

## 2001 ASSEMBLY BILL 459

July 10, 2001 – Introduced by Representatives SCHNEIDER, SINICKI and TURNER, cosponsored by Senator ERPENBACH. Referred to Committee on Personal Privacy.

1     **AN ACT** *to repeal* 134.72 (2) (b) (title); *to renumber* 19.37 (4), 36.11 (35) (title),  
2           134.72 (1) (c) and 134.72 (2) (a); *to renumber and amend* 36.11 (35), 134.72  
3           (2) (b) and 968.31 (2) (c); *to amend* 59.20 (3) (d), 71.05 (6) (a) 15., 71.21 (4), 71.26  
4           (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10., 77.92 (4), 100.264 (2) (intro.), 134.72 (title),  
5           134.72 (3) (a), 134.72 (3) (b), 134.72 (4), 632.725 (2) (d) and 968.27 (12); and *to*  
6           **create** 13.0991, 19.36 (10), 19.37 (4) (b) and (c), 36.32 (1), 36.38, 38.12 (12),  
7           39.49, 71.07 (5s), 71.10 (4) (gv), 71.28 (5s), 71.30 (3) (eon), 71.47 (5s), 71.49 (1)  
8           (eon), 100.52, 118.39, 134.92, 138.25, 146.833, 175.22, subchapter V of chapter  
9           224 [precedes 224.991], 421.301 (13m), 422.422, 610.75, 895.50 (2) (d), 895.50  
10          (2m), 968.27 (14m), 968.31 (2) (c) 2. and 971.19 (11) of the statutes; **relating to:**  
11          access to certain public records containing social security account numbers of  
12          individuals; creating a nonrefundable income tax and franchise tax credit for  
13          information technology training; prohibiting certain telephone solicitations;  
14          prohibiting the disclosure of information on credit and debit card receipts for

**ASSEMBLY BILL 459**

1 the purchase of motor fuel; use of caller identification blocking services by  
2 telephone solicitors; credit card records; disclosure of credit reports; use of  
3 social security numbers as medical or health insurance identifiers; preparation  
4 of privacy impact statements for bills that would have an impact on personal  
5 privacy; place of trial for persons charged with certain crimes; the use of a  
6 person's social security number in his or her student identification number at  
7 private institutions of higher education; written policies on entering locker  
8 rooms being used by athletic teams representing certain schools or by  
9 professional athletic teams; interception of oral communications between an  
10 employee of a retail business and a customer of the retail business; expanding  
11 the right of privacy; tracking of consumer Internet usage by issuers of consumer  
12 credit; and providing penalties.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a person whose privacy is unreasonably invaded is entitled to equitable relief to prevent and restrain the invasion, compensatory damages, and reasonable attorney fees. Current law defines “invasion of privacy” to mean any of the following:

1. A highly offensive intrusion upon the privacy of another in a place that a reasonable person would consider private or in a manner that is actionable for trespass.

2. The advertising or trade use of the name or picture of a living person without first receiving that person's permission.

3. The publicity given to the private life of another that is highly offensive if the person that publicized the private life had acted unreasonably or recklessly as to whether there was a legitimate public interest in the matter involved or with actual knowledge that there was no legitimate public interest in the matter publicized.

This bill expands the definition of “invasion of privacy” to include publicity given to a matter concerning the person that places that person in a false light if that false light would be highly offensive to another person. If the person placed in the false light is a public person, the person who publicized the matter is liable for an invasion of the person's privacy if the publisher had knowledge of the falsity of the matter or acted with reckless disregard as to the falsity of the matter. If the person

**ASSEMBLY BILL 459**

placed in the false light is a private person, the person who publicized the matter is liable for an invasion of the person's privacy if the publisher did not use reasonable care. The truth of the publicized matter is a defense to an action for invasion of the person's privacy if the publisher acted with good motives and for justifiable ends.

Currently, unless otherwise provided by law, a state or local agency must provide public access to information contained in its records unless the agency demonstrates that the public interest in withholding access to that information outweighs the strong public interest in providing that access. Federal law prohibits state and local governmental units from disclosing social security account numbers under certain conditions.

This bill provides that, if a new record containing the social security account number of an individual, together with information revealing the identity of that individual, is kept by a state or local governmental unit on or after January 1, 2003, or if a record in the custody of a state or local governmental unit is modified to insert the social security account number of an individual on or after January 1, 2003, and the record contains information revealing the identity of that individual, the custodian of the record must delete the social security account number before permitting access to the record, unless the person who requests access to the record is specifically authorized by federal or state law to have access to the social security account number.

The bill, however, permits the requester of a record to have access to the social security account number of an individual if:

1. The requester is an individual and the record pertains to that requester alone, to the marital or parental rights or responsibilities of that requester and his or her spouse or former spouse, to the property of that requester held jointly or in common with one or more other individuals, or to a civil lawsuit in which the requester is a specifically named party, and the requester provides appropriate identification; or

2. The requester is an authorized representative of an insurer or an organization that performs investigations for insurers and the social security account number is relevant to an investigation of suspected, anticipated, or actual insurance fraud.

Moreover, if any person misrepresents his or her identity for the purpose of obtaining access to the social security account number of another individual, the person is subject to a forfeiture (civil penalty) of not more than \$1,000 for each social security account number obtained by means of misrepresentation. In addition, under the bill, if any insurer or other person obtains a social security account number and uses that number for purposes other than an investigation of suspected, anticipated, or actual insurance fraud, the person is subject to a forfeiture of not more than \$1,000 for each social security account number used by the person for unauthorized purposes.

The bill also prohibits a health care provider or a health insurer from using for any patient or insured or enrollee an identification number that is identical to or that incorporates the patient's or the insured's or enrollee's social security number. However, under the bill, a health care provider or health insurer is not prohibited

**ASSEMBLY BILL 459**

from requiring that the patient or insured or enrollee disclose his or her social security number or from using that number if a federal or state agency requires its use in order for the patient or insured or enrollee to participate in a particular program.

This bill makes the following changes regarding telephone solicitations:

1. The bill prohibits a person from using an automatic telephone dialing system in making a telephone solicitation if the system is used in such a way that two or more telephone lines are engaged simultaneously.

2. The bill prohibits a person who makes a telephone solicitation from using a blocking service that withholds the person's name or telephone number from the person who receives the solicitation.

3. The bill requires the department of agriculture, trade and consumer protection (DATCP) to enforce a prohibition under current law against using an electronically prerecorded message in a telephone solicitation without the consent of the person called. Under current law, local district attorneys enforce the prohibition. The bill also requires DATCP to enforce the prohibitions regarding telephone solicitations.

