

HB

376

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: HB 376

- 1 Page 1, line 1, following "information":
- 2 Insert "; and providing for an effective date"

- 3 Page 2, line 23, following "not":
- 4 Insert "knowingly"

- 5 Page 2, line 29:
- 6 Delete "knowingly"

- 7 Page 3, line 5, following "campaign.":
- 8 Insert "public service."

- 9 Page 3, following line 10:
- 10 Insert a new bill section to read:
- 11 ** Sec. 5. This Act takes effect February 1, 1999."

Passed.
Ordered Final
3/10/98

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 2, 1998

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 3/10/98

The STATE AFFAIRS Committee considered:

HB 376

HOUSE BILL NO. 376

LIMIT USE OF VOTER REGISTRATION INFO

"An Act limiting the use of voter registration information."

recommends it be replaced with the following committee substitute CS HB 376 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) LDV

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jeanette James</i>	<input checked="" type="checkbox"/>			
<i>K. S. [unclear]</i>	<input checked="" type="checkbox"/>			
<i>W. A. Rust</i>	<input checked="" type="checkbox"/>			
<i>Michael [unclear]</i>	<input checked="" type="checkbox"/>			
<i>Paul [unclear]</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE Jeanette James

REPRESENTATIVE ERIC CROFT

Sponsor Statement HB 376

Information people divulge when filling out voter registration forms could land them on commercial mailing lists peddling credit cards or trips to Las Vegas.

Presently, the only way to avoid this sales pitch is **not** registering to vote, a high price to pay to keep personal information confidential. Alaska law does not prohibit the commercial use of this private information. Mail houses provide their clients with lists of names and addresses that can be easily obtained from the Division of Elections by calling or phoning in a request and paying \$20 per district or \$160 for a statewide list.

Alaska's ballots are secret, thus voter registration information should be private and confidential when a person chooses it to be. States such as Montana, Oregon and Washington protect their residents by prohibiting the commercial use of voter information records.

House Bill 376 would extend to Alaskans the power to choose how their voter information is used. People who don't mind mailboxes clogged with advertisements may opt to have their names and addresses released to commercial interests. However, those who do mind the advertising should be able to check a box on their voter registration form to indicate that their identity should be omitted from any list designated for commercial purposes.



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 9, 1998

SUBJECT: Sectional Summary of HB376

TO: Representative Eric Croft
Attn: Amanda

FROM: Richard A. Glover - *RAG*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill requires voter applicants to indicate if the other information supplied to register to vote is not to be used for commercial purposes.

Section 2 of the bill requires the director of the division of elections to indicate on the lists of voters if a voter has indicated on their application to register or reregister that the other information supplied is not to be used for commercial purposes.

Section 3 of the bill prohibits use of voter registration information for commercial purposes if the source of the information indicates the voter desires that the information is not to be used for commercial purposes. A violation is made a class B misdemeanor. Actions prohibited are broad, and do not require payment or profit. Exceptions are made for law enforcement, political campaign, election or legitimate governmental purposes.

RAG:jdr
98-142.jdr

REPRESENTATIVE ERIC CROFT

3 March 1998

Representative Jeannette James
Chair of State Affairs Committee
State Capitol, Room 102
Juneau, AK 99801

Dear Representative James,

I am writing to ask you to consider hearing HB 376—a bill that would ease the amount of junk mail that plagues busy Alaskans as well as take one of the barriers away from people discouraged from voting. An opportunity to choose to whom one's private information is sold, is an opportunity each Alaskan should and could have. Alaskans have a right to vote and Alaskans have a right to privacy, but under current law, Alaskans must give up their right to privacy in order to exercise their right to vote.


I understand how busy you must be with 68 bills in your committee waiting to be heard, but I respectfully request your support on this bill in the name of good public policy.

Right now the Division of Elections sells lists of Alaskan voters to anyone willing to pay the nominal fee. HB 376 would eliminate from those lists the names of people who choose not to have their name sold to commercial interests. I have it on good authority that the bill has a very small, probably zero, fiscal note. I am also told that it would take a simple computer modification to add an extra field to the voter registration form allowing people to check a box indicating whether or not they would have their name sold for commercial purposes. This uncomplicated change would make a big difference in the lives of Alaskans tormented by mounds of junk mail and pesky sales calls at dinner-time.

The state would not have to print all new voter registration forms due to this law, it could be phased in and any new form printed after the law becomes effective would contain the check box.

Please read, at your leisure, the attached sponsor statement and letters of support. I would be happy to submit any additional information you might request. Thank you for your consideration and please call my office if you have any questions.

