

By Senators Sebesta, Clary and Geller

16-187A-04

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 the release of social  
10          security numbers and medical and disability  
11          information; eliminating certain conditions  
12          under which the Department of Highway Safety  
13          and Motor Vehicles may release information in  
14          connection with a legal proceeding; revising  
15          conditions for the release of information for  
16          bulk distribution use; providing for release of  
17          information when the subject has given consent  
18          on a form prescribed by the department;  
19          providing that the restrictions on the  
20          disclosure of information do not affect the use  
21          of organ donor information; providing for  
22          rulemaking; providing for future legislative  
23          review and repeal; providing a finding of  
24          public necessity; providing an effective date.

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

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28           Section 1. Paragraph (aa) of subsection (3) of section  
29 119.07, Florida Statutes, is amended to read:

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

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

1 the original owner records of motor vehicle manufacturers, to  
2 carry out the purposes of the Automobile Information  
3 Disclosure Act, the Motor Vehicle Information and Cost Saving  
4 Act, the National Traffic and Motor Vehicle Safety Act of  
5 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

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

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

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

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

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

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

4           a. Service of process by any certified process server,  
5 special process server, or other person authorized to serve  
6 process in this state.

7           ~~b. Investigation in anticipation of litigation by an~~  
8 ~~attorney licensed to practice law in this state or the agent~~  
9 ~~of the attorney.~~

10           ~~c. Investigation by any person in connection with any~~  
11 ~~filed proceeding.~~

12           b.d. Execution or enforcement of judgments and orders.

13           c.e. Compliance with an order of any court.

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

18           7. For use by any insurer or insurance support  
19 organization, or by a self-insured entity, or its agents,  
20 employees, or contractors, in connection with claims  
21 investigation activities, anti-fraud activities, rating, or  
22 underwriting.

23           8. For use in providing notice to the owners of towed  
24 or impounded vehicles.

25           9. For use by any licensed private investigative  
26 agency or licensed security service for any purpose permitted  
27 under this paragraph. Personal information obtained based on  
28 an exempt driver's record may not be provided to a client who  
29 cannot demonstrate a need based on a police report, court  
30 order, or a business or personal relationship with the subject  
31 of the investigation.

1           10. For use by an employer or its agent or insurer to  
2 obtain or verify information relating to a holder of a  
3 commercial driver's license that is required under the  
4 Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.  
5 2710 et seq.

6           11. For use in connection with the operation of  
7 private toll transportation facilities.

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

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

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

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

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

28           15. For any other use if the person to whom the  
29 information pertains has given express consent on a form  
30 prescribed by the department. The consent remains in effect  
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1 until it is revoked by the person on a form prescribed by the  
2 department.  
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4 The restrictions on disclosure of personal information  
5 provided by this paragraph do not in any way affect the use of  
6 organ-donation information on individual driver's licenses and  
7 do not affect the administration of organ-donation initiatives  
8 in this state. Personal information exempted from public  
9 disclosure according to this paragraph may be disclosed by the  
10 Department of Highway Safety and Motor Vehicles to an  
11 individual, firm, corporation, or similar business entity  
12 whose primary business interest is to resell or redisclose the  
13 personal information to persons who are authorized to receive  
14 such information. Prior to the department's disclosure of  
15 personal information, such individual, firm, corporation, or  
16 similar business entity must first enter into a contract with  
17 the department regarding the care, custody, and control of the  
18 personal information to ensure compliance with the federal  
19 Driver's Privacy Protection Act of 1994 and applicable state  
20 laws. An authorized recipient of personal information  
21 contained in a motor vehicle record, except a recipient under  
22 subparagraph 12., may contract with the Department of Highway  
23 Safety and Motor Vehicles to resell or redisclose the  
24 information for any use permitted under this paragraph.  
25 However, only authorized recipients of personal information  
26 under subparagraph 12. may resell or redisclose personal  
27 information pursuant to subparagraph 12. Any authorized  
28 recipient who resells or rediscloses personal information  
29 shall maintain, for a period of 5 years, records identifying  
30 each person or entity that receives the personal information  
31 and the permitted purpose for which it will be used. Such

1 records shall be made available for inspection upon request by  
2 the department. The department shall adopt rules to carry out  
3 the purposes of this paragraph and the federal Driver's  
4 Privacy Protection Act of 1994, Title XXX, Pub. L. No.  
5 103-322, as amended by s. 350 of Pub. L. No. 106-69. Rules  
6 adopted by the department shall provide for the payment of  
7 applicable fees and, prior to the disclosure of personal  
8 information pursuant to this paragraph, shall require the  
9 meeting of conditions by the requesting person for the  
10 purposes of obtaining reasonable assurance concerning the  
11 identity of such requesting person, and, to the extent  
12 required, assurance that the use will be only as authorized or  
13 that the consent of the person who is the subject of the  
14 personal information has been obtained. Such conditions may  
15 include, but need not be limited to, the making and filing of  
16 a written application in such form and containing such  
17 information and certification requirements as the department  
18 requires. This paragraph is subject to the Open Government  
19 Sunset Review Act of 1995, in accordance with s. 119.15, and  
20 shall stand repealed on October 2, 2008, unless reviewed and  
21 saved from repeal through reenactment by the Legislature.

22 Section 2. The Legislature finds that it is a public  
23 necessity that personal information in an individual's motor  
24 vehicle record held by the Department of Highway Safety and  
25 Motor Vehicles be exempt from public disclosure. Limiting  
26 access to the state's motor vehicle records will afford the  
27 public an added measure of protection by preventing  
28 individuals from obtaining for malicious purposes personal  
29 information contained in the records. Further, such an  
30 exemption conforms state law to the requirements of the  
31 federal Driver's Privacy Protection Act of 1994, as amended by

1 s. 350 of Pub. L. No. 106-69, which prohibits disclosure of  
2 such information of a sensitive, personal nature, with  
3 specified exceptions.

4 Section 3. This act shall take effect July 1, 2004.

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7 SENATE SUMMARY

8 Revises the exemption from public-records requirements  
9 for personal information contained in a motor vehicle  
10 record with the Department of Highway Safety and Motor  
11 Vehicles. Provides that the driver's licenseholder must  
12 "opt out" of the requirement that information in driver's  
13 license records be withheld from public disclosure.  
14 Restricts release of social security numbers and medical  
15 and disability information. Revises conditions for  
16 releasing information in connection with a legal  
17 proceeding. Revises conditions for the release of  
18 information for bulk distribution use. Provides that the  
19 driver's licenseholder must specifically consent to  
20 disclosure of information for survey, marketing, or  
21 solicitation purposes. Provides that the restrictions on  
22 the disclosure of information do not affect the use of  
23 organ donor information. Provides for future legislative  
24 review and repeal. Provides a finding of public  
25 necessity.  
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