4. The bill allows a residential telephone customer to request his or her local telecommunications utility to include a listing or symbol in its telephone directory that indicates that the customer does not want to receive telephone solicitations. A telecommunications utility may impose a onetime charge for including a listing or symbol in its telephone directory.

5. The bill prohibits a telephone solicitor from making a telephone solicitation to an individual for which there is a listing or symbol described above.

6. Except for the last prohibition described above, the bill provides that a person who violates the foregoing prohibitions is subject to a forfeiture of up to \$500. A telephone solicitor who violates the last prohibition is subject to a forfeiture of up to \$10,000. Under certain circumstances, a person who violates any of the prohibitions may be subject to a supplemental forfeiture of up to \$10,000 if the telephone solicitation was directed against an elderly or disabled person.

Current law is silent regarding a person's authority to sell information about holders of credit cards. Under this bill, a person (which includes a corporation) may not sell information about Wisconsin residents that is obtained from credit card transaction records. The bill provides for certain exceptions from this prohibition. First, the bill excepts disclosures to credit reporting agencies for the purpose of preparing a credit report and disclosures by credit reporting agencies. The bill also contains certain exceptions for disclosing information to affiliates of the person making the disclosure and to contractors or agents of the issuer for the purpose of performing functions for or on behalf of the issuer. Those disclosures are permitted notwithstanding the provisions of the bill that require a person to obtain the consent of the subject of any personally identifiable information before using or disclosing that information for a commercial purpose. Persons violating the disclosure provisions created in the bill are subject to a forfeiture of not more than \$10,000 for each violation. The bill authorizes the department of justice to bring actions in circuit court to enjoin violations of the disclosure provisions.

**ASSEMBLY BILL 459**

Wisconsin law currently does not specifically regulate the disclosure of credit reports to consumers by a credit reporting agency (agency). However, under current federal law, an agency must provide a consumer with five pieces of information upon request: all nonmedical information contained in the agency's files on the consumer, the sources of that information, the recipients of any credit report concerning the consumer, information regarding any checks that form the basis of an adverse characterization of the consumer, and a record of certain inquiries received by the agency that identified the consumer. Generally, unless the consumer's request is pursuant to a denial of credit or to a notice that the consumer's credit may be adversely affected, the agency may charge up to \$8 for this disclosure. In certain circumstances, federal law prohibits an agency from disclosing the sources of information in a consumer's file.

This bill requires an agency, upon request, to provide one free written disclosure report to a consumer per year. In addition to the disclosure required by the federal law, this bill requires the agency to provide the consumer with a current credit report and a clear and concise explanation of the contents of the written disclosure report. This bill prohibits an agency from making certain disclosures prohibited under federal law. A person who violates this bill may be fined up to \$500 for a first offense and may be fined up to \$1,000 or imprisoned for up to six months or both for a subsequent offense within six months.

Under current law, a transaction in which a consumer is granted credit in an amount of \$25,000 or less and which is entered into for personal, family, or household purposes (consumer credit transaction) is generally subject to the Wisconsin Consumer Act. Examples of consumer credit transactions include, among other things, purchases of consumer goods on credit, consumer loans, and open-end consumer credit plans (typically, credit cards). The Wisconsin Consumer Act provides obligations, remedies, and penalties with regard to these transactions that current law generally does not require for other transactions.

Under this bill, a creditor under a consumer credit transaction may not store a "cookie" on a computer that the creditor knows or has reason to know is used by a consumer, or access information obtained from a "cookie" that another person has stored on such a computer. A "cookie" is a file that is created and stored on a computer as a result of that computer accessing and interacting with an Internet Web site and that contains information regarding the Internet Web sites accessed through use of that computer, or information used when that computer accesses an Internet Web site previously accessed through use of that computer, or both.

Under current law, with certain exceptions, no person may intentionally intercept an oral communication made by another person. A person who violates this prohibition may be imprisoned for not more than seven years and six months or fined not more than \$10,000 or both. Under the so-called "one-party consent" exception to this prohibition, a person may intercept an oral communication if he or she is a party to the communication or if one of the parties to the communication has given prior consent to the interception. However, the one-party consent exception does not apply if the communication is intercepted for the purpose of committing any illegal or injurious act.

**ASSEMBLY BILL 459**

This bill provides that the one-party consent exception does not apply to an interception of an oral communication between an employee of a retail business and a customer of the retail business if the communication is uttered while both the employee and the customer are present in or on the store or premises of the retail business and if the communication is intercepted using an electronic, mechanical, or other device that is attached to or in the possession of the employee. Because interception of an oral communication between a retail business employee and a customer of the retail business under these circumstances would not be covered by the one-party consent exception, the person engaged in the interception would be violating the prohibition against interception of an oral communications and, if convicted, would be subject to the current penalties for the violation.

Under current law, a defendant charged with a crime must generally be tried in the county in which the crime is committed. Current law also provides a number of exceptions to this general rule. For example, if a crime entails the commission of two or more acts, the defendant may be tried in any county in which any of the acts occurred.

Under this bill, a defendant charged with any of the following crimes may be tried in the defendant's county of residence, the victim's county of residence, or in any other county where the trial may be held under current law: 1) defamation; 2) giving false information for publication; 3) misappropriation of personal identifying information or personal identification documents; 4) theft of trade secrets; 5) threats to injure or accuse of crime; 6) threats to communicate derogatory information; 7) financial transaction card crimes; 8) computer crimes; 9) tampering with public records and notices; 10) unlawful use of telephone; and 11) unlawful use of computerized communication systems.

Under current law, the University of Wisconsin System, a technical college district board, a school board, and the governing body of a private school are prohibited from assigning to any student an identification number that is identical to or incorporates the student's social security number.

Beginning January 1, 2003, this bill extends this prohibition to private institutions of higher education located in this state.

This bill also requires each school board, private school, technical college district board, institution and two-year collegiate campus of the University of Wisconsin System, private institution of higher education, and professional athletic team that has its home field or arena in this state to adopt a written policy on who may enter and remain in a locker room used by the school or team to interview or seek information from any person. The policy must reflect the privacy interests of the members of the teams representing the school or the professional athletic team.

The bill also provides that whenever a bill is introduced in either house of the legislature that would have an impact upon personal privacy, any standing committee to which the bill is referred must not hold a public hearing on the bill or report the bill until a privacy impact statement is prepared and received. The statement is prepared by one or more state agencies or authorities, as determined by the department of administration. The statement describes the impact upon personal privacy that would result from enactment of the bill and analyzes the

**ASSEMBLY BILL 459**

desirability of that impact from the standpoint of public policy. The bill also permits either house of the legislature, under rules of that house or joint rules, to request the department of administration to order the preparation of a privacy impact statement with respect to any bill before that house, either in its original form or as affected by one or more amendments.

