
HOUSE BILL 2907

State of Washington 58th Legislature 2004 Regular Session

By Representatives Delvin and Morris

Read first time 01/22/2004. Referred to Committee on State Government.

1 AN ACT Relating to the treatment of confidential and proprietary
2 information filed with the utilities and transportation commission and
3 the attorney general; amending RCW 80.04.095; reenacting and amending
4 RCW 42.17.310 and 42.17.310; providing an effective date; and providing
5 an expiration date.

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

7 **Sec. 1.** RCW 80.04.095 and 1987 c 107 s 1 are each amended to read
8 as follows:

9 (1) Records(~~(, subject to chapter 42.17 RCW,)~~) filed with the
10 commission or the attorney general from any person which contain
11 valuable commercial information, including trade secrets or
12 confidential marketing, cost, or financial information, or customer-
13 specific usage and network configuration and design information,
14 ~~((shall not be))~~ are exempt from and not subject to inspection or
15 copying under chapter 42.17 RCW(~~(: (1) Until notice to the person or~~
16 ~~persons directly affected has been given; and (2) if, within ten days~~
17 ~~of the notice, the person has obtained a superior court order~~
18 ~~protecting the records as confidential. The court shall determine that~~
19 ~~the records are confidential and not subject to inspection and copying~~

1 ~~if disclosure would result in private loss, including an unfair~~
2 ~~competitive disadvantage.))~~ in accordance with subsection (2) of this
3 section.

4 (2) If a request for access to records that contain valuable
5 commercial information is received by the commission, the owner of the
6 information must be notified of the request. Within ten business days
7 of receipt of the notice, the owner of the information shall provide a
8 written statement of the continuing need for confidentiality, which
9 shall be provided to the requester. Upon receipt of such notice, the
10 commission and the attorney general shall continue to treat information
11 designated under this section as exempt from disclosure. If the
12 requester initiates a court action to compel disclosure under this
13 chapter, the owner of the information must be joined as a party to that
14 action. A person initiating such court action must demonstrate: (a)
15 Actual and pressing need to obtain the information; and (b) that the
16 release of such information is in the public interest. The court shall
17 not order the release of the information without a specific finding
18 that the release will not produce undue hardship upon the owner of the
19 information. Under appropriate circumstances, the court may issue an
20 order allowing the release of the information to the requester with
21 restrictions on the further use and dissemination of the information by
22 the requester.

23 (3) When providing such confidential information to the commission
24 or the attorney general, a person shall designate which records or
25 portions of records contain valuable commercial information. Nothing
26 in this section shall prevent the use of protective orders by the
27 commission governing disclosure of proprietary or confidential
28 information in contested proceedings.

29 **Sec. 2.** RCW 42.17.310 and 2003 1st sp.s. c 26 s 926, 2003 c 277 s
30 3, and 2003 c 124 s 1 are each reenacted and amended to read as
31 follows:

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

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

36 (b) Personal information in files maintained for employees,

1 appointees, or elected officials of any public agency to the extent
2 that disclosure would violate their right to privacy.

3 (c) Information required of any taxpayer in connection with the
4 assessment or collection of any tax if the disclosure of the
5 information to other persons would (i) be prohibited to such persons by
6 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
7 taxpayer's right to privacy or result in unfair competitive
8 disadvantage to the taxpayer.

9 (d) Specific intelligence information and specific investigative
10 records compiled by investigative, law enforcement, and penology
11 agencies, and state agencies vested with the responsibility to
12 discipline members of any profession, the nondisclosure of which is
13 essential to effective law enforcement or for the protection of any
14 person's right to privacy.

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

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

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

34 (h) Valuable formulae, designs, drawings, computer source code or
35 object code, and research data obtained by any agency within five years
36 of the request for disclosure when disclosure would produce private
37 gain and public loss.

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

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

9 (k) Records, maps, or other information identifying the location of
10 archaeological sites in order to avoid the looting or depredation of
11 such sites.

