

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2651

59th Legislature
2006 Regular Session

Passed by the House February 11, 2006
Yeas 95 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 1, 2006
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2651** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2651

Passed Legislature - 2006 Regular Session

State of Washington 59th Legislature 2006 Regular Session

By House Committee on Economic Development, Agriculture & Trade
(originally sponsored by Representatives Pettigrew, Kristiansen,
Haigh, Buri, Walsh, Linville, Kretz, Grant, Cox, Newhouse, Holmquist,
Blake, Armstrong and Springer)

READ FIRST TIME 2/3/06.

1 AN ACT Relating to disclosure of animal information; amending RCW
2 42.56.380; reenacting and amending RCW 42.17.310; creating a new
3 section; providing an effective date; and providing an expiration date.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that livestock
6 identification numbers, premise information, and animal movement data
7 are proprietary information that all have a role in defining a
8 livestock producer's position within the marketplace, including his or
9 her competitive advantage over other producers. The legislature
10 therefore finds that exempting certain voluntary livestock
11 identification, premise, and movement information from state public
12 disclosure requirements will foster an environment that is more
13 conducive to voluntary participation, and lead to a more effective
14 livestock identification system.

15 **Sec. 2.** RCW 42.17.310 and 2005 c 424 s 16, 2005 c 349 s 1, 2005 c
16 312 s 6, 2005 c 284 s 1, 2005 c 172 s 13, and 2005 c 33 s 4 are each
17 reenacted and amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

13 (k) Records, maps, or other information identifying the location of
14 archaeological sites in order to avoid the looting or depredation of
15 such sites.

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

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

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

28 (o) Financial and commercial information and records supplied by
29 private persons pertaining to export services provided pursuant to
30 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to
31 export projects pursuant to RCW 43.23.035.

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

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

37 (r) Financial and commercial information and records supplied by
38 businesses or individuals during application for loans or program

1 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
2 or during application for economic development loans or program
3 services provided by any local agency.

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

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

12 (u) The residential addresses, residential telephone numbers,
13 personal wireless telephone numbers, personal electronic mail
14 addresses, Social Security numbers, and emergency contact information
15 of employees or volunteers of a public agency, and the names, dates of
16 birth, residential addresses, residential telephone numbers, personal
17 wireless telephone numbers, personal electronic mail addresses, Social
18 Security numbers, and emergency contact information of dependents of
19 employees or volunteers of a public agency, which are held by any
20 public agency in personnel records, public employment related records,
21 or volunteer rosters, or are included in any mailing list of employees
22 or volunteers of any public agency. For purposes of this subsection,
23 "employees" includes independent provider home care workers as defined
24 in RCW 74.39A.240.

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

32 (w)(i) The federal social security number of individuals governed
33 under chapter 18.130 RCW maintained in the files of the department of
34 health, except this exemption does not apply to requests made directly
35 to the department from federal, state, and local agencies of
36 government, and national and state licensing, credentialing,
37 investigatory, disciplinary, and examination organizations; (ii) the
38 current residential address and current residential telephone number of

1 a health care provider governed under chapter 18.130 RCW maintained in
2 the files of the department, if the provider requests that this
3 information be withheld from public inspection and copying, and
4 provides to the department an accurate alternate or business address
5 and business telephone number. On or after January 1, 1995, the
6 current residential address and residential telephone number of a
7 health care provider governed under RCW 18.130.040 maintained in the
8 files of the department shall automatically be withheld from public
9 inspection and copying unless the provider specifically requests the
10 information be released, and except as provided for under RCW
11 42.17.260(9).

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

14 (y) Information obtained by the board of pharmacy or the department
15 of health and its representatives as provided in RCW 69.41.044,
16 69.41.280, and 18.64.420.

17 (z) Financial information, business plans, examination reports, and
18 any information produced or obtained in evaluating or examining a
19 business and industrial development corporation organized or seeking
20 certification under chapter 31.24 RCW.

21 (aa) Financial and commercial information supplied to the state
22 investment board by any person when the information relates to the
23 investment of public trust or retirement funds and when disclosure
24 would result in loss to such funds or in private loss to the providers
25 of this information.

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

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

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

36 (ee) Investigative records compiled by an employing agency
37 conducting a current investigation of a possible unfair practice under

1 chapter 49.60 RCW or of a possible violation of other federal, state,
2 or local laws prohibiting discrimination in employment.

