

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; restricting release of social
10 security numbers and medical and disability
11 information; revising conditions for the
12 release of information for bulk distribution
13 use; providing for release of information when
14 the subject has given consent; providing that
15 the restrictions on the disclosure of
16 information do not affect the use of organ
17 donor information; providing for rules;
18 providing a finding of public necessity;
19 providing an effective date.

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

22
23 Section 1. Paragraph (bb) of subsection (3) of section
24 119.07, Florida Statutes, is amended to read:

25 119.07 Inspection, examination, and duplication of
26 records; exemptions.--

27 (3)

28 ~~(bb) Upon a request made in a form designated by the~~
29 ~~Department of Highway Safety and Motor Vehicles,~~ Personal
30 information contained in a motor vehicle record that
31 identifies the subject of the record ~~requester~~ is exempt from

1 subsection (1) and s. 24(a), Art. I of the State Constitution
2 except as provided in this paragraph. Personal information
3 includes, but is not limited to, the subject's ~~requester's~~
4 social security number, driver identification number, name,
5 address, and telephone number, and medical or disability
6 information about the subject. For purposes of this
7 paragraph, personal information does not include information
8 relating to vehicular crashes, driving violations, and
9 driver's status. ~~Such request may be made only by the person~~
10 ~~who is the subject of the motor vehicle record.~~For purposes
11 of this paragraph, "motor vehicle record" means any record
12 that pertains to a motor vehicle operator's permit, motor
13 vehicle title, motor vehicle registration, or identification
14 card issued by the Department of Highway Safety and Motor
15 Vehicles. Personal information contained in motor vehicle
16 records exempted by ~~an individual's request pursuant to this~~
17 paragraph shall be released by the department for any of the
18 following uses, except that social security numbers and
19 medical and disability information contained in motor vehicle
20 records shall only be released for the uses set out in
21 subparagraphs 2., 5., 7., 10., and 15.:

22 1. For use in connection with matters of motor vehicle
23 or driver safety and theft; motor vehicle emissions; motor
24 vehicle product alterations, recalls, or advisories;
25 performance monitoring of motor vehicles and dealers by motor
26 vehicle manufacturers; and removal of nonowner records from
27 the original owner records of motor vehicle manufacturers, to
28 carry out the purposes of the Automobile Information
29 Disclosure Act, the Motor Vehicle Information and Cost Saving
30 Act, the National Traffic and Motor Vehicle Safety Act of
31 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

1 2. For use by any government agency, including any
2 court or law enforcement agency, in carrying out its
3 functions, or any private person or entity acting on behalf of
4 a federal, state, or local agency in carrying out its
5 functions.

6 3. For use in connection with matters of motor vehicle
7 or driver safety and theft; motor vehicle emissions; motor
8 vehicle product alterations, recalls, or advisories;
9 performance monitoring of motor vehicles, motor vehicle parts,
10 and dealers; motor vehicle market research activities,
11 including survey research; and removal of nonowner records
12 from the original owner records of motor vehicle
13 manufacturers.

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

17 a. To verify the accuracy of personal information
18 submitted by the individual to the business or its agents,
19 employees, or contractors; and

20 b. If such information as so submitted is not correct
21 or is no longer correct, to obtain the correct information,
22 but only for the purposes of preventing fraud by, pursuing
23 legal remedies against, or recovering on a debt or security
24 interest against, the individual.

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

28 a. Service of process by any certified process server,
29 special process server, or other person authorized to serve
30 process in this state.

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- 1 b. Investigation in anticipation of litigation by an
2 attorney licensed to practice law in this state or the agent
3 of the attorney.
- 4 c. Investigation by any person in connection with any
5 filed proceeding.
- 6 d. Execution or enforcement of judgments and orders.
- 7 e. Compliance with an order of any court.
- 8 6. For use in research activities and for use in
9 producing statistical reports, so long as the personal
10 information is not published, redisclosed, or used to contact
11 individuals.
- 12 7. For use by any insurer or insurance support
13 organization, or by a self-insured entity, or its agents,
14 employees, or contractors, in connection with claims
15 investigation activities, anti-fraud activities, rating, or
16 underwriting.
- 17 8. For use in providing notice to the owners of towed
18 or impounded vehicles.
- 19 9. For use by any licensed private investigative
20 agency or licensed security service for any purpose permitted
21 under this paragraph. Personal information obtained based on
22 an exempt driver's record may not be provided to a client who
23 cannot demonstrate a need based on a police report, court
24 order, or a business or personal relationship with the subject
25 of the investigation.
- 26 10. For use by an employer or its agent or insurer to
27 obtain or verify information relating to a holder of a
28 commercial driver's license that is required under the
29 Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.
30 2710 et seq.
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1 11. For use in connection with the operation of
2 private toll transportation facilities.

