

Multiple Agency Fiscal Note Summary

Bill Number: 5449 E S SB AMH JUDI H2203.3	Title: Stolen info technology
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Estimated Cash Receipts

NONE

Estimated Expenditures

Agency Name	2011-13			2013-15			2015-17		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Office of Attorney General	.9	228,818	228,818	.0	233,818	233,818	.0	233,818	233,818
Total	0.9	\$228,818	\$228,818	0.0	\$233,818	\$233,818	0.0	\$233,818	\$233,818

Local Gov. Courts *	Non-zero but indeterminate cost. Please see discussion.								
Local Gov. Other **									
Local Gov. Total									

Estimated Capital Budget Impact

NONE

Prepared by: Matthew Bridges, OFM	Phone: (360) 902-0575	Date Published: Final
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

Judicial Impact Fiscal Note

Bill Number: 5449 E S SB AMH JUDI H2203.3	Title: Stolen info technology	Agency: 055-Admin Office of the Courts
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2012	FY 2013	2011-13	2013-15	2015-17
Counties					
Cities					
Total \$					

Estimated Expenditures from:

Non-zero but indeterminate cost. Please see discussion.

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

Legislative Contact: Wendy Polzin	Phone: 360-786-7137	Date: 03/25/2011
Agency Preparation: Julia Appel	Phone: (360) 705-5229	Date: 03/28/2011
Agency Approval: Dirk Marler	Phone: 360-705-5211	Date: 03/28/2011
OFM Review: Cherie Berthon	Phone: 360-902-0659	Date: 03/28/2011

Request # -1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Section 2 creates a new section which identifies unfair competition, and provides that a person who manufactures an article or product while using stolen or misappropriated information technology in its business operations after notice and opportunity to cure as provided in section 5, causes a material competitive injury as a result of such use of the technology.

Section 6 creates a new section that provides that the attorney general, or any person described in section 4, may bring an action against a person subject to section 2 to enjoin a violation or to recover damages.

II. B - Cash Receipts Impact

II. C - Expenditures

The AGO Consumer Protection Division predicts between one and three actions per year, which would have minimal caseload impact on the superior courts statewide. However, as any person described in section 4 injured by a violation of section 2 may bring an action to enjoin a violation or to recover damages, it is unknown how many more actions might be filed. Therefore, the fiscal impact is indeterminate but expected to be less than \$50,000 annually.

The \$50,000 expenditure level represents approximately 83 hours (0.07 FTE) of superior court judicial officer time annually cumulative for all superior courts in the state with associated support staff and operational costs. It is assumed, therefore, that this bill would require less than 83 hours of judicial officer time statewide on an annual basis.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

Individual State Agency Fiscal Note

Bill Number: 5449 E S SB AMH JUDI H2203.3	Title: Stolen info technology	Agency: 100-Office of Attorney General
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Part I: Estimates

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No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.9	0.9	0.9	0.0	0.0
Account					
General Fund-State 001-1	111,909	116,909	228,818	233,818	233,818
Total \$	111,909	116,909	228,818	233,818	233,818

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐

If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐

Capital budget impact, complete Part IV.

☐

Requires new rule making, complete Part V.

Legislative Contact: Wendy Polzin	Phone: 360-786-7137	Date: 03/25/2011
Agency Preparation: Gretchen Leanderson	Phone: 253-597-4434	Date: 03/30/2011
Agency Approval: Sarian Scott	Phone: (360) 586-2104	Date: 03/30/2011
OFM Review: Matthew Bridges	Phone: (360) 902-0575	Date: 03/31/2011

Request # 11-238-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 is a new definition section. The definitions of “article or product” is expanded to include (a) Any services sold, offered for sale, or made available in this state, including free services and online services; (b) any product subject to regulation by the United States food and drug administration and that is primarily used for medical or medicinal purposes; (c) food and beverages; and (d) restaurant services. Definitions that were also amended with minor changes are “copyrightable end product,” “stolen or misappropriated information technology,” and “essential component”.

Section 2 is a new section that identifies unfair competition. Any person who manufactures an article or product while using stolen or misappropriated information technology in its business operations after notice and opportunity to cure as provided in section 5 of this act and, with respect to remedies sought under section 6(5) or 7 of this act, causes a material competitive injury as a result of such use of stolen or misappropriated information technology. This section applies to articles and products sold or offered for sale in this state.

Section 3 is a new section that adds subsection (4) which says allegations based on a claim that the person violated section 2 of this act by aiding, abetting, facilitating, or assisting someone else to acquire, appropriate, use, sell, or offer to sell, or by providing someone else with access to information technology without authorization of the owner or the owner's authorized licensee is in violation of applicable law.