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

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

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

24 (o) Financial and commercial information and records supplied by
25 private persons pertaining to export services provided pursuant to
26 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
27 export projects pursuant to RCW 43.23.035.

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

30 (q) Records filed with the utilities and transportation commission
31 or attorney general under RCW 80.04.095 that (~~a court has determined~~
32 ~~are~~) contain valuable commercial information and have been designated
33 confidential under RCW 80.04.095 by the party submitting such records.

34 (r) Financial and commercial information and records supplied by
35 businesses or individuals during application for loans or program
36 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
37 or during application for economic development loans or program
38 services provided by any local agency.

1 (s) Membership lists or lists of members or owners of interests of
2 units in timeshare projects, subdivisions, camping resorts,
3 condominiums, land developments, or common-interest communities
4 affiliated with such projects, regulated by the department of
5 licensing, in the files or possession of the department.

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

9 (u) The residential addresses or residential telephone numbers of
10 employees or volunteers of a public agency which are held by any public
11 agency in personnel records, public employment related records, or
12 volunteer rosters, or are included in any mailing list of employees or
13 volunteers of any public agency.

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

21 (w)(i) The federal social security number of individuals governed
22 under chapter 18.130 RCW maintained in the files of the department of
23 health, except this exemption does not apply to requests made directly
24 to the department from federal, state, and local agencies of
25 government, and national and state licensing, credentialing,
26 investigatory, disciplinary, and examination organizations; (ii) the
27 current residential address and current residential telephone number of
28 a health care provider governed under chapter 18.130 RCW maintained in
29 the files of the department, if the provider requests that this
30 information be withheld from public inspection and copying, and
31 provides to the department an accurate alternate or business address
32 and business telephone number. On or after January 1, 1995, the
33 current residential address and residential telephone number of a
34 health care provider governed under RCW 18.130.040 maintained in the
35 files of the department shall automatically be withheld from public
36 inspection and copying unless the provider specifically requests the
37 information be released, and except as provided for under RCW
38 42.17.260(9).

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

3 (y) Information obtained by the board of pharmacy or the department
4 of health and its representatives as provided in RCW 69.41.044,
5 69.41.280, and 18.64.420.

6 (z) Financial information, business plans, examination reports, and
7 any information produced or obtained in evaluating or examining a
8 business and industrial development corporation organized or seeking
9 certification under chapter 31.24 RCW.

10 (aa) Financial and commercial information supplied to the state
11 investment board by any person when the information relates to the
12 investment of public trust or retirement funds and when disclosure
13 would result in loss to such funds or in private loss to the providers
14 of this information.

15 (bb) Financial and valuable trade information under RCW 51.36.120.

16 (cc) Client records maintained by an agency that is a domestic
17 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
18 crisis center as defined in RCW 70.125.030.

19 (dd) Information that identifies a person who, while an agency
20 employee: (i) Seeks advice, under an informal process established by
21 the employing agency, in order to ascertain his or her rights in
22 connection with a possible unfair practice under chapter 49.60 RCW
23 against the person; and (ii) requests his or her identity or any
24 identifying information not be disclosed.

25 (ee) Investigative records compiled by an employing agency
26 conducting a current investigation of a possible unfair practice under
27 chapter 49.60 RCW or of a possible violation of other federal, state,
28 or local laws prohibiting discrimination in employment.

29 (ff) Business related information protected from public inspection
30 and copying under RCW 15.86.110.

31 (gg) Financial, commercial, operations, and technical and research
32 information and data submitted to or obtained by the clean Washington
33 center in applications for, or delivery of, program services under
34 chapter 70.95H RCW.

35 (hh) Information and documents created specifically for, and
36 collected and maintained by a quality improvement committee pursuant to
37 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW

1 4.24.250, regardless of which agency is in possession of the
2 information and documents.

3 (ii) Personal information in files maintained in a data base
4 created under RCW 43.07.360.

5 (jj) Financial and commercial information requested by the public
6 stadium authority from any person or organization that leases or uses
7 the stadium and exhibition center as defined in RCW 36.102.010.

