

SENATE BILL REPORT

SB 5412

As Reported By Senate Committee On:
Judiciary, January 21, 2004
Highways & Transportation, February 9, 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: 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].

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

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

Third Substitute Bill Compared to Second Substitute Bill: The third substitute requires that a fee of \$2 be charged for those persons who choose to place a biometric identifier on his or her driver's license. A null and void clause was added.

Second Substitute Bill Compared to Original Bill: The department must implement a voluntary biometric matching system for drivers licenses and identocards. The department is prohibited from disclosing biometric information to the public or any governmental entity unless a court order authorizes the disclosure. If either Senate Bill 5428 or House Bill 1681, allowing alternative means of renewing driver's licenses, is enacted into law, the Department of Licensing is not required to offer people who are seeking to renew their drivers licenses or identocards by mail or electronic commerce the option of submitting a biometric identifier. The Department of Licensing is authorized to charge a fee of no more than \$1.50 for every original, renewal, or duplicate drivers license or identocard. The fee is to be used exclusively for expenses related to adding the biometric security to the drivers license and identocard. The biometric security account is created in the State Treasury and all receipts from the additional fee are to be deposited into the account and may be spent only after appropriation.

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 identocards. The additional charge of up to \$1.50 for every driver's license or identocard 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).