Under the bill, a bill has an impact on personal privacy if the bill would:

1. Provide for the creation of additional personally identifiable information that is not readily available to the public at the time the bill is introduced;
2. Create an activity that would constitute an intrusion upon the privacy of an individual, or alter an activity in such a way as to create such an intrusion;
3. Use the name, picture, or likeness of an individual without the consent of the individual, or the consent of the individual's parent or guardian if the individual is a minor; or
4. Permit or cause publicity to be given to the private life of an individual.

This bill prohibits a person who sells motor fuel from doing so by the use of a pump that allows a purchaser to insert a credit card or debit if the pump issues a receipt that contains more than the last four digits of the credit card or debit number.

Finally, this bill creates an individual income tax and corporate income tax and franchise tax credit for training related to information technology. The bill requires that the information technology training include training in privacy rights and information policy. The credit is an amount equal to 50% of the amount that a claimant pays for the claimant or the claimant's spouse, dependent, or employee to receive training related to information technology. The credit is nonrefundable. If the amount of the credit exceeds the claimant's tax liability, the state will not issue a refund check, but the claimant may carry forward any remaining credit to subsequent taxable years. A claimant who receives the credit, however, must pay back the amount of the credit if the individual who receives the training is not employed in this state in an occupation related to information technology within one year after the individual completes the training or if the individual is employed in that occupation for less than one year.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

- 1           **SECTION 1.** 13.0991 of the statutes is created to read:
- 2           **13.0991 Privacy impact statements. (1)** In this section:
- 3           (a) "Authority" means a body created under ch. 231, 232, 233, 234, or 235.
- 4           (b) "Impact upon personal privacy" means that a bill would do one or more of
- 5           the following:

**ASSEMBLY BILL 459****SECTION 1**

1           1. Provide for the creation of additional personally identifiable information  
2 that is not readily available to the public at the time the bill is introduced.

3           2. Create an activity that would constitute an intrusion upon the privacy of an  
4 individual, or alter an activity in such a way as to create such an intrusion.

5           3. Use the name, picture, or likeness of an individual without the consent of the  
6 individual, or the consent of the individual's parent or guardian if the individual is  
7 a minor.

8           4. Permit or cause publicity to be given to the private life of an individual.

9           (c) "Personally identifiable information" has the meaning given under s. 19.62  
10 (5).

11           (d) "State agency" means an office, department, independent agency,  
12 institution of higher education, association, society, or other body in state  
13 government created or authorized to be created by the constitution or any law, which  
14 is entitled to expend moneys appropriated by law, including the legislature and the  
15 courts, but not including an authority.

16           **(2)** (a) Whenever a bill is introduced in either house of the legislature that  
17 would have an impact upon personal privacy, the legislative reference bureau shall  
18 promptly transmit a copy of the bill to the department of administration.

19           (b) Either house of the legislature may, under rules of that house or joint rules  
20 of the legislature, request the department of administration to order the preparation  
21 of a privacy impact statement with respect to any bill before that house, either in its  
22 original form or as affected by one or more amendments. If a house so requests, the  
23 chief clerk of that house shall thereupon transmit a copy of that bill and any affected  
24 amendments to the department of administration.



**ASSEMBLY BILL 459**

1           **(3)** Upon receipt of a bill under sub. (2), the department of administration shall  
2           direct one or more state agencies or authorities to prepare a privacy impact  
3           statement with respect to that bill. Each privacy impact statement shall describe the  
4           impact upon personal privacy that would result from enactment of the bill and  
5           analyze the desirability of that impact from the standpoint of public policy.

6           **(4)** Each state agency or authority receiving a bill under sub. (3) shall provide  
7           the statement required under sub. (3) to the department of administration within 15  
8           days after the department's directive.

9           **(5)** Upon receiving a privacy impact statement under sub. (4), the department  
10          of administration shall provide one copy to the legislative reference bureau, one copy  
11          to the principal author of the bill, and one copy to the chief clerk of the house of the  
12          legislature in which the bill originated. The chief clerk shall thereupon distribute  
13          the statement in the same manner as amendments to the bill are distributed.

14          **(6)** Whenever a bill requires preparation of a privacy impact statement under  
15          this section, the legislative reference bureau shall include a notation to that effect  
16          on the jacket of the bill when the jacket is prepared. If the preparation of a privacy  
17          impact statement is requested by a house of the legislature, the chief clerk of that  
18          house shall include a notation to that effect on the jacket of the bill.

19          **(7)** Whenever a privacy impact statement is required or requested for any bill  
20          under this section, a standing committee to which the bill is referred may not hold  
21          a public hearing on the bill or report the bill until the statement is received by the  
22          chief clerk of the house in which the bill originated.

23          **SECTION 2.** 19.36 (10) of the statutes is created to read:

24          19.36 **(10)** SOCIAL SECURITY ACCOUNT NUMBERS. (a) Except as provided in par.  
25          (b), if a new record containing a social security account number of an individual,

**ASSEMBLY BILL 459****SECTION 2**

1 together with information revealing the identity of that individual, is kept by an  
2 authority after December 31, 2002, or if a record in the custody of an authority is  
3 modified to insert the social security account number of an individual after December  
4 31, 2002, and the record contains information revealing the identity of that  
5 individual, the authority shall delete the social security account number before  
6 permitting access to the record, unless the requester is specifically authorized by  
7 federal or state law to have access to the social security account number.

8 (b) Unless otherwise provided by federal or state law, including common law  
9 principles, a requester may have access to a record containing the social security  
10 account number of an individual if any of the following applies:

11 1. The requester is an individual and the record pertains to that requester  
12 alone, to the marital or parental rights or responsibilities of that requester and his  
13 or her spouse or former spouse, to property of that requester held jointly or in  
14 common tenancy with one or more other individuals, or to a civil legal action or  
15 proceeding in which the requester is a specifically named party, and the requester  
16 provides appropriate identification to the custodian.

17 2. The requester is an authorized representative of an insurer or an  
18 organization that performs investigations for insurers and the social security  
19 account number is relevant to an investigation of suspected, anticipated, or actual  
20 insurance fraud.

21 **SECTION 3.** 19.37 (4) of the statutes is renumbered 19.37 (4) (a).

22 **SECTION 4.** 19.37 (4) (b) and (c) of the statutes are created to read:

23 19.37 (4) (b) If any person misrepresents his or her identity for the purpose of  
24 obtaining access to the social security account number of another individual under  
25 s. 19.36 (10) (b) 1., the person may be required to forfeit not more than \$1,000 for each

**ASSEMBLY BILL 459**

1 social security account number obtained by the person by means of such  
2 misrepresentation.

3 (c) If an insurer or other person obtains a social security account number under  
4 s. 19.36 (10) (b) 2. and uses that number for purposes other than an investigation as  
5 provided in s. 19.36 (10) (b) 2., the person may be required to forfeit not more than  
6 \$1,000 for each social security account number used by the person for such  
7 unauthorized purposes.

