

➤ Hearing Records ... HR (bills and resolutions)

**** 07hr_sb0069_SC-SBEPWDTCCP_pt01**

**WISCONSIN STATE
LEGISLATURE COMMITTEE
HEARING RECORDS**

2007-08

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on
Small Business,
Emergency
Preparedness,
Workforce
Development,
Technical Colleges &
Consumer Protection**

(SC-SBEPWDTCCP)

COMMITTEE NOTICES ...

➤ Committee Reports ... CR
**

➤ Executive Sessions ... ES
**

➤ Public Hearings ... PH
**

➤ Record of Comm. Proceedings ... RCP
**

**INFORMATION COLLECTED BY
COMMITTEE FOR AND AGAINST
PROPOSAL ...**

➤ Appointments ... Appt
**

Name:

➤ Clearinghouse Rules ... CRule
**

➤ Hearing Records ... HR (bills and resolutions)
**

(companion bill: _____)

➤ Miscellaneous ... Misc
**

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Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: 5-2-07

Moved by: Plale

Seconded by: Roessler

SB
69

AB _____ SB 69 Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____
 A/S Amdt _____ to A/S Amdt _____
 A/S Sub Amdt _____
 A/S Amdt _____ to A/S Sub Amdt _____
 A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrency

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed

Vote Record
**Committee on Small Business, Emergency Preparedness,
 Workforce Development, Technical Colleges and Consumer
 Protection**

Date: 5-2-07

Moved by: Carpenter

Seconded by: Plale

AB _____ SB 69 _____ Clearinghouse Rule _____
 AJR _____ SJR _____ Appointment _____
 AR _____ SR _____ Other _____

A/S Amdt _____

A/S Amdt _____ to A/S Amdt _____

A/S Sub Amdt 1 _____

A/S Amdt _____ to A/S Sub Amdt _____

A/S Amdt _____ to A/S Amdt _____ to A/S Sub Amdt _____

Be recommended for:

- Passage Adoption Confirmation Concurrence Indefinite Postponement
 Introduction Rejection Tabling Nonconcurrence

Committee Member

	<u>Aye</u>	<u>No</u>	<u>Absent</u>	<u>Not Voting</u>
Senator Robert Wirch, Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Tim Carpenter	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Jeffrey Plale	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Neal Kedzie	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carol Roessler	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Totals:	<u>5</u>	<u>0</u>	_____	_____

Motion Carried

Motion Failed





State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.revenue.wi.gov>

Jim Doyle
Governor

Roger M. Ervin
Secretary of Revenue

Senate Small Business, Emergency Preparedness, Workforce Development, Technical Colleges and Consumer Protection, April 25, 2007

Senate Bill 69 – Privacy of Taxpayer Information (Senator Sullivan)

Description of Current Law and Proposed Change

- The bill prohibits a tax preparer or an entity that employs tax preparers from disclosing information obtained in the course of preparing a client's tax return unless the tax preparer or entity discloses the parties to whom the tax preparer or entity intends to disclose the information and the client consents in writing.

Fairness/Tax Equity

- The bill provides protection of taxpayer information by prohibiting tax preparers from selling or disclosing any taxpayer information without the taxpayer's consent.

Impact on Economic Development

- None.

Administrative Impact/Fiscal Effect

- The draft language should exempt the Wisconsin Department of Revenue and the Internal Revenue Service or other taxing authority from this requirement. If not, tax preparers would need to have written consent to file the taxes with the taxing authority.
- A Power of Attorney form is currently required for preparers who represent clients in communicating about the tax returns. The protection provided under the bill would therefore be redundant for taxing authorities when communicating with preparers regarding an already filed return.

DOR Position

- Support with changes to exempt the Wisconsin Department of Revenue and Internal Revenue Service or other taxing authorities from the requirement.

Prepared by: Rebecca Boldt, (608) 266-6785

April 23, 2007

RB:skr

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State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

April 25, 2007

The Honorable Robert Wirch, Chair
Committee on Small Business, Emergency Preparedness,
Workforce Development, Technical Colleges and Consumer Protection

Re: SB 69 relating to information obtained by a tax preparer in the course of preparing a client's tax return.

Dear Senator Wirch:

Thank you for permitting the Department of Agriculture, Trade & Consumer Protection the opportunity to testify for information regarding SB 69.

We applaud the spirit of SB 69 and recognize that since identity theft is becoming an increasingly alarming problem, it is critical that those entities that obtain consumers' personal data need to obtain permission from those consumers when that data is going to be shared with other parties. However, we believe that changes are necessary if the legislation is to really be effective at protecting Wisconsin consumers.

SB 69 requires a tax preparer to have a client sign a separate document that identifies the parties to whom the tax preparer intends to disclose the taxpayer's information. However, the bill does not require that the tax preparer disclose what information is to be disclosed or for what purpose the information is being disclosed, e.g., being sold, marketing another product, survey analysis.

In addition, the bill does not set any limit on the duration of the taxpayer's consent. As written, the consent given lasts in perpetuity. We believe this is unreasonable. Moreover, we believe the consumer should receive a copy of the consent s/he signs. This is standard practice in most consumer protection laws.

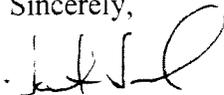
We are also concerned about the lack of any penalties expressed in the legislation. As a result, the default penalty under ch.100 applies which is criminal misdemeanor thereby being prosecutable only by District Attorneys. Given the myriad of serious crimes that District Attorneys are called on to prosecute, our experience is that this law will be largely unenforced. Therefore, we encourage a civil penalty that both the Department and District Attorneys can enforce.

