

CERTIFICATION OF ENROLLMENT  
**THIRD SUBSTITUTE SENATE BILL 5412**

58th Legislature  
2004 Regular Session

Passed by the Senate March 10, 2004  
YEAS 47 NAYS 2

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**President of the Senate**

Passed by the House March 5, 2004  
YEAS 66 NAYS 28

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Milton H. Doumit, Jr.,  
Secretary of the Senate of the  
State of Washington, do hereby  
certify that the attached is **THIRD  
SUBSTITUTE SENATE BILL 5412** as  
passed by the Senate and the House  
of Representatives on the dates  
hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**THIRD SUBSTITUTE SENATE BILL 5412**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2004 Regular Session

**State of Washington                      58th Legislature                      2004 Regular Session**

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

READ FIRST TIME 02/10/04.

1            AN ACT Relating to identity theft penalties and prevention;  
2 amending RCW 9.35.020; adding new sections to chapter 46.20 RCW;  
3 creating new sections; prescribing penalties; and providing an  
4 effective date.

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

6            NEW SECTION. **Sec. 1.** The legislature finds that identity theft  
7 and the other types of fraud is a significant problem in the state of  
8 Washington, costing our citizens and businesses millions each year.  
9 The most common method of accomplishing identity theft and other  
10 fraudulent activity is by securing a fraudulently issued driver's  
11 license. It is the purpose of this act to significantly reduce  
12 identity theft and other fraud by preventing the fraudulent issuance of  
13 driver's licenses and identicards.

14            **Sec. 2.** RCW 9.35.020 and 2003 c 53 s 22 are each amended to read  
15 as follows:

16            (1) No person may knowingly obtain, possess, use, or transfer a  
17 means of identification or financial information of another person,

1 living or dead, with the intent to commit, or to aid or abet, any  
2 crime.

3 (2) Violation of this section when the accused or an accomplice  
4 uses the victim's means of identification or financial information and  
5 obtains an aggregate total of credit, money, goods, services, or  
6 anything else of value in excess of one thousand five hundred dollars  
7 in value shall constitute identity theft in the first degree. Identity  
8 theft in the first degree is a class B felony punishable according to  
9 chapter 9A.20 RCW.

10 (3) Violation of this section when the accused or an accomplice  
11 uses the victim's means of identification or financial information and  
12 obtains an aggregate total of credit, money, goods, services, or  
13 anything else of value that is less than one thousand five hundred  
14 dollars in value, or when no credit, money, goods, services, or  
15 anything of value is obtained shall constitute identity theft in the  
16 second degree. Identity theft in the second degree is a class C felony  
17 punishable according to chapter 9A.20 RCW.

18 (4) A person who violates this section is liable for civil damages  
19 of ((~~five hundred~~)) one thousand dollars or actual damages, whichever  
20 is greater, including costs to repair the victim's credit record, and  
21 reasonable attorneys' fees as determined by the court.

22 (5) In a proceeding under this section, the crime will be  
23 considered to have been committed in any locality where the person  
24 whose means of identification or financial information was appropriated  
25 resides, or in which any part of the offense took place, regardless of  
26 whether the defendant was ever actually in that locality.

27 (6) The provisions of this section do not apply to any person who  
28 obtains another person's driver's license or other form of  
29 identification for the sole purpose of misrepresenting his or her age.

30 (7) In a proceeding under this section in which a person's means of  
31 identification or financial information was used without that person's  
32 authorization, and when there has been a conviction, the sentencing  
33 court may issue such orders as are necessary to correct a public record  
34 that contains false information resulting from a violation of this  
35 section.

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.20 RCW  
37 to read as follows:

1 (1) No later than January 1, 2006, the department shall implement  
2 a voluntary biometric matching system for driver's licenses and  
3 identicards. The biometric matching system shall be used only to  
4 verify the identity of an applicant for a renewal or duplicate driver's  
5 license or identicard by matching a biometric identifier submitted by  
6 the applicant against the biometric identifier submitted when the  
7 license was last issued. This project requires a full review by the  
8 information services board using the criteria for projects of the  
9 highest visibility and risk.

10 (2) The biometric matching system selected by the department shall  
11 be capable of highly accurate matching, and shall be compliant with  
12 biometric standards established by the American association of motor  
13 vehicle administrators.

14 (3) The biometric matching system selected by the department must  
15 incorporate a process that allows the owner of a driver's license or  
16 identicard to present a personal identification number or other code  
17 along with the driver's license or identicard before the information  
18 may be verified by a third party.

19 (4) Upon the establishment of a biometric driver's license and  
20 identicard system as described in this section, the department shall  
21 allow every person applying for an original, renewal, or duplicate  
22 driver's license or identicard to voluntarily submit a biometric  
23 identifier. Each applicant shall be informed of all ways in which the  
24 biometric identifier may be used, all parties to whom the identifier  
25 may be disclosed and the conditions of disclosure, the expected error  
26 rates for the biometric matching system which shall be regularly  
27 updated as the technology changes or empirical data is collected, and  
28 the potential consequences of those errors. The department shall adopt  
29 rules to allow applicants to verify the accuracy of the system at the  
30 time that biometric information is submitted, including the use of at  
31 least two separate devices.

32 (5) The department may not disclose biometric information to the  
33 public or any governmental entity except when authorized by court  
34 order.

35 (6) All biometric information shall be stored with appropriate  
36 safeguards, including but not limited to encryption.

37 (7) The department shall develop procedures to handle instances in  
38 which the biometric matching system fails to verify the identity of an

1 applicant for a renewal or duplicate driver's license or identicard.  
2 These procedures shall allow an applicant to prove identity without  
3 using a biometric identifier.

4 (8) Any person who has voluntarily submitted a biometric identifier  
5 may choose to discontinue participation in the biometric matching  
6 program at any time, provided that the department utilizes a secure  
7 procedure to prevent fraudulent requests for a renewal or duplicate  
8 driver's license or identicard. When the person discontinues  
9 participation, any previously collected biometric information shall be  
10 destroyed.

11 (9) If Engrossed Substitute Senate Bill No. 5428 or House Bill No.  
12 1681 is enacted into law, this section does not apply when an applicant  
13 renews his or her driver's license or identicard by mail or electronic  
14 commerce.

15 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.20 RCW  
16 to read as follows:

17 (1) The department is authorized to charge persons opting to submit  
18 a biometric identifier under section 3 of this act an additional fee of  
19 no more than two dollars at the time of application for an original,  
20 renewal, or duplicate driver's license or identicard issued by the  
21 department. This fee shall be used exclusively to defray the cost of  
22 implementation and ongoing operation of a biometric security system.

23 (2) The biometric security account is created in the state  
24 treasury. All receipts from subsection (1) of this section shall be  
25 deposited into the account. Moneys in the account may be spent only  
26 after appropriation. Expenditures from the account must be used only  
27 for the purpose of defraying the cost of implementation and ongoing  
28 operation of a biometric security system.

29 NEW SECTION. **Sec. 5.** This act takes effect July 1, 2004.

30 NEW SECTION. **Sec. 6.** If specific funding for the purposes of this  
31 act, referencing this act by bill or chapter number, is not provided by  
32 June 30, 2004, in the omnibus transportation appropriations act,  
33 sections 1, 3, 4, and 5 of this act are null and void.

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