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

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

9 (hh) Information and documents created specifically for, and
10 collected and maintained by, a quality improvement committee pursuant
11 to RCW 43.70.510 or 70.41.200, by a peer review committee under RCW
12 4.24.250, or by a quality assurance committee pursuant to RCW 74.42.640
13 or 18.20.390, regardless of which agency is in possession of the
14 information and documents.

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

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

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

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

30 (mm) The personally identifying information of current or former
31 participants or applicants in a paratransit or other transit service
32 operated for the benefit of persons with disabilities or elderly
33 persons.

34 (nn) The personally identifying information of persons who acquire
35 and use transit passes and other fare payment media including, but not
36 limited to, stored value smart cards and magnetic strip cards, except
37 that an agency may disclose this information to a person, employer,
38 educational institution, or other entity that is responsible, in whole

1 or in part, for payment of the cost of acquiring or using a transit
2 pass or other fare payment media, or to the news media when reporting
3 on public transportation or public safety. This information may also
4 be disclosed at the agency's discretion to governmental agencies or
5 groups concerned with public transportation or public safety.

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

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

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

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

34 (ss) Credit card numbers, debit card numbers, electronic check
35 numbers, card expiration dates, or bank or other financial account
36 numbers, except when disclosure is expressly required by or governed by
37 other law.

1 (tt) Financial information, including but not limited to account
2 numbers and values, and other identification numbers supplied by or on
3 behalf of a person, firm, corporation, limited liability company,
4 partnership, or other entity related to an application for a horse
5 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
6 license, gambling license, or lottery retail license.

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

10 (vv) Individually identifiable information received by the work
11 force training and education coordinating board for research or
12 evaluation purposes.

13 (ww) Those portions of records assembled, prepared, or maintained
14 to prevent, mitigate, or respond to criminal terrorist acts, which are
15 acts that significantly disrupt the conduct of government or of the
16 general civilian population of the state or the United States and that
17 manifest an extreme indifference to human life, the public disclosure
18 of which would have a substantial likelihood of threatening public
19 safety, consisting of:

20 (i) Specific and unique vulnerability assessments or specific and
21 unique response or deployment plans, including compiled underlying data
22 collected in preparation of or essential to the assessments, or to the
23 response or deployment plans; and

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

29 (xx) Commercial fishing catch data from logbooks required to be
30 provided to the department of fish and wildlife under RCW 77.12.047,
31 when the data identifies specific catch location, timing, or
32 methodology and the release of which would result in unfair competitive
33 disadvantage to the commercial fisher providing the catch data.
34 However, this information may be released to government agencies
35 concerned with the management of fish and wildlife resources.

36 (yy) Sensitive wildlife data obtained by the department of fish and
37 wildlife. However, sensitive wildlife data may be released to

1 government agencies concerned with the management of fish and wildlife
2 resources. Sensitive wildlife data includes:

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

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

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

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

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

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

16 (zz) The personally identifying information of persons who acquire
17 recreational licenses under RCW 77.32.010 or commercial licenses under
18 chapter 77.65 or 77.70 RCW, except name, address of contact used by the
19 department, and type of license, endorsement, or tag. However, the
20 department of fish and wildlife may disclose personally identifying
21 information to:

22 (i) Government agencies concerned with the management of fish and
23 wildlife resources;

24 (ii) The department of social and health services, child support
25 division, and to the department of licensing in order to implement RCW
26 77.32.014 and 46.20.291; and

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

29 (aaa)(i) Discharge papers of a veteran of the armed forces of the
30 United States filed at the office of the county auditor before July 1,
31 2002, that have not been commingled with other recorded documents.
32 These records will be available only to the veteran, the veteran's next
33 of kin, a deceased veteran's properly appointed personal representative
34 or executor, a person holding that veteran's general power of attorney,
35 or to anyone else designated in writing by that veteran to receive the
36 records.

37 (ii) Discharge papers of a veteran of the armed forces of the
38 United States filed at the office of the county auditor before July 1,

1 2002, that have been commingled with other records, if the veteran has
2 recorded a "request for exemption from public disclosure of discharge
3 papers" with the county auditor. If such a request has been recorded,
4 these records may be released only to the veteran filing the papers,
5 the veteran's next of kin, a deceased veteran's properly appointed
6 personal representative or executor, a person holding the veteran's
7 general power of attorney, or anyone else designated in writing by the
8 veteran to receive the records.

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

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

19 (bbb) Those portions of records containing specific and unique
20 vulnerability assessments or specific and unique emergency and escape
21 response plans at a city, county, or state adult or juvenile
22 correctional facility, the public disclosure of which would have a
23 substantial likelihood of threatening the security of a city, county,
24 or state adult or juvenile correctional facility or any individual's
25 safety.

