

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5064

Chapter 215, Laws of 1999

56th Legislature
1999 Regular Session

PUBLIC TRANSPORTATION INFORMATION--CONFIDENTIALITY

EFFECTIVE DATE: 7/25/99

Passed by the Senate April 20, 1999
YEAS 44 NAYS 0

BRAD OWEN
President of the Senate

Passed by the House April 9, 1999
YEAS 93 NAYS 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

FRANK CHOPP
**Speaker of the
House of Representatives**

Approved May 7, 1999

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5064** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK
Secretary

FILED

May 7, 1999 - 4:04 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5064

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Horn, Gardner, Benton, Long, Costa, B. Sheldon, Swecker, Patterson, Jacobsen, Shin, Oke, Morton, Eide, Spanel, Johnson, Goings, Sellar, Fraser, Thibaudeau, Franklin, Winsley, Rasmussen and McAuliffe)

Read first time 02/12/1999.

1 AN ACT Relating to confidentiality of certain public transportation
2 information; amending RCW 42.17.310; and adding a new section to
3 chapter 47.04 RCW.

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

5 **Sec. 1.** RCW 42.17.310 and 1998 c 69 s 1 are each amended to read
6 as follows:

7 (1) The following are exempt from public inspection and copying:

8 (a) Personal information in any files maintained for students in
9 public schools, patients or clients of public institutions or public
10 health agencies, or welfare recipients.

11 (b) Personal information in files maintained for employees,
12 appointees, or elected officials of any public agency to the extent
13 that disclosure would violate their right to privacy.

14 (c) Information required of any taxpayer in connection with the
15 assessment or collection of any tax if the disclosure of the
16 information to other persons would (i) be prohibited to such persons by
17 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
18 taxpayer's right to privacy or result in unfair competitive
19 disadvantage to the taxpayer.

1 (d) Specific intelligence information and specific investigative
2 records compiled by investigative, law enforcement, and penology
3 agencies, and state agencies vested with the responsibility to
4 discipline members of any profession, the nondisclosure of which is
5 essential to effective law enforcement or for the protection of any
6 person's right to privacy.

7 (e) Information revealing the identity of persons who are witnesses
8 to or victims of crime or who file complaints with investigative, law
9 enforcement, or penology agencies, other than the public disclosure
10 commission, if disclosure would endanger any person's life, physical
11 safety, or property. If at the time a complaint is filed the
12 complainant, victim or witness indicates a desire for disclosure or
13 nondisclosure, such desire shall govern. However, all complaints filed
14 with the public disclosure commission about any elected official or
15 candidate for public office must be made in writing and signed by the
16 complainant under oath.

17 (f) Test questions, scoring keys, and other examination data used
18 to administer a license, employment, or academic examination.

19 (g) Except as provided by chapter 8.26 RCW, the contents of real
20 estate appraisals, made for or by any agency relative to the
21 acquisition or sale of property, until the project or prospective sale
22 is abandoned or until such time as all of the property has been
23 acquired or the property to which the sale appraisal relates is sold,
24 but in no event shall disclosure be denied for more than three years
25 after the appraisal.

26 (h) Valuable formulae, designs, drawings, and research data
27 obtained by any agency within five years of the request for disclosure
28 when disclosure would produce private gain and public loss.

29 (i) Preliminary drafts, notes, recommendations, and intra-agency
30 memorandums in which opinions are expressed or policies formulated or
31 recommended except that a specific record shall not be exempt when
32 publicly cited by an agency in connection with any agency action.

33 (j) Records which are relevant to a controversy to which an agency
34 is a party but which records would not be available to another party
35 under the rules of pretrial discovery for causes pending in the
36 superior courts.

37 (k) Records, maps, or other information identifying the location of
38 archaeological sites in order to avoid the looting or depredation of
39 such sites.

1 (l) Any library record, the primary purpose of which is to maintain
2 control of library materials, or to gain access to information, which
3 discloses or could be used to disclose the identity of a library user.

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

9 (n) Railroad company contracts filed prior to July 28, 1991, with
10 the utilities and transportation commission under RCW 81.34.070, except
11 that the summaries of the contracts are open to public inspection and
12 copying as otherwise provided by this chapter.

