

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Russell offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraph (aa) of subsection (3) of section
6 119.07, Florida Statutes, is amended to read:

7 119.07 Inspection, examination, and duplication of
8 records; exemptions.--

9 (3)

10 (aa) ~~Upon a request made in a form designated by the~~
11 ~~Department of Highway Safety and Motor Vehicles,~~ Personal
12 information contained in a motor vehicle record that identifies
13 the subject of that record ~~requester~~ is exempt from subsection
14 (1) and s. 24(a), Art. I of the State Constitution except as
15 provided in this paragraph. Personal information includes, but
16 is not limited to, the subject's ~~requester's~~ social security

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17 | number, driver identification number, name, address, telephone
18 | number, and medical or disability information. For purposes of
19 | this paragraph, personal information does not include
20 | information relating to vehicular crashes, driving violations,
21 | and driver's status. ~~Such request may be made only by the person~~
22 | ~~who is the subject of the motor vehicle record.~~ For purposes of
23 | this paragraph, "motor vehicle record" means any record that
24 | pertains to a motor vehicle operator's permit, motor vehicle
25 | title, motor vehicle registration, or identification card issued
26 | by the Department of Highway Safety and Motor Vehicles. Personal
27 | information contained in motor vehicle records exempted by ~~an~~
28 | ~~individual's request pursuant to~~ this paragraph shall be
29 | released by the department for any of the following uses:

30 | 1. For use in connection with matters of motor vehicle or
31 | driver safety and theft; motor vehicle emissions; motor vehicle
32 | product alterations, recalls, or advisories; performance
33 | monitoring of motor vehicles and dealers by motor vehicle
34 | manufacturers; and removal of nonowner records from the original
35 | owner records of motor vehicle manufacturers, to carry out the
36 | purposes of the Automobile Information Disclosure Act, the Motor
37 | Vehicle Information and Cost Saving Act, the National Traffic
38 | and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of
39 | 1992, and the Clean Air Act.

40 | 2. For use by any government agency, including any court
41 | or law enforcement agency, in carrying out its functions, or any
42 | private person or entity acting on behalf of a federal, state,
43 | or local agency in carrying out its functions.

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44 3. For use in connection with matters of motor vehicle or
45 driver safety and theft; motor vehicle emissions; motor vehicle
46 product alterations, recalls, or advisories; performance
47 monitoring of motor vehicles, motor vehicle parts, and dealers;
48 motor vehicle market research activities, including survey
49 research; and removal of nonowner records from the original
50 owner records of motor vehicle manufacturers.

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

54 a. To verify the accuracy of personal information
55 submitted by the individual to the business or its agents,
56 employees, or contractors; and

57 b. If such information as so submitted is not correct or
58 is no longer correct, to obtain the correct information, but
59 only for the purposes of preventing fraud by, pursuing legal
60 remedies against, or recovering on a debt or security interest
61 against, the individual.

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

65 a. Service of process by any certified process server,
66 special process server, or other person authorized to serve
67 process in this state.

68 b. Investigation in anticipation of litigation by an
69 attorney licensed to practice law in this state or the agent of
70 the attorney; however, the information may not be used for mass

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71 commercial solicitation of clients for litigation against motor
72 vehicle dealers.

73 c. Investigation by any person in connection with any
74 filed proceeding; however, the information may not be used for
75 mass commercial solicitation of clients for litigation against
76 motor vehicle dealers.

77 d. Execution or enforcement of judgments and orders.

78 e. Compliance with an order of any court.

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

82 7. For use by any insurer or insurance support
83 organization, or by a self-insured entity, or its agents,
84 employees, or contractors, in connection with claims
85 investigation activities, anti-fraud activities, rating, or
86 underwriting.

87 8. For use in providing notice to the owners of towed or
88 impounded vehicles.

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

96 10. For use by an employer or its agent or insurer to
97 obtain or verify information relating to a holder of a
98 commercial driver's license that is required under 49 U.S.C. ss.

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99 ~~31301 et seq the Commercial Motor Vehicle Safety Act of 1986, 49~~
100 ~~U.S.C. App. 2710 et seq.~~

101 11. For use in connection with the operation of private
102 toll transportation facilities.

