

By Senator Cowin

11-1758-02

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.07, F.S.; revising exemptions relating to
4 the confidentiality of social security numbers
5 of current and former agency employees and the
6 confidentiality of personal data, including
7 social security numbers, which is collected by
8 the Department of Highway Safety and Motor
9 Vehicles; providing penalties for revealing
10 such social security numbers; providing that
11 the motor vehicle data may be revealed only
12 after the person who is the subject of the data
13 has been given notice and has provided his or
14 her written consent; providing exceptions;
15 providing a statement of public necessity;
16 providing an effective date.

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

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20 Section 1. Paragraphs (x) and (bb) of subsection (3)
21 of section 119.07, Florida Statutes, as amended by section 1
22 of chapter 2001-364, Laws of Florida, are amended to read:

23 119.07 Inspection, examination, and duplication of
24 records; exemptions.--

25 (3)

26 (x)1. The social security numbers of all current and
27 former agency employees which numbers are contained in agency
28 employment records are exempt from subsection (1) and exempt
29 from s. 24(a), Art. I of the State Constitution. As used in
30 this paragraph, the term "agency" means an agency as defined
31 in s. 119.011.

1 2. An individual who is employed by or contracts with
2 an agency may not reveal such a social security number except
3 as specifically required by law and with prior written notice
4 to the holder of the social security number. A violation of
5 this subparagraph is a misdemeanor of the first degree,
6 punishable as provided in s. 775.082 or s. 775.083.

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

29 1. For use in connection with matters of motor vehicle
30 or driver safety and theft; motor vehicle emissions; motor
31 vehicle product alterations, recalls, or advisories;

1 performance monitoring of motor vehicles, motor vehicle parts,
2 and dealers ~~by motor vehicle manufacturers;~~ and removal of
3 nonowner records from the original owner records of motor
4 vehicle manufacturers, to carry out the purposes of the
5 Automobile Information Disclosure Act, the Motor Vehicle
6 Information and Cost Saving Act, the National Traffic and
7 Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of
8 1992, and the Clean Air Act. Notwithstanding any other
9 provision of this paragraph, the subject of the record need
10 not be notified of the release of personal information for use
11 in connection with motor-vehicle theft if he or she is under
12 investigation by a law-enforcement agency in connection with
13 such a matter.

14 2. For use by any government agency, including any
15 court or law enforcement agency, in carrying out its
16 functions, or any private person or entity acting on behalf of
17 a federal, state, or local agency in carrying out its
18 functions.

19 ~~3. For use in connection with matters of motor vehicle~~
20 ~~or driver safety and theft; motor vehicle emissions; motor~~
21 ~~vehicle product alterations, recalls, or advisories;~~
22 ~~performance monitoring of motor vehicles, motor vehicle parts,~~
23 ~~and dealers; motor vehicle market research activities,~~
24 ~~including survey research; and removal of nonowner records~~
25 ~~from the original owner records of motor vehicle~~
26 ~~manufacturers.~~

27 3.4. For use in the normal course of business by a
28 legitimate business or its agents, employees, or contractors,
29 but only:

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1 a. To verify the accuracy of personal information
2 submitted by the individual to the business or its agents,
3 employees, or contractors; and

4 b. If such information as so submitted is not correct
5 or is no longer correct, to obtain the correct information,
6 but only for the purposes of preventing fraud by, pursuing
7 legal remedies against, or recovering on a debt or security
8 interest against, the individual.

9 4.5. For use in connection with any civil, criminal,
10 administrative, or arbitral proceeding in any court or agency
11 or before any self-regulatory body for:

12 a. Service of process by any certified process server,
13 special process server, or other person authorized to serve
14 process in this state.

15 b. Investigation in anticipation of litigation by an
16 attorney licensed to practice law in this state or the agent
17 of the attorney.

18 c. Investigation by any person in connection with any
19 filed proceeding.

20 d. Execution or enforcement of judgments and orders.

21 e. Compliance with an order of any court.

22 5.6. For use in research activities and for use in
23 producing statistical reports, so long as the personal
24 information is not published, redisclosed, or used to contact
25 individuals.

