

HOUSE BILL REPORT

SB 6250

As Passed House:

March 5, 2008

Title: An act relating to the confidentiality of personal information collected and maintained in connection with applications for drivers' licenses and identicards.

Brief Description: Protecting the confidentiality and privacy of personal information in connection with drivers' licenses and identicards.

Sponsors: By Senators Haugen and Kline; by request of Department of Licensing.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/20/08, 2/22/08 [DP].

Floor Activity:

Passed House: 3/5/08, 96-0.

Brief Summary of Bill

- Exempts source documents submitted for an enhanced driver's licenses from disclosure under the Public Records Act (PRA).
- Exempts personally identifying information related to driver's licenses and identicards with Radio Frequency Identification chips from public disclosure under the PRA.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Kretz, Lias, Miloscia and Ormsby.

Staff: Tracey Taylor (786-7196).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Western Hemisphere Travel Initiative (WHTI) is the result of the Intelligence Reform and Prevention Act of 2004, and requires all travelers to present a passport or other document that denotes identity and citizenship when entering the United States (U.S.). Under the WHTI, these documentation requirements apply to travelers that were previously exempt citizens of the U.S., Canada, Mexico, the Caribbean region, and Bermuda.

Currently, U.S. Customs and Border Protection (CBP) officers may accept oral declarations of citizenship from U.S. and Canadian citizens seeking entrance into the U.S. through a land or sea border. However, as of January 31, 2008, such oral declarations alone will no longer be accepted. United States and Canadian citizens, ages 19 and older, will need to present a government-issued photo identification, such as a driver's license, along with proof of citizenship, such as a birth certificate. Children, ages 18 years and under, are only required to present proof of citizenship, such as a birth certificate. Alternatively, a passport or trusted traveler program card, such as NEXUS, SENTRI and FAST, will be accepted for cross-border travel.

The Department of Homeland Security is pursuing the development of alternative documents to meet the WHTI implementation requirements at land and sea ports of entry. These alternative documents would denote both identity and citizenship, be issued in a secure process, and include technology that facilitates travel. One of these low cost, convenient alternatives is an enhanced driver's license (EDL). An EDL is designed to make it quicker and easier to cross the border back into the U.S. An EDL contains a vicinity RFID chip that will signal a computer to pull up one's biographic and biometric data for CBP officers as you pull up to the border. If the RFID is not working, the EDL also has a machine readable zone or barcode that the CBP officer can read electronically. No personally identifiable information is stored on the card's RFID chip or can be transmitted by the card. The card uses a unique identification number which will link to information contained in a secure database. This number does not contain any personal information.

Washington has developed an EDL and the Department of Licensing (DOL) has recently begun to issue the EDLs. In order to establish an EDL, an applicant's age, identity, residence, and other required information, source documents must be supplied by the applicant. These documents include birth certificates, utility bills, and Social Security cards. In the past, these documents were returned to the applicant; however, with the EDL it has become necessary to scan these documents and maintain images of these source documents on file for further verification or audit purposes. These documents are not exempt from the Public Records Act (PRA) which requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

Summary of Bill:

Documents and related materials used to prove identity, age, residential address, Social Security number, and other personal information required to apply for a driver's license or identicard is exempt from public disclosure under the PRA.

In addition, any personally identifying information related to persons who acquire and use a driver's license or identicard that includes a RFID is exempted from disclosure under the PRA. However, the information may be disclosed in the aggregate so long as no personally identifying information is included. Personally identifying information may be released to law enforcement agencies only for CBP purposes or other law enforcement agencies by court order.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) The DOL gets over 5.8 million public disclosure requests per year. Federal and state laws currently protect drivers' license information. In the past, the DOL would return source documents; however, now it retains copies. The DOL does not want any open questions regarding the disclosure of these personal documents.

(Opposed) None.

Persons Testifying: Sharon Whitehead, Department of Licensing.

Persons Signed In To Testify But Not Testifying: None.