103 12. For bulk distribution for surveys, marketing, or
104 solicitations when the department has obtained the express
105 consent of the person to whom such personal information
106 pertains. ~~implemented methods and procedures to ensure that:~~

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

109 b. ~~The information will be used, rented, or sold solely~~
110 ~~for bulk distribution for survey, marketing, and solicitations,~~
111 ~~and that surveys, marketing, and solicitations will not be~~
112 ~~directed at those individuals who have timely requested that~~
113 ~~they not be directed at them.~~

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

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

120 15. For any other use if the person to whom the
121 information pertains has given express consent on a form
122 prescribed by the department. Such consent shall remain in
123 effect until it is revoked by the person on a form prescribed by
124 the department.

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126 | The restrictions on disclosure of personal information provided
127 | by this paragraph shall not in any way affect the use of organ
128 | donation information on individual driver licenses nor affect
129 | the administration of organ donation initiatives in this state.
130 | Personal information exempted from public disclosure according
131 | to this paragraph may be disclosed by the Department of Highway
132 | Safety and Motor Vehicles to an individual, firm, corporation,
133 | or similar business entity whose primary business interest is to
134 | resell or redisclose the personal information to persons who are
135 | authorized to receive such information. Prior to the
136 | department's disclosure of personal information, such
137 | individual, firm, corporation, or similar business entity must
138 | first enter into a contract with the department regarding the
139 | care, custody, and control of the personal information to ensure
140 | compliance with the federal Driver's Privacy Protection Act of
141 | 1994 and applicable state laws. An authorized recipient of
142 | personal information contained in a motor vehicle record, except
143 | a recipient under subparagraph 12., may contract with the
144 | Department of Highway Safety and Motor Vehicles to resell or
145 | redisclose the information for any use permitted under this
146 | paragraph. However, only authorized recipients of personal
147 | information under subparagraph 12. may resell or redisclose
148 | personal information pursuant to subparagraph 12. Any authorized
149 | recipient who resells or rediscloses personal information shall
150 | maintain, for a period of 5 years, records identifying each
151 | person or entity that receives the personal information and the
152 | permitted purpose for which it will be used. Such records shall
153 | be made available for inspection upon request by the department.

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154 The department shall adopt rules to carry out the purposes of
155 this paragraph and the federal Driver's Privacy Protection Act
156 of 1994, 18 U.S.C. 2721 et seq ~~Title XXX, Pub. L. No. 103-322.~~
157 Rules adopted by the department shall provide for the payment of
158 applicable fees and, prior to the disclosure of personal
159 information pursuant to this paragraph, shall require the
160 meeting of conditions by the requesting person for the purposes
161 of obtaining reasonable assurance concerning the identity of
162 such requesting person, and, to the extent required, assurance
163 that the use will be only as authorized or that the consent of
164 the person who is the subject of the personal information has
165 been obtained. Such conditions may include, but need not be
166 limited to, the making and filing of a written application in
167 such form and containing such information and certification
168 requirements as the department requires.

169 Section 2. Paragraph (aa) of subsection (3) of s. 119.07,
170 Florida Statutes, is subject to the Open Government Sunset
171 Review Act of 1995 in accordance with s. 119.15, Florida
172 Statutes, and shall stand repealed on October 2, 2009, unless
173 reviewed and saved from repeal through reenactment by the
174 Legislature.

175 Section 3. The Legislature finds that it is a public
176 necessity that personal information in an individual's motor
177 vehicle record held by the Department of Highway Safety and
178 Motor Vehicles be exempt from public disclosure. Making such
179 personal information exempt conforms state law to the
180 requirements of the Federal Driver's Privacy Protection Act of
181 1994, as amended by s. 350 of Pub. L. No. 106-69, which