8 (kk) Names of individuals residing in emergency or transitional
9 housing that are furnished to the department of revenue or a county
10 assessor in order to substantiate a claim for property tax exemption
11 under RCW 84.36.043.

12 (ll) The names, residential addresses, residential telephone
13 numbers, and other individually identifiable records held by an agency
14 in relation to a vanpool, carpool, or other ride-sharing program or
15 service. However, these records may be disclosed to other persons who
16 apply for ride-matching services and who need that information in order
17 to identify potential riders or drivers with whom to share rides.

18 (mm) The personally identifying information of current or former
19 participants or applicants in a paratransit or other transit service
20 operated for the benefit of persons with disabilities or elderly
21 persons.

22 (nn) The personally identifying information of persons who acquire
23 and use transit passes and other fare payment media including, but not
24 limited to, stored value smart cards and magnetic strip cards, except
25 that an agency may disclose this information to a person, employer,
26 educational institution, or other entity that is responsible, in whole
27 or in part, for payment of the cost of acquiring or using a transit
28 pass or other fare payment media, or to the news media when reporting
29 on public transportation or public safety. This information may also
30 be disclosed at the agency's discretion to governmental agencies or
31 groups concerned with public transportation or public safety.

32 (oo) Proprietary financial and commercial information that the
33 submitting entity, with review by the department of health,
34 specifically identifies at the time it is submitted and that is
35 provided to or obtained by the department of health in connection with
36 an application for, or the supervision of, an antitrust exemption
37 sought by the submitting entity under RCW 43.72.310. If a request for
38 such information is received, the submitting entity must be notified of

1 the request. Within ten business days of receipt of the notice, the
2 submitting entity shall provide a written statement of the continuing
3 need for confidentiality, which shall be provided to the requester.
4 Upon receipt of such notice, the department of health shall continue to
5 treat information designated under this section as exempt from
6 disclosure. If the requester initiates an action to compel disclosure
7 under this chapter, the submitting entity must be joined as a party to
8 demonstrate the continuing need for confidentiality.

9 (pp) Records maintained by the board of industrial insurance
10 appeals that are related to appeals of crime victims' compensation
11 claims filed with the board under RCW 7.68.110.

12 (qq) Financial and commercial information supplied by or on behalf
13 of a person, firm, corporation, or entity under chapter 28B.95 RCW
14 relating to the purchase or sale of tuition units and contracts for the
15 purchase of multiple tuition units.

16 (rr) Any records of investigative reports prepared by any state,
17 county, municipal, or other law enforcement agency pertaining to sex
18 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
19 defined in RCW 71.09.020, which have been transferred to the Washington
20 association of sheriffs and police chiefs for permanent electronic
21 retention and retrieval pursuant to RCW 40.14.070(2)(b).

22 (ss) Credit card numbers, debit card numbers, electronic check
23 numbers, card expiration dates, or bank or other financial account
24 numbers, except when disclosure is expressly required by or governed by
25 other law.

26 (tt) Financial information, including but not limited to account
27 numbers and values, and other identification numbers supplied by or on
28 behalf of a person, firm, corporation, limited liability company,
29 partnership, or other entity related to an application for a liquor
30 license, gambling license, or lottery retail license.

31 (uu) Records maintained by the employment security department and
32 subject to chapter 50.13 RCW if provided to another individual or
33 organization for operational, research, or evaluation purposes.

34 (vv) Individually identifiable information received by the work
35 force training and education coordinating board for research or
36 evaluation purposes.

37 (ww) Those portions of records assembled, prepared, or maintained
38 to prevent, mitigate, or respond to criminal terrorist acts, which are

1 acts that significantly disrupt the conduct of government or of the
2 general civilian population of the state or the United States and that
3 manifest an extreme indifference to human life, the public disclosure
4 of which would have a substantial likelihood of threatening public
5 safety, consisting of:

6 (i) Specific and unique vulnerability assessments or specific and
7 unique response or deployment plans, including compiled underlying data
8 collected in preparation of or essential to the assessments, or to the
9 response or deployment plans; and

10 (ii) Records not subject to public disclosure under federal law
11 that are shared by federal or international agencies, and information
12 prepared from national security briefings provided to state or local
13 government officials related to domestic preparedness for acts of
14 terrorism.

