
SUBSTITUTE SENATE BILL 5418

State of Washington

65th Legislature

2018 Regular Session

By Senate State Government, Tribal Relations & Elections (originally sponsored by Senator Chase)

READ FIRST TIME 02/02/18.

1 AN ACT Relating to recommendations of the sunshine committee;
2 amending RCW 42.56.230 and 42.56.270; reenacting and amending RCW
3 42.56.230; adding a new section to chapter 42.56 RCW; repealing RCW
4 39.26.030; providing an effective date; and providing an expiration
5 date.

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

7 **Sec. 1.** RCW 42.56.230 and 2015 c 224 s 2 and 2015 c 47 s 1 are
8 each reenacted and amended to read as follows:

9 The following personal information is exempt from public
10 inspection and copying under this chapter, unless the agency has
11 received consent for disclosure from the subject of the information
12 or, in the case of a child, from the child's parent or guardian:

13 (1) Personal information in any files maintained for students in
14 public schools, patients or clients of public institutions or public
15 health agencies, or welfare recipients;

16 (2)(a) Personal information:

17 (i) For a child enrolled in licensed child care in any files
18 maintained by the department of early learning;

19 (ii) For a child enrolled in a public or nonprofit program
20 serving or pertaining to children, adolescents, or students,
21 including but not limited to early learning or child care services,

1 parks and recreation programs, youth development programs, and after-
2 school programs; or

3 (iii) For the family members or guardians of a child who is
4 subject to the exemption under this subsection (2) if the family
5 member or guardian has the same last name (~~(of [as])~~) as the child or
6 if the family member or guardian resides at the same address (~~(of~~
7 ~~[as])~~) as the child and disclosure of the family member's or
8 guardian's information would result in disclosure of the personal
9 information exempted under (a)(i) and (ii) of this subsection.

10 (b) Emergency contact information under this subsection (2) may
11 be provided to appropriate authorities and medical personnel for the
12 purpose of treating the individual during an emergency situation;

13 (3) Personal information in files maintained for employees,
14 appointees, or elected officials of any public agency to the extent
15 that disclosure would violate their right to privacy;

16 (4) Information required of any taxpayer in connection with the
17 assessment or collection of any tax if the disclosure of the
18 information to other persons would: (a) Be prohibited to such persons
19 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance
20 authorized under RCW 35.102.145; or (b) violate the taxpayer's right
21 to privacy or result in unfair competitive disadvantage to the
22 taxpayer;

23 (5) Credit card numbers, debit card numbers, electronic check
24 numbers, card expiration dates, or bank or other financial
25 information as defined in RCW 9.35.005 including social security
26 numbers, except when disclosure is expressly required by or governed
27 by other law;

28 (6) Personal and financial information related to a small loan or
29 any system of authorizing a small loan in RCW 31.45.093;

30 (7)(a) Any record used to prove identity, age, residential
31 address, social security number, or other personal information
32 required to apply for a driver's license or identicard.

33 (b) Information provided under RCW 46.20.111 that indicates that
34 an applicant declined to register with the selective service system.

35 (c) Any record pertaining to a vehicle license plate, driver's
36 license, or identicard issued under RCW 46.08.066 that, alone or in
37 combination with any other records, may reveal the identity of an
38 individual, or reveal that an individual is or was, performing an
39 undercover or covert law enforcement, confidential public health
40 work, public assistance fraud, or child support investigative

1 activity. This exemption does not prevent the release of the total
2 number of vehicle license plates, drivers' licenses, or identicards
3 that, under RCW 46.08.066, an agency or department has applied for,
4 been issued, denied, returned, destroyed, lost, and reported for
5 misuse.

6 (d) Any record pertaining to a vessel registration issued under
7 RCW 88.02.330 that, alone or in combination with any other records,
8 may reveal the identity of an individual, or reveal that an
9 individual is or was, performing an undercover or covert law
10 enforcement activity. This exemption does not prevent the release of
11 the total number of vessel registrations that, under RCW 88.02.330,
12 an agency or department has applied for, been issued, denied,
13 returned, destroyed, lost, and reported for misuse; (~~and~~)

14 (8) All information related to individual claims resolution
15 structured settlement agreements submitted to the board of industrial
16 insurance appeals under RCW 51.04.063, other than final orders from
17 the board of industrial insurance appeals.