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

30 (ddd) Information regarding the infrastructure and security of
31 computer and telecommunications networks, consisting of security
32 passwords, security access codes and programs, access codes for secure
33 software applications, security and service recovery plans, security
34 risk assessments, and security test results to the extent that they
35 identify specific system vulnerabilities.

36 (eee) Information obtained and exempted or withheld from public
37 inspection by the health care authority under RCW 41.05.026, whether
38 retained by the authority, transferred to another state purchased

1 health care program by the authority, or transferred by the authority
2 to a technical review committee created to facilitate the development,
3 acquisition, or implementation of state purchased health care under
4 chapter 41.05 RCW.

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

12 (ggg) The personally identifying information of persons who acquire
13 and use transponders or other technology to facilitate payment of
14 tolls. This information may be disclosed in aggregate form as long as
15 the data does not contain any personally identifying information. For
16 these purposes aggregate data may include the census tract of the
17 account holder as long as any individual personally identifying
18 information is not released. Personally identifying information may be
19 released to law enforcement agencies only for toll enforcement
20 purposes. Personally identifying information may be released to law
21 enforcement agencies for other purposes only if the request is
22 accompanied by a court order.

23 (hhh) Financial, commercial, operations, and technical and research
24 information and data submitted to or obtained by the life sciences
25 discovery fund authority in applications for, or delivery of, grants
26 under chapter 43.350 RCW, to the extent that such information, if
27 revealed, would reasonably be expected to result in private loss to the
28 providers of this information.

29 (iii) Records of mediation communications that are privileged under
30 chapter 7.07 RCW.

31 (jjj) Information submitted by an individual or business for the
32 purpose of participating in a state or national animal identification
33 system. Disclosure to local, state, and federal officials is not
34 public disclosure. This exemption does not affect the disclosure of
35 information used in reportable animal health investigations under
36 chapter 16.36 RCW once they are complete.

37 (kkk) Results of testing for animal diseases not required to be

1 reported under chapter 16.36 RCW that is done at the request of the
2 animal owner or his or her designee that can be identified to a
3 particular business or individual.

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

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

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

22 **Sec. 3.** RCW 42.56.380 and 2005 c 274 s 418 are each amended to
23 read as follows:

24 The following information relating to agriculture and livestock is
25 exempt from disclosure under this chapter:

26 (1) Business-related information under RCW 15.86.110;

27 (2) Information provided under RCW 15.54.362;

28 (3) Production or sales records required to determine assessment
29 levels and actual assessment payments to commodity boards and
30 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,
31 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the
32 department of agriculture to administer these chapters or the
33 department's programs;

34 (4) Consignment information contained on phytosanitary certificates
35 issued by the department of agriculture under chapters 15.13, 15.49,
36 and 15.17 RCW or federal phytosanitary certificates issued under 7
37 C.F.R. 353 through cooperative agreements with the animal and plant

1 health inspection service, United States department of agriculture, or
2 on applications for phytosanitary certification required by the
3 department of agriculture;

4 (5) Financial and commercial information and records supplied by
5 persons (a) to the department of agriculture for the purpose of
6 conducting a referendum for the potential establishment of a commodity
7 board or commission; or (b) to the department of agriculture or
8 commodity boards or commissions formed under chapter 15.24, 15.28,
9 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, or 16.67 RCW with respect to
10 domestic or export marketing activities or individual producer's
11 production information;

12 (6) Except under RCW 15.19.080, information obtained regarding the
13 purchases, sales, or production of an individual American ginseng
14 grower or dealer;

15 (7) Information that can be identified to a particular business and
16 that is collected under section 3(1), chapter 235, Laws of 2002;
17 (~~and~~)

18 (8) Financial statements provided under RCW 16.65.030(1)(d);

19 (9) Information submitted by an individual or business for the
20 purpose of participating in a state or national animal identification
21 system. Disclosure to local, state, and federal officials is not
22 public disclosure. This exemption does not affect the disclosure of
23 information used in reportable animal health investigations under
24 chapter 16.36 RCW once they are complete; and

25 (10) Results of testing for animal diseases not required to be
26 reported under chapter 16.36 RCW that is done at the request of the
27 animal owner or his or her designee that can be identified to a
28 particular business or individual.

29 NEW SECTION. Sec. 4. Section 2 of this act expires July 1, 2006.

30 NEW SECTION. Sec. 5. Section 3 of this act takes effect July 1,
31 2006.

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