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1                                   A bill to be entitled  
 2           An act relating to public records; amending s. 119.07,  
 3           F.S.; revising conditions for exemption from public  
 4           records of certain information held by the Department of  
 5           Highway Safety and Motor Vehicles; revising provisions for  
 6           release of such information; providing for future repeal  
 7           and legislative review; providing legislative finding of  
 8           public necessity; providing an effective date.

9  
 10   Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Paragraph (aa) of subsection (3) of section  
 13   119.07, Florida Statutes, is amended to read:

14           119.07   Inspection, examination, and duplication of  
 15   records; exemptions.--

16           (3)

17           (aa) ~~Upon a request made in a form designated by the~~  
 18   ~~Department of Highway Safety and Motor Vehicles,~~ Personal  
 19   information contained in a motor vehicle record that identifies  
 20   the subject of that record, held by the Department of Highway  
 21   Safety and Motor Vehicles, ~~requester~~ is exempt from subsection  
 22   (1) and s. 24(a), Art. I of the State Constitution except as  
 23   provided in this paragraph. Personal information includes, but  
 24   is not limited to, the subject's ~~requester's~~ social security  
 25   number, driver identification number, name, address, telephone  
 26   number, and medical or disability information. For purposes of  
 27   this paragraph, personal information does not include  
 28   information relating to vehicular crashes, driving violations,  
 29   and driver's status. ~~Such request may be made only by the person~~

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30 ~~who is the subject of the motor vehicle record.~~ For purposes of  
 31 this paragraph, "motor vehicle record" means any record that  
 32 pertains to a motor vehicle operator's permit, motor vehicle  
 33 title, motor vehicle registration, or identification card issued  
 34 by the Department of Highway Safety and Motor Vehicles. Personal  
 35 information contained in motor vehicle records exempted by ~~an~~  
 36 ~~individual's request pursuant to~~ this paragraph shall be  
 37 released by the department for any of the following uses:

38 1. For use in connection with matters of motor vehicle or  
 39 driver safety and theft; motor vehicle emissions; motor vehicle  
 40 product alterations, recalls, or advisories; performance  
 41 monitoring of motor vehicles and dealers by motor vehicle  
 42 manufacturers; and removal of nonowner records from the original  
 43 owner records of motor vehicle manufacturers, to carry out the  
 44 purposes of the Automobile Information Disclosure Act, the Motor  
 45 Vehicle Information and Cost Saving Act, the National Traffic  
 46 and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of  
 47 1992, and the Clean Air Act.

48 2. For use by any government agency, including any court  
 49 or law enforcement agency, in carrying out its functions, or any  
 50 private person or entity acting on behalf of a federal, state,  
 51 or local agency in carrying out its functions.

52 3. For use in connection with matters of motor vehicle or  
 53 driver safety and theft; motor vehicle emissions; motor vehicle  
 54 product alterations, recalls, or advisories; performance  
 55 monitoring of motor vehicles, motor vehicle parts, and dealers;  
 56 motor vehicle market research activities, including survey  
 57 research; and removal of nonowner records from the original  
 58 owner records of motor vehicle manufacturers.

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59 4. For use in the normal course of business by a  
 60 legitimate business or its agents, employees, or contractors,  
 61 but only:

62 a. To verify the accuracy of personal information  
 63 submitted by the individual to the business or its agents,  
 64 employees, or contractors; and

65 b. If such information as so submitted is not correct or  
 66 is no longer correct, to obtain the correct information, but  
 67 only for the purposes of preventing fraud by, pursuing legal  
 68 remedies against, or recovering on a debt or security interest  
 69 against, the individual.

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

73 a. Service of process by any certified process server,  
 74 special process server, or other person authorized to serve  
 75 process in this state.

76 b. Investigation in anticipation of litigation by an  
 77 attorney licensed to practice law in this state or the agent of  
 78 the attorney; however, the information may not be used for mass  
 79 commercial solicitation of clients for litigation against motor  
 80 vehicle dealers.

81 c. Investigation by any person in connection with any  
 82 filed proceeding; however, the information may not be used for  
 83 mass commercial solicitation of clients for litigation against  
 84 motor vehicle dealers.

85 d. Execution or enforcement of judgments and orders.

86 e. Compliance with an order of any court.

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

90           7. For use by any insurer or insurance support  
91 organization, or by a self-insured entity, or its agents,  
92 employees, or contractors, in connection with claims  
93 investigation activities, anti-fraud activities, rating, or  
94 underwriting.

95           8. For use in providing notice to the owners of towed or  
96 impounded vehicles.

97           9. For use by any licensed private investigative agency or  
98 licensed security service for any purpose permitted under this  
99 paragraph. Personal information obtained based on an exempt  
100 driver's record may not be provided to a client who cannot  
101 demonstrate a need based on a police report, court order, or a  
102 business or personal relationship with the subject of the  
103 investigation.