Sincerely,


Representative Eric Croft

cc: Representative Fred Dyson

YES
PLEASE NOTE:

A SECTIONAL ANALYSIS
IS EXPECTED TO BE
AVAILABLE IN A FEW
DAYS. SORRY FOR THE
DELAY.



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MEMORANDUM

September 9, 1997

SUBJECT: Limiting the use of voter registration information in electronic media format

TO: Representative Eric Croft
ATTN: Tom Atkinson

FROM: Jack Chenoweth
Legislative Counsel



In the course of the afternoon I was able to turn up some examples in which states impose, or have tried to impose, limitations on the commercial use of voter registration information. It appears that just about two-fifths of the states make some provision for limited or restricted access to or use of compiled voter registration information, but there may still be others that my initial review didn't uncover.

Illinois: Illinois distinguishes between voter registration information in card or paper record format and voter registration information compiled in the form of a tape, disc, or other electronic media form. The former--the card or paper record--is a public record, subject to inspection and copying. An Illinois statute, 10 ILCS 5/4-8, treats voter registration records in electronic form differently. It provides as follows:

... The [State Board of Elections] shall furnish copies of such tapes, discs, other electronic data or compilations thereof to state political committees registered pursuant to the Illinois Campaign Finance Act or the Federal Election Campaign Act at their request and at a reasonable cost. Copies of the tapes, discs, or other electronic data shall be furnished by the county clerk to local political committees at their request and at a reasonable cost. . . . The individual representing a political committee requesting copies of such tapes shall make a sworn affidavit that the information shall be used only for bona fide political purposes, including by or for candidates for office or incumbent office holders. **Such tapes, discs, or other electronic data shall not be used under any circumstances by any political committee or individuals for purposes of commercial solicitation or other business purposes.** . . . Any person who violates this provision shall be guilty of a class 4 felony [i.e. the least onerous felony ranking under Illinois law].

(Emphasis added.)

An employee of the Illinois State Board of Elections who is responsible for administration of this law related that, in her view, the provision has generally been effective to prevent use of the information for commercial solicitations or other business purposes. She knows of only one violation of it since enactment in 1979. She identified one "open" or unresolved question as this: Political committees and candidates receiving these lists generally make them available to marketers who, for profit, analyze and process the information and, in turn, make it available in modified format to parties and candidates for election campaign purposes. She questions whether this use of intermediaries is a violation of the ban against use for "business purposes" but, in any event, emphasized that the marketers who process the lists for profit have limited the resale of these lists to parties and candidates for election-related purposes. She was unaware of any instance in which the marketer, receiving a list from a political committee or candidate used the list for purposes of commercial solicitation.

There are no annotated cases indicating that this approach has been the subject of litigation.

Oklahoma: An effort with a different approach than that approved in Illinois was passed about seven years ago by the Oklahoma Legislature, but was then vetoed by the Governor, Henry Bellmon. Lance Ward, secretary of the Oklahoma State Election Board, described the Oklahoma proposal as one that did not restrict access to or distribution of the registration records in electronic form--anyone could ask for and obtain tapes or discs--but rather simply limited the uses of the registration records obtained in this form to politically related purposes and to academic research. Since the Oklahoma effort did not become law, Mr. Ward was good enough to provide copies of the material in bill form. He noted that the principal objections to the enactment arose from that state's press association, but also related a belief that the president of that association at the time did not understand the distinctions between permissible and impermissible uses of the material and thought that the association's objections, based on the president's apparent misunderstanding, was the critical factor that caused the governor to veto the measure.

Pennsylvania: The Pennsylvania approach seems to more closely approximate the Oklahoma effort. The Pennsylvania statute appears to cover all voter registration lists without regard to form or format. 25 P.S. [Pa.Stat.] 961.704(a) authorizes the state's voter registration commission to "make available for inspection a printed or computerized public information list containing the name, address, date of birth, and voting history of each registered voter in the county." Under sec. 961.704(b)(3),

No individual who inspects the list or who acquires names of registered voters from the list may use information contained in the list for purposes unrelated to elections, political activities, or law enforcement. . . .

Representative Eric Croft
September 9, 1997
Page 3

Finally, as to copies, sec. 961.704(c)(1) authorizes release of paper copies of the public information lists as well as "copies in some other form" to any Pennsylvania voter but, under (c)(2),

An individual who inspects or acquires a copy of a public information list may not use any information contained in it for purposes unrelated to elections, political activities, or law enforcement.

The Pennsylvania provisions took effect July 1, 1995. As with the Illinois statute, there are no reported cases concerning implementation of these provisions.

*

The following is a sample of the approach or language used in other jurisdictions imposing limitations on the commercial use of voter registration records and information:

Florida: Fla. Stat. 98.095(2) provides for limited distribution of records and disallows use for commercial purposes (i.e. not related to elections, political or government activities, voter registration, law enforcement, or jury selection).

