

2 HB 2790 - S COMM AMD

3 By Committee on Government Operations

4 ADOPTED 3/1/96

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

7 "Sec. 1. RCW 46.12.370 and 1982 c 215 s 1 are each amended to read  
8 as follows:

9 In addition to any other authority which it may have, the  
10 department of licensing may furnish lists of registered and legal  
11 owners of motor vehicles only for the purposes specified in this  
12 section to:

13 (1) The manufacturers of motor vehicles, or their authorized  
14 agents, to be used to enable those manufacturers to carry out the  
15 provisions of the National Traffic and Motor Vehicle Safety Act of 1966  
16 (15 U.S.C. sec. 1382-1418), including amendments or additions thereto,  
17 respecting safety-related defects in motor vehicles;

18 (2) Any governmental agency of the United States or Canada, or  
19 political subdivisions thereof, to be used by it or by its authorized  
20 commercial agents or contractors only in connection with the  
21 enforcement of motor vehicle or traffic laws by, or programs related to  
22 traffic safety of, that government agency. Only such parts of the list  
23 as are required for completion of the work required of the agent or  
24 contractor shall be provided to such agent or contractor; ((or))

25 (3) Any business regularly making loans to other persons to finance  
26 the purchase of motor vehicles, to be used to assist the person  
27 requesting the list to determine ownership of specific vehicles for the  
28 purpose of determining whether or not to provide such financing. In  
29 the event a list of registered and legal owners of motor vehicles is  
30 used for any purpose other than that authorized in subsections (1)((  
31 ~~2~~) and (~~3~~)) through (4) of this section, the manufacturer,  
32 governmental agency, financial institution or their authorized agents  
33 or contractors responsible for the unauthorized disclosure or use will  
34 be denied further access to such information by the department of  
35 licensing; or

1       (4) To private companies that provide on-line computer data base  
2 services to federal, state, and local agencies for law enforcement or  
3 government purposes. The department shall first obtain the written  
4 agreement and assurances satisfactory to the agency of any company  
5 requesting information under this section that any list so obtained  
6 shall not be provided to any person other than as provided in this  
7 section.

8       **NEW SECTION. Sec. 2.** A new section is added to chapter 42.17 RCW  
9 to read as follows:

10       In addition to the provisions of RCW 42.17.260, state agencies may  
11 furnish lists that they maintain of public information, including such  
12 lists in computer readable form or on magnetic tape, that they make  
13 available to other federal, state, or local government agencies,  
14 including law enforcement agencies, to private companies that provide  
15 on-line computer data base services with data bases consisting  
16 primarily of public records. An agency shall first obtain the written  
17 agreement and assurances of the data base company satisfactory to the  
18 agency that the company will supply the lists and information so  
19 obtained only to federal, state, or local government agencies solely  
20 for law enforcement or governmental purposes.

21       **Sec. 3.** RCW 82.32.330 and 1995 c 197 s 1 are each amended to read  
22 as follows:

23       (1) For purposes of this section:

24       (a) "Disclose" means to make known to any person in any manner  
25 whatever a return or tax information;

26       (b) "Return" means a tax or information return or claim for refund  
27 required by, or provided for or permitted under, the laws of this state  
28 which is filed with the department of revenue by, on behalf of, or with  
29 respect to a person, and any amendment or supplement thereto, including  
30 supporting schedules, attachments, or lists that are supplemental to,  
31 or part of, the return so filed;

32       (c) "Tax information" means (i) a taxpayer's identity, (ii) the  
33 nature, source, or amount of the taxpayer's income, payments, receipts,  
34 deductions, exemptions, credits, assets, liabilities, net worth, tax  
35 liability deficiencies, overassessments, or tax payments, whether taken  
36 from the taxpayer's books and records or any other source, (iii)  
37 whether the taxpayer's return was, is being, or will be examined or

1 subject to other investigation or processing, (iv) a part of a written  
2 determination that is not designated as a precedent and disclosed  
3 pursuant to RCW 82.32.410, or a background file document relating to a  
4 written determination, and (v) other data received by, recorded by,  
5 prepared by, furnished to, or collected by the department of revenue  
6 with respect to the determination of the existence, or possible  
7 existence, of liability, or the amount thereof, of a person under the  
8 laws of this state for a tax, penalty, interest, fine, forfeiture, or  
9 other imposition, or offense: PROVIDED, That data, material, or  
10 documents that do not disclose information related to a specific or  
11 identifiable taxpayer do not constitute tax information under this  
12 section. Except as provided by RCW 82.32.410, nothing in this chapter  
13 shall require any person possessing data, material, or documents made  
14 confidential and privileged by this section to delete information from  
15 such data, material, or documents so as to permit its disclosure;

16 (d) "State agency" means every Washington state office, department,  
17 division, bureau, board, commission, or other state agency;

18 (e) "Taxpayer identity" means the taxpayer's name, address,  
19 telephone number, registration number, or any combination thereof, or  
20 any other information disclosing the identity of the taxpayer; and

21 (f) "Department" means the department of revenue or its officer,  
22 agent, employee, or representative.