104           10. For use by an employer or its agent or insurer to  
105 obtain or verify information relating to a holder of a  
106 commercial driver's license that is required under 49 U.S.C. ss.  
107 31301 et seq ~~the Commercial Motor Vehicle Safety Act of 1986, 49~~  
108 ~~U.S.C. App. 2710 et seq.~~

109           11. For use in connection with the operation of private  
110 toll transportation facilities.

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

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

117 ~~b. The information will be used, rented, or sold solely~~  
 118 ~~for bulk distribution for survey, marketing, and solicitations,~~  
 119 ~~and that surveys, marketing, and solicitations will not be~~  
 120 ~~directed at those individuals who have timely requested that~~  
 121 ~~they not be directed at them.~~

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

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

128 15. For any other use if the person to whom the  
 129 information pertains has given express consent on a form  
 130 prescribed by the department. Such consent shall remain in  
 131 effect until it is revoked by the person on a form prescribed by  
 132 the department.

133  
 134 The restrictions on disclosure of personal information provided  
 135 by this paragraph shall not in any way affect the use of organ  
 136 donation information on individual driver licenses nor affect  
 137 the administration of organ donation initiatives in this state.

138 Personal information exempted from public disclosure according  
 139 to this paragraph may be disclosed by the Department of Highway  
 140 Safety and Motor Vehicles to an individual, firm, corporation,  
 141 or similar business entity whose primary business interest is to  
 142 resell or redisclose the personal information to persons who are  
 143 authorized to receive such information. Prior to the

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144 department's disclosure of personal information, such  
 145 individual, firm, corporation, or similar business entity must  
 146 first enter into a contract with the department regarding the  
 147 care, custody, and control of the personal information to ensure  
 148 compliance with the federal Driver's Privacy Protection Act of  
 149 1994 and applicable state laws. An authorized recipient of  
 150 personal information contained in a motor vehicle record, except  
 151 a recipient under subparagraph 12., may contract with the  
 152 Department of Highway Safety and Motor Vehicles to resell or  
 153 redisclose the information for any use permitted under this  
 154 paragraph. However, only authorized recipients of personal  
 155 information under subparagraph 12. may resell or redisclose  
 156 personal information pursuant to subparagraph 12. Any authorized  
 157 recipient who resells or rediscloses personal information shall  
 158 maintain, for a period of 5 years, records identifying each  
 159 person or entity that receives the personal information and the  
 160 permitted purpose for which it will be used. Such records shall  
 161 be made available for inspection upon request by the department.  
 162 The department shall adopt rules to carry out the purposes of  
 163 this paragraph and the federal Driver's Privacy Protection Act  
 164 of 1994, 18 U.S.C. 2721 et seq ~~Title XXX, Pub. L. No. 103-322.~~  
 165 Rules adopted by the department shall provide for the payment of  
 166 applicable fees and, prior to the disclosure of personal  
 167 information pursuant to this paragraph, shall require the  
 168 meeting of conditions by the requesting person for the purposes  
 169 of obtaining reasonable assurance concerning the identity of  
 170 such requesting person, and, to the extent required, assurance  
 171 that the use will be only as authorized or that the consent of  
 172 the person who is the subject of the personal information has

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173 been obtained. Such conditions may include, but need not be  
 174 limited to, the making and filing of a written application in  
 175 such form and containing such information and certification  
 176 requirements as the department requires.

177 Section 2. Paragraph (aa) of subsection (3) of s. 119.07,  
 178 Florida Statutes, is subject to the Open Government Sunset  
 179 Review Act of 1995 in accordance with s. 119.15, Florida  
 180 Statutes, and shall stand repealed on October 2, 2009, unless  
 181 reviewed and saved from repeal through reenactment by the  
 182 Legislature.

183 Section 3. The Legislature finds that it is a public  
 184 necessity that personal information in a person's motor vehicle  
 185 record held by the Department of Highway Safety and Motor  
 186 Vehicles be exempt from public disclosure. Limiting access to  
 187 motor vehicle records affords the public an added measure of  
 188 protection by preventing individuals from obtaining for  
 189 malicious purposes personal information contained in the state's  
 190 motor vehicle records. Further, such an exemption will conform  
 191 state law to the requirements of the federal Driver's Privacy  
 192 Protection Act of 1994, as amended by section 350 of Public Law  
 193 106-69, which prohibits the disclosure of such information of a  
 194 sensitive, personal nature, with specified exceptions, and  
 195 provides a civil penalty of up to \$5,000 a day for each day a  
 196 state department of motor vehicles is found to have a policy or  
 197 practice of substantial noncompliance.

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