15 (xx) Commercial fishing catch data from logbooks required to be
16 provided to the department of fish and wildlife under RCW 77.12.047,
17 when the data identifies specific catch location, timing, or
18 methodology and the release of which would result in unfair competitive
19 disadvantage to the commercial fisher providing the catch data.
20 However, this information may be released to government agencies
21 concerned with the management of fish and wildlife resources.

22 (yy) Sensitive wildlife data obtained by the department of fish and
23 wildlife. However, sensitive wildlife data may be released to
24 government agencies concerned with the management of fish and wildlife
25 resources. Sensitive wildlife data includes:

26 (i) The nesting sites or specific locations of endangered species
27 designated under RCW 77.12.020, or threatened or sensitive species
28 classified by rule of the department of fish and wildlife;

29 (ii) Radio frequencies used in, or locational data generated by,
30 telemetry studies; or

31 (iii) Other location data that could compromise the viability of a
32 specific fish or wildlife population, and where at least one of the
33 following criteria are met:

34 (A) The species has a known commercial or black market value;

35 (B) There is a history of malicious take of that species; or

36 (C) There is a known demand to visit, take, or disturb, and the
37 species behavior or ecology renders it especially vulnerable or the
38 species has an extremely limited distribution and concentration.

1 (zz) The personally identifying information of persons who acquire
2 recreational licenses under RCW 77.32.010 or commercial licenses under
3 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
4 department, and type of license, endorsement, or tag. However, the
5 department of fish and wildlife may disclose personally identifying
6 information to:

7 (i) Government agencies concerned with the management of fish and
8 wildlife resources;

9 (ii) The department of social and health services, child support
10 division, and to the department of licensing in order to implement RCW
11 77.32.014 and 46.20.291; and

12 (iii) Law enforcement agencies for the purpose of firearm
13 possession enforcement under RCW 9.41.040.

14 (aaa)(i) Discharge papers of a veteran of the armed forces of the
15 United States filed at the office of the county auditor before July 1,
16 2002, that have not been commingled with other recorded documents.
17 These records will be available only to the veteran, the veteran's next
18 of kin, a deceased veteran's properly appointed personal representative
19 or executor, a person holding that veteran's general power of attorney,
20 or to anyone else designated in writing by that veteran to receive the
21 records.

22 (ii) Discharge papers of a veteran of the armed forces of the
23 United States filed at the office of the county auditor before July 1,
24 2002, that have been commingled with other records, if the veteran has
25 recorded a "request for exemption from public disclosure of discharge
26 papers" with the county auditor. If such a request has been recorded,
27 these records may be released only to the veteran filing the papers,
28 the veteran's next of kin, a deceased veteran's properly appointed
29 personal representative or executor, a person holding the veteran's
30 general power of attorney, or anyone else designated in writing by the
31 veteran to receive the records.

32 (iii) Discharge papers of a veteran filed at the office of the
33 county auditor after June 30, 2002, are not public records, but will be
34 available only to the veteran, the veteran's next of kin, a deceased
35 veteran's properly appointed personal representative or executor, a
36 person holding the veteran's general power of attorney, or anyone else
37 designated in writing by the veteran to receive the records.

1 (iv) For the purposes of this subsection (1)(aaa), next of kin of
2 deceased veterans have the same rights to full access to the record.
3 Next of kin are the veteran's widow or widower who has not remarried,
4 son, daughter, father, mother, brother, and sister.

5 (bbb) Those portions of records containing specific and unique
6 vulnerability assessments or specific and unique emergency and escape
7 response plans at a city, county, or state adult or juvenile
8 correctional facility, the public disclosure of which would have a
9 substantial likelihood of threatening the security of a city, county,
10 or state adult or juvenile correctional facility or any individual's
11 safety.