8 **SECTION 5.** 36.11 (35) (title) of the statutes is renumbered 36.32 (title).

9 **SECTION 6.** 36.11 (35) of the statutes is renumbered 36.32 (2) and amended to  
10 read:

11 36.32 (2) ~~The board~~ An institution of higher education may assign to each  
12 student enrolled in the system institution a unique identification number. ~~The board~~  
13 An institution of higher education shall not assign to any student an identification  
14 number that is identical to or incorporates the student's social security number. This  
15 subsection does not prohibit ~~the board~~ an institution of higher education from  
16 requiring a student to disclose his or her social security number, nor from using a  
17 student's social security number if such use is required by a federal or state agency  
18 or private organization in order for the system or the student to participate in a  
19 particular program.

20 **SECTION 7.** 36.32 (1) of the statutes is created to read:

21 36.32 (1) In this section, "institution of higher education" means an institution  
22 within the system, or a private educational institution located in this state that  
23 awards a bachelor's or higher degree or provides a program that is acceptable toward  
24 such a degree.

25 **SECTION 8.** 36.38 of the statutes is created to read:

**ASSEMBLY BILL 459****SECTION 8**

1           **36.38 Policy on privacy in athletic locker rooms.** Each institution and  
2 college campus shall adopt a written policy on who may enter and remain, to  
3 interview or seek information from any person, in a locker room being used by an  
4 athletic team representing the institution or college campus. The policy shall reflect  
5 the privacy interests of members of athletic teams representing the institution or  
6 college campus.

7           **SECTION 9.** 38.12 (12) of the statutes is created to read:

8           **38.12 (12) POLICY ON PRIVACY IN ATHLETIC LOCKER ROOMS.** The district board shall  
9 adopt a written policy on who may enter and remain, to interview or seek information  
10 from any person, in a locker room being used by an athletic team representing the  
11 district. The policy shall reflect the privacy interests of members of athletic teams  
12 representing the district.

13           **SECTION 10.** 39.49 of the statutes is created to read:

14           **39.49 Policy on privacy in athletic locker rooms. (1)** In this section,  
15 “institution of higher education” means a private educational institution that  
16 awards a bachelor’s or higher degree or provides a program that is acceptable for  
17 credit toward such a degree, and that fields an athletic team that represents the  
18 institution.

19           **(2)** Each institution of higher education shall adopt a written policy on who  
20 may enter and remain, to interview or seek information from any person, in a locker  
21 room being used by an athletic team representing the institution. The policy shall  
22 reflect the privacy interests of members of athletic teams representing the  
23 institution.

24           **SECTION 11.** 59.20 (3) (d) of the statutes is amended to read:

**ASSEMBLY BILL 459**

1           59.20 **(3)** (d) Any register of deeds who in good faith makes an erroneous  
2 determination as to the accessibility of a portion of a record, to members of the public  
3 under s. 19.36 (6), is not subject to any penalty for denial of access to the record under  
4 s. 19.37 (4) (a).

5           **SECTION 12.** 71.05 (6) (a) 15. of the statutes is amended to read:

6           71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
7 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and, (3s), and (5s)~~ and not passed through by a  
8 partnership, limited liability company or tax-option corporation that has added that  
9 amount to the partnership's, company's or tax-option corporation's income under s.  
10 71.21 (4) or 71.34 (1) (g).

11           **SECTION 13.** 71.07 (5s) of the statutes is created to read:

12           71.07 **(5s)** INFORMATION TECHNOLOGY TRAINING CREDIT. (a) In this subsection:

13           1. "Claimant" means an individual, a sole proprietor, a partner, a member of  
14 a limited liability company, or a shareholder of a tax-option corporation who files a  
15 claim under this subsection.

16           2. "Information technology" has the meaning given in s. 16.97 (6).

17           3. "Information technology training" means training in information technology  
18 that also includes training in privacy rights and information policy.

19           4. "Qualified institution" means any university, college, technical college, or  
20 school approved under s. 45.54.

21           (b) Subject to the limitations provided in this subsection, a claimant may claim  
22 as a credit against the tax imposed under s. 71.02, up to the amount of those taxes,  
23 an amount equal to 50% of the amount that the claimant paid during the taxable year  
24 for the claimant or the claimant's spouse, dependent, or employee to receive  
25 information technology training at a qualified institution.

**ASSEMBLY BILL 459****SECTION 13**

1 (c) The amount of the credit for each claimant under this subsection shall not  
2 exceed \$2,500 in a taxable year for each individual for whom the claimant pays an  
3 amount as provided in par. (b).

4 (d) A claimant who receives a credit under par. (b) shall add to the claimant's  
5 liability for taxes imposed under s. 71.02 an amount that is equal to the total amount  
6 of the credits received under par. (b), if any of the following occur:

7 1. The individual who received the training as specified under par. (b) is not  
8 employed in this state in an occupation related to information technology within one  
9 year after the individual completes the training.

10 2. The individual who received the training as specified under par. (b) is  
11 employed in this state in an occupation related to information technology for less  
12 than one year.

13 (e) A claimant may not claim the credit under par. (b) for any amounts that the  
14 claimant excluded under s. 71.05 (6) (b) 28. or under section 127 of the Internal  
15 Revenue Code.

16 (f) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit  
17 under s. 71.28 (4), apply to the credit under this subsection.

18 (g) Partnerships, limited liability companies, and tax-option corporations may  
19 not claim the credit under this subsection, but the eligibility for, and the amount of,  
20 the credit are based on their payment of the amount under par. (b). A partnership,  
21 limited liability company, or tax-option corporation shall compute the amount of  
22 credit that each of its partners, members, or shareholders may claim and shall  
23 provide that information to each of them. Partners, members of limited liability  
24 companies, and shareholders of tax-option corporations may claim the credit in  
25 proportion to their ownership interest.

**ASSEMBLY BILL 459**

1 (h) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),  
2 applies to the credit under this subsection.

3 **SECTION 14.** 71.10 (4) (gv) of the statutes is created to read:

4 71.10 (4) (gv) Information technology training credit under s. 71.07 (5s).

5 **SECTION 15.** 71.21 (4) of the statutes is amended to read:

6 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
7 (2dj), (2dL), (2ds), (2dx) ~~and (3s), and (5s)~~ and passed through to partners shall be  
8 added to the partnership's income.

