

SENATE BILL REPORT

SHB 2729

As Reported By Senate Committee On:
Transportation, March 03, 2008

Title: An act relating to identification documents.

Brief Description: Addressing the reading and handling of certain identification documents.

Sponsors: House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy, Pedersen, Appleton, Lantz, Williams, Upthegrove, Santos, Simpson, Hasegawa, Ericks, Ormsby and Springer).

Brief History: Passed House: 2/07/08, 95-0.

Committee Activity: Transportation: 3/3/08 [DPA].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass as amended.

Signed by Senators Haugen, Chair; Marr, Vice Chair; Swecker, Ranking Minority Member; Berkey, Delvin, Eide, Jacobsen, Kastama, Kauffman, Kilmer, King, Pflug, Sheldon and Spanel.

Staff: Dory Nicpon (786-7321)

Background: In 2007 the Legislature enacted ESHB 1289, which authorized the Department of Licensing (DOL) to issue a voluntary enhanced driver's license or identicard (eDL/ID) to all applicants who, in addition to meeting all other driver's license or identicard requirements, provide the DOL with proof of U.S. citizenship, identity, and state residency.

The eDL/ID uses Radio Frequency Identification (RFID) technology, a wireless technology that stores and retrieves data remotely. An RFID chip is embedded in each eDL/ID and contains a unique reference number. At a border crossing station, an RFID reader uses electromagnetic waves to energize the tag and collect this reference number. The reader converts the radio waves reflected back from the RFID tag into digital information and transmits it to the Customs and Border Protection network, which is an encrypted, secure network. The reference number is compared to the Customs and Border Protection's records to verify the eDL/ID holder's identity.

The Public Records Act requires that documents prepared, owned, used or retained by state agencies must be available for public inspection and copying unless specifically exempted from disclosure. No state law prohibits or restricts a non-governmental entity from using or

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distributing personal information derived from an eDL/ID or other identification card or document.

Summary of Bill

(Recommended Amendments): A person is guilty of a class C felony if the person intentionally possesses, or reads or captures remotely using radio waves, information on another person's enhanced driver's license, without that person's express knowledge and consent. Exceptions are included for capturing the information on another person's enhanced driver's license: 1) to facilitate border crossing; 2) incident to security research; or 3) inadvertently (provided that the information is promptly destroyed, and neither disclosed to any other party, nor used for any purpose).

The unlawful capture or possession of information on a person's enhanced driver's license is also deemed unreasonable in relation to the development and preservation of business, an unfair or deceptive act in trade or commerce, and an unfair method of competition. As such, it is unlawful under existing statutes.

Documents presented by a driver's license or identicard applicant to prove identity, age, residential address, social security number, or other personal information, as well as personally identifying information about individuals who acquire or use a driver's license or identicard for border crossing, are exempt from public disclosure under the Public Records Act.

Personally identifying information about individuals who use a driver's license or identicard for border crossing may be released to law enforcement agencies for customs and border protection purposes, and upon court order, to law enforcement agencies for other purposes.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Recommended Amendments: PRO: The striking amendment before the committee includes revisions to the bill that address the concerns of various groups. The bill provides important protections for privacy and consumers.

Persons Testifying: PRO: Representative Eddy, prime sponsor; Jennifer Shaw, American Civil Liberties Union Washington.