

**SENATE BILL REPORT**

**SB 5336**

**AS OF FEBRUARY 6, 1991**

**Brief Description:** Allowing the use of caller identification technology.

**SPONSORS:** Senator Thorsness.

**SENATE COMMITTEE ON ENERGY & UTILITIES**

**Staff:** Dave Monthie (786-7198)

**Hearing Dates:** February 7, 1991

**BACKGROUND:**

Technological changes have enabled telecommunications companies to offer customers new services that utilize the ability to identify the number of a person making a call. Such services include call tracing, call rejection, and caller identification, or "Caller ID." Caller ID utilizes a visual display on or with a telephone that identifies to the person being called the name and phone number or possibly other identifying information (such as location) of the person making the call.

Concern has arisen in many states over the possible misuse of the caller identification service, its potential invasion of the caller's privacy, and its potential use in compiling large databases. Advocates of the service point to its potential for protecting the called person's privacy, as well as its utility to a business by quickly identifying a current or potential customer or client.

One common way of attempting to resolve the privacy concerns has been to provide customers with a form of "blocking" on their telephone lines. "Call blocking" permits a person, by dialing a code before making each call, to block the display of any identifying information at the phone of the person being called. "Line blocking" permits a person to block such displays at the receiving end of the call for all calls made on that line.

The states have take a variety of approaches to the privacy issue as it is raised by caller identification. Some states have permitted phone companies to offer the service without requiring any form of blocking. Other states (e.g., California) have required by statute that, at a minimum, the phone companies offering the service provide customers with call blocking at no charge. Many states have policies under development.

In Washington, the Utilities and Transportation Commission has been investigating the potential use of caller identification service, and the accompanying privacy issues, since 1989. During the summer of 1990, the commission conducted a series of five public meetings on the issue statewide, after being encouraged to do so by a Senate floor resolution during the 1990 session.

The UTC staff issued a report in October, 1990. It recommended that the commission not accept any tariff that would include a Caller ID service. The staff cited as its principal reasons: (1) the Washington constitutional right to privacy, which is similar to that in the state of Pennsylvania where an appellate court found that the proposed use of Caller ID, even with call blocking, violated its constitution; (2) potential violation of the state's statutory privacy protections contained Title 9 RCW; (3) other potential statutory objections under state wiretapping laws; (4) public policy concerns regarding the business use of the service; and (5) the potential to address some of the privacy concerns in a pending complaint filed with the commission concerning alleged unauthorized disclosure of unlisted telephone numbers.

The three UTC commissioners issued a letter to interested persons in November, 1990. In the letter, the commissioners rejected the staff recommendations because they did not believe that the evidence received in the hearings was conclusive as to what public policy should be, and because they believed it would be possible to craft a tariff that would permit caller identification service while offering adequate protection of citizens' privacy. They noted legislative direction to provide a diversity of services. They suggested that the best initial approach to the issue might be to institute a trial period during which various approaches could be tested, after which all parties could evaluate whether blocking options are effective, whether availability of widespread blocking decreases the value of the service, and whether there is a real market for the service. The letter concluded with the statement that the public interest demands that legitimate privacy interests be protected, and suggested that any telecommunications company proposing to offer the service work closely with interested parties to develop a proposal that would best meet the policy and legal issues raised.

**SUMMARY:**

Legislative findings are stated that citizens have a constitutional and statutory right to privacy, and that it is desirable to make available to citizens such technological advances as caller identification in a manner that permits citizens to exercise their right to privacy, which includes the ability to limit the dissemination of their telephone number to persons of their choosing.

A new section is added to Chapter 80.36 RCW providing that, notwithstanding any other provision of law, the Utilities and Transportation Commission may authorize a telecommunications

company to provide services that automatically display the caller's name and telephone number or other identifying information only if the company permits a caller, free of charge, to withhold or "block" the display of such information on an individual call basis. The commission is also authorized, where the privacy interests of the person or entity may not otherwise be reasonably protected and the public interest is best served, to require the company to permit a caller to block such a display for all outgoing calls on the caller's line. The commission is to adopt rules setting forth criteria and procedures for this protection. The commission is required to direct every company proposing to offer such service to provide notice to its customers of the details of such service, including the availability of call blocking and line blocking options, no later than 60 days before the service is to begin.

The provisions of the new section do not apply to (a) caller identification service on calls made within limited systems, such as centrex or private branch exchange (PBX), (b) caller identification when used with emergency services such as 911 or enhanced 911, (c) caller identification used with legally permissible call tracing or line-tapping procedures otherwise authorized by law, and (d) any caller identification service provided in connection with any "800" or "900" access codes until the earlier of either a determination of technical blocking feasibility by the commission or two years after the effective date of the act.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested February 5, 1991