13 (o) Financial and commercial information and records supplied by
14 private persons pertaining to export services provided pursuant to
15 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
16 export projects pursuant to RCW 43.23.035.

17 (p) Financial disclosures filed by private vocational schools under
18 chapters 28B.85 and 28C.10 RCW.

19 (q) Records filed with the utilities and transportation commission
20 or attorney general under RCW 80.04.095 that a court has determined are
21 confidential under RCW 80.04.095.

22 (r) Financial and commercial information and records supplied by
23 businesses or individuals during application for loans or program
24 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
25 or during application for economic development loans or program
26 services provided by any local agency.

27 (s) Membership lists or lists of members or owners of interests of
28 units in timeshare projects, subdivisions, camping resorts,
29 condominiums, land developments, or common-interest communities
30 affiliated with such projects, regulated by the department of
31 licensing, in the files or possession of the department.

32 (t) All applications for public employment, including the names of
33 applicants, resumes, and other related materials submitted with respect
34 to an applicant.

35 (u) The residential addresses and residential telephone numbers of
36 employees or volunteers of a public agency which are held by the agency
37 in personnel records, employment or volunteer rosters, or mailing lists
38 of employees or volunteers.

1 (v) The residential addresses and residential telephone numbers of
2 the customers of a public utility contained in the records or lists
3 held by the public utility of which they are customers, except that
4 this information may be released to the division of child support or
5 the agency or firm providing child support enforcement for another
6 state under Title IV-D of the federal social security act, for the
7 establishment, enforcement, or modification of a support order.

8 (w)(i) The federal social security number of individuals governed
9 under chapter 18.130 RCW maintained in the files of the department of
10 health, except this exemption does not apply to requests made directly
11 to the department from federal, state, and local agencies of
12 government, and national and state licensing, credentialing,
13 investigatory, disciplinary, and examination organizations; (ii) the
14 current residential address and current residential telephone number of
15 a health care provider governed under chapter 18.130 RCW maintained in
16 the files of the department, if the provider requests that this
17 information be withheld from public inspection and copying, and
18 provides to the department an accurate alternate or business address
19 and business telephone number. On or after January 1, 1995, the
20 current residential address and residential telephone number of a
21 health care provider governed under RCW 18.130.140 maintained in the
22 files of the department shall automatically be withheld from public
23 inspection and copying unless the provider specifically requests the
24 information be released, and except as provided for under RCW
25 42.17.260(9).

26 (x) Information obtained by the board of pharmacy as provided in
27 RCW 69.45.090.

28 (y) Information obtained by the board of pharmacy or the department
29 of health and its representatives as provided in RCW 69.41.044,
30 69.41.280, and 18.64.420.

31 (z) Financial information, business plans, examination reports, and
32 any information produced or obtained in evaluating or examining a
33 business and industrial development corporation organized or seeking
34 certification under chapter 31.24 RCW.

35 (aa) Financial and commercial information supplied to the state
36 investment board by any person when the information relates to the
37 investment of public trust or retirement funds and when disclosure
38 would result in loss to such funds or in private loss to the providers
39 of this information.

1 (bb) Financial and valuable trade information under RCW 51.36.120.
2 (cc) Client records maintained by an agency that is a domestic
3 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
4 crisis center as defined in RCW 70.125.030.
5 (dd) Information that identifies a person who, while an agency
6 employee: (i) Seeks advice, under an informal process established by
7 the employing agency, in order to ascertain his or her rights in
8 connection with a possible unfair practice under chapter 49.60 RCW
9 against the person; and (ii) requests his or her identity or any
10 identifying information not be disclosed.
11 (ee) Investigative records compiled by an employing agency
12 conducting a current investigation of a possible unfair practice under
13 chapter 49.60 RCW or of a possible violation of other federal, state,
14 or local laws prohibiting discrimination in employment.
15 (ff) Business related information protected from public inspection
16 and copying under RCW 15.86.110.
17 (gg) Financial, commercial, operations, and technical and research
18 information and data submitted to or obtained by the clean Washington
19 center in applications for, or delivery of, program services under
20 chapter 70.95H RCW.
21 (hh) Information and documents created specifically for, and
22 collected and maintained by a quality improvement committee pursuant to
23 RCW 43.70.510, regardless of which agency is in possession of the
24 information and documents.
25 (ii) Personal information in files maintained in a data base
26 created under RCW 43.07.360.
27 (jj) Financial and commercial information requested by the public
28 stadium authority from any person or organization that leases or uses
29 the stadium and exhibition center as defined in RCW 36.102.010.
30 (kk) Names of individuals residing in emergency or transitional
31 housing that are furnished to the department of revenue or a county
32 assessor in order to substantiate a claim for property tax exemption
33 under RCW 84.36.043.
34 (ll) The names, residential addresses, residential telephone
35 numbers, and other individually identifiable records held by an agency
36 in relation to a vanpool, carpool, or other ride-sharing program or
37 service. However, these records may be disclosed to other persons who
38 apply for ride-matching services and who need that information in order
39 to identify potential riders or drivers with whom to share rides.