9 **SECTION 16.** 71.26 (2) (a) of the statutes is amended to read:

10 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means  
11 the gross income as computed under the ~~internal revenue code~~ Internal Revenue  
12 Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di)  
13 plus the amount of credit computed under s. 71.28 (1) and (3) to (5) plus the amount  
14 of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and (1dx),~~  
15 ~~and (5s)~~ and not passed through by a partnership, limited liability company or  
16 tax-option corporation that has added that amount to the partnership's, limited  
17 liability company's or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)  
18 (g) plus the amount of losses from the sale or other disposition of assets the gain from  
19 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were  
20 sold or otherwise disposed of at a gain and minus deductions, as computed under the  
21 ~~internal revenue code~~ Internal Revenue Code as modified under sub. (3), plus or  
22 minus, as appropriate, an amount equal to the difference between the federal basis  
23 and Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed  
24 of in a taxable transaction during the taxable year, except as provided in par. (b) and  
25 s. 71.45 (2) and (5).

**ASSEMBLY BILL 459****SECTION 17**

1           **SECTION 17.** 71.28 (5s) of the statutes is created to read:

2           **71.28 (5s)** INFORMATION TECHNOLOGY TRAINING CREDIT. (a) In this subsection:

3           1. “Claimant” means a corporation that files a claim under this subsection.

4           2. “Information technology” has the meaning given in s. 16.97 (6).

5           3. “Information technology training” means training in information technology  
6 that also includes training in privacy rights and information policy.

7           4. “Qualified institution” means any university, college, technical college, or  
8 school approved under s. 45.54.

9           (b) Subject to the limitations provided in this subsection, a claimant may claim  
10 as a credit against the tax imposed under s. 71.23 an amount equal to 50% of the  
11 amount that the claimant paid during the taxable year for an employee to receive  
12 information technology training at a qualified institution.

13           (c) The amount of the credit for each claimant under this subsection shall not  
14 exceed \$2,500 in a taxable year for each employee for whom the claimant pays an  
15 amount as provided in par. (b).

16           (d) A claimant who receives a credit under par. (b) shall add to the claimant’s  
17 liability for taxes imposed under s. 71.23 an amount that is equal to the total amount  
18 of the credits received under par. (b), if any of the following occur:

19           1. The employee who received the training as specified under par. (b) is not  
20 employed in this state in an occupation related to information technology within one  
21 year after the employee completes the training.

22           2. The employee who received the training as specified under par. (b) is  
23 employed in this state in an occupation related to information technology for less  
24 than one year.



**ASSEMBLY BILL 459**

1 (e) A claimant may not claim the credit under par. (b) for any amounts that the  
2 claimant has excluded under section 127 of the Internal Revenue Code.

3 (f) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit  
4 under sub. (4), apply to the credit under this subsection.

5 (g) Partnerships, limited liability companies, and tax-option corporations may  
6 not claim the credit under this subsection, but the eligibility for, and the amount of,  
7 the credit are based on their payment of the amount under par. (b). A partnership,  
8 limited liability company, or tax-option corporation shall compute the amount of  
9 credit that each of its partners, members, or shareholders may claim and shall  
10 provide that information to each of them. Partners, members of limited liability  
11 companies, and shareholders of tax-option corporations may claim the credit in  
12 proportion to their ownership interest.

13 (h) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies  
14 to the credit under this subsection.

15 **SECTION 18.** 71.30 (3) (eon) of the statutes is created to read:

16 71.30 (3) (eon) Information technology training credit under s. 71.28 (5s).

17 **SECTION 19.** 71.34 (1) (g) of the statutes is amended to read:

18 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
19 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and~~, (3), and  
20 (5s) and passed through to shareholders.

21 **SECTION 20.** 71.45 (2) (a) 10. of the statutes is amended to read:

22 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
23 computed under s. 71.47 (1dd) to (1dx) and (5s) and not passed through by a  
24 partnership, limited liability company or tax-option corporation that has added that  
25 amount to the partnership's, limited liability company's or tax-option corporation's

**ASSEMBLY BILL 459****SECTION 20**

1 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under  
2 s. 71.47 (1), (3), (4) and (5).

3 **SECTION 21.** 71.47 (5s) of the statutes is created to read:

4 71.47 (5s) INFORMATION TECHNOLOGY TRAINING CREDIT. (a) In this subsection:

5 1. “Claimant” means a corporation that files a claim under this subsection.

6 2. “Information technology” has the meaning given in s. 16.97 (6).

7 3. “Information technology training” means training in information technology  
8 that also includes training in privacy rights and information policy.

9 4. “Qualified institution” means any university, college, technical college, or  
10 school approved under s. 45.54.

11 (b) Subject to the limitations provided in this subsection, a claimant may claim  
12 as a credit against the tax imposed under s. 71.43 an amount equal to 50% of the  
13 amount that the claimant paid during the taxable year for an employee to receive  
14 information technology training at a qualified institution.

15 (c) The amount of the credit for each claimant under this subsection shall not  
16 exceed \$2,500 in a taxable year for each employee for whom the claimant pays an  
17 amount as provided in par. (b).

18 (d) A claimant who receives a credit under par. (b) shall add to the claimant’s  
19 liability for taxes imposed under s. 71.43 an amount that is equal to the total amount  
20 of the credits received under par. (b), if any of the following occur:

21 1. The employee who received the training as specified under par. (b) is not  
22 employed in this state in an occupation related to information technology within one  
23 year after the employee completes the training.

**ASSEMBLY BILL 459**

1           2. The employee who received the training as specified under par. (b) is  
2 employed in this state in an occupation related to information technology for less  
3 than one year.

4           (e) A claimant may not claim the credit under par. (b) for any amounts that the  
5 claimant has excluded under section 127 of the Internal Revenue Code.

6           (f) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit  
7 under s. 71.28 (4), apply to the credit under this subsection.

8           (g) Partnerships, limited liability companies, and tax-option corporations may  
9 not claim the credit under this subsection, but the eligibility for, and the amount of,  
10 the credit are based on their payment of the amount under par. (b). A partnership,  
11 limited liability company, or tax-option corporation shall compute the amount of  
12 credit that each of its partners, members, or shareholders may claim and shall  
13 provide that information to each of them. Partners, members of limited liability  
14 companies, and shareholders of tax-option corporations may claim the credit in  
15 proportion to their ownership interest.

16           (h) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),  
17 applies to the credit under this subsection.

18           **SECTION 22.** 71.49 (1) (e) of the statutes is created to read:

19           71.49 (1) (e) Information technology training credit under s. 71.47 (5s).