Section 4 adds to the definition of a “person other than the person alleged to violate section 2” to also include a person who advertises an article or product alleged to violate section 2 of this act.

Section 5 adds to subsection (2) that the written notice must be made under penalty of perjury and also that it must be made without authorization not only of the owner, but also of the owner’s authorized licensee in violation of applicable laws. Section 5 also adds a new subsection (3) that the written notification must also be made under penalty of perjury and after a reasonable and good-faith investigation that the information in the notice is accurate based on the notifier’s reasonable knowledge, information and belief.

Section 6 amends subsection (1)(a) to provide for exceptions as provided in subsection (6) and that an injunction does not encompass articles or products to be provided to a third party that establishes that such a third party has satisfied one or more of the affirmative defenses set forth in section 8(1) of this section with respect to the manufacturer alleged to have violated section 2 of this act. A new subsection (1)(c) is added to require dismissal when the person alleged to have violated section 2 of this act has been the subject to a final judgment or has entered into a final settlement or have been subject to an injunction or attachment order in any federal or state court in this or any other state, arising out of the same theft or misappropriation of information technology.

Section 7 adds a new provision that requires a ninety day notice prior to the enforcement of an attachment order and provides for provisions to obtain a bond.

Section 8 provides additional measures to portions of the damage award provisions as against third parties to section 6(2) of this act.

Section 9 is a new section that requires the court to wait 18 months from the effective date of this bill to enforce an award of damages against a third party.

Section 10 is a new section that provides that a violation of this section is not considered a violation of the Consumer Protection Act. The remedies contained within this section are the exclusive remedies.

Section 11 is a new section which is the severability clause.

Section 12 is a new section that makes sections 1 through 10 of this act a new chapter in RCW 19.

The AGO estimates a workload impact of 0.3 Assistant Attorney General (AAG), 0.2 Investigator (INV), 0.2 Paralegal (PL), and 0.2 Legal Assistant (LA) at a cost of \$111,909 in Fiscal Year (FY) 2012, and 0.3 AAG, 0.2 INV, 0.2 PL, and 0.2 LA at a cost of \$116,909 in FY2013 and in each FY thereafter.

The increase in staffing is to provide legal services for bringing civil law enforcement actions in commercial areas.

We estimate direct litigation costs at \$10,000 in FY2012 and \$15,000 in FY2013 and in each FY thereafter, which are included in this cost. Direct litigation costs are for consultation and testimony of expert witnesses.

This bill is assumed effective July 1, 2011.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

AGO Consumer Protection activities are funded with General Fund-State dollars.

We also assume that recoveries generated in the future based on this legislation will allow the AGO to rely less on GFS funds, which will be replaced by the recoveries.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The AGO estimates a workload impact of 0.3 AAG, 0.2 INV, 0.2 PL, and 0.2 LA at a cost of \$111,909 in FY2012, and 0.3 AAG, 0.2 INV, 0.2 PL, and 0.2 LA at a cost of \$116,909 in FY2013 and in each FY thereafter.

We estimate direct litigation costs at \$10,000 in FY2012 and \$15,000 in FY2013 and in each FY thereafter, which are included in this cost.

Assumptions:

1. We assume up to three (3) actions per year as the minimum necessary to effect general deterrence and test the law.
2. We assume legal services are necessary to provide related business education and outreach to foster voluntary

compliance of this act.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2012	FY 2013	2011-13	2013-15	2015-17
FTE Staff Years	0.9	0.9	0.9		
A-Salaries and Wages	59,386	59,386	118,772	118,772	118,772
B-Employee Benefits	16,629	16,629	33,258	33,258	33,258
C-Personal Service Contracts	10,000	15,000	25,000	30,000	30,000
E-Goods and Services	17,289	21,789	39,078	43,578	43,578
G-Travel	2,685	2,685	5,370	5,370	5,370
J-Capital Outlays	5,920	1,420	7,340	2,840	2,840
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$111,909	\$116,909	\$228,818	\$233,818	\$233,818

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2012	FY 2013	2011-13	2013-15	2015-17
Assistant Attorney General	83,952	0.3	0.3	0.3		
Investigator 4	69,756	0.2	0.2	0.2		
Legal Assistant	42,588	0.2	0.2	0.2		
Paralegal 2	58,656	0.2	0.2	0.2		
Total FTE's	254,952	0.9	0.9	0.9		0.0

III. C - Expenditures By Program (optional)

Program	FY 2012	FY 2013	2011-13	2013-15	2015-17
Consumer Protection Division (CPR)	111,909	116,909	228,818	233,818	233,818
Total \$	111,909	116,909	228,818	233,818	233,818

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.