

By Senator Saunders

24-1035-99

See HB 43

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.07, F.S.; revising the exemption from
 4 public records requirements for personal
 5 information contained in a motor vehicle
 6 record; removing the requirement that said
 7 exemption be conditioned on a request for
 8 exemption by the person who is the subject of
 9 the record; providing a finding of public
 10 necessity; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (bb) of subsection (3) of section
 15 119.07, Florida Statutes, 1998 Supplement, is amended to read:
 16 119.07 Inspection, examination, and duplication of
 17 records; exemptions.--

18 (3)

19 (bb) All ~~Upon a request made in a form designated by~~
 20 ~~the Department of Highway Safety and Motor Vehicles,~~ personal
 21 information contained in a motor vehicle record maintained by
 22 the Department of Highway Safety and Motor Vehicles that
 23 identifies the person who is the subject of the record
 24 ~~requester~~ is exempt from subsection (1) and s. 24(a), Art. I
 25 of the State Constitution except as provided in this
 26 paragraph. Personal information includes, but is not limited
 27 to, the ~~requester's~~ social security number, driver
 28 identification number, name, address, and telephone number of
 29 the person who is the subject of the record, and medical or
 30 disability information about that person. For purposes of
 31 this paragraph, personal information does not include

1 information relating to vehicular crashes, driving violations,
2 and driver's status. ~~Such request may be made only by the~~
3 ~~person who is the subject of the motor vehicle record.~~ For
4 purposes of this paragraph, "motor vehicle record" means any
5 record that pertains to a motor vehicle operator's permit,
6 motor vehicle title, motor vehicle registration, or
7 identification card issued by the Department of Highway Safety
8 and Motor Vehicles. Personal information contained in motor
9 vehicle records ~~exempted by an individual's request pursuant~~
10 ~~to this paragraph~~ shall be released by the department for any
11 of the following uses:

12 1. For use in connection with matters of motor vehicle
13 or driver safety and theft; motor vehicle emissions; motor
14 vehicle product alterations, recalls, or advisories;
15 performance monitoring of motor vehicles and dealers by motor
16 vehicle manufacturers; and removal of nonowner records from
17 the original owner records of motor vehicle manufacturers, to
18 carry out the purposes of the Automobile Information
19 Disclosure Act, the Motor Vehicle Information and Cost Saving
20 Act, the National Traffic and Motor Vehicle Safety Act of
21 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

22 2. For use by any government agency, including any
23 court or law enforcement agency, in carrying out its
24 functions, or any private person or entity acting on behalf of
25 a federal, state, or local agency in carrying out its
26 functions.

27 3. For use in connection with matters of motor vehicle
28 or driver safety and theft; motor vehicle emissions; motor
29 vehicle product alterations, recalls, or advisories;
30 performance monitoring of motor vehicles, motor vehicle parts,
31 and dealers; motor vehicle market research activities,

1 including survey research; and removal of nonowner records
2 from the original owner records of motor vehicle
3 manufacturers.

4 4. For use in the normal course of business by a
5 legitimate business or its agents, employees, or contractors,
6 but only:

7 a. To verify the accuracy of personal information
8 submitted by the individual to the business or its agents,
9 employees, or contractors; and

10 b. If such information as so submitted is not correct
11 or is no longer correct, to obtain the correct information,
12 but only for the purposes of preventing fraud by, pursuing
13 legal remedies against, or recovering on a debt or security
14 interest against, the individual.

15 5. For use in connection with any civil, criminal,
16 administrative, or arbitral proceeding in any court or agency
17 or before any self-regulatory body for:

18 a. Service of process by any certified process server,
19 special process server, or other person authorized to serve
20 process in this state.

21 b. Investigation in anticipation of litigation by an
22 attorney licensed to practice law in this state or the agent
23 of the attorney.

24 c. Investigation by any person in connection with any
25 filed proceeding.

26 d. Execution or enforcement of judgments and orders.

27 e. Compliance with an order of any court.

28 6. For use in research activities and for use in
29 producing statistical reports, so long as the personal
30 information is not published, redisclosed, or used to contact
31 individuals.

1 7. For use by any insurer or insurance support
2 organization, or by a self-insured entity, or its agents,
3 employees, or contractors, in connection with claims
4 investigation activities, anti-fraud activities, rating, or
5 underwriting.

6 8. For use in providing notice to the owners of towed
7 or impounded vehicles.

