

By the Committee on Transportation; and Senators Sebesta,
Clary, Geller and Lynn

306-2053-04

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; revising certain conditions under
12 which the Department of Highway Safety and
13 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:
27

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.--

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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 contained in motor vehicle
24 records may be released only as provided in s. 119.0721 and
25 except that medical and disability information contained in
26 motor vehicle records may be released only as provided in s.
27 322.126:

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

1 | vehicle manufacturers; and removal of nonowner records from
2 | the original owner records of motor vehicle manufacturers, to
3 | carry out the purposes of the Automobile Information
4 | Disclosure Act, the Motor Vehicle Information and Cost Saving
5 | Act, the National Traffic and Motor Vehicle Safety Act of
6 | 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

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

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

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

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

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

31 |

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; provided, however, that the information may
10 not be used for mass commercial solicitation of clients for
11 litigation against motor vehicle dealers.

12 c. Investigation by any person in connection with any
13 filed proceeding; provided, however, that the information may
14 not be used for mass commercial solicitation of clients for
15 litigation against motor vehicle dealers.

16 d. Execution or enforcement of judgments and orders.

17 e. Compliance with an order of any court.

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

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

27 8. For use in providing notice to the owners of towed
28 or impounded vehicles.

29 9. For use by any licensed private investigative
30 agency or licensed security service for any purpose permitted
31 under this paragraph. Personal information obtained based on

1 | an exempt driver's record may not be provided to a client who
2 | cannot demonstrate a need based on a police report, court
3 | order, or a business or personal relationship with the subject
4 | of the investigation.

5 | 10. For use by an employer or its agent or insurer to
6 | obtain or verify information relating to a holder of a
7 | commercial driver's license that is required under the
8 | Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App.
9 | 2710 et seq.

10 | 11. For use in connection with the operation of
11 | private toll transportation facilities.

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

19 | a. ~~Individuals are provided an opportunity, in a clear~~
20 | ~~and conspicuous manner, to prohibit such uses; and~~

21 | b. ~~The information will be used, rented, or sold~~
22 | ~~solely for bulk distribution for survey, marketing, and~~
23 | ~~solicitations, and that surveys, marketing, and solicitations~~
24 | ~~will not be directed at those individuals who have timely~~
25 | ~~requested that they not be directed at them.~~

26 | 13. For any use if the requesting person demonstrates
27 | that he or she has obtained the written consent of the person
28 | who is the subject of the motor vehicle record.

29 | 14. For any other use specifically authorized by state
30 | law, if such use is related to the operation of a motor
31 | vehicle or public safety.

1 15. For any other use if the person to whom the
2 information pertains has given express consent on a form
3 prescribed by the department. The consent remains in effect
4 until it is revoked by the person on a form prescribed by the
5 department.

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7 The restrictions on disclosure of personal information
8 provided by this paragraph do not in any way affect the use of
9 organ-donation information on individual driver's licenses and
10 do not affect the administration of organ-donation initiatives
11 in this state. Personal information exempted from public

12 disclosure according to this paragraph may be disclosed by the
13 Department of Highway Safety and Motor Vehicles to an
14 individual, firm, corporation, or similar business entity
15 whose primary business interest is to resell or redisclose the
16 personal information to persons who are authorized to receive
17 such information. Prior to the department's disclosure of
18 personal information, such individual, firm, corporation, or
19 similar business entity must first enter into a contract with
20 the department regarding the care, custody, and control of the
21 personal information to ensure compliance with the federal
22 Driver's Privacy Protection Act of 1994 and applicable state
23 laws. An authorized recipient of personal information
24 contained in a motor vehicle record, except a recipient under
25 subparagraph 12., may contract with the Department of Highway
26 Safety and Motor Vehicles to resell or redisclose the
27 information for any use permitted under this paragraph.

28 However, only authorized recipients of personal information
29 under subparagraph 12. may resell or redisclose personal
30 information pursuant to subparagraph 12. Any authorized
31 recipient who resells or rediscloses personal information

1 shall maintain, for a period of 5 years, records identifying
2 each person or entity that receives the personal information
3 and the permitted purpose for which it will be used. Such
4 records shall be made available for inspection upon request by
5 the department. The department shall adopt rules to carry out
6 the purposes of this paragraph and the federal Driver's
7 Privacy Protection Act of 1994, Title XXX, Pub. L. No.
8 103-322, as amended by s. 350 of Pub. L. No. 106-69. Rules
9 adopted by the department shall provide for the payment of
10 applicable fees and, prior to the disclosure of personal
11 information pursuant to this paragraph, shall require the
12 meeting of conditions by the requesting person for the
13 purposes of obtaining reasonable assurance concerning the
14 identity of such requesting person, and, to the extent
15 required, assurance that the use will be only as authorized or
16 that the consent of the person who is the subject of the
17 personal information has been obtained. Such conditions may
18 include, but need not be limited to, the making and filing of
19 a written application in such form and containing such
20 information and certification requirements as the department
21 requires. This paragraph is subject to the Open Government
22 Sunset Review Act of 1995, in accordance with s. 119.15, and
23 shall stand repealed on October 2, 2009, unless reviewed and
24 saved from repeal through reenactment by the Legislature.

25 Section 2. The Legislature finds that it is a public
26 necessity that personal information in an individual's motor
27 vehicle record held by the Department of Highway Safety and
28 Motor Vehicles be exempt from public disclosure. Limiting
29 access to the state's motor vehicle records will afford the
30 public an added measure of protection by preventing
31 individuals from obtaining for malicious purposes personal

1 information contained in the records. Further, such an
2 exemption conforms state law to the requirements of the
3 federal Driver's Privacy Protection Act of 1994, as amended by
4 s. 350 of Pub. L. No. 106-69, which prohibits disclosure of
5 such information of a sensitive, personal nature, with
6 specified exceptions.

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

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 2008

12 This CS restricts the disclosure of social security numbers
13 and medical and disability information contained in motor
vehicle records as provided in ss. 119.0721 and 322.126, F.S.

14 In addition, the CS revises two exceptions allowing for public
15 disclosure in connection with a legal proceeding specifying
16 the information may not be used for mass commercial
solicitation of clients for litigation against motor vehicle
dealers.