s 4 and 2005 c 274 s 290 are  
2 each reenacted and amended to read as follows:

3       (1) The attorney general's office shall publish, and update when  
4 appropriate, a pamphlet, written in plain language, explaining this  
5 chapter.

6       (2) The attorney general, by February 1, 2006, shall adopt by rule  
7 an advisory model rule for state and local agencies, as defined in RCW  
8 (~~42.17.020~~) 42.56.010, addressing the following subjects:

9       (a) Providing fullest assistance to requestors;

10       (b) Fulfilling large requests in the most efficient manner;

11       (c) Fulfilling requests for electronic records; and

12       (d) Any other issues pertaining to public disclosure as determined  
13 by the attorney general.

14       (3) The attorney general, in his or her discretion, may from time  
15 to time revise the model rule.

16       **Sec. 9.** RCW 42.56.590 and 2005 c 368 s 1 are each amended to read  
17 as follows:

18       (1)(a) Any agency that owns or licenses computerized data that  
19 includes personal information shall disclose any breach of the security  
20 of the system following discovery or notification of the breach in the  
21 security of the data to any resident of this state whose unencrypted  
22 personal information was, or is reasonably believed to have been,  
23 acquired by an unauthorized person. The disclosure shall be made in  
24 the most expedient time possible and without unreasonable delay,  
25 consistent with the legitimate needs of law enforcement, as provided in  
26 subsection (3) of this section, or any measures necessary to determine  
27 the scope of the breach and restore the reasonable integrity of the  
28 data system.

29       (b) For purposes of this section, "agency" means the same as in RCW  
30 (~~42.17.020~~) 42.56.010.

31       (2) Any agency that maintains computerized data that includes  
32 personal information that the agency does not own shall notify the  
33 owner or licensee of the information of any breach of the security of  
34 the data immediately following discovery, if the personal information  
35 was, or is reasonably believed to have been, acquired by an  
36 unauthorized person.

1 (3) The notification required by this section may be delayed if a  
2 law enforcement agency determines that the notification will impede a  
3 criminal investigation. The notification required by this section  
4 shall be made after the law enforcement agency determines that it will  
5 not compromise the investigation.

6 (4) For purposes of this section, "breach of the security of the  
7 system" means unauthorized acquisition of computerized data that  
8 compromises the security, confidentiality, or integrity of personal  
9 information maintained by the agency. Good faith acquisition of  
10 personal information by an employee or agent of the agency for the  
11 purposes of the agency is not a breach of the security of the system  
12 when the personal information is not used or subject to further  
13 unauthorized disclosure.

14 (5) For purposes of this section, "personal information" means an  
15 individual's first name or first initial and last name in combination  
16 with any one or more of the following data elements, when either the  
17 name or the data elements are not encrypted:

18 (a) Social security number;

19 (b) Driver's license number or Washington identification card  
20 number; or

21 (c) Account number or credit or debit card number, in combination  
22 with any required security code, access code, or password that would  
23 permit access to an individual's financial account.

24 (6) For purposes of this section, "personal information" does not  
25 include publicly available information that is lawfully made available  
26 to the general public from federal, state, or local government records.

27 (7) For purposes of this section and except under subsection (8) of  
28 this section, notice may be provided by one of the following methods:

29 (a) Written notice;

30 (b) Electronic notice, if the notice provided is consistent with  
31 the provisions regarding electronic records and signatures set forth in  
32 15 U.S.C. Sec. 7001; or

33 (c) Substitute notice, if the agency demonstrates that the cost of  
34 providing notice would exceed two hundred fifty thousand dollars, or  
35 that the affected class of subject persons to be notified exceeds five  
36 hundred thousand, or the agency does not have sufficient contact  
37 information. Substitute notice shall consist of all of the following:

1 (i) E-mail notice when the agency has an e-mail address for the  
2 subject persons;

3 (ii) Conspicuous posting of the notice on the agency's web site  
4 page, if the agency maintains one; and

5 (iii) Notification to major statewide media.

6 (8) An agency that maintains its own notification procedures as  
7 part of an information security policy for the treatment of personal  
8 information and is otherwise consistent with the timing requirements of  
9 this section is in compliance with the notification requirements of  
10 this section if it notifies subject persons in accordance with its  
11 policies in the event of a breach of security of the system.

12 (9) Any waiver of the provisions of this section is contrary to  
13 public policy, and is void and unenforceable.

14 (10)(a) Any customer injured by a violation of this section may  
15 institute a civil action to recover damages.

16 (b) Any business that violates, proposes to violate, or has  
17 violated this section may be enjoined.

18 (c) The rights and remedies available under this section are  
19 cumulative to each other and to any other rights and remedies available  
20 under law.

21 (d) An agency shall not be required to disclose a technical breach  
22 of the security system that does not seem reasonably likely to subject  
23 customers to a risk of criminal activity.

24 NEW SECTION. **Sec. 10.** Section 3 of this act expires June 30,  
25 2008.

26 NEW SECTION. **Sec. 11.** Section 4 of this act takes effect June 30,  
27 2008.

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