
SUBSTITUTE SENATE BILL 6821

State of Washington

56th Legislature

2000 Regular Session

By Senate Committee on Commerce, Trade, Housing & Financial Institutions (originally sponsored by Senators Prentice, Gardner and Winsley)

Read first time 02/04/2000. Referred to Committee on .

1 AN ACT Relating to identity theft; amending RCW 19.16.250; adding
2 a new section to chapter 9.35 RCW; creating a new section; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the incidence of
6 identity theft is rapidly growing, and that victims of identity theft
7 need further assistance in obtaining the information necessary to the
8 prosecution of their cases. The legislature finds that requiring
9 additional information sharing by merchants with victims will result in
10 greater protections for consumers and deter potential perpetrators.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 9.35 RCW
12 to read as follows:

13 (1) As used in this section, unless the context clearly requires
14 otherwise:

15 (a) "Victim of identity theft" or "victim" means a person who has
16 had his or her means of identification taken or personal information or
17 sensitive information used without authorization when the person's
18 means of identification or personal information or sensitive

1 information has been used with the intent to commit, or to aid or abet,
2 an unlawful activity harming or intending to harm the person whose
3 identity is used, or for committing a felony;

4 (b) "Personal information" means information that is provided by
5 the consumer in a commercial context, and is identifiable to the
6 individual consumer, that concerns the amount or condition of the
7 consumer's assets, liabilities, financial transactions, purchasing
8 history, buying preferences, business relationships, account existence,
9 customer status, demographic information, name, address, telephone
10 number, or electronic mail address;

11 (c) "Sensitive information" means information maintained in a
12 commercial context that is held for the purpose of transaction
13 initiation, account access or identity verification, or that reflects
14 current or historical balances or purchase amounts, and includes
15 account numbers, access codes or passwords, tax identification numbers,
16 driver's license or permit numbers, state identicard numbers issued by
17 the department of licensing, and credit card numbers or expiration
18 dates.

19 (2) A person, information repository, corporation, trust,
20 partnership, or unincorporated association possessing information
21 relating to an actual or potential violation of this chapter, and who
22 may have entered into a transaction, provided credit, products, or
23 services, accepted payment, or otherwise done business with a person
24 who has used the victim's means of identification, must, upon request
25 of the victim, provide copies of all information relevant to the
26 potential or actual violation of this chapter.

27 (3) In providing the information required under subsection (2) of
28 this section, the provider may require the victim of identity theft to
29 provide a copy of a police report evidencing the victim's claim. The
30 provider may also seek reasonable compensation for the actual cost of
31 providing the information requested, and may also require the victim to
32 provide positive identification before providing the information.

33 (4) No person, information repository, corporation, trust,
34 partnership, or unincorporated association may be held liable for an
35 action voluntarily taken in good faith to provide information regarding
36 potential or actual violations of this chapter to other information
37 repositories, merchants, law enforcement authorities, or to the victim
38 of identity theft, for the purpose of identification and prosecution of
39 violators of this chapter.

1 **Sec. 3.** RCW 19.16.250 and 1983 c 107 s 1 are each amended to read
2 as follows:

3 No licensee or employee of a licensee shall:

4 (1) Directly or indirectly aid or abet any unlicensed person to
5 engage in business as a collection agency in this state or receive
6 compensation from such unlicensed person: PROVIDED, That nothing in
7 this chapter shall prevent a licensee from accepting, as forwarder,
8 claims for collection from a collection agency or attorney whose place
9 of business is outside the state.

10 (2) Collect or attempt to collect a claim by the use of any means
11 contrary to the postal laws and regulations of the United States postal
12 department.

13 (3) Publish or post or cause to be published or posted, any list of
14 debtors commonly known as "bad debt lists" or threaten to do so. For
15 purposes of this chapter, a "bad debt list" means any list of natural
16 persons alleged to fail to honor their lawful debts. However, nothing
17 herein shall be construed to prohibit a licensee from communicating to
18 its customers or clients by means of a coded list, the existence of a
19 check dishonored because of insufficient funds, not sufficient funds or
20 closed account by the financial institution servicing the debtor's
21 checking account: PROVIDED, That the debtor's identity is not readily
22 apparent: PROVIDED FURTHER, That the licensee complies with the
23 requirements of subsection (9)(e) of this section.

24 (4) Have in his possession or make use of any badge, use a uniform
25 of any law enforcement agency or any simulation thereof, or make any
26 statements which might be construed as indicating an official
27 connection with any federal, state, county, or city law enforcement
28 agency, or any other governmental agency, while engaged in collection
29 agency business.