12 (ccc) Information compiled by school districts or schools in the
13 development of their comprehensive safe school plans pursuant to RCW
14 28A.320.125, to the extent that they identify specific vulnerabilities
15 of school districts and each individual school.

16 (ddd) Information regarding the infrastructure and security of
17 computer and telecommunications networks, consisting of security
18 passwords, security access codes and programs, access codes for secure
19 software applications, security and service recovery plans, security
20 risk assessments, and security test results to the extent that they
21 identify specific system vulnerabilities.

22 (eee) Information obtained and exempted or withheld from public
23 inspection by the health care authority under RCW 41.05.026, whether
24 retained by the authority, transferred to another state purchased
25 health care program by the authority, or transferred by the authority
26 to a technical review committee created to facilitate the development,
27 acquisition, or implementation of state purchased health care under
28 chapter 41.05 RCW.

29 (fff) Proprietary data, trade secrets, or other information that
30 relates to: (i) A vendor's unique methods of conducting business; (ii)
31 data unique to the product or services of the vendor; or (iii)
32 determining prices or rates to be charged for services, submitted by
33 any vendor to the department of social and health services for purposes
34 of the development, acquisition, or implementation of state purchased
35 health care as defined in RCW 41.05.011.

36 (ggg) Proprietary information deemed confidential for the purposes
37 of section 923, chapter 26, Laws of 2003 1st sp. sess.

1 (2) Except for information described in subsection (1)(c)(i) of
2 this section and confidential income data exempted from public
3 inspection pursuant to RCW 84.40.020, the exemptions of this section
4 are inapplicable to the extent that information, the disclosure of
5 which would violate personal privacy or vital governmental interests,
6 can be deleted from the specific records sought. No exemption may be
7 construed to permit the nondisclosure of statistical information not
8 descriptive of any readily identifiable person or persons.

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

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

19 **Sec. 3.** RCW 42.17.310 and 2003 c 277 s 3 and 2003 c 124 s 1 are
20 each reenacted and amended to read as follows:

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

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

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

28 (c) Information required of any taxpayer in connection with the
29 assessment or collection of any tax if the disclosure of the
30 information to other persons would (i) be prohibited to such persons by
31 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the
32 taxpayer's right to privacy or result in unfair competitive
33 disadvantage to the taxpayer.

34 (d) Specific intelligence information and specific investigative
35 records compiled by investigative, law enforcement, and penology
36 agencies, and state agencies vested with the responsibility to

1 discipline members of any profession, the nondisclosure of which is
2 essential to effective law enforcement or for the protection of any
3 person's right to privacy.

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

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

16 (g) Except as provided by chapter 8.26 RCW, the contents of real
17 estate appraisals, made for or by any agency relative to the
18 acquisition or sale of property, until the project or prospective sale
19 is abandoned or until such time as all of the property has been
20 acquired or the property to which the sale appraisal relates is sold,
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22 after the appraisal.

23 (h) Valuable formulae, designs, drawings, computer source code or
24 object code, and research data obtained by any agency within five years
25 of the request for disclosure when disclosure would produce private
26 gain and public loss.

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28 memorandums in which opinions are expressed or policies formulated or
29 recommended except that a specific record shall not be exempt when
30 publicly cited by an agency in connection with any agency action.

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32 is a party but which records would not be available to another party
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34 superior courts.

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36 archaeological sites in order to avoid the looting or depredation of
37 such sites.

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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.

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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
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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.

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18 chapters 28B.85 and 28C.10 RCW.

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21 ~~are~~) contain valuable commercial information and have been designated
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25 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
26 or during application for economic development loans or program
27 services provided by any local agency.

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

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

36 (u) The residential addresses or residential telephone numbers of
37 employees or volunteers of a public agency which are held by any public

1 agency in personnel records, public employment related records, or
2 volunteer rosters, or are included in any mailing list of employees or
3 volunteers of any public agency.