18 Upon request by the legislature, the department of licensing
19 shall provide a report to the legislature containing all of the
20 information in subsection (7)(c) and (d) of this section that is
21 subject to public disclosure(~~(-)~~); and

22 (9) Voluntarily submitted information contained in a database
23 that is part of or associated with enhanced 911 emergency
24 communications systems, or information contained or used in emergency
25 notification systems as provided under RCW 38.52.575 and 38.52.577.

26 **Sec. 2.** RCW 42.56.230 and 2017 3rd sp.s. c 6 s 222 are each
27 amended to read as follows:

28 The following personal information is exempt from public
29 inspection and copying under this chapter, unless the agency has
30 received consent for disclosure from the subject of the information
31 or, in the case of a child, from the child's parent or guardian:

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

35 (2)(a) Personal information:

36 (i) For a child enrolled in licensed child care in any files
37 maintained by the department of children, youth, and families;

38 (ii) For a child enrolled in a public or nonprofit program
39 serving or pertaining to children, adolescents, or students,

1 including but not limited to early learning or child care services,
2 parks and recreation programs, youth development programs, and after-
3 school programs; or

4 (iii) For the family members or guardians of a child who is
5 subject to the exemption under this subsection (2) if the family
6 member or guardian has the same last name as the child or if the
7 family member or guardian resides at the same address as the child
8 and disclosure of the family member's or guardian's information would
9 result in disclosure of the personal information exempted under
10 (a)(i) and (ii) of this subsection.

11 (b) Emergency contact information under this subsection (2) may
12 be provided to appropriate authorities and medical personnel for the
13 purpose of treating the individual during an emergency situation;

14 (3) Personal information in files maintained for employees,
15 appointees, or elected officials of any public agency to the extent
16 that disclosure would violate their right to privacy;

17 (4) Information required of any taxpayer in connection with the
18 assessment or collection of any tax if the disclosure of the
19 information to other persons would: (a) Be prohibited to such persons
20 by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance
21 authorized under RCW 35.102.145; or (b) violate the taxpayer's right
22 to privacy or result in unfair competitive disadvantage to the
23 taxpayer;

24 (5) Credit card numbers, debit card numbers, electronic check
25 numbers, card expiration dates, or bank or other financial
26 information as defined in RCW 9.35.005 including social security
27 numbers, except when disclosure is expressly required by or governed
28 by other law;

29 (6) Personal and financial information related to a small loan or
30 any system of authorizing a small loan in RCW 31.45.093;

31 (7)(a) Any record used to prove identity, age, residential
32 address, social security number, or other personal information
33 required to apply for a driver's license or identocard.

34 (b) Information provided under RCW 46.20.111 that indicates that
35 an applicant declined to register with the selective service system.

36 (c) Any record pertaining to a vehicle license plate, driver's
37 license, or identocard issued under RCW 46.08.066 that, alone or in
38 combination with any other records, may reveal the identity of an
39 individual, or reveal that an individual is or was, performing an
40 undercover or covert law enforcement, confidential public health

1 work, public assistance fraud, or child support investigative
2 activity. This exemption does not prevent the release of the total
3 number of vehicle license plates, drivers' licenses, or identicards
4 that, under RCW 46.08.066, an agency or department has applied for,
5 been issued, denied, returned, destroyed, lost, and reported for
6 misuse.

7 (d) Any record pertaining to a vessel registration issued under
8 RCW 88.02.330 that, alone or in combination with any other records,
9 may reveal the identity of an individual, or reveal that an
10 individual is or was, performing an undercover or covert law
11 enforcement activity. This exemption does not prevent the release of
12 the total number of vessel registrations that, under RCW 88.02.330,
13 an agency or department has applied for, been issued, denied,
14 returned, destroyed, lost, and reported for misuse;

15 (8) All information related to individual claims resolution
16 structured settlement agreements submitted to the board of industrial
17 insurance appeals under RCW 51.04.063, other than final orders from
18 the board of industrial insurance appeals.