8 9. For use by any licensed private investigative
9 agency or licensed security service for any purpose permitted
10 under this paragraph. Personal information obtained based on
11 an exempt driver's record may not be provided to a client who
12 cannot demonstrate a need based on a police report, court
13 order, or a business or personal relationship with the subject
14 of the investigation.

15 10. For use by an employer or its agent or insurer to
16 obtain or verify information relating to a holder of a
17 commercial driver's license that is required under the
18 Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.
19 2710 et seq.

20 11. For use in connection with the operation of
21 private toll transportation facilities.

22 12. For bulk distribution for surveys, marketing, or
23 solicitations when the department has implemented methods and
24 procedures to ensure that:

25 a. Individuals are provided an opportunity, in a clear
26 and conspicuous manner, to prohibit such uses; and

27 b. The information will be used, rented, or sold
28 solely for bulk distribution for survey, marketing, and
29 solicitations, and that surveys, marketing, and solicitations
30 will not be directed at those individuals who have timely
31 requested that they not be directed at them.

1 13. For any use if the requesting person demonstrates
2 that he or she has obtained the written consent of the person
3 who is the subject of the motor vehicle record.

4 14. For any other use specifically authorized by state
5 law, if such use is related to the operation of a motor
6 vehicle or public safety.

7
8 Personal information exempted from public disclosure according
9 to this paragraph may be disclosed by the Department of
10 Highway Safety and Motor Vehicles to an individual, firm,
11 corporation, or similar business entity whose primary business
12 interest is to resell or redisclose the personal information
13 to persons who are authorized to receive such information.
14 Prior to the department's disclosure of personal information,
15 such individual, firm, corporation, or similar business entity
16 must first enter into a contract with the department regarding
17 the care, custody, and control of the personal information to
18 ensure compliance with the federal Driver's Privacy Protection
19 Act of 1994 and applicable state laws. An authorized recipient
20 of personal information contained in a motor vehicle record,
21 except a recipient under subparagraph 12., may contract with
22 the Department of Highway Safety and Motor Vehicles to resell
23 or redisclose the information for any use permitted under this
24 paragraph. However, only authorized recipients of personal
25 information under subparagraph 12. may resell or redisclose
26 personal information pursuant to subparagraph 12. Any
27 authorized recipient who resells or rediscloses personal
28 information shall maintain, for a period of 5 years, records
29 identifying each person or entity that receives the personal
30 information and the permitted purpose for which it will be
31 used. Such records shall be made available for inspection upon

1 request by the department. The department shall adopt rules to
2 carry out the purposes of this paragraph and the federal
3 Driver's Privacy Protection Act of 1994, Title XXX, Pub. L.
4 No. 103-322. Rules adopted by the department shall provide for
5 the payment of applicable fees and, prior to the disclosure of
6 personal information pursuant to this paragraph, shall require
7 the meeting of conditions by the requesting person for the
8 purposes of obtaining reasonable assurance concerning the
9 identity of such requesting person, and, to the extent
10 required, assurance that the use will be only as authorized or
11 that the consent of the person who is the subject of the
12 personal information has been obtained. Such conditions may
13 include, but need not be limited to, the making and filing of
14 a written application in such form and containing such
15 information and certification requirements as the department
16 requires.

17 Section 2. The federal Driver's Privacy Protection Act
18 of 1994 prohibits disclosure of information obtained in
19 connection with motor vehicle records that is of a sensitive,
20 personal nature, with specified exceptions. The Legislature
21 has previously found that limiting access to motor vehicle
22 records held by the Department of Highway Safety and Motor
23 Vehicles affords the public an added measure of protection by
24 preventing individuals from obtaining personal information for
25 malicious purposes. The Legislature further finds that it is a
26 public necessity that this personal information be exempt from
27 public disclosure without requiring the person who is the
28 subject of the record to make a formal request to the
29 department for such exemption. Such a requirement allows
30 sensitive, personal information about those persons who have
31 not made a request for exemption to continue to be available

1 for misuse by unscrupulous persons, defeating the public
2 purpose served by this exemption and subjecting those persons
3 to possible harassment and personal danger.

4 Section 3. This act shall take effect upon becoming a
5 law.

6
7 *****

8 HOUSE SUMMARY

9
10 Revises the exemption from public records requirements
11 for personal information contained in a motor vehicle
12 record held by the Department of Highway Safety and Motor
13 Vehicles, removing the requirement that such exemption be
14 conditioned on a request for exemption by the person who
15 is the subject of the record.
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31