20           **SECTION 23.** 77.92 (4) of the statutes is amended to read:

21           77.92 (4) “Net business income”, with respect to a partnership, means taxable  
22 income as calculated under section 703 of the Internal Revenue Code; plus the items  
23 of income and gain under section 702 of the Internal Revenue Code, including taxable  
24 state and municipal bond interest and excluding nontaxable interest income or  
25 dividend income from federal government obligations; minus the items of loss and

**ASSEMBLY BILL 459****SECTION 23**

1 deduction under section 702 of the Internal Revenue Code, except items that are not  
2 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
3 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
4 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and (3s)~~, and (5s) and plus or minus, as  
5 appropriate, transitional adjustments, depreciation differences and basis  
6 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,  
7 loss and deductions from farming. “Net business income”, with respect to a natural  
8 person, estate or trust, means profit from a trade or business for federal income tax  
9 purposes and includes net income derived as an employe as defined in section 3121  
10 (d) (3) of the Internal Revenue Code.

11 **SECTION 24.** 100.264 (2) (intro.) of the statutes is amended to read:

12 100.264 (2) SUPPLEMENTAL FORFEITURE. (intro.) If a fine or a forfeiture is  
13 imposed on a person for a violation under s. 100.16, 100.17, 100.18, 100.182, 100.183,  
14 100.20, 100.205, 100.207, 100.21, 100.30 (3), 100.35, 100.44 ~~or~~, 100.46, or 100.52 or  
15 a rule promulgated under one of those sections, the person shall be subject to a  
16 supplemental forfeiture not to exceed \$10,000 for that violation if the conduct by the  
17 defendant, for which the violation was imposed, was perpetrated against an elderly  
18 person or disabled person and if the court finds that any of the following factors is  
19 present:

20 **SECTION 25.** 100.52 of the statutes is created to read:

21 **100.52 Telephone solicitations. (1) DEFINITIONS.** In this section:

22 (a) “Automatic telephone dialing system” means equipment that has the  
23 capacity to store or produce telephone numbers that are called using a random or  
24 sequential number generator and to call such telephone numbers.

25 (b) “Basic local exchange service” has the meaning in s. 196.01 (1g).

**ASSEMBLY BILL 459**

1 (c) “Blocking service” means a service that allows a person who makes a  
2 telephone call to withhold his or her telephone number or name from a person who  
3 receives the telephone call and who uses a caller identification service.

4 (d) “Caller identification service” means a service that allows a person who  
5 receives a telephone call to identify the telephone number or name of the person  
6 making the telephone call.

7 (e) “Residential customer” means an individual who is furnished with basic  
8 local exchange service by a telecommunications utility.

9 (f) “Telecommunications utility” has the meaning given in s. 196.01 (10).

10 (g) “Telephone directory” means the telephone directory distributed to the  
11 general public by a telecommunications utility that furnishes basic local exchange  
12 service to a residential customer.

13 **(2) DIRECTORY LISTING.** (a) Upon a request by a residential customer, a  
14 telecommunications utility furnishing basic local exchange service to the residential  
15 customer shall include in its telephone directory a listing or symbol indicating that  
16 the residential customer does not want to receive any telephone solicitation.

17 (b) A telecommunications utility may impose a onetime charge applicable to a  
18 change in a telephone directory for a listing or symbol requested under par. (a). A  
19 charge under this paragraph may not exceed the cost incurred by a  
20 telecommunications utility in making a change to a telephone directory. Upon a  
21 complaint filed by residential customer, the department may investigate whether a  
22 charge by a telecommunications utility violates this paragraph and may order a  
23 telecommunications utility to impose a charge that complies with this paragraph.

24 (c) A person may not make a telephone solicitation to a residential customer  
25 if a telephone directory in effect at the time of the telephone solicitation includes a

**ASSEMBLY BILL 459****SECTION 25**

1 listing or symbol indicating that the residential customer does not want to receive  
2 any telephone solicitation.

3 (3) AUTOMATIC DIALING. No person may, in making a telephone solicitation, use  
4 an automatic telephone dialing system in such a way that 2 or more telephone lines  
5 are engaged simultaneously.

6 (4) BLOCKING SERVICES. No person may use a blocking service when making a  
7 telephone solicitation.

8 (6) ENFORCEMENT. The department shall investigate violations of this section  
9 and may bring an action for temporary or permanent injunctive or other relief for any  
10 violation of this section.

11 (7) PENALTIES. (a) Except as provided in par. (b), a person who violates this  
12 section may be required to forfeit not more than \$500.

13 (b) A person who violates sub. (2) (c) may be required to forfeit not more than  
14 \$10,000.

15 (8) TERRITORIAL APPLICATION. This section applies to any interstate telephone  
16 solicitation received by a person in this state and any intrastate telephone  
17 solicitation.

18 **SECTION 26.** 118.39 of the statutes is created to read:

19 **118.39 Policy on privacy in athletic locker rooms.** Each school board, and  
20 the governing body of each private school that fields an athletic team representing  
21 the school, shall adopt a written policy on who may enter and remain, to interview  
22 or seek information from any person, in a locker room being used by an athletic team  
23 representing the private school or representing a public school in the school district.  
24 The policy shall reflect the privacy interests of members of athletic teams  
25 representing the school.

**ASSEMBLY BILL 459**

1           **SECTION 27.** 134.72 (title) of the statutes is amended to read:

2           **134.72** (title) **Prohibition of certain unsolicited messages by telephone**  
3 **or facsimile machine.**

4           **SECTION 28.** 134.72 (1) (c) of the statutes is renumbered 100.52 (1) (h).

5           **SECTION 29.** 134.72 (2) (a) of the statutes is renumbered 100.52 (5).

6           **SECTION 30.** 134.72 (2) (b) (title) of the statutes is repealed.

7           **SECTION 31.** 134.72 (2) (b) of the statutes is renumbered 134.72 (2), and 134.72  
8 (2) (b), as renumbered, is amended to read:

9           134.72 **(2)** (b) Notwithstanding ~~subd. 1, par. (a)~~, a person may not make a  
10 facsimile solicitation to a person who has notified the facsimile solicitor in writing  
11 or by facsimile transmission that the person does not want to receive facsimile  
12 solicitation.

13           **SECTION 32.** 134.72 (3) (a) of the statutes is amended to read:

14           134.72 **(3)** (a) *Intrastate.* This section applies to any ~~intrastate telephone~~  
15 ~~solicitation or~~ intrastate facsimile solicitation.

16           **SECTION 33.** 134.72 (3) (b) of the statutes is amended to read:

17           134.72 **(3)** (b) *Interstate.* This section applies to any ~~interstate telephone~~  
18 ~~solicitation, or~~ interstate facsimile solicitation, received by a person in this state.

19           **SECTION 34.** 134.72 (4) of the statutes is amended to read:

20           134.72 **(4)** PENALTY. A person who violates this section may be required to  
21 ~~forfeit up to~~ not more than \$500.

22           **SECTION 35.** 134.92 of the statutes is created to read:

23           **134.92 Motor fuel purchases with the use of a credit or debit card.** No  
24 person may sell motor fuel dispensed at a pump at which the purchaser may make  
25 payment for the motor fuel by the insertion of a credit or debit card unless no more

**ASSEMBLY BILL 459****SECTION 35**

1 than the last 4 digits of the credit or debit card number are displayed on any receipt  
2 issued automatically from the pump.