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

11 (w)(i) The federal social security number of individuals governed
12 under chapter 18.130 RCW maintained in the files of the department of
13 health, except this exemption does not apply to requests made directly
14 to the department from federal, state, and local agencies of
15 government, and national and state licensing, credentialing,
16 investigatory, disciplinary, and examination organizations; (ii) the
17 current residential address and current residential telephone number of
18 a health care provider governed under chapter 18.130 RCW maintained in
19 the files of the department, if the provider requests that this
20 information be withheld from public inspection and copying, and
21 provides to the department an accurate alternate or business address
22 and business telephone number. On or after January 1, 1995, the
23 current residential address and residential telephone number of a
24 health care provider governed under RCW 18.130.040 maintained in the
25 files of the department shall automatically be withheld from public
26 inspection and copying unless the provider specifically requests the
27 information be released, and except as provided for under RCW
28 42.17.260(9).

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

31 (y) Information obtained by the board of pharmacy or the department
32 of health and its representatives as provided in RCW 69.41.044,
33 69.41.280, and 18.64.420.

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35 any information produced or obtained in evaluating or examining a
36 business and industrial development corporation organized or seeking
37 certification under chapter 31.24 RCW.

1 (aa) Financial and commercial information supplied to the state
2 investment board by any person when the information relates to the
3 investment of public trust or retirement funds and when disclosure
4 would result in loss to such funds or in private loss to the providers
5 of this information.

6 (bb) Financial and valuable trade information under RCW 51.36.120.

7 (cc) Client records maintained by an agency that is a domestic
8 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape
9 crisis center as defined in RCW 70.125.030.

10 (dd) Information that identifies a person who, while an agency
11 employee: (i) Seeks advice, under an informal process established by
12 the employing agency, in order to ascertain his or her rights in
13 connection with a possible unfair practice under chapter 49.60 RCW
14 against the person; and (ii) requests his or her identity or any
15 identifying information not be disclosed.

16 (ee) Investigative records compiled by an employing agency
17 conducting a current investigation of a possible unfair practice under
18 chapter 49.60 RCW or of a possible violation of other federal, state,
19 or local laws prohibiting discrimination in employment.

20 (ff) Business related information protected from public inspection
21 and copying under RCW 15.86.110.

22 (gg) Financial, commercial, operations, and technical and research
23 information and data submitted to or obtained by the clean Washington
24 center in applications for, or delivery of, program services under
25 chapter 70.95H RCW.

26 (hh) Information and documents created specifically for, and
27 collected and maintained by a quality improvement committee pursuant to
28 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW
29 4.24.250, regardless of which agency is in possession of the
30 information and documents.

31 (ii) Personal information in files maintained in a data base
32 created under RCW 43.07.360.

33 (jj) Financial and commercial information requested by the public
34 stadium authority from any person or organization that leases or uses
35 the stadium and exhibition center as defined in RCW 36.102.010.

36 (kk) Names of individuals residing in emergency or transitional
37 housing that are furnished to the department of revenue or a county

1 assessor in order to substantiate a claim for property tax exemption
2 under RCW 84.36.043.

3 (ll) The names, residential addresses, residential telephone
4 numbers, and other individually identifiable records held by an agency
5 in relation to a vanpool, carpool, or other ride-sharing program or
6 service. However, these records may be disclosed to other persons who
7 apply for ride-matching services and who need that information in order
8 to identify potential riders or drivers with whom to share rides.

9 (mm) The personally identifying information of current or former
10 participants or applicants in a paratransit or other transit service
11 operated for the benefit of persons with disabilities or elderly
12 persons.

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

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

1 (pp) Records maintained by the board of industrial insurance
2 appeals that are related to appeals of crime victims' compensation
3 claims filed with the board under RCW 7.68.110.

4 (qq) Financial and commercial information supplied by or on behalf
5 of a person, firm, corporation, or entity under chapter 28B.95 RCW
6 relating to the purchase or sale of tuition units and contracts for the
7 purchase of multiple tuition units.