3 12. For bulk distribution for surveys, marketing, or
4 solicitations when the person to whom the personal information
5 pertains has given express consent for such use on a form
6 prescribed by the department. Such consent shall remain in
7 effect until it is revoked by the person on a form prescribed
8 by the department.~~department has implemented methods and~~
9 ~~procedures to ensure that:~~

10 a. ~~Individuals are provided an opportunity, in a clear~~
11 ~~and conspicuous manner, to prohibit such uses; and~~

12 b. ~~The information will be used, rented, or sold~~
13 ~~solely for bulk distribution for survey, marketing, and~~
14 ~~solicitations, and that surveys, marketing, and solicitations~~
15 ~~will not be directed at those individuals who have timely~~
16 ~~requested that they not be directed at them.~~

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

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

23 15. For any other use if the person to whom the
24 information pertains has given express consent. Such consent
25 shall remain in effect until it is revoked by the person.

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27 The restrictions on disclosure of personal information
28 provided by this paragraph shall not in any way affect the use
29 of organ donation information on individual driver's licenses
30 nor affect the administration of organ donation initiatives in
31 this state.Personal information exempted from public

1 disclosure according to this paragraph may be disclosed by the
2 Department of Highway Safety and Motor Vehicles to an
3 individual, firm, corporation, or similar business entity
4 whose primary business interest is to resell or redisclose the
5 personal information to persons who are authorized to receive
6 such information. Prior to the department's disclosure of
7 personal information, such individual, firm, corporation, or
8 similar business entity must first enter into a contract with
9 the department regarding the care, custody, and control of the
10 personal information to ensure compliance with the federal
11 Driver's Privacy Protection Act of 1994 and applicable state
12 laws. An authorized recipient of personal information
13 contained in a motor vehicle record, except a recipient under
14 subparagraph 12., may contract with the Department of Highway
15 Safety and Motor Vehicles to resell or redisclose the
16 information for any use permitted under this paragraph.
17 However, only authorized recipients of personal information
18 under subparagraph 12. may resell or redisclose personal
19 information pursuant to subparagraph 12. Any authorized
20 recipient who resells or rediscloses personal information
21 shall maintain, for a period of 5 years, records identifying
22 each person or entity that receives the personal information
23 and the permitted purpose for which it will be used. Such
24 records shall be made available for inspection upon request by
25 the department. The department shall adopt rules to carry out
26 the purposes of this paragraph and the federal Driver's
27 Privacy Protection Act of 1994, Title XXX, Pub. L. No.
28 103-322, as amended by s. 350 of Pub. L. No. 106-69. Rules
29 adopted by the department shall provide for the payment of
30 applicable fees and, prior to the disclosure of personal
31 information pursuant to this paragraph, shall require the

1 meeting of conditions by the requesting person for the
2 purposes of obtaining reasonable assurance concerning the
3 identity of such requesting person, and, to the extent
4 required, assurance that the use will be only as authorized or
5 that the consent of the person who is the subject of the
6 personal information has been obtained. Such conditions may
7 include, but need not be limited to, the making and filing of
8 a written application in such form and containing such
9 information and certification requirements as the department
10 requires.

11 Section 2. The Legislature finds that it is a public
12 necessity that personal information in a person's motor
13 vehicle record held by the Department of Highway Safety and
14 Motor Vehicles be exempt from public disclosure. Limiting
15 access to motor vehicle records will afford the public an
16 added measure of protection by preventing individuals from
17 obtaining for malicious purposes personal information
18 contained in the state's motor vehicle records. Further, such
19 an exemption will conform state law to the requirements of the
20 federal Driver's Privacy Protection Act of 1994, as amended by
21 s. 350 of Pub. L. No. 106-69, which prohibits disclosure of
22 such information of a sensitive, personal nature, with
23 specified exceptions.

24 Section 3. This act shall take effect January 1, 2003.
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HOUSE SUMMARY

Revises the exemption from public records requirements for personal information contained in a motor vehicle record held by the Department of Highway Safety and Motor Vehicles. Removes the requirement that such exemption be conditioned on a request for exemption by the person who is the subject of the record. Restricts release of social security numbers and medical and disability information. Revises conditions for the release of information for bulk distribution use. Provides for release of information when the subject has given consent. Provides that the restrictions on the disclosure of information do not affect the use of organ donor information.