Finally, on a technical note, the bill uses the words "party" and "parties". We believe "persons" would be better since it has a better defined meaning in law; "party" is typically only used in context of people involved in lawsuits.

Agriculture generates \$51.5 billion for Wisconsin

We thank the Committee for the opportunity to provide comments on SB 69.

Sincerely,

A handwritten signature in black ink, appearing to read 'Janet Jenkins', with a large, stylized flourish at the end.

Janet Jenkins

Administrator

Division of Trade & Consumer Protection





Wisconsin State Senate

Testimony of Senator Jim Sullivan on Senate Bill 69

Committee on Small Business, Emergency Preparedness, Workforce Development,
Technical Colleges and Consumer Protection
April 25th, 2007

Mr. Chairman and members of the Committee, thank you for giving me the opportunity to provide the committee with my testimony about Senate Bill 69, consumer protection legislation that seeks to limit tax preparers from sharing their customers' personal information with third parties for solicitation purposes.

Most people are probably like me and do not do their taxes on their own. Many find that using a tax preparation service is the ideal way to get their taxes done, especially if they have fairly complicated tax returns. However, it is important that tax preparation services keep our information safe and do not sell or give our information out to third parties without authorization.

While most people assume their tax returns are private, they may not be. In 1974, the IRS adopted a rule that allows tax preparers to share information from returns or sell it to third parties, with the taxpayer's permission. Millions sign away their rights through language tucked away in an agreement between the taxpayer and the tax preparer, not knowing that this happens when they sign their tax return. We are hoping to protect these consumers with this legislation.

In 2007, the IRS had a chance to reverse ruling by making consent rules clearer, but they did not. However, where the federal government came up short, we in state government should improve policy in this area. This bill is simple; it prohibits a tax preparer or an entity that employs tax preparers from disclosing information obtained in the course of preparing a client's tax return, unless the tax preparer or entity discloses the parties to whom the tax preparer or entity intends to disclose the client's information, and the client consents in writing.

This bill creates two actions: First, it forces greater disclosure so the individual will know if their information is going to be shared to a third party, and secondly, it allows the individual to tell the preparer to not share the information. This includes financial and personal data that all of us would never want in the hand of a vendor or person that we do not know. It will go a long way in protecting consumers.

After speaking with the Department of Agriculture, Trade and Consumer Protection and the Department of Revenue, there are some technical changes that will need to be made to the bill, and we look forward to working with them and members of the committee to edit the bill's content to make it workable for those agencies, while still retaining the goal of the legislation. I hope that with those changes, the committee will pass the bill so that it will be in effect by the next tax season.

Sorry I was not able to speak to you today, and please feel free to contact me if you have any questions or concerns.





MEMORANDUM

TO: MEMBERS OF THE WISCONSIN SENATE COMMITTEE ON SMALL BUSINESS,
EMERGENCY PREPAREDNESS, WORKFORCE DEVELOPMENT, TECHNICAL
COLLEGES AND CONSUMER PROTECTION

SENATOR BOB WIRCH, CHAIR
SENATOR TIM CARPENTER, VICE-CHAIR
SENATOR JEFF PLALE
SENATOR CAROL ROESSLER
SENATOR NEIL KEDZIE

FROM: SENATOR JIM SULLIVAN

SUBJECT: SB 69, RE: TAX PREPARERS AND DISCLOSURE OF SALE OF PERSONAL
INFORMATION TO THIRD PARTIES

DATE: 5/1/2007

This amendment to SB 69 addresses the concerns of DATCP and DOR, both of which were supportive of the provision but wanted to clarify the language of the bill and more clearly delineate the procedures for tax preparers in terms of disclosure and to enumerate the enforcement provisions of the law.

The intent of the bill remains the same: individuals or companies that prepare tax returns for consumers must affirmatively disclose that they will be selling that consumer's personal information to third parties and provide a document that explains that. The consumer then must sign the document. This was covered in the original bill, but only those functions. The amendment specifies that the preparer must explain who the disclosure is going to be made to, what information is being disclosed, and to whom they are disclosing it. The amendment allows for the consumer to revoke their consent of the disclosure at any time after they have signed the document. Within 30 days of the signing of the document, the tax preparer must provide the consumer with a copy of the signed document.

There is also an exemption for any federal, state or local taxing authority, because they would technically be defined as a third party under the legislation. Therefore, a tax preparer "sharing" information with the DOR or the IRS would be considered a disclosure. DOR requested this exemption, and is supportive of the bill with that provision added.

A signed document allowing disclosure will be valid for one year under the legislation, or if the client revokes their consent for disclosure. In addition, the tax preparer must keep the signed document allowing for the disclosure of a client's information for one year after it was signed.

The enforcement of this legislation falls to DATCP. If a violation occurs, there are three options for remedy. The individual client can take the tax preparer to court, DATCP can take action with an injunction against the tax preparer and can make any orders to restore a pecuniary loss, or a county district attorney can seek legal remedy through forfeiture from the tax preparer for no less than \$100 and no more than \$10,000. In other words, it gives consumers multiple options if their personal information is shared without their consent. A very important point here is that the legislation must have a serious disincentive for tax preparers who many have the resources to violate the law, accept that they may be caught, and "build in" the cost of penalties to the "cost of doing business." By allowing the local DAs to prosecute, the bill has "teeth" in this area.

If there are any questions or concerns, please contact my office at 266-2512.