19 Upon request by the legislature, the department of licensing
20 shall provide a report to the legislature containing all of the
21 information in subsection (7)(c) and (d) of this section that is
22 subject to public disclosure; and

23 (9) Voluntarily submitted information contained in a database
24 that is part of or associated with enhanced 911 emergency
25 communications systems, or information contained or used in emergency
26 notification systems as provided under RCW 38.52.575 and 38.52.577.

27 **Sec. 3.** RCW 42.56.270 and 2017 c 317 s 17 are each amended to
28 read as follows:

29 (1) The following financial, commercial, and proprietary
30 information is exempt from disclosure under this chapter, as long as
31 the information is clearly marked as confidential and accompanied by
32 a particularized explanation of expected harm from disclosure at the
33 time of submission or the agency determines that disclosure of the
34 information is substantially likely to cause public or private loss
35 or unfair private gain:

36 ~~((1))~~ (a) Valuable formulae, designs, drawings, computer source
37 code or object code, and research data obtained by any agency within
38 five years of the request for disclosure when disclosure would
39 produce private gain and public loss;

1 ~~((2))~~ (b) Financial information supplied by or on behalf of a
2 person, firm, or corporation for the purpose of qualifying to submit
3 a bid or proposal for ~~((a))~~ (i) a ferry system construction or
4 repair contract as required by RCW 47.60.680 through 47.60.750 or
5 ~~((b))~~ (ii) highway construction or improvement as required by RCW
6 47.28.070;

7 ~~((3))~~ (c) Financial and commercial information and records
8 supplied by private persons pertaining to export services provided
9 under chapters 43.163 and 53.31 RCW, and by persons pertaining to
10 export projects under RCW 43.23.035;

11 ~~((4))~~ (d) Financial and commercial information and records
12 supplied by businesses or individuals during application for loans or
13 program services provided by chapters 43.325, 43.163, 43.160, 43.330,
14 and 43.168 RCW, or during application for economic development loans
15 or program services provided by any local agency;

16 ~~((5))~~ (e) Financial information, business plans, examination
17 reports, and any information produced or obtained in evaluating or
18 examining a business and industrial development corporation organized
19 or seeking certification under chapter 31.24 RCW;

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

25 ~~((7))~~ (g) Financial and valuable trade information under RCW
26 51.36.120;

27 ~~((8))~~ (h) Financial, commercial, operations, and technical and
28 research information and data submitted to or obtained by the clean
29 Washington center in applications for, or delivery of, program
30 services under chapter 70.95H RCW;

31 ~~((9))~~ (i) Financial and commercial information requested by the
32 public stadium authority from any person or organization that leases
33 or uses the stadium and exhibition center as defined in RCW
34 36.102.010;

35 ~~((10))~~(a) (j)(i) Financial information, including but not
36 limited to account numbers and values, and other identification
37 numbers supplied by or on behalf of a person, firm, corporation,
38 limited liability company, partnership, or other entity related to an
39 application for a horse racing license submitted pursuant to RCW

1 67.16.260(1)(b), marijuana producer, processor, or retailer license,
2 liquor license, gambling license, or lottery retail license;

3 ~~((b))~~ (ii) Internal control documents, independent auditors'
4 reports and financial statements, and supporting documents: ~~((i))~~
5 (A) Of house-banked social card game licensees required by the
6 gambling commission pursuant to rules adopted under chapter 9.46 RCW;
7 or ~~((ii))~~ (B) submitted by tribes with an approved tribal/state
8 compact for class III gaming;

