

trade, and related activities." [See: Conference Report to accompany S. 734, Rept. No. 97-924, 97th Cong, 2nd Session (1982).]

Given this recognition of Export Trading Company functioning, the section 4(7) prohibition on importation of goods or products for in-state sale in competition with Washington grown, mined or produced products could prove to be economically crippling to the newly-created companies and could violate the purposes of the federal act, even though an import activity was incidental to an export trading company's principal exporting objectives and activity.

In addition, this section may violate federal trade treaties to which the United States is a signatory, such as the General Agreement on Trade and Tariffs. The section furthermore may be unconstitutional as it delegates legislative power to state agencies without sufficiently specific legislative standards.

The section would also be costly and difficult to implement for the following reasons:

1) In order to identify goods that compete with Washington products, the agencies named must identify all goods currently grown, produced or mined in Washington. This is a potentially overwhelming task.

2) The departments must be knowledgeable of all goods imported into the state under this section. Currently, no state system exists for collection and evaluation of this information.

3) The departments would have to make evaluations about competitiveness of all goods imported versus all goods currently grown, produced or mined in Washington. I do not believe these judgments are practical or appropriate for state agencies to make, given the lack of information and specific statutory direction as to what would be competition and how great the protection would be. The potential for conflict and disagreement would be high.

Clearly, the legislation's specific intent is to increase exports of Washington products and enhance export trade — it is not the purpose of the new law to create outside competition for Washington State businesses.

I commend the Legislature for its wisdom and leadership in enacting legislation to allow ports to take advantage of the Export Trading Company Act; such ventures have been successful in other regions of the country.

Section 4(1)(b) would authorize port districts to enter into contracts, joint ventures, brokerage or other agreements. This provision is redundant and would cause confusion in the interpretation of the provision. Section 3(1) of Engrossed Substitute House Bill No. 1587 provides the authority for port districts to establish export trading companies and to enter into contracts with other public and private organizations for the provision of services. Section 4(1)(b) of Engrossed Substitute House Bill No. 1587 restates the same authority.

With the exception of sections 4(1)(b) and 4(7), Engrossed Substitute House Bill No. 1587 is approved."

CHAPTER 277

[Engrossed Substitute House Bill No. 1678]

TELEPHONE SOLICITATION

AN ACT Relating to telephone solicitation; adding a new section to chapter 80.36 RCW; creating a new section; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that certain kinds of telephone solicitation are increasing and that these solicitations interfere

with the legitimate privacy rights of the citizens of the state. A study conducted by the utilities and transportation commission, as directed by the forty-ninth legislature, has found that the level of telephone solicitation in this state is significant to warrant regulatory action to protect the privacy rights of the citizens of the state. It is the intent of the legislature to clarify and establish the rights of individuals to reject unwanted telephone solicitations.

***NEW SECTION.** Sec. 2. A new section is added to chapter 80.36 RCW to read as follows:

(1) As used in this section, "telephone solicitation" means the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a residential telephone customer and conversation for the purpose of encouraging a person to purchase property, goods, or services or soliciting donations of money, property, goods, or services. "Telephone solicitation" does not include:

(a) Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the company or organization during a period not longer than twelve months prior to the telephone contact;

(b) Calls made by a not-for-profit organization to its own list of bona fide or active members of the organization;

(c) Calls limited to polling or soliciting the expression of ideas, opinions, or votes; or

(d) Business-to-business contacts.

For purposes of this section, each individual real estate agent or insurance agent who maintains a separate list from other individual real estate or insurance agents shall be treated as a company or organization. For purposes of this section, an organization as defined in RCW 29.01.090 or 29.01.100 and organized pursuant to RCW 29.42.010 shall not be considered a commercial or nonprofit company or organization.

(2) A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first thirty seconds of the telephone call.

(3) If, at any time during the telephone contact, the called party states or indicates that he or she does not wish to be called again by the company or organization or wants to have his or her name and individual telephone number removed from the telephone lists used by the company or organization making the telephone solicitation, then:

(a) The company or organization shall not make any additional telephone solicitation of the called party at that telephone number within a period of at least one year; and

(b) The company or organization shall not sell or give the called party's name and telephone number to another company or organization:

PROVIDED, That the company or organization may return the list, including the called party's name and telephone number, to the company or organization from which it received the list.

(4) A violation of subsection (2) or (3) of this section is punishable by a fine of up to one thousand dollars for each violation.

(5) The attorney general may bring actions to enforce compliance with this section. For the first violation by any company or organization of this section, the attorney general shall notify the company with a letter of warning that the section has been violated. ***An action under this section shall be instituted for the second and subsequent violations by a company or organization.***

(6) A person aggrieved by a violation of this section may bring a civil action in superior court to enjoin future violations, to recover damages, or both. The court shall award damages of at least one hundred dollars for each individual violation of this section. If the aggrieved person prevails in a civil action under this subsection, the court shall award the aggrieved person reasonable attorneys' fees and cost of the suit.

