

1 1647.E AAS 2/28/96 S5535.2

2 EHB 1647 - S COMM AMD

3 By Committee on Labor, Commerce & Trade

4 ADOPTED 2/28/96

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 50.13.060 and 1993 c 281 s 59 are each amended to
8 read as follows:

9 (1) Governmental agencies, including law enforcement agencies,
10 prosecuting agencies, and the executive branch, whether state, local,
11 or federal shall have access to information or records deemed private
12 and confidential under this chapter if the information or records are
13 needed by the agency for official purposes and:

14 (a) The agency submits an application in writing to the employment
15 security department for the records or information containing a
16 statement of the official purposes for which the information or records
17 are needed and specific identification of the records or information
18 sought from the department; and

19 (b) The director, commissioner, chief executive, or other official
20 of the agency has verified the need for the specific information in
21 writing either on the application or on a separate document; and

22 (c) The agency requesting access has served a copy of the
23 application for records or information on the individual or employing
24 unit whose records or information are sought and has provided the
25 department with proof of service. Service shall be made in a manner
26 which conforms to the civil rules for superior court. The requesting
27 agency shall include with the copy of the application a statement to
28 the effect that the individual or employing unit may contact the public
29 records officer of the employment security department to state any
30 objections to the release of the records or information. The
31 employment security department shall not act upon the application of
32 the requesting agency until at least five days after service on the
33 concerned individual or employing unit. The employment security
34 department shall consider any objections raised by the concerned
35 individual or employing unit in deciding whether the requesting agency
36 needs the information or records for official purposes.

1 (2) The requirements of subsections (1) and (~~(7)~~) (8) of this
2 section shall not apply to the state legislative branch. The state
3 legislature shall have access to information or records deemed private
4 and confidential under this chapter, if the legislature or a
5 legislative committee finds that the information or records are
6 necessary and for official purposes. If the employment security
7 department does not make information or records available as provided
8 in this subsection, the legislature may exercise its authority granted
9 by chapter 44.16 RCW.

10 (3) In cases of emergency the governmental agency requesting access
11 shall not be required to formally comply with the provisions of
12 subsection (1) of this section at the time of the request if the
13 procedures required by subsection (1) of this section are complied with
14 by the requesting agency following the receipt of any records or
15 information deemed private and confidential under this chapter. An
16 emergency is defined as a situation in which irreparable harm or damage
17 could occur if records or information are not released immediately.

18 (4) The requirements of subsection (1)(c) of this section shall not
19 apply to governmental agencies where the procedures would frustrate the
20 investigation of possible violations of criminal laws.

21 (5) Governmental agencies shall have access to certain records or
22 information, limited to such items as names, addresses, social security
23 numbers, and general information about benefit entitlement or employer
24 information possessed by the department, for comparison purposes with
25 records or information possessed by the requesting agency to detect
26 improper or fraudulent claims, or to determine potential tax liability
27 or employer compliance with registration and licensing requirements.
28 In those cases the governmental agency shall not be required to comply
29 with subsection (1)(c) of this section, but the requirements of the
30 remainder of subsection (1) must be satisfied.

31 (6) Governmental agencies may have access to certain records and
32 information, limited to employer information possessed by the
33 department for purposes authorized in chapter 50.38 RCW. Access to
34 these records and information is limited to only those individuals
35 conducting authorized statistical analysis, research, and evaluation
36 studies. Only in cases consistent with the purposes of chapter 50.38
37 RCW are government agencies not required to comply with subsection
38 (1)(c) of this section, but the requirements of the remainder of
39 subsection (1) of this section must be satisfied. Information provided

1 by the department and held to be private and confidential under state
2 or federal laws shall not be misused or released to unauthorized
3 parties subject to the sanctions in RCW 50.13.080.

4 (7) Disclosure to governmental agencies of information or records
5 obtained by the employment security department from the federal
6 government shall be governed by any applicable federal law or any
7 agreement between the federal government and the employment security
8 department where so required by federal law. When federal law does not
9 apply to the records or information state law shall control.

10 ~~((+7))~~ (8) The disclosure of any records or information by a
11 governmental agency which has obtained the records or information under
12 this section is prohibited unless the disclosure is directly connected
13 to the official purpose for which the records or information were
14 obtained.

15 ~~((+8))~~ (9) In conducting periodic salary or fringe benefit studies
16 pursuant to law, the department of personnel shall have access to
17 records of the employment security department as may be required for
18 such studies. For such purposes, the requirements of subsection (1)(c)
19 of this section need not apply.

20 **Sec. 2.** RCW 50.13.080 and 1977 ex.s. c 153 s 8 are each amended to
21 read as follows:

22 (1) The employment security department shall have the right to
23 disclose information or records deemed private and confidential under
24 this chapter to any private person or organization when such disclosure
25 is necessary to permit private contracting parties to assist in the
26 operation and management of the department in instances where certain
27 departmental functions may be delegated to private parties to increase
28 the department's efficiency or quality of service to the public. The
29 private persons or organizations shall use the information or records
30 solely for the purpose for which the information was disclosed and
31 shall be bound by the same rules of privacy and confidentiality as
32 employment security department employees.

33 (2) Nothing in this section shall be construed as limiting or
34 restricting the effect of RCW 42.17.260~~((+5))~~(9).

35 (3) The misuse or unauthorized release of records or information
36 deemed private and confidential under this chapter by any private
37 person or organization to which access is permitted by this section
38 shall subject the person or organization to a civil penalty of five

1 ((~~hundred~~)) thousand dollars and other applicable sanctions under state
2 and federal law. Suit to enforce this section shall be brought by the
3 attorney general and the amount of any penalties collected shall be
4 paid into the employment security department administrative contingency
5 fund. The attorney general may recover reasonable attorneys' fees for
6 any action brought to enforce this section.

7 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
8 conflict with federal requirements that are a prescribed condition to
9 the allocation of federal funds to the state or the eligibility of
10 employers in this state for federal unemployment tax credits, the
11 conflicting part of this act is hereby declared to be inoperative
12 solely to the extent of the conflict, and such finding or determination
13 shall not affect the operation of the remainder of this act. The rules
14 under this act shall meet federal requirements that are a necessary
15 condition to the receipt of federal funds by the state or the granting
16 of federal unemployment tax credits to employers in this state.

17 NEW SECTION. **Sec. 4.** This act shall take effect July 1, 1996."

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20 ADOPTED 2/28/96

21 On page 1, line 2 of the title, after "data;" strike the remainder
22 of the title and insert "amending RCW 50.13.060 and 50.13.080; creating
23 a new section; and providing an effective date."

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