8 (rr) Any records of investigative reports prepared by any state,
9 county, municipal, or other law enforcement agency pertaining to sex
10 offenses contained in chapter 9A.44 RCW or sexually violent offenses as
11 defined in RCW 71.09.020, which have been transferred to the Washington
12 association of sheriffs and police chiefs for permanent electronic
13 retention and retrieval pursuant to RCW 40.14.070(2)(b).

14 (ss) Credit card numbers, debit card numbers, electronic check
15 numbers, card expiration dates, or bank or other financial account
16 numbers, except when disclosure is expressly required by or governed by
17 other law.

18 (tt) Financial information, including but not limited to account
19 numbers and values, and other identification numbers supplied by or on
20 behalf of a person, firm, corporation, limited liability company,
21 partnership, or other entity related to an application for a liquor
22 license, gambling license, or lottery retail license.

23 (uu) Records maintained by the employment security department and
24 subject to chapter 50.13 RCW if provided to another individual or
25 organization for operational, research, or evaluation purposes.

26 (vv) Individually identifiable information received by the work
27 force training and education coordinating board for research or
28 evaluation purposes.

29 (ww) Those portions of records assembled, prepared, or maintained
30 to prevent, mitigate, or respond to criminal terrorist acts, which are
31 acts that significantly disrupt the conduct of government or of the
32 general civilian population of the state or the United States and that
33 manifest an extreme indifference to human life, the public disclosure
34 of which would have a substantial likelihood of threatening public
35 safety, consisting of:

36 (i) Specific and unique vulnerability assessments or specific and
37 unique response or deployment plans, including compiled underlying data

1 collected in preparation of or essential to the assessments, or to the
2 response or deployment plans; and

3 (ii) Records not subject to public disclosure under federal law
4 that are shared by federal or international agencies, and information
5 prepared from national security briefings provided to state or local
6 government officials related to domestic preparedness for acts of
7 terrorism.

8 (xx) Commercial fishing catch data from logbooks required to be
9 provided to the department of fish and wildlife under RCW 77.12.047,
10 when the data identifies specific catch location, timing, or
11 methodology and the release of which would result in unfair competitive
12 disadvantage to the commercial fisher providing the catch data.
13 However, this information may be released to government agencies
14 concerned with the management of fish and wildlife resources.

15 (yy) Sensitive wildlife data obtained by the department of fish and
16 wildlife. However, sensitive wildlife data may be released to
17 government agencies concerned with the management of fish and wildlife
18 resources. Sensitive wildlife data includes:

19 (i) The nesting sites or specific locations of endangered species
20 designated under RCW 77.12.020, or threatened or sensitive species
21 classified by rule of the department of fish and wildlife;

22 (ii) Radio frequencies used in, or locational data generated by,
23 telemetry studies; or

24 (iii) Other location data that could compromise the viability of a
25 specific fish or wildlife population, and where at least one of the
26 following criteria are met:

- 27 (A) The species has a known commercial or black market value;
- 28 (B) There is a history of malicious take of that species; or
- 29 (C) There is a known demand to visit, take, or disturb, and the
30 species behavior or ecology renders it especially vulnerable or the
31 species has an extremely limited distribution and concentration.

32 (zz) The personally identifying information of persons who acquire
33 recreational licenses under RCW 77.32.010 or commercial licenses under
34 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
35 department, and type of license, endorsement, or tag. However, the
36 department of fish and wildlife may disclose personally identifying
37 information to:

1 (i) Government agencies concerned with the management of fish and
2 wildlife resources;

3 (ii) The department of social and health services, child support
4 division, and to the department of licensing in order to implement RCW
5 77.32.014 and 46.20.291; and

6 (iii) Law enforcement agencies for the purpose of firearm
7 possession enforcement under RCW 9.41.040.