9 ~~((11))~~ (k) Proprietary data, trade secrets, or other
10 information that is submitted by any vendor to the department of
11 social and health services for purposes of the development,
12 acquisition, or implementation of state purchased health care as
13 defined in RCW 41.05.011, and that relates to: ~~((a))~~ (i) A vendor's
14 unique methods of conducting business; ~~((b))~~ (ii) data unique to
15 the product or services of the vendor; or ~~((c))~~ (iii) determining
16 prices or rates to be charged for services ~~(, submitted by any vendor~~
17 ~~to the department of social and health services for purposes of the~~
18 ~~development, acquisition, or implementation of state purchased health~~
19 ~~care as defined in RCW 41.05.011));~~

20 ~~((12)(a))~~ (l)(i) When supplied to and in the records of the
21 department of commerce:

22 ~~((i))~~ (A) Financial and proprietary information collected from
23 any person and provided to the department of commerce pursuant to RCW
24 43.330.050(8); and

25 ~~((ii))~~ (B) Financial or proprietary information collected from
26 any person and provided to the department of commerce or the office
27 of the governor in connection with the siting, recruitment,
28 expansion, retention, or relocation of that person's business and
29 until a siting decision is made, identifying information of any
30 person supplying information under this subsection and the locations
31 being considered for siting, relocation, or expansion of a business;

32 ~~((b))~~ (ii) When developed by the department of commerce based
33 on information as described in ~~((a)(i))~~ (l)(i)(A) of this
34 subsection, any work product is not exempt from disclosure;

35 ~~((c))~~ (iii) For the purposes of this subsection, "siting
36 decision" means the decision to acquire or not to acquire a site;

37 ~~((d))~~ (iv) If there is no written contact for a period of sixty
38 days to the department of commerce from a person connected with
39 siting, recruitment, expansion, retention, or relocation of that

1 person's business, information described in ~~((a)(ii))~~ (l)(i)(B) of
2 this subsection will be available to the public under this chapter;

3 ~~((13))~~ (m) Financial and proprietary information submitted to
4 or obtained by the department of ecology or the authority created
5 under chapter 70.95N RCW to implement chapter 70.95N RCW;

6 ~~((14))~~ (n) Financial, commercial, operations, and technical and
7 research information and data submitted to or obtained by the life
8 sciences discovery fund authority in applications for, or delivery
9 of, grants under chapter 43.350 RCW, to the extent that such
10 information, if revealed, would reasonably be expected to result in
11 private loss to the providers of this information;

12 ~~((15))~~ (o) Financial and commercial information provided as
13 evidence to the department of licensing as required by RCW 19.112.110
14 or 19.112.120, except information disclosed in aggregate form that
15 does not permit the identification of information related to
16 individual fuel licensees;

17 ~~((16))~~ (p) Any production records, mineral assessments, and
18 trade secrets submitted by a permit holder, mine operator, or
19 landowner to the department of natural resources under RCW 78.44.085;

20 ~~((17)(a))~~ (q)(i) Farm plans developed by conservation
21 districts, unless permission to release the farm plan is granted by
22 the landowner or operator who requested the plan, or the farm plan is
23 used for the application or issuance of a permit;

24 ~~((b))~~ (ii) Farm plans developed under chapter 90.48 RCW and not
25 under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are
26 subject to RCW 42.56.610 and 90.64.190;

27 ~~((18))~~ (r) Financial, commercial, operations, and technical and
28 research information and data submitted to or obtained by a health
29 sciences and services authority in applications for, or delivery of,
30 grants under RCW 35.104.010 through 35.104.060, to the extent that
31 such information, if revealed, would reasonably be expected to result
32 in private loss to providers of this information;

33 ~~((19))~~ (s) Information gathered under chapter 19.85 RCW or RCW
34 34.05.328 that can be identified to a particular business;

35 ~~((20))~~ (t) Financial and commercial information submitted to or
36 obtained by the University of Washington, other than information the
37 university is required to disclose under RCW 28B.20.150, when the
38 information relates to investments in private funds, to the extent
39 that such information, if revealed, would reasonably be expected to
40 result in loss to the University of Washington consolidated endowment

1 fund or to result in private loss to the providers of this
2 information;

3 ~~((+21+))~~ (u) Market share data submitted by a manufacturer under
4 RCW 70.95N.190(4);