3 **SECTION 36.** 138.25 of the statutes is created to read:

4 **138.25 Credit card records. (1) DEFINITIONS.** In this section:

5 (a) “Affiliate,” when used in relation to any person, means a company that  
6 controls, is controlled by, or is under common control with the person.

7 (b) “Cardholder” has the meaning given in s. 943.41 (1) (b).

8 (c) “Consumer report” has the meaning given in 15 USC 1681a (d).

9 (d) “Consumer reporting agency” has the meaning given in 15 USC 1681a (f).

10 (e) “Fair Credit Reporting Act” means 15 USC 1681 to 1681u, as amended.

11 (f) “Financial transaction card” has the meaning given in s. 943.41 (1) (em).

12 **(2) DISCLOSURE PROHIBITED.** Except as provided in sub. (3), a person may not  
13 disclose to another person, for money or anything else of value, any information or  
14 data about a cardholder who is a resident of this state that is obtained by the person  
15 from financial transaction card transaction records.

16 **(3) EXCEPTIONS.** A person may disclose information about a cardholder if any  
17 of the following apply:

18 (a) The disclosure is made to a consumer reporting agency for purposes of a  
19 consumer report or by a consumer reporting agency as authorized under the Fair  
20 Credit Reporting Act.

21 (b) The disclosure is made to an affiliate of the person making the disclosure.  
22 The affiliate may not disclose any information received pursuant to this paragraph  
23 to a person other than the person who initially disclosed the information to the  
24 affiliate, unless the person who initially disclosed the information to the affiliate is  
25 permitted to make the disclosure under this subsection.



**ASSEMBLY BILL 459**

1 (c) If the issuer of the financial transaction card is a retailer, the disclosure is  
2 made to or by contractors or agents of the issuer for the purposes of performing  
3 functions for or on behalf of the issuer. The contractor or agent may not disclose any  
4 information received pursuant to this paragraph to a person other than the issuer,  
5 unless the issuer is permitted to make the disclosure under this subsection.

6 **(4) FORFEITURE.** A person who violates sub. (2) may be required to forfeit not  
7 more than \$10,000 for each violation. Each disclosure of information or data about  
8 one cardholder constitutes a separate violation.

9 **(5) INJUNCTION.** The department of justice may commence an action in circuit  
10 court in the name of the state to restrain by temporary or permanent injunction any  
11 act or practice constituting a violation of sub. (2).

12 **SECTION 37.** 146.833 of the statutes is created to read:

13 **146.833 Use of social security numbers prohibited.** A health care  
14 provider may not use for any patient an identification number that is identical to or  
15 incorporates the patient's social security number. This section does not prohibit the  
16 health care provider from requiring a patient to disclose his or her social security  
17 number, or from using a patient's social security number if that use is required by  
18 a federal or state agency in order for the patient to participate in a particular  
19 program.

20 **SECTION 38.** 175.22 of the statutes is created to read:

21 **175.22 Policy on privacy for professional athletic teams.** Any  
22 professional athletic team that has its home field or arena in this state shall adopt  
23 a written policy on who may enter and remain, to interview or seek information from  
24 any person, in a locker room used by the professional athletic team. The policy shall  
25 reflect the privacy interests of members of the professional athletic team.



**ASSEMBLY BILL 459**

1 (c) The name of each person requesting credit information pertaining to the  
2 individual during the 12 months before the date that the consumer reporting agency  
3 provides the written disclosure report.

4 (d) The dates, original payees, and amounts of any checks upon which any  
5 adverse characterization of the consumer is based.

6 (e) Any other information contained in the individual's file.

7 (f) A clear and concise explanation of the contents of the written disclosure  
8 report.

9 (g) A summary of rights.

10 **(3) COST.** A consumer reporting agency shall provide the written disclosure  
11 report required under sub. (1) free of charge, unless the individual has requested a  
12 written disclosure report from the consumer reporting agency during the preceding  
13 12 months.

14 **(4) EXCEPTIONS.** A consumer reporting agency may not disclose to an individual  
15 making a request under sub. (1) any of the following:

16 (a) The sources of any information that was both acquired solely for use in  
17 preparing an investigative consumer report and used for no other purpose.

18 (b) Any credit score or other risk score or predictor relating to the consumer.

19 **(5) PENALTY.** Any person who violates this section may be fined not more than  
20 \$500 for the first offense and may be fined not more than \$1,000 or imprisoned for  
21 not more than 6 months or both for each subsequent offense occurring within 6  
22 months.

23 **SECTION 40.** 421.301 (13m) of the statutes is created to read:

24 421.301 **(13m)** "Cookie" means a file that is created and stored on a computer  
25 as a result of that computer accessing and interacting with an Internet web site and

**ASSEMBLY BILL 459****SECTION 40**

1 that contains information regarding the Internet web sites accessed through use of  
2 that computer, or information used when that computer accesses an Internet web  
3 site previously accessed through use of that computer, or both.

4 **SECTION 41.** 422.422 of the statutes is created to read:

5 **422.422 Tracking consumer Internet usage prohibited. (1)** No creditor  
6 under an open-end credit plan or merchant may store a cookie on a computer that  
7 the creditor knows or has reason to know is used by a customer to whom the creditor  
8 or merchant extends credit, or access information obtained from a cookie that  
9 another person has stored on such a computer.

10 **(2)** A violation of this section is subject to s. 425.304.

11 **SECTION 42.** 610.75 of the statutes is created to read:

12 **610.75 Use of social security numbers prohibited. (1)** In this section,  
13 “health care plan” has the meaning given in s. 628.36 (2) (a) 1.

14 **(2)** An insurer that provides coverage under a health care plan may not use for  
15 any insured or enrollee under the health care plan an identification number that is  
16 identical with or that incorporates the insured’s or enrollee’s social security number.  
17 This section does not prohibit such an insurer from requiring an insured or enrollee  
18 to disclose his or her social security number, or from using an insured’s or enrollee’s  
19 social security number if that use is required by a federal or state agency in order for  
20 the insured or enrollee to participate in a particular program.

21 **SECTION 43.** 632.725 (2) (d) of the statutes is amended to read:

22 632.725 **(2)** (d) ~~Establish~~ In conformity with the requirements under ss.  
23 146.833 and 610.75, establish a uniform statewide patient identification system in  
24 which each individual who receives health care services in this state is assigned an  
25 identification number. The standardized billing format established under par. (a)

**ASSEMBLY BILL 459**

1 and the standardized claim format established under par. (b) shall provide for the  
2 designation of an individual's patient identification number.

