

SENATE BILL REPORT

3SSB 5412

As Passed Senate, February 17, 2004

Title: An act relating to identity theft penalties and prevention.

Brief Description: Requiring biometric identifiers from applicants for driver's licenses and identicards.

Sponsors: Senate Committee on Highways & Transportation (originally sponsored by Senators Brandland, Kline, Winsley, Haugen, Prentice, Reardon, Rasmussen, Eide and McCaslin).

Brief History:

Committee Activity: Judiciary: 2/7/03, 2/28/03 [DPS]; 1/16/04, 1/21/04 [DP2S].

Highways & Transportation: 2/9/04 [DP3S].

Passed Senate: 2/17/04, 46-2.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Second Substitute Senate Bill No. 5412 be substituted therefor, and the second substitute bill do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Hargrove, Haugen, Johnson, Kline and Thibaudeau.

Staff: Lidia Mori (786-7755)

SENATE COMMITTEE ON HIGHWAYS & TRANSPORTATION

Majority Report: That Third Substitute Senate Bill No. 5412 be substituted therefor, and the third substitute bill do pass.

Signed by Senators Horn, Chair; Benton, Vice Chair; Swecker, Vice Chair; Esser, Haugen, Jacobsen, Kastama, Mulliken, Murray, Oke, Poulsen and Spanel.

Staff: Kim Johnson (786-7346)

Background: Identity theft occurs when someone appropriates another person's personal information, without that person's knowledge, to commit fraud or theft. A common piece of personal information that is used to commit this crime is a fraudulently issued driver's license. Proponents of this bill believe requiring a biometric identifier from every person applying for a driver's license will greatly reduce the ability of people to obtain fraudulent driver's licenses.

Summary of Bill: In addition to criminal sanctions, a person who commits identity theft in the first or second degree is liable for civil damages of \$1,000 or actual damages, whichever is greater.

The Department of Licensing (DOL) must implement a highly accurate one-to-many and one-to-one biometric matching system by January 1, 2006. When the biometric driver's

license and identicard system is established, the department must allow every person applying for an original, renewal, or duplicate driver's license or identicard the option of submitting a biometric identifier. The fee for applying a biometric identifier to a driver's license or identicard is \$2.

DOL may not disclose biometric information to the public or any governmental entity except when authorized by court order.

Appropriation: None.

Fiscal Note: Available for second substitute; requested for third substitute on February 10, 2004.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Judiciary): Driver's licenses are a tool that are used to commit identity theft. The Department of Licensing has done a good job preventing the counterfeiting of driver's licenses but a person is still able to get more than one driver's license relatively easily. A voluntary biometric system empowers people to obtain this security measure on their driver's licenses and identicards. The additional charge of up to \$1.50 for every driver's license or identicard will likely generate enough funds to cover the cost of adding the biometric identifiers.

Testimony Against (Judiciary): None.

Testified (Judiciary): Tim Schellberg, WA Assn. of Sheriffs and Police Chiefs; Denny Eliason, WA Bankers Assn; Dedi Hitchens, WA Retail Assn; Derek Goudriaan, Dept. of Licensing.

Testimony For (Highways & Transportation): It is crucial that we secure our identity. This bill provides those persons who wish to protect the integrity of their driver's license with the means to do so. Approximately \$100 million are lost to retailers, and \$150 million to financial institutions every year due to identity fraud. Retailers and financial institutions rely heavily on the integrity of the driver's license and this bill provides a means of protecting this crucial document. Biometrics empower citizens to protect their identity.

Testimony Against (Highways & Transportation): Biometrics at its best will improve security marginally, and at its worse provides people with a false sense of security. This is not a wise financial investment for the state of Washington.

Testified (Highways & Transportation): Tim Schellberg, WA Association of Sheriffs and Police Chiefs (pro); Denny Eliason, WA Bankers Assoc. (pro); Jerry Sheehan, ACLU-WA (con); Jan Gee, WA Retail Assn. (pro).

House Amendment(s): The House amendment does the following: (1) clarifies that the biometric matching system selected by the Department of Licensing (DOL) be used only to verify the identity of an applicant for renewal of a license or issuance of a duplicate license against the biometric information submitted when the license was last issued (one to one match);

(2) requires that the selection of a biometric matching system be fully reviewed by the Information Services Board using the criteria for projects of the highest visibility and risk;

- (3) requires that applicants for driver's licenses and identicards who choose to provide biometric information be informed of the following: (a) ways in which the biometric identifier may be used; (b) parties to whom the identifier may be disclosed; and (c) expected error rates for the matching system chosen and the potential consequences of the errors;
- (4) directs DOL to adopt rules to allow applicants to verify the accuracy of the system at the time the biometric information is submitted including the use of verification through separate devices;
- (5) requires that the system selected by DOL incorporate the use of personal identification numbers or codes to be used with driver's licenses and identicards before verification can be made by a third party;
- (6) requires that biometric information be stored with appropriate safeguards;
- (7) requires DOL to develop procedures to handle circumstances when the matching system fails and must allow applicants to prove identity without using a biometric identifier;
- (8) allows a person to discontinue participation at any time provided that DOL uses a secure procedure to prevent fraudulent requests for renewal or duplicate driver's licenses or identicards; and
- (9) requires that biometric information be destroyed when a person discontinues their participation.