23 (2) Returns and tax information shall be confidential and  
24 privileged, and except as authorized by this section, neither the  
25 department of revenue nor any other person may disclose any return or  
26 tax information.

27 (3) The foregoing, however, shall not prohibit the department of  
28 revenue from:

29 (a) Disclosing such return or tax information in a civil or  
30 criminal judicial proceeding or an administrative proceeding:

31 (i) In respect of any tax imposed under the laws of this state if  
32 the taxpayer or its officer or other person liable under Title 82 RCW  
33 is a party in the proceeding; or

34 (ii) In which the taxpayer about whom such return or tax  
35 information is sought and another state agency are adverse parties in  
36 the proceeding;

37 (b) Disclosing, subject to such requirements and conditions as the  
38 director shall prescribe by rules adopted pursuant to chapter 34.05  
39 RCW, such return or tax information regarding a taxpayer to such

1 taxpayer or to such person or persons as that taxpayer may designate in  
2 a request for, or consent to, such disclosure, or to any other person,  
3 at the taxpayer's request, to the extent necessary to comply with a  
4 request for information or assistance made by the taxpayer to such  
5 other person: PROVIDED, That tax information not received from the  
6 taxpayer shall not be so disclosed if the director determines that such  
7 disclosure would compromise any investigation or litigation by any  
8 federal, state, or local government agency in connection with the civil  
9 or criminal liability of the taxpayer or another person, or that such  
10 disclosure would identify a confidential informant, or that such  
11 disclosure is contrary to any agreement entered into by the department  
12 that provides for the reciprocal exchange of information with other  
13 government agencies which agreement requires confidentiality with  
14 respect to such information unless such information is required to be  
15 disclosed to the taxpayer by the order of any court;

16 (c) Disclosing the name of a taxpayer with a deficiency greater  
17 than five thousand dollars and against whom a warrant under RCW  
18 82.32.210 has been either issued or filed and remains outstanding for  
19 a period of at least ten working days. The department shall not be  
20 required to disclose any information under this subsection if a  
21 taxpayer: (i) Has been issued a tax assessment; (ii) has been issued  
22 a warrant that has not been filed; and (iii) has entered a deferred  
23 payment arrangement with the department of revenue and is making  
24 payments upon such deficiency that will fully satisfy the indebtedness  
25 within twelve months;

26 (d) Disclosing the name of a taxpayer with a deficiency greater  
27 than five thousand dollars and against whom a warrant under RCW  
28 82.32.210 has been filed with a court of record and remains  
29 outstanding;

30 (e) Publishing statistics so classified as to prevent the  
31 identification of particular returns or reports or items thereof;

32 (f) Disclosing such return or tax information, for official  
33 purposes only, to the governor or attorney general, or to any state  
34 agency, or to any committee or subcommittee of the legislature dealing  
35 with matters of taxation, revenue, trade, commerce, the control of  
36 industry or the professions;

37 (g) Permitting the department of revenue's records to be audited  
38 and examined by the proper state officer, his or her agents and  
39 employees;

1 (h) Disclosing any such return or tax information to the proper  
2 officer of the internal revenue service of the United States, the  
3 Canadian government or provincial governments of Canada, or to the  
4 proper officer of the tax department of any state or city or town or  
5 county, for official purposes, but only if the statutes of the United  
6 States, Canada or its provincial governments, or of such other state or  
7 city or town or county, as the case may be, grants substantially  
8 similar privileges to the proper officers of this state;

9 (i) Disclosing any such return or tax information to the Department  
10 of Justice, the Bureau of Alcohol, Tobacco and Firearms of the  
11 Department of the Treasury, the Department of Defense, the United  
12 States customs service, the coast guard of the United States, and the  
13 United States department of transportation, or any authorized  
14 representative thereof, for official purposes;

15 (j) Publishing or otherwise disclosing the text of a written  
16 determination designated by the director as a precedent pursuant to RCW  
17 82.32.410;

18 (k) Disclosing, in a manner that is not associated with other tax  
19 information, the taxpayer name, entity type, business address, mailing  
20 address, revenue tax registration numbers, standard industrial  
21 classification code of a taxpayer, and the dates of opening and closing  
22 of business. This subsection shall not be construed as giving  
23 authority to the department to give, sell, or provide access to any  
24 list of taxpayers for any commercial purpose except as provided in  
25 section 4 of this act; or

26 (l) Disclosing such return or tax information that is also  
27 maintained by another Washington state or local governmental agency as  
28 a public record available for inspection and copying under the  
29 provisions of chapter 42.17 RCW or is a document maintained by a court  
30 of record not otherwise prohibited from disclosure.