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182 prohibits disclosure of such information of a sensitive,
183 personal nature, with specified exceptions. Additionally, the
184 Legislature notes that the state has a compelling interest in
185 regulating motor vehicles and motor vehicle drivers. The sale of
186 automobiles not only provides jobs for Floridians, but taxes
187 collected from their sale and use provide revenues to the state.
188 It should also be noted that automobiles also are attractive
189 targets for thieves. Theft of automobiles not only deprives the
190 lawful owners of their property but such theft interferes with
191 the chain of title and causes insurance rates to rise. As a
192 result, the state must collect information about automobile
193 sales, the sellers and buyers, insurance companies, and other
194 businesses. Further, the Legislature notes that automobiles, if
195 used improperly, can cause injury and death to persons in this
196 state. Therefore, the state, must ensure that persons who drive
197 in this state are properly trained, licensed, and insured. As a
198 result, the state must collect personal information regarding
199 persons who drive in this state. The personal information that
200 is contained in motor vehicle records, if readily available for
201 public inspection and copying, could be used to invade the
202 personal privacy of the persons named in the records or it could
203 be used for other purposes, such as solicitation, harassment,
204 stalking, and intimidation. Limiting access to the state's motor
205 vehicle records will protect the privacy of persons who are
206 listed in those records and minimize the opportunity for
207 invading that privacy. Thus, the Legislature finds that such
208 personal information in motor vehicle records should be exempt
209 from the requirements of Article I, s. 24 of the State

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210 Constitution. Nevertheless, the Legislature also notes that
211 there are a number of reasons that certain agencies, businesses,
212 and other persons should be granted limited access to exempt
213 personal information contained in motor vehicle records. The
214 Legislature finds that access to this personal information by
215 these governmental and private entities should be continued in a
216 limited, regulated fashion in order to balance the privacy
217 rights of persons named in motor vehicle records with the need
218 for these entities to perform certain important regulatory and
219 economic functions that are important to the health, safety, and
220 welfare of the citizens of the state. Persons named in motor
221 vehicle records may need to be notified of product recalls,
222 advisories, or product monitoring and manufacturers and others
223 need current addresses to contact them. Government agencies,
224 including courts and law enforcement agencies and persons acting
225 on their behalf, may need access to carry out their
226 legislatively assigned functions. Additionally, researchers,
227 investigators, insurance companies, and other businesses and
228 industries often must rely on personal information in motor
229 vehicle records to operate and perform certain business
230 functions. Such information should be available in the normal
231 course of business by legitimate businesses, their agents,
232 employees, or contractors to verify the accuracy of personal
233 information and to obtain correct information; to prevent fraud;
234 to pursue legal remedies against; or to recover on a debt or
235 security interest. Further, such exempt information should be
236 available for use in connection with any civil, criminal,
237 administrative, or arbitral proceeding for service of process;

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238 execution of enforcement of judgments and orders; compliance
 239 with an order of any court; by insurers or support organizations
 240 in connection with claims for investigation activities, anti-
 241 fraud activities, and rating or underwriting; and for providing
 242 notice to owners of towed or impounded vehicles. Access to such
 243 exempt information should also be provided for investigation in
 244 anticipation of litigation or for a filed proceeding, but the
 245 Legislature finds that authorizing access to motor vehicle
 246 records for these limited purposes should not be construed to
 247 permit mass commercial solicitation of clients for litigation
 248 against motor vehicle dealers because it would be contrary to
 249 the limited access contemplated by the exceptions to the
 250 exemption and would further invade the privacy of persons named
 251 in these records. Further, researchers, investigators, or
 252 insurance companies may need to access the large database of
 253 motor vehicle records for use in producing statistical reports,
 254 but the Legislature finds that this access should not infringe
 255 upon the privacy of the persons named in the records by
 256 publishing, redisclosing, or using that information or to
 257 contact the named persons. Thus, the Legislature specifically
 258 finds that it is a public necessity that personal information in
 259 motor vehicle records must be exempt, with the limited
 260 exceptions to that exemption authorized herein.

261 Section 4. This act shall take effect October 1, 2004.

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 263
 264 ===== T I T L E A M E N D M E N T =====
 265 Remove the entire title and insert:

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266 A bill to be entitled
267 An act relating to public records; amending s. 119.07,
268 F.S.; revising the exemption from public records
269 requirements for personal information contained in a motor
270 vehicle record; removing the requirement that the
271 exemption be conditioned on a request for exemption by the
272 person who is the subject of the record; revising certain
273 conditions under which the Department of Highway Safety
274 and Motor Vehicles may release information in connection
275 with a legal proceeding; revising conditions for the
276 release of information for bulk distribution use;
277 providing for release of information when the department
278 has obtained consent from the subject of the record;
279 providing that the restrictions on the disclosure of
280 information do not affect the use of organ donor
281 information; providing for future repeal and legislative
282 review; providing legislative finding of public necessity;
283 providing an effective date.