(7) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by (a) annual inserts in the billing statements mailed to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories.

*Sec. 2 was partially vetoed, see message at end of chapter.

Passed the House February 17, 1986.

Passed the Senate March 6, 1986.

Approved by the Governor April 3, 1986, with the exception of certain items which are vetoed.

Filed in Office of Secretary of State April 3, 1986.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to a portion of Substitute House Bill No. 1678, entitled:

"AN ACT Relating to telephone solicitations."

The last sentence of Substitute House Bill No. 1678 section 2(5), page 3, lines one and two, which requires the Attorney General to take action on second and subsequent violations by a company, conflicts with the first sentence of the same subsection which is permissive.

The legislation sets forth a scheme for controlling telephone solicitations. It sets standards for commercial telephone solicitations and allows consumers to remove their names from lists used to make these telephone calls.

Section 2(5) of the legislation deals with enforcement and is intended to give the Attorney General the discretion needed to enforce violations of the law. However, the last sentence of section 2(5) conflicts with that intent by requiring the Attorney General to take action on second and subsequent violations. I believe this unnecessarily limits the Attorney General's ability to determine the proper cause of action under the bill.

With the exception of the last sentence of section 2(5), Substitute House Bill No. 1678 is approved.*

CHAPTER 278

[Substitute Senate Bill No. 4486]

LOCAL GOVERNMENT—POWERS AND AUTHORITY—REVISIONS

AN ACT Relating to local government; amending RCW 36.01.010, 36.32.120, 35.22.280, 35.24.290, 35.27.370, 35A.11.020, 53.48.010, 85.05.360, 85.06.330, 85.08.210, 85.08.320, 85.16.030, 85.16.180, 85.20.070, 85.20.120, 85.22.060, 85.24.160, 85.32.140, 86.09.157, 85.38.010, 85.38.070, 86.09.430, 86.09.439, 86.09.562, 35.44.090, 86.09.151, 35.67.025, 35.92.021, 36.89.085, 36.94.145, 56.08.012, 86.15.160, 86.15.176, 90.03.500, and 90.03.510; reenacting and amending RCW 35.23.440 and 84.64.050; adding a new section to chapter 52.12 RCW; adding new sections to chapter 85.05 RCW; adding new sections to chapter 85.06 RCW; adding new sections to chapter 85.08 RCW; adding new sections to chapter 85.24 RCW; adding new sections to chapter 85.36 RCW; adding new sections to chapter 85.38 RCW; adding new sections to chapter 86.09 RCW; adding new sections to chapter 90.03 RCW; repealing RCW 85.05.290, 85.05.300, 85.05.310, 85.05.320, 85.05.330, 85.05.340, 85.05.480, 85.05.510, 85.05.520, 85.05.530, 85.06.170, 85.06.260, 85.06.270, 85.06.280, 85.06.290, 85.06.300, 85.06.310, 85.06.321, 85.06.322, 85.06.323, 85.06.324, 85.06.325, 85.06.326, 85.06.327, 85.06.328, 85.06.329, 85.08.240, 85.08.280, 85.09.010, 85.09.020, 85.09.030, 85.09.040, 85.09.050, 85.09.060, 85.09.070, 85.09.080, 85.09.090, 85.09.900, 85.20.080, 85.20.090, 85.20.100, 85.20.110, 85.20.120, 85.20.130, 85.22.070, 85.22.080, 85.22.090, 85.22.100, 85.22.110, 85.22.120, 85.24.230, 86.09.568, 86.09.571, 86.09.574, 86.09.577, 86.09.580, 86.09.583, 86.09.586, 86.09.589, 86.09.604, 86.09.607, 86.09.610, 86.09.613, 85.05.560, 85.05.570, 85.05.580, 85.05.590, 85.05.600, 85.06.510, 85.06.520, 85.06.530, 85.06.540, 85.07.020, 85.07.030, 85.08.580, 85.08.590, 85.08.600, 85.08.610, 85.08.620, 85.08.625, 85.36.010, 85.36.020, 85.36.030, 86.09.184, and 86.09.187; and prescribing penalties.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 36.01.010, chapter 4, Laws of 1963 and RCW 36.01.010 are each amended to read as follows:

The several counties in this state shall have capacity as bodies corporate, to sue and be sued in the manner prescribed by law; to purchase and hold lands (~~within their own limits~~); to make such contracts, and to purchase and hold such personal property, as may be necessary to their corporate or administrative powers, and to do all other necessary acts in relation to all the property of the county.

Sec. 2. Section 36.32.120, chapter 4, Laws of 1963 as last amended by section 1, chapter 91, Laws of 1985 and RCW 36.32.120 are each amended to read as follows:

The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative