

1 A bill to be entitled
 2 An act relating to public records; amending s. 119.0712,
 3 F.S.; revising public records exemption provisions for
 4 personal information in Department of Highway Safety and
 5 Motor Vehicles records; including identification card
 6 numbers in a list of items that are considered personal
 7 information; revising provisions for disclosure of
 8 personal information in department records; providing
 9 conditions for the release of certain information without
 10 the express consent of the person to whom such information
 11 applies; providing for future review and repeal; providing
 12 a statement of public necessity; providing an effective
 13 date.

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

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 17 Section 1. Subsection (2) of section 119.0712, Florida
 18 Statutes, is amended to read:

19 119.0712 Executive branch agency-specific exemptions from
 20 inspection or copying of public records.--

21 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--

22 (a) Personal information contained in a motor vehicle
 23 record that identifies an individual ~~the subject of that record~~
 24 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 25 I of the State Constitution except as provided in this
 26 subsection ~~section~~. Personal information includes, but is not
 27 limited to, an individual's ~~the subject's~~ social security
 28 number, driver identification number or identification card

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29 number, name, address, telephone number, ~~and~~ medical or
 30 disability information, and emergency contact information. For
 31 purposes of this subsection, personal information does not
 32 include information relating to vehicular crashes, driving
 33 violations, and driver's status. For purposes of this
 34 subsection, the term "motor vehicle record" means any record
 35 that pertains to a motor vehicle operator's permit, motor
 36 vehicle title, motor vehicle registration, or identification
 37 card issued by the Department of Highway Safety and Motor
 38 Vehicles.

39 (b) Personal information contained in motor vehicle
 40 records made confidential and exempt ~~exempted~~ by this subsection
 41 may shall be released by the department for any of the following
 42 uses:

43 1.(a) For use in connection with matters of motor vehicle
 44 or driver safety and theft; motor vehicle emissions; motor
 45 vehicle product alterations, recalls, or advisories; performance
 46 monitoring of motor vehicles and dealers by motor vehicle
 47 manufacturers; and removal of nonowner records from the original
 48 owner records of motor vehicle manufacturers, to carry out the
 49 purposes of titles I and IV of the Anti Car Theft Act of 1992,
 50 the Automobile Information Disclosure Act (15 U.S.C. ss. 1231 et
 51 seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and
 52 chapters 301, 305, and 321-331 of Title 49 U.S.C. ~~the Automobile~~
 53 ~~Information Disclosure Act, the Motor Vehicle Information and~~
 54 ~~Cost Saving Act, the National Traffic and Motor Vehicle Safety~~
 55 ~~Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air~~
 56 ~~Act.~~

57 2.~~(b)~~ For use by any government agency, including any
58 court or law enforcement agency, in carrying out its functions,
59 or any private person or entity acting on behalf of a federal,
60 state, or local agency in carrying out its functions.

61 3.~~(e)~~ For use in connection with matters of motor vehicle
62 or driver safety and theft; motor vehicle emissions; motor
63 vehicle product alterations, recalls, or advisories; performance
64 monitoring of motor vehicles, motor vehicle parts, and dealers;
65 motor vehicle market research activities, including survey
66 research; and removal of nonowner records from the original
67 owner records of motor vehicle manufacturers.

68 4.~~(d)~~ For use in the normal course of business by a
69 legitimate business or its agents, employees, or contractors,
70 but only:

71 a.~~1.~~ To verify the accuracy of personal information
72 submitted by the individual to the business or its agents,
73 employees, or contractors; and

74 b.~~2.~~ If such information as so submitted is not correct or
75 is no longer correct, to obtain the correct information, but
76 only for the purposes of preventing fraud by, pursuing legal
77 remedies against, or recovering on a debt or security interest
78 against, the individual.

79 5.~~(e)~~ For use in connection with any civil, criminal,
80 administrative, or arbitral proceeding in any court or agency or
81 before any self-regulatory body for:

82 a.~~1.~~ Service of process by any certified process server,
83 special process server, or other person authorized to serve
84 process in this state.

85 b.2. Investigation in anticipation of litigation by an
86 attorney licensed to practice law in this state or the agent of
87 the attorney; however, the information may not be used for mass
88 commercial solicitation of clients for litigation against motor
89 vehicle dealers.

90 c.3. Investigation by any person in connection with any
91 filed proceeding; however, the information may not be used for
92 mass commercial solicitation of clients for litigation against
93 motor vehicle dealers.

94 d.4. Execution or enforcement of judgments and orders.

95 e.5. Compliance with an order of any court.

96 6.(f) For use in research activities and for use in
97 producing statistical reports, so long as the personal
98 information is not published, redisclosed, or used to contact
99 individuals.

100 7.(g) For use by any insurer or insurance support
101 organization, or by a self-insured entity, or its agents,
102 employees, or contractors, in connection with claims
103 investigation activities, anti-fraud activities, rating, or
104 underwriting.

105 8.(h) For use in providing notice to the owners of towed
106 or impounded vehicles.

107 9.(i) For use by any licensed private investigative agency
108 or licensed security service for any purpose permitted under
109 this subsection. Personal information obtained based on an
110 exempt driver's record may not be provided to a client who
111 cannot demonstrate a need based on a police report, court order,

112 or business or personal relationship with the subject of the
 113 investigation.

114 10.~~(j)~~ For use by an employer or its agent or insurer to
 115 obtain or verify information relating to a holder of a
 116 commercial driver's license that is required under 49 U.S.C. ss.
 117 31301 et seq.

118 11.~~(k)~~ For use in connection with the operation of private
 119 toll transportation facilities.

120 12.~~(l)~~ For bulk distribution for surveys, marketing, or
 121 solicitations when the department has obtained the express
 122 consent of the person to whom such personal information
 123 pertains.

124 13.~~(m)~~ For any use if the requesting person demonstrates
 125 that he or she has obtained the written consent of the person
 126 who is the subject of the motor vehicle record.

127 14.~~(n)~~ For any other use specifically authorized by state
 128 law, if such use is related to the operation of a motor vehicle
 129 or public safety.

130 15.~~(o)~~ For any other use if the person to whom the
 131 information pertains has given express consent in a format ~~on a~~
 132 ~~form~~ prescribed by the department. Such consent shall remain in
 133 effect until it is revoked by the person on a form prescribed by
 134 the department.

135 (c) Notwithstanding paragraph (b), without the express
 136 consent of the person to whom such information applies, the
 137 following information contained in motor vehicle records may
 138 only be released as specified in this paragraph:

139 1. Social security numbers may be released only as

140 provided in subparagraphs (b)2., 5., 7., and 10.

141 2. An individual's photograph or image may be released
 142 only as provided in s. 322.142.

143 3. Medical disability information may be released only as
 144 provided in ss. 322.125 and 322.126.

145 4. Emergency contact information may be released only to
 146 law enforcement agencies for purposes of contacting those listed
 147 in the event of an emergency.

148 (d) The restrictions on disclosure of personal information
 149 provided by this subsection shall not in any way affect the use
 150 of organ donation information on individual driver licenses or
 151 affect the administration of organ donation initiatives in this
 152 state.

153 (e)1. Personal information made confidential and exempt
 154 ~~exempted from public disclosure according to this subsection~~ may
 155 be disclosed by the Department of Highway Safety and Motor
 156 Vehicles to an individual, firm, corporation, or similar
 157 business entity whose primary business interest is to resell or
 158 redisclose the personal information to persons who are
 159 authorized to receive such information. Prior to the
 160 department's disclosure of personal information, such
 161 individual, firm, corporation, or similar business entity must
 162 first enter into a contract with the department regarding the
 163 care, custody, and control of the personal information to ensure
 164 compliance with the federal Driver's Privacy Protection Act of
 165 1994 and applicable state laws.

166 2. An authorized recipient of personal information
 167 contained in a motor vehicle record, except a recipient under

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168 subparagraph (b)12. ~~paragraph (1)~~, may contract with the
169 Department of Highway Safety and Motor Vehicles to resell or
170 redisclose the information for any use permitted under this
171 section. However, only authorized recipients of personal
172 information under subparagraph (b)12. ~~paragraph (1)~~ may resell
173 or redisclose personal information pursuant to subparagraph
174 (b)12. ~~paragraph (1)~~.

175 3. Any authorized recipient who resells or rediscloses
176 personal information shall maintain, for a period of 5 years,
177 records identifying each person or entity that receives the
178 personal information and the permitted purpose for which it will
179 be used. Such records shall be made available for inspection
180 upon request by the department.

181 (f) The department may ~~shall~~ adopt rules to carry out the
182 purposes of this subsection and the federal Driver's Privacy
183 Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted
184 by the department may ~~shall~~ provide for the payment of
185 applicable fees and, prior to the disclosure of personal
186 information pursuant to this subsection, may ~~shall~~ require the
187 meeting of conditions by the requesting person for the purposes
188 of obtaining reasonable assurance concerning the identity of
189 such requesting person, and, to the extent required, assurance
190 that the use will be only as authorized or that the consent of
191 the person who is the subject of the personal information has
192 been obtained. Such conditions may include, but need not be
193 limited to, the making and filing of a written application in
194 such form and containing such information and certification
195 requirements as the department requires.

196 (g) This subsection is subject to the Open Government
197 Sunset Review Act in accordance with s. 119.15 and shall stand
198 repealed October 2, 2012, unless reviewed and saved from repeal
199 through reenactment by the Legislature.

200 Section 2. The Legislature finds that it is a public
201 necessity that personal information in an individual's motor
202 vehicle record held by the Department of Highway Safety and
203 Motor Vehicles be made confidential and exempt from public
204 disclosure. Making such personal information confidential and
205 exempt conforms state law to the requirements of the Federal
206 Driver's Privacy Protection Act of 1994, as amended by s. 350 of
207 Pub. L. No. 106-69, 18 U.S.C. ss. 2721-2725, which prohibits
208 disclosure of information of a sensitive, personal nature, with
209 specified exceptions. Additionally, the Legislature notes that
210 the state has a compelling interest in regulating motor vehicles
211 and motor vehicle drivers. The sale of automobiles not only
212 provides jobs for Floridians, but taxes collected from their
213 sale and use provide revenues to the state. It should also be
214 noted that automobiles also are attractive targets for thieves.
215 Theft of automobiles not only deprives the lawful owners of
216 their property but interferes with the chain of title and causes
217 insurance rates to rise. As a result, the state must collect
218 information about automobile sales, the sellers and buyers,
219 insurance companies, and other businesses. Further, the
220 Legislature notes that automobiles, if used improperly, can
221 cause injury and death to persons in this state. Therefore, the
222 state must ensure that persons who drive in this state are
223 properly trained, licensed, and insured. As a result, the state

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224 must collect personal information regarding persons who drive in
225 this state. The personal information that is contained in motor
226 vehicle records, if readily available for public inspection and
227 copying, could be used to invade the personal privacy of the
228 persons identified in the records or could be used for other
229 purposes, such as solicitation, harassment, stalking, and
230 intimidation. Limiting access to the state's motor vehicle
231 records will protect the privacy of persons who are identified
232 in those records and minimize the opportunity for invading that
233 privacy. Thus, the Legislature finds that such personal
234 information in motor vehicle records should be exempt from the
235 requirements of s. 24(a), Art. I of the State Constitution.
236 Nevertheless, the Legislature also notes that there are a number
237 of reasons that certain agencies, businesses, and other persons
238 should be granted limited access to exempt personal information
239 contained in motor vehicle records. The Legislature finds that
240 access to this personal information by these governmental and
241 private entities should be continued in a limited, regulated
242 fashion in order to balance the privacy rights of persons named
243 in motor vehicle records with the need for these entities to
244 perform certain important regulatory and economic functions that
245 are important to the health, safety, and welfare of the citizens
246 of the state. Persons identified in motor vehicle records may
247 need to be notified of product recalls, advisories, or product
248 monitoring, and manufacturers and others need current addresses
249 to contact them. Government agencies, including courts and law
250 enforcement agencies and persons acting on their behalf, may
251 need access to carry out their legislatively assigned functions.

252 Additionally, researchers, investigators, insurance companies,
253 and other businesses and industries often must rely on personal
254 information in motor vehicle records to operate and perform
255 certain business functions. Such information should be available
256 to legitimate businesses and their agents, employees, or
257 contractors in their normal course of business to verify the
258 accuracy of personal information and to obtain correct
259 information, to prevent fraud, to pursue legal remedies, or to
260 recover on a debt or security interest. Further, such exempt
261 information should be available for use in connection with any
262 civil, criminal, administrative, or arbitral proceeding for
263 service of process, execution or enforcement of judgments and
264 orders, and compliance with an order of any court; for use by
265 insurers or support organizations in connection with claims,
266 investigation activities, anti-fraud activities, and rating or
267 underwriting; and for providing notice to owners of towed or
268 impounded vehicles. Access to such exempt information should
269 also be provided for investigation in anticipation of litigation
270 or for a filed proceeding, but the Legislature finds that
271 authorizing access to motor vehicle records for these limited
272 purposes should not be construed to permit mass commercial
273 solicitation of clients for litigation against motor vehicle
274 dealers because it would be contrary to the limited access
275 contemplated by the exceptions to the exemption and would
276 further invade the privacy of persons named in these records.
277 Further, researchers, investigators, or insurance companies may
278 need to access the large database of motor vehicle records for
279 use in producing statistical reports, but the Legislature finds

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280 that this access should not infringe upon the privacy of the
281 persons named in the records by publishing, redisclosing, or
282 using that information or to contact the named persons. Thus,
283 the Legislature specifically finds that it is a public necessity
284 that personal information in motor vehicle records be made
285 confidential and exempt with the limited exceptions to that
286 exemption authorized in this act.

287 Section 3. This act shall take effect July 1, 2007.