3 **SECTION 44.** 895.50 (2) (d) of the statutes is created to read:

4 895.50 (2) (d) Publicity given to a matter concerning another person that places  
5 the other person before the public in a false light if the false light in which the other  
6 person was placed would be highly offensive to a reasonable person.

7 **SECTION 45.** 895.50 (2m) of the statutes is created to read:

8 895.50 (2m) (a) In this subsection:

- 9 1. "Private person" means a person who is not a public person.
- 10 2. "Public person" means that the person has general fame or notoriety in the  
11 community and pervasive involvement in the affairs of society; the person has put  
12 himself or herself in the public eye with respect to the issues or events reported; or  
13 the person has deliberately engaged the public's attention to influence the issues or  
14 events reported.
- 15 3. "Publisher" means any person who gives publicity to a matter, including a  
16 person who communicates the matter in a newspaper or magazine, on radio or  
17 television, or by electronic means.

18 (b) If the person who is the subject of the publicity under sub. (2) (d) is a public  
19 person, the publisher is liable under this section only if the publisher had knowledge  
20 of or acted with reckless disregard as to the falsity of the publicized matter.

21 (c) If the person who is the subject of the publicity under sub. (2) (d) is a private  
22 person, the publisher is liable under this section only if the publisher did not use  
23 reasonable care to determine if the matter was false.

24 (d) Truth of the publicized matter is an absolute defense to an action for the  
25 violation of a person's privacy under sub. (2) (d).

**ASSEMBLY BILL 459****SECTION 46**

1           **SECTION 46.** 968.27 (12) of the statutes is amended to read:

2           968.27 **(12)** “Oral communication” means any oral communication uttered by  
3 a person exhibiting an expectation that the communication is not subject to  
4 interception under circumstances justifying the expectation. “Oral communication”  
5 includes any oral communication between an employee of a retail business and a  
6 customer of that retail business. “Oral communication” does not include any  
7 electronic communication.

8           **SECTION 47.** 968.27 (14m) of the statutes is created to read:

9           968.27 **(14m)** “Retail business” means any business primarily engaged in the  
10 retail sale of goods or services from a store or other premises owned or leased by the  
11 business.

12           **SECTION 48.** 968.31 (2) (c) of the statutes is renumbered 968.31 (2) (c) (intro.)  
13 and amended to read:

14           968.31 **(2)** (c) (intro.) For a person not acting under color of law to intercept a  
15 wire, electronic or oral communication where the person is a party to the  
16 communication or where one of the parties to the communication has given prior  
17 consent to the interception, unless the one of the following applies:

18           1. The communication is intercepted for the purpose of committing any  
19 criminal or tortious act in violation of the constitution or laws of the United States  
20 or of any state or for the purpose of committing any other injurious act.

21           **SECTION 49.** 968.31 (2) (c) 2. of the statutes is created to read:

22           968.31 **(2)** (c) 2. The communication is an oral communication between an  
23 employee of a retail business and a customer of the retail business that is uttered  
24 while both the employee and the customer are present in or on the store or premises

**ASSEMBLY BILL 459**

1 of the retail business and that is intercepted using an electronic, mechanical, or other  
2 device that is attached to or in the possession of the employee.

3 **SECTION 50.** 971.19 (11) of the statutes is created to read:

4 971.19 (11) In an action under s. 942.01, 942.03, 943.201, 943.205, 943.30,  
5 943.31, 943.41, 943.70, 946.72, 947.012, or 947.0125, the defendant may be tried in  
6 the defendant's county of residence, in the victim's county of residence, or in any  
7 other county in which the trial may be conducted under this section.

8 **SECTION 9159. Nonstatutory provisions; other.**

9 (1) CREDIT CARD RECORDS. If a person is affected by a contract that is in effect  
10 on the effective date of this subsection and that contains provisions that are  
11 inconsistent with section 138.25 (2) of the statutes, as created by this act, then,  
12 notwithstanding section 138.25 (2) of the statutes, as created by this act, the person  
13 may perform its obligations, and exercise its rights, under those provisions of the  
14 contract until the contract expires or is extended, modified, or renewed, whichever  
15 first occurs.

16 (2) INTERNET COOKIES. If a person is affected by a contract that is in effect on  
17 the effective date of this subsection and that contains provisions that are  
18 inconsistent with section 422.422 (1) of the statutes, as created by this act, then,  
19 notwithstanding section 422.422 (1) of the statutes, as created by this act, the person  
20 may perform its obligations, and exercise its rights, under those provisions of the  
21 contract until the contract expires or is extended, modified, or renewed, whichever  
22 occurs first.

23 **SECTION 9309. Initial applicability; circuit courts.**

**ASSEMBLY BILL 459****SECTION 9309**

1 (1) RIGHT OF PRIVACY. The treatment of section 895.50 (2) (d) and (2m) of the  
2 statutes first applies to publicity given to a matter concerning another person on the  
3 effective date of this subsection.

4 (2) VENUE OF CRIMINAL TRIAL. The treatment of section 971.19 (11) of the statutes  
5 first applies to criminal actions commenced on the effective date of this subsection.

**SECTION 9332. Initial applicability; legislature.**

7 (1) PRIVACY IMPACT STATEMENTS. The treatment of section 13.0991 of the statutes  
8 first applies with respect to bills introduced in the 2001–03 legislative session and  
9 jacketed by the legislative reference bureau after the effective date of this subsection.

**SECTION 9344. Initial applicability; revenue.**

11 (1) INFORMATION TECHNOLOGY TRAINING CREDIT. The treatment of sections 71.05  
12 (6) (a) 15., 71.07 (5s), 71.10 (4) (gv), 71.21 (4), 71.26 (2) (a), 71.28 (5s), 71.30 (3) (eon),  
13 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5s), 71.49 (1) (eon), and 77.92 (4) of the statutes  
14 first applies to taxable years beginning on January 1 of the year in which this  
15 subsection takes effect, except that if this subsection takes effect after July 31 the  
16 treatment of sections 71.05 (6) (a) 15., 71.07 (5s), 71.10 (4) (gv), 71.21 (4), 71.26 (2)  
17 (a), 71.28 (5s), 71.30 (3) (eon), 71.34 (1) (g), 71.45 (2) (a) 10., 71.47 (5s), 71.49 (1) (eon),  
18 and 77.92 (4) of the statutes first applies to taxable years beginning on January 1 of  
19 the year after the year in which this subsection takes effect.

**SECTION 9359. Initial applicability; other.**

21 (1) RETAIL BUSINESS ORAL COMMUNICATIONS. The renumbering and amendment  
22 of section 968.31 (2) (c) of the statutes and the creation of section 968.31 (2) (c) 2. of  
23 the statutes first apply to oral communications intercepted on the effective date of  
24 this subsection.