30 (5) Perform any act or acts, either directly or indirectly,
31 constituting the practice of law.

32 (6) Advertise for sale or threaten to advertise for sale any claim
33 as a means of endeavoring to enforce payment thereof or agreeing to do
34 so for the purpose of soliciting claims, except where the licensee has
35 acquired claims as an assignee for the benefit of creditors or where
36 the licensee is acting under court order.

37 (7) Use any name while engaged in the making of a demand for any
38 claim other than the name set forth on his or its current license
39 issued hereunder.

1 (8) Give or send to any debtor or cause to be given or sent to any
2 debtor, any notice, letter, message, or form which represents or
3 implies that a claim exists unless it shall indicate in clear and
4 legible type:

5 (a) The name of the licensee and the city, street, and number at
6 which he is licensed to do business;

7 (b) The name of the original creditor to whom the debtor owed the
8 claim if such name is known to the licensee or employee: PROVIDED,
9 That upon written request of the debtor, the licensee shall make a
10 reasonable effort to obtain the name of such person and provide this
11 name to the debtor;

12 (c) If the notice, letter, message, or form is the first notice to
13 the debtor or if the licensee is attempting to collect a different
14 amount than indicated in his or its first notice to the debtor, an
15 itemization of the claim asserted must be made including:

16 (i) Amount owing on the original obligation at the time it was
17 received by the licensee for collection or by assignment;

18 (ii) Interest or service charge, collection costs, or late payment
19 charges, if any, added to the original obligation by the original
20 creditor, customer or assignor before it was received by the licensee
21 for collection, if such information is known by the licensee or
22 employee: PROVIDED, That upon written request of the debtor, the
23 licensee shall make a reasonable effort to obtain information on such
24 items and provide this information to the debtor;

25 (iii) Interest or service charge, if any, added by the licensee or
26 customer or assignor after the obligation was received by the licensee
27 for collection;

28 (iv) Collection costs, if any, that the licensee is attempting to
29 collect;

30 (v) Attorneys' fees, if any, that the licensee is attempting to
31 collect on his or its behalf or on the behalf of a customer or
32 assignor;

33 (vi) Any other charge or fee that the licensee is attempting to
34 collect on his or its own behalf or on the behalf of a customer or
35 assignor.

36 (9) Communicate or threaten to communicate, the existence of a
37 claim to a person other than one who might be reasonably expected to be
38 liable on the claim in any manner other than through proper legal
39 action, process, or proceedings except under the following conditions:

1 (a) A licensee or employee of a licensee may inform a credit
2 reporting bureau of the existence of a claim: PROVIDED, That if the
3 licensee or employee of a licensee reports a claim to a credit
4 reporting bureau, the licensee shall upon receipt of written notice
5 from the debtor that any part of the claim is disputed, forward a copy
6 of such written notice to the credit reporting bureau;

7 (b) A licensee or employee in collecting or attempting to collect
8 a claim may communicate the existence of a claim to a debtor's employer
9 if the claim has been reduced to a judgment;

10 (c) A licensee or employee in collecting or attempting to collect
11 a claim that has not been reduced to judgment, may communicate the
12 existence of a claim to a debtor's employer if:

13 (i) The licensee or employee has notified or attempted to notify
14 the debtor in writing at his last known address or place of employment
15 concerning the claim and the debtor after a reasonable time has failed
16 to pay the claim or has failed to agree to make payments on the claim
17 in a manner acceptable to the licensee, and

18 (ii) The debtor has not in writing to the licensee disputed any
19 part of the claim: PROVIDED, That the licensee or employee may only
20 communicate the existence of a claim which has not been reduced to
21 judgment to the debtor's employer once unless the debtor's employer has
22 agreed to additional communications.

23 (d) A licensee may for the purpose of locating the debtor or
24 locating assets of the debtor communicate the existence of a claim to
25 any person who might reasonably be expected to have knowledge of the
26 whereabouts of a debtor or the location of assets of the debtor if the
27 claim is reduced to judgment, or if not reduced to judgment, when:

28 (i) The licensee or employee has notified or attempted to notify
29 the debtor in writing at his last known address or last known place of
30 employment concerning the claim and the debtor after a reasonable time
31 has failed to pay the claim or has failed to agree to make payments on
32 the claim in a manner acceptable to the licensee, and

33 (ii) The debtor has not in writing disputed any part of the claim.

