

By Senator Sebesta

20-1028-02

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 the  
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 on a form  
15          prescribed by the Department of Highway Safety  
16          and Motor Vehicles; providing that the  
17          restrictions on the disclosure of information  
18          do not affect the use of organ donor  
19          information; providing for rulemaking;  
20          providing for future review and repeal;  
21          providing a finding of public necessity;  
22          providing an effective date.

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

26           Section 1. Paragraph (bb) of subsection (3) of section  
27   119.07, Florida Statutes, as amended by section 1 of chapter  
28   2001-364, Laws of Florida, is amended to read:

29           119.07 Inspection, examination, and duplication of  
30 records; exemptions.--

31           (3)

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

26           1. For use in connection with matters of motor vehicle  
27 or driver safety and theft; motor vehicle emissions; motor  
28 vehicle product alterations, recalls, or advisories;  
29 performance monitoring of motor vehicles and dealers by motor  
30 vehicle manufacturers; and removal of nonowner records from  
31 the original owner records of motor vehicle manufacturers, to

1 carry out the purposes of the Automobile Information  
2 Disclosure Act, the Motor Vehicle Information and Cost Saving  
3 Act, the National Traffic and Motor Vehicle Safety Act of  
4 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

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

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

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

21 a. To verify the accuracy of personal information  
22 submitted by the individual to the business or its agents,  
23 employees, or contractors; and

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

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

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

1 Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.  
2 2710 et seq.

3 11. For use in connection with the operation of  
4 private toll transportation facilities.

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

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

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

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

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

25 15. For any other use if the person to whom the  
26 information pertains has given express consent on a form  
27 prescribed by the department. The consent remains in effect  
28 until it is revoked by the person on a form prescribed by the  
29 department.

30  
31

1 The restrictions on disclosure of personal information  
2 provided by this paragraph do not in any way affect the use of  
3 organ-donation information on individual driver's licenses nor  
4 do they affect the administration of organ-donation  
5 initiatives in this state. Personal information exempted from  
6 public disclosure according to this paragraph may be disclosed  
7 by the Department of Highway Safety and Motor Vehicles to an  
8 individual, firm, corporation, or similar business entity  
9 whose primary business interest is to resell or redisclose the  
10 personal information to persons who are authorized to receive  
11 such information. Prior to the department's disclosure of  
12 personal information, such individual, firm, corporation, or  
13 similar business entity must first enter into a contract with  
14 the department regarding the care, custody, and control of the  
15 personal information to ensure compliance with the federal  
16 Driver's Privacy Protection Act of 1994 and applicable state  
17 laws. An authorized recipient of personal information  
18 contained in a motor vehicle record, except a recipient under  
19 subparagraph 12., may contract with the Department of Highway  
20 Safety and Motor Vehicles to resell or redisclose the  
21 information for any use permitted under this paragraph.  
22 However, only authorized recipients of personal information  
23 under subparagraph 12. may resell or redisclose personal  
24 information pursuant to subparagraph 12. Any authorized  
25 recipient who resells or rediscloses personal information  
26 shall maintain, for a period of 5 years, records identifying  
27 each person or entity that receives the personal information  
28 and the permitted purpose for which it will be used. Such  
29 records shall be made available for inspection upon request by  
30 the department. The department shall adopt rules to carry out  
31 the purposes of this paragraph and the federal Driver's

1 Privacy Protection Act of 1994, Title XXX, Pub. L. No.  
2 103-322, as amended by s. 350 of Pub. L. No. 106-69. Rules  
3 adopted by the department shall provide for the payment of  
4 applicable fees and, prior to the disclosure of personal  
5 information pursuant to this paragraph, shall require the  
6 meeting of conditions by the requesting person for the  
7 purposes of obtaining reasonable assurance concerning the  
8 identity of such requesting person, and, to the extent  
9 required, assurance that the use will be only as authorized or  
10 that the consent of the person who is the subject of the  
11 personal information has been obtained. Such conditions may  
12 include, but need not be limited to, the making and filing of  
13 a written application in such form and containing such  
14 information and certification requirements as the department  
15 requires. This paragraph is subject to the Open Government  
16 Sunset Review Act of 1995, in accordance with s. 119.15, and  
17 shall stand repealed on October 2, 2007, unless reviewed and  
18 saved from repeal through reenactment by the Legislature.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

Section 3. This act shall take effect July 1, 2002.

\*\*\*\*\*

SENATE SUMMARY

Revises the exemption from public records requirements for personal information contained in a motor vehicle record. Removes the requirement that the 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 on a form prescribed by the Department of Highway Safety and Motor Vehicles. Provides that the restrictions on the disclosure of information do not affect the use of organ donor information. Provides for rulemaking. Provides a finding of public necessity.