26 6.7. For use by any insurer or insurance support
27 organization, or by a self-insured entity, or its agents,
28 employees, or contractors, in connection with claims
29 investigation activities, anti-fraud activities, rating, or
30 underwriting.

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1 ~~7.8.~~ For use in providing notice to the owners of
2 towed or impounded vehicles.

3 ~~8.9.~~ For use by any licensed private investigative
4 agency or licensed security service for any purpose permitted
5 under this paragraph. Personal information obtained based on
6 an exempt driver's record may not be provided to a client who
7 cannot demonstrate a need based on a police report, a court
8 order, or a compelling need for the information ~~business or~~
9 ~~personal relationship with the subject of the investigation.~~
10 As used in this subparagraph, the term "compelling need"
11 includes potential legal action relating to an alleged
12 default, theft, fraud, or marital infidelity.

13 ~~9.10.~~ For use by an employer or its agent or insurer
14 to obtain or verify information relating to a holder of a
15 commercial driver's license that is required under the
16 Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.
17 2710 et seq.

18 ~~10.11.~~ For use in connection with the operation of
19 private toll transportation facilities.

20 ~~11.12.~~ For bulk distribution for surveys, marketing,
21 or solicitations when the department has implemented methods
22 and procedures to ensure that:

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

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

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1 ~~12.13.~~ For any use if the requesting person
2 demonstrates that he or she has obtained the written consent
3 of the person who is the subject of the motor vehicle record.

4 ~~13.14.~~ For any other use specifically authorized by
5 state law, if such use is related to the operation of a motor
6 vehicle or public safety. Notwithstanding any other provision
7 of this section, the person who is the subject of the record
8 need not receive prior notice of such use.

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10 Personal information exempted from public disclosure according
11 to this paragraph may be disclosed by the Department of
12 Highway Safety and Motor Vehicles to an individual, firm,
13 corporation, or similar business entity whose primary business
14 interest is to resell or redisclose the personal information
15 to persons who are authorized to receive such information.
16 Prior to the department's disclosure of personal information,
17 such individual, firm, corporation, or similar business entity
18 must first enter into a contract with the department regarding
19 the care, custody, and control of the personal information to
20 ensure compliance with the federal Driver's Privacy Protection
21 Act of 1994 and applicable state laws. An authorized recipient
22 of personal information contained in a motor vehicle record,
23 except a recipient under subparagraph ~~11.12.~~, may contract
24 with the Department of Highway Safety and Motor Vehicles to
25 resell or redisclose the information for any use permitted
26 under this paragraph. However, only authorized recipients of
27 personal information under subparagraph ~~11.12.~~ may resell or
28 redisclose personal information pursuant to subparagraph 11.
29 ~~12.~~ Any authorized recipient who resells or rediscloses
30 personal information shall maintain, for a period of 5 years,
31 records identifying each person or entity that receives the

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

19 Section 2. The Legislature finds that it is a public
20 necessity to restrict the disclosure of social security
21 numbers and other personal identifying information gathered by
22 the Department of Highway Safety and Motor Vehicles and to
23 provide penalties for disclosing the social security numbers
24 of current and former agency employees because the ready
25 availability of that data makes it much easier for criminals
26 to perpetrate the increasingly commonplace crime of identity
27 theft, the consequences of which are extremely difficult for
28 the victim to resolve. Furthermore, the confidentiality of
29 such information upholds the precious right of privacy which
30 is provided to residents of this country and of Florida under
31 the United States Constitution and the State Constitution. In

1 addition, the restrictions provided in this act are based in
2 part upon recommendations stated in the "Statewide Grand Jury
3 Report (on) Identity Theft in Florida" (In the Supreme Court
4 of the State of Florida; Case No.: SC 01-1095; First Interim
5 Report of the Sixteenth Statewide Grand Jury, dated January
6 10, 2002).

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

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10 SENATE SUMMARY

11 Revises exemptions from public records requirements
12 relating to social security numbers and other personal
13 data collected by state agencies. Provides penalties for
14 revealing the social security number of a current or
15 former agency employee. Provides a statement of public
16 necessity.
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