Hawaii: Haw. Rev. Stat. 11-14.6(c)(3) bars release of lists or registers "to any commercial firm, or . . . for any commercial purpose, **provided that service bureaus may charge a fee for furnishing data processing services where such services are rendered solely for election or government purposes.**" (Emphasis added.)

Idaho: Idaho Code 34-437(3): records not to be used "for commercial purposes".

Iowa: Iowa Code 48A.39: "not for commercial purposes".

Kansas: Kansas Stat. Ann. 25-2320a bars use of lists for commercial purposes, except that, "[f]or purposes of this section, compiling, using, giving, receiving, selling, or purchasing the information on or derived from voter registration lists, solely for political campaign or election purposes, shall not constitute a commercial use of voter registration lists." (Emphasis added.)

Maryland: Ann. Code Md. art. 33 sec.3-22(c) bars use for purposes of commercial solicitation or other business purposes.

Minnesota: Minn. Stat. 201.091 distinguishes between the content of information on master voter registration lists and public information lists and limits to whom information may be disclosed and use of the disclosed information.

Representative Eric Croft

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Missouri: Mo. Rev. Stat. 115.158(1): centralized voter registration system records not to be used for commercial purposes.

Montana: Mont. Code Ann. 13-2-122(1) authorizes furnishing "for noncommercial use".

Nebraska: Rev. Stat. Neb. 32-330(2): Authorized use of the lists is specified and lists are not to be used for commercial purposes.

Oregon: ORS 247.955 bars use of the information on a voter registration list for commercial purposes, but "[a] **person shall not be considered to use for commercial purposes any information contained in a list . . . if the person obtains the list of electors for the purposes of resale to candidates or political committees for political purposes only.**" (Emphasis added.)

Rhode Island: Gen. Laws R.I. sec. 17-6-5(b) limits use of furnished lists to party chairpersons "for political purposes" and to candidates "only in the furtherance of candidacy for political office . . . and for no other purpose."

Tennessee: Tenn. Code Ann. 2-2-138(d)(1) provides that computerized voter registration system lists made available on computer diskette are limited to use for political purposes.

Virginia: Va. Code 24.2-405 and -406 spell out to whom lists of voters may be provided and the permissible uses of those lists.

Washington: Because its approach is quite direct, the Washington statute, RCW 29.04.120, dating from 1974, deserves quotation:

(1) Any person who uses registered voter data . . . for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value shall be guilty of a felony . . . and shall be liable to each person provided such advertisement or solicitation, without the person's consent, for the nuisance value of such person having to dispose of it, which value is herein established at five dollars for each item mailed or delivered to the person's residence; provided, that any person who mails or delivers any advertisement, offer, or solicitation for a political purpose shall not be liable under this section, unless the person is liable under subsection (2) of this section. . . . Merely having a mailbox or other receptacle for mail on or near the person's residence shall not be any indication that such person consented to receive the advertisement

or solicitation. A class action may be brought to recover damages under this section

(2) It shall be the responsibility of each person furnished [voter registration] data . . . to take reasonable precautions designed to assure that the data is not used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of mailing or delivering any solicitation for money, services, or anything of value. Provided, that such data may be used for any political purpose. Where failure to exercise due care in carrying out this responsibility results in the data being used for such purposes, then such person shall be jointly and severally liable for damages under the provisions of subsection (1) of this section along with any other person liable under subsection (1) of this section for the misuse of such data.

(Washington's legislators appeared to want to leave nothing to chance.)

West Virginia: W. Va. Code 3-2-30(b) allows purchase of printed lists of registered voters "for noncommercial use."

Wyoming: Wyo. Stat. Ann. sec. 22-2-113(a) spells out to whom computerized voter registration lists may be provided:

. . .to any candidate for a political office in the state, candidate's campaign committee, political party central committees and officials thereof, elected officials, political action committees, and to organizations which promote voter participation.

to be used for "political purposes only and not . . . for commercial use," but "[t]he lists, labels, or tapes may be reproduced for political purposes." Interestingly, in addition to voter registration information, under Wyo. Stat. Ann. sec. 22-2.113(c)

Information copied from campaign receipts and expenditures reports filed by state and local candidates may be used for political purposes but shall not be used for commercial purposes.

*

I hope this helps. Please call if my comments prompt questions.

Because the Legislature's FY 98 appropriation shortfunded the amount available for personal services in the Legal Services Division, necessitating mandatory leave without pay for most of the division's attorneys, I have decided to seek other work. I will very soon be leaving

Representative Eric Croft

September 9, 1997

Page 6

Agency employment. While I will try to answer questions you have about information in this memo, I regret that I will not be available to do additional work on this issue.