34 (e) A licensee may communicate the existence of a claim to its
35 customers or clients if the claim is reduced to judgment, or if not
36 reduced to judgment, when:

37 (i) The licensee has notified or attempted to notify the debtor in
38 writing at his last known address or last known place of employment
39 concerning the claim and the debtor after a reasonable time has failed

1 to pay the claim or has failed to agree to make payments on the claim
2 in a manner acceptable to the licensee, and

3 (ii) The debtor has not in writing disputed any part of the claim.

4 (10) Threaten the debtor with impairment of his credit rating if a
5 claim is not paid.

6 (11) Communicate with the debtor after notification in writing from
7 an attorney representing such debtor that all further communications
8 relative to a claim should be addressed to the attorney: PROVIDED,
9 That if a licensee requests in writing information from an attorney
10 regarding such claim and the attorney does not respond within a
11 reasonable time, the licensee may communicate directly with the debtor
12 until he or it again receives notification in writing that an attorney
13 is representing the debtor.

14 (12) Communicate with a debtor or anyone else in such a manner as
15 to harass, intimidate, threaten, or embarrass a debtor, including but
16 not limited to communication at an unreasonable hour, with unreasonable
17 frequency, by threats of force or violence, by threats of criminal
18 prosecution, and by use of offensive language. A communication shall
19 be presumed to have been made for the purposes of harassment if:

20 (a) It is made with a debtor or spouse in any form, manner, or
21 place, more than three times in a single week;

22 (b) It is made with a debtor at his or her place of employment more
23 than one time in a single week;

24 (c) It is made with the debtor or spouse at his or her place of
25 residence between the hours of 9:00 p.m. and 7:30 a.m.

26 (13) Communicate with the debtor through use of forms or
27 instruments that simulate the form or appearance of judicial process,
28 the form or appearance of government documents, or the simulation of a
29 form or appearance of a telegraphic or emergency message.

30 (14) Communicate with the debtor and represent or imply that the
31 existing obligation of the debtor may be or has been increased by the
32 addition of attorney fees, investigation fees, service fees, or any
33 other fees or charges when in fact such fees or charges may not legally
34 be added to the existing obligation of such debtor.

35 (15) Threaten to take any action against the debtor which the
36 licensee cannot legally take at the time the threat is made.

37 (16) Send any telegram or make any telephone calls to a debtor or
38 concerning a debt or for the purpose of demanding payment of a claim or

1 seeking information about a debtor, for which the charges are payable
2 by the addressee or by the person to whom the call is made.

3 (17) In any manner convey the impression that the licensee is
4 vouched for, bonded to or by, or is an instrumentality of the state of
5 Washington or any agency or department thereof.

6 (18) Collect or attempt to collect in addition to the principal
7 amount of a claim any sum other than allowable interest, collection
8 costs or handling fees expressly authorized by statute, and, in the
9 case of suit, attorney's fees and taxable court costs.

10 (19) Procure from a debtor or collect or attempt to collect on any
11 written note, contract, stipulation, promise or acknowledgment under
12 which a debtor may be required to pay any sum other than principal,
13 allowable interest, and, in the case of suit, attorney's fees and
14 taxable court costs.

15 (20) Upon notification by a victim of identity theft that a police
16 report has been filed regarding the identity theft, and upon receipt of
17 a copy of the report indicating that the victim's checkbook or other
18 series of preprinted written instruments has been stolen, fail to
19 accept one single writing from the victim that identifies the numbers
20 of the checks, the bank, and account number and that disputes
21 creditors' claims for the identified checks or written instruments. If
22 more than one collection agency is attempting collection on individual
23 checks or written instruments that are part of the series, each
24 collection agency may request a single writing from the victim that
25 disputes creditors' claims for the entire checkbook or series. Once a
26 single writing has been received, the collection agency must not
27 require additional proof, explanation, or evidence except in a court of
28 law from the victim disputing creditors' claims regarding the checks or
29 other written instruments in the same series or lot and must consider
30 the single writing as a dispute to all creditors' claims arising from
31 use of the checkbook or other series of instruments. Once a single
32 writing has been received, the collection agency may not forward
33 consumer reports to any consumer reporting agency regarding collection
34 activity or claims relating to the use of the checkbook or other series
35 of instruments. The terms "consumer report" and "consumer reporting
36 agency" have the same meaning as provided in the federal Fair Credit
37 Reporting Act, 15 U.S.C. Sec. 1681a.

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