1 (mm) The personally identifying information of current or former
2 participants or applicants in a paratransit or other transit service
3 operated for the benefit of persons with disabilities or elderly
4 persons.

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

15 (oo) Proprietary financial and commercial information that the
16 submitting entity, with review by the department of health,
17 specifically identifies at the time it is submitted and that is
18 provided to or obtained by the department of health in connection with
19 an application for, or the supervision of, an antitrust exemption
20 sought by the submitting entity under RCW 43.72.310. If a request for
21 such information is received, the submitting entity must be notified of
22 the request. Within ten business days of receipt of the notice, the
23 submitting entity shall provide a written statement of the continuing
24 need for confidentiality, which shall be provided to the requester.
25 Upon receipt of such notice, the department of health shall continue to
26 treat information designated under this section as exempt from
27 disclosure. If the requester initiates an action to compel disclosure
28 under this chapter, the submitting entity must be joined as a party to
29 demonstrate the continuing need for confidentiality.

30 ~~((nn))~~ (pp) Records maintained by the board of industrial
31 insurance appeals that are related to appeals of crime victims'
32 compensation claims filed with the board under RCW 7.68.110.

33 ~~((oo))~~ (qq) Financial and commercial information supplied by or
34 on behalf of a person, firm, corporation, or entity under chapter
35 28B.95 RCW relating to the purchase or sale of tuition units and
36 contracts for the purchase of multiple tuition units.

37 (2) Except for information described in subsection (1)(c)(i) of
38 this section and confidential income data exempted from public
39 inspection pursuant to RCW 84.40.020, the exemptions of this section

1 are inapplicable to the extent that information, the disclosure of
2 which would violate personal privacy or vital governmental interests,
3 can be deleted from the specific records sought. No exemption may be
4 construed to permit the nondisclosure of statistical information not
5 descriptive of any readily identifiable person or persons.

6 (3) Inspection or copying of any specific records exempt under the
7 provisions of this section may be permitted if the superior court in
8 the county in which the record is maintained finds, after a hearing
9 with notice thereof to every person in interest and the agency, that
10 the exemption of such records is clearly unnecessary to protect any
11 individual's right of privacy or any vital governmental function.

12 (4) Agency responses refusing, in whole or in part, inspection of
13 any public record shall include a statement of the specific exemption
14 authorizing the withholding of the record (or part) and a brief
15 explanation of how the exemption applies to the record withheld.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 47.04 RCW
17 to read as follows:

18 The department, a county, city, town, any other public entity, and
19 any private entity under the public-private transportation initiatives
20 authorized under chapter 47.46 RCW, that provides transit, high-speed
21 ground transportation, high capacity transportation service, ferry
22 service, toll facilities, or other public transportation service or
23 facilities may only use personally identifiable information obtained
24 from the use of electronic toll payments, transit passes, or other fare
25 media such as magnetic strip cards or stored value cards for billing
26 purposes. This information may not be used to track or monitor
27 individual use of the public transportation facilities or service,
28 except for billing purposes and to provide statistical compilations and
29 reports that do not identify an individual.

Passed the Senate April 20, 1999.

Passed the House April 9, 1999.

Approved by the Governor May 7, 1999.

Filed in Office of Secretary of State May 7, 1999.