JEC:pl

97-198.plm

Enclosure [Oklahoma bill]

cc:Mail for: amanda bohman

Subject: H.B. 376

From: No_Spam_Allowed_@compuserve.com (Kenneth Brewster) at CC2MHS1 2/25/98 1:13 PM

To: Amanda Bohman at LAA_TRANS

I urge you to pass legislation outlawing use of public records (such as voter registration and tax assessment roles) by commercial organizations for other than valid political purposes or demographic studies.

Last year, through a variety of means, I was able to preclude giving my name & address to mailing lists I did not specifically approve, and thereby eliminate most junk mail. One of my methods was to call the originators of junk mail, ask where they got my name and address, ask them to take me off their mailing list; and then do the same with the original source list.

This technique failed, however, with the Boulder Station gambling casino in Las Vegas and the Flamingo in Reno. Oh, they readily disclosed their source: Speedy Mail here in Anchorage (which I quickly determined uses the voter registration roles). But when I explained to a Boulder Station marketing executive (Donna) that this is an abuse of public records and asked if they would limit themselves to legitimately purchased mailing lists, she answered that what they are doing is legal so they would not stop. Well, I responded, in Nevada prostitution is legal. Does that make it morally right? Alas, these people have no shame.

Speedy Mail was worse. It was the manager, Debra, who at least informed me of their use of the voter registration roles, but made the same excuse about it not being illegal (shades of R.J. Reynolds?). Then please code your lists to not give out my name & address any more, I asked. Their software does not have that capability. So why don't they upgrade their software? Their software is "approved by the Postal Service" (I did not verify this with the Postal Service). End of discussion. They even stonewalled the Better Business Bureau (letter to me from Juanita Barth, Dispute Resolution Manager, 10/31/97).

I have also become increasingly infuriated at the continuing offers to loan me 125% of the value of the mobile home I sold last August. The recent public warning of the exorbitant interest rates and sheer financial folly of these scams did not reach my girlfriend, whose ex left her with \$20,000 in debts and an income just enough to disqualify her from public assistance. It was up to me to explain to her why falling for such a come-on would only make matters worse. The source of the mailing lists used for this is, of course, the Municipal tax assessment roles. This also constitutes an egregious misuse of public records.

In cases like these, we must deprive these con artists of the cloak of legality.

You will, of course, have to make some concessions to assure the bill passes the muster of constitutionality and wins the approval of House and Senate leadership. My specialty as a paralegal is in public land law, not constitutional law, so I can't offer any suggestions here. But please do your best.

Thank you.

Grace & peace =
Kenneth Brewster

201 Heintzleman Drive
Anchorage 99503-2034
(907) 274-0149

FISCAL NOTE

**STATE OF ALASKA
1998 LEGISLATIVE SESSION**

BILL NO. CSHB 376(STA)

Revision Date (3/12/98	Dept. Affected <u>Office of the Governor</u>
Title <u>Limiting the use of voter registration</u>	BRU <u>Elective Operations</u>
information	Component <u>Elections</u>
Sponsor <u>Representative Croft</u>	
Requester <u>House State Affairs Committee</u>	Component Serial No. <u>#21</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual	5.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	5.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The amount reflects DIS costs for reprogramming and testing the Voter Registration Election Management System.

Received
3/13/98

Prepared by <u>Dana LaTour</u> <i>DLaTour</i>	Phone <u>465-5347</u>
Division <u>Division of Elections</u>	Date <u>3/12/98</u>
Approved by C <u>Lt. Governor Fran Ulmer</u> <i>Michael Noyes / Fran</i>	Date <u>3/12/98</u>
Agency <u>Office of the Lieutenant Governor</u>	

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB376

Revision Date (Note if correction) _____	Dept. Affected _____	Office of the Governor _____
Title <u>Limiting the use of voter registration</u>	BRU _____	Elective Operations _____
information _____	Component <u>Elections</u>	_____
Sponsor <u>Representative Croft</u>	_____	_____
Requester <u>House State Affairs Committee</u>	Component Serial No. <u>#21</u>	_____

Expenditures/Revenues (Thousands of Dollars)

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Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	5.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	5.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The amount reflects DIS costs for reprogramming and testing the Voter Registration Election Management System.

Prepared by <u>Dana LaTour</u> <i>D LaTour</i>	Phone <u>465-5347</u>
Division <u>Division of Elections</u>	Date <u>3/6/98</u>
Approved by C <u>Lt. Governor Fran Ulmer</u> <i>M Ulmer</i>	Date <u>3/6/98</u>
Agency <u>Office of the Lieutenant Governor</u>	

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