31 (4)(a) The department may disclose return or taxpayer information  
32 to a person under investigation or during any court or administrative  
33 proceeding against a person under investigation as provided in this  
34 subsection (4). The disclosure must be in connection with the  
35 department's official duties relating to an audit, collection activity,  
36 or a civil or criminal investigation. The disclosure may occur only  
37 when the person under investigation and the person in possession of  
38 data, materials, or documents are parties to the return or tax  
39 information to be disclosed. The department may disclose return or tax

1 information such as invoices, contracts, bills, statements, resale or  
2 exemption certificates, or checks. However, the department may not  
3 disclose general ledgers, sales or cash receipt journals, check  
4 registers, accounts receivable/payable ledgers, general journals,  
5 financial statements, expert's workpapers, income tax returns, state  
6 tax returns, tax return workpapers, or other similar data, materials,  
7 or documents.

8 (b) Before disclosure of any tax return or tax information under  
9 this subsection (4), the department shall, through written  
10 correspondence, inform the person in possession of the data, materials,  
11 or documents to be disclosed. The correspondence shall clearly  
12 identify the data, materials, or documents to be disclosed. The  
13 department may not disclose any tax return or tax information under  
14 this subsection (4) until the time period allowed in (c) of this  
15 subsection has expired or until the court has ruled on any challenge  
16 brought under (c) of this subsection.

17 (c) The person in possession of the data, materials, or documents  
18 to be disclosed by the department has twenty days from the receipt of  
19 the written request required under (b) of this subsection to petition  
20 the superior court of the county in which the petitioner resides for  
21 injunctive relief. The court shall limit or deny the request of the  
22 department if the court determines that:

23 (i) The data, materials, or documents sought for disclosure are  
24 cumulative or duplicative, or are obtainable from some other source  
25 that is more convenient, less burdensome, or less expensive;

26 (ii) The production of the data, materials, or documents sought  
27 would be unduly burdensome or expensive, taking into account the needs  
28 of the department, the amount in controversy, limitations on the  
29 petitioner's resources, and the importance of the issues at stake; or

30 (iii) The data, materials, or documents sought for disclosure  
31 contain trade secret information that, if disclosed, could harm the  
32 petitioner.

33 (d) The department shall reimburse reasonable expenses for the  
34 production of data, materials, or documents incurred by the person in  
35 possession of the data, materials, or documents to be disclosed.

36 (e) Requesting information under (b) of this subsection that may  
37 indicate that a taxpayer is under investigation does not constitute a  
38 disclosure of tax return or tax information under this section.

1 (5) Any person acquiring knowledge of any return or tax information  
2 in the course of his or her employment with the department of revenue  
3 and any person acquiring knowledge of any return or tax information as  
4 provided under subsection (3)(f), (g), (h), or (i) of this section, who  
5 discloses any such return or tax information to another person not  
6 entitled to knowledge of such return or tax information under the  
7 provisions of this section, shall upon conviction be punished by a fine  
8 not exceeding one thousand dollars and, if the person guilty of such  
9 violation is an officer or employee of the state, such person shall  
10 forfeit such office or employment and shall be incapable of holding any  
11 public office or employment in this state for a period of two years  
12 thereafter.

13 NEW SECTION. **Sec. 4.** A new section is added to chapter 82.32 RCW  
14 to read as follows:

15 The department of revenue may furnish lists of taxpayer names,  
16 entity types, business addresses, mailing addresses, revenue tax  
17 registration numbers, standard industrial classification code of a  
18 taxpayer, and the dates of opening and closing of a business to  
19 companies that provide on-line computer data base services. The on-  
20 line computer companies shall provide the data bases consisting  
21 primarily of public records only to other federal, state, or local  
22 government agencies solely for law enforcement or government purposes.  
23 Before providing a list to a company under this section, the department  
24 shall obtain a written agreement that any list so provided shall be  
25 used only for the purposes specified in this section.

26 NEW SECTION. **Sec. 5.** A new section is added to chapter 42.17 RCW  
27 to read as follows:

28 The legislature finds that the practices covered by RCW  
29 46.12.370(4) and sections 2 and 4 of this act are matters vitally  
30 affecting the public interest for the purpose of applying the consumer  
31 protection act, chapter 19.86 RCW. Violations of RCW 46.12.370(4) and  
32 sections 2 and 4 of this act are not reasonable in relation to the  
33 development and preservation of business. A violation of RCW  
34 46.12.370(4) or section 2 or 4 of this act is an unfair or deceptive  
35 act in trade or commerce and an unfair method of competition for the  
36 purpose of applying the consumer protection act, chapter 19.86 RCW."

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4 On page 1, line 2 of the title, after "information;" strike the  
5 remainder of the title and insert "amending RCW 46.12.370 and  
6 82.32.330; adding new sections to chapter 42.17 RCW; and adding a new  
7 section to chapter 82.32 RCW."

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