

By Representative Harrington

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.

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

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 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.

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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.

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8           HOUSE SUMMARY

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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.

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