8 (aaa)(i) Discharge papers of a veteran of the armed forces of the
9 United States filed at the office of the county auditor before July 1,
10 2002, that have not been commingled with other recorded documents.
11 These records will be available only to the veteran, the veteran's next
12 of kin, a deceased veteran's properly appointed personal representative
13 or executor, a person holding that veteran's general power of attorney,
14 or to anyone else designated in writing by that veteran to receive the
15 records.

16 (ii) Discharge papers of a veteran of the armed forces of the
17 United States filed at the office of the county auditor before July 1,
18 2002, that have been commingled with other records, if the veteran has
19 recorded a "request for exemption from public disclosure of discharge
20 papers" with the county auditor. If such a request has been recorded,
21 these records may be released only to the veteran filing the papers,
22 the veteran's next of kin, a deceased veteran's properly appointed
23 personal representative or executor, a person holding the veteran's
24 general power of attorney, or anyone else designated in writing by the
25 veteran to receive the records.

26 (iii) Discharge papers of a veteran filed at the office of the
27 county auditor after June 30, 2002, are not public records, but will be
28 available only to the veteran, the veteran's next of kin, a deceased
29 veteran's properly appointed personal representative or executor, a
30 person holding the veteran's general power of attorney, or anyone else
31 designated in writing by the veteran to receive the records.

32 (iv) For the purposes of this subsection (1)(aaa), next of kin of
33 deceased veterans have the same rights to full access to the record.
34 Next of kin are the veteran's widow or widower who has not remarried,
35 son, daughter, father, mother, brother, and sister.

36 (bbb) Those portions of records containing specific and unique
37 vulnerability assessments or specific and unique emergency and escape
38 response plans at a city, county, or state adult or juvenile

1 correctional facility, the public disclosure of which would have a
2 substantial likelihood of threatening the security of a city, county,
3 or state adult or juvenile correctional facility or any individual's
4 safety.

5 (ccc) Information compiled by school districts or schools in the
6 development of their comprehensive safe school plans pursuant to RCW
7 28A.320.125, to the extent that they identify specific vulnerabilities
8 of school districts and each individual school.

9 (ddd) Information regarding the infrastructure and security of
10 computer and telecommunications networks, consisting of security
11 passwords, security access codes and programs, access codes for secure
12 software applications, security and service recovery plans, security
13 risk assessments, and security test results to the extent that they
14 identify specific system vulnerabilities.

15 (eee) Information obtained and exempted or withheld from public
16 inspection by the health care authority under RCW 41.05.026, whether
17 retained by the authority, transferred to another state purchased
18 health care program by the authority, or transferred by the authority
19 to a technical review committee created to facilitate the development,
20 acquisition, or implementation of state purchased health care under
21 chapter 41.05 RCW.

22 (fff) Proprietary data, trade secrets, or other information that
23 relates to: (i) A vendor's unique methods of conducting business; (ii)
24 data unique to the product or services of the vendor; or (iii)
25 determining prices or rates to be charged for services, submitted by
26 any vendor to the department of social and health services for purposes
27 of the development, acquisition, or implementation of state purchased
28 health care as defined in RCW 41.05.011.

29 (2) Except for information described in subsection (1)(c)(i) of
30 this section and confidential income data exempted from public
31 inspection pursuant to RCW 84.40.020, the exemptions of this section
32 are inapplicable to the extent that information, the disclosure of
33 which would violate personal privacy or vital governmental interests,
34 can be deleted from the specific records sought. No exemption may be
35 construed to permit the nondisclosure of statistical information not
36 descriptive of any readily identifiable person or persons.

37 (3) Inspection or copying of any specific records exempt under the
38 provisions of this section may be permitted if the superior court in

1 the county in which the record is maintained finds, after a hearing
2 with notice thereof to every person in interest and the agency, that
3 the exemption of such records is clearly unnecessary to protect any
4 individual's right of privacy or any vital governmental function.

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

9 NEW SECTION. **Sec. 4.** Section 2 of this act expires June 30, 2005.

10 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect June 30,
11 2005.

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