5 ~~((+22+))~~ (v) Financial information supplied to the department of
6 financial institutions or to a portal under RCW 21.20.883, when filed
7 by or on behalf of an issuer of securities for the purpose of
8 obtaining the exemption from state securities registration for small
9 securities offerings provided under RCW 21.20.880 or when filed by or
10 on behalf of an investor for the purpose of purchasing such
11 securities;

12 ~~((+23+))~~ (w) Unaggregated or individual notices of a transfer of
13 crude oil that is financial, proprietary, or commercial information,
14 submitted to the department of ecology pursuant to RCW
15 90.56.565(1)(a), and that is in the possession of the department of
16 ecology or any entity with which the department of ecology has shared
17 the notice pursuant to RCW 90.56.565;

18 ~~((+24+))~~ (x) Financial institution and retirement account
19 information, and building security plan information, supplied to the
20 liquor and cannabis board pursuant to RCW 69.50.325, 69.50.331,
21 69.50.342, and 69.50.345, when filed by or on behalf of a licensee or
22 prospective licensee for the purpose of obtaining, maintaining, or
23 renewing a license to produce, process, transport, or sell marijuana
24 as allowed under chapter 69.50 RCW;

25 ~~((+25+))~~ (y) Marijuana transport information, vehicle and driver
26 identification data, and account numbers or unique access identifiers
27 issued to private entities for traceability system access, submitted
28 by an individual or business to the liquor and cannabis board under
29 the requirements of RCW 69.50.325, 69.50.331, 69.50.342, and
30 69.50.345 for the purpose of marijuana product traceability.
31 Disclosure to local, state, and federal officials is not considered
32 public disclosure for purposes of this section;

33 ~~((+26+))~~ (z) Financial and commercial information submitted to or
34 obtained by the retirement board of any city that is responsible for
35 the management of an employees' retirement system pursuant to the
36 authority of chapter 35.39 RCW, when the information relates to
37 investments in private funds, to the extent that such information, if
38 revealed, would reasonably be expected to result in loss to the
39 retirement fund or to result in private loss to the providers of this
40 information except that ~~((+a+))~~ (i) the names and commitment amounts

1 of the private funds in which retirement funds are invested and
2 ~~((b))~~ (ii) the aggregate quarterly performance results for a
3 retirement fund's portfolio of investments in such funds are subject
4 to disclosure;

5 ~~((27))~~ (aa) Proprietary financial, commercial, operations, and
6 technical and research information and data submitted to or obtained
7 by the liquor and cannabis board in applications for marijuana
8 research licenses under RCW 69.50.372, or in reports submitted by
9 marijuana research licensees in accordance with rules adopted by the
10 liquor and cannabis board under RCW 69.50.372; ~~((and~~

11 ~~(28))~~ (bb) Trade secrets, technology, proprietary information,
12 and financial considerations contained in any agreements or
13 contracts, entered into by a licensed marijuana business under RCW
14 69.50.395, which may be submitted to or obtained by the state liquor
15 and cannabis board; and

16 (cc) Trade secrets as defined in RCW 19.108.010.

17 (2) In any action under RCW 42.56.540 to enjoin disclosure of
18 financial, commercial, or proprietary information pursuant to this
19 section, the court may award attorneys' fees to any defendant,
20 including a requester or agency, to the extent that the defendant
21 prevailed in opposing an injunction.

22 NEW SECTION. Sec. 4. A new section is added to chapter 42.56
23 RCW to read as follows:

24 Bids, quotations, or proposals submitted to an agency for goods
25 or services in response to a solicitation issued for such goods or
26 services are exempt from disclosure until the agency announces the
27 apparent successful bidder based on predetermined criteria or decides
28 not to accept any bids, quotations, or proposals.

29 NEW SECTION. Sec. 5. RCW 39.26.030 (State procurement records—
30 Disclosure) and 2012 c 224 s 4 are each repealed.

31 NEW SECTION. Sec. 6. Section 1 of this act expires July 1,
32 2018.

33 NEW SECTION. Sec. 7. Section 2 of this act takes effect July 1,
34 2018.

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