

Bill No. SB 830

Barcode 942622

CHAMBER ACTION

Senate

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The Committee on Transportation (Baker) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

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

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

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

(a) Personal information contained in a motor vehicle record that identifies an individual ~~the subject of that record~~ is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution except as provided in this subsection ~~section~~. Personal information includes, but is not limited to, an individual's ~~the subject's~~ social security number, driver identification number or identification card number, name, address, telephone number, ~~and~~ medical or disability information, and emergency contact information. For

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1 purposes of this subsection, personal information does not  
2 include information relating to vehicular crashes, driving  
3 violations, and driver's status. For purposes of this  
4 subsection, the term "motor vehicle record" means any record  
5 that pertains to a motor vehicle operator's permit, motor  
6 vehicle title, motor vehicle registration, or identification  
7 card issued by the Department of Highway Safety and Motor  
8 Vehicles.

9       **(b)** Personal information contained in motor vehicle  
10 records made confidential and exempt ~~exempted~~ by this  
11 subsection may ~~shall~~ be released by the department for any of  
12 the following uses:

13       **1.(a)** For use in connection with matters of motor  
14 vehicle or driver safety and theft; motor vehicle emissions;  
15 motor vehicle product alterations, recalls, or advisories;  
16 performance monitoring of motor vehicles and dealers by motor  
17 vehicle manufacturers; and removal of nonowner records from  
18 the original owner records of motor vehicle manufacturers, to  
19 carry out the purposes of titles I and IV of the Anti Car  
20 Theft Act of 1992, the Automobile Information Disclosure Act  
21 (15 U.S.C. ss. 1231 et seq.), the Clean Air Act (42 U.S.C. ss.  
22 7401 et seq.), and chapters 301, 305, and 321-331 of Title 49  
23 U.S.C. the Automobile Information Disclosure Act, the Motor  
24 Vehicle Information and Cost Saving Act, the National Traffic  
25 and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act  
26 of 1992, and the Clean Air Act.

27       **2.(b)** For use by any government agency, including any  
28 court or law enforcement agency, in carrying out its  
29 functions, or any private person or entity acting on behalf of  
30 a federal, state, or local agency in carrying out its  
31 functions.

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1           ~~3.(c)~~ For use in connection with matters of motor  
2 vehicle or driver safety and theft; motor vehicle emissions;  
3 motor vehicle product alterations, recalls, or advisories;  
4 performance monitoring of motor vehicles, motor vehicle parts,  
5 and dealers; motor vehicle market research activities,  
6 including survey research; and removal of nonowner records  
7 from the original owner records of motor vehicle  
8 manufacturers.

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

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

15           ~~b.2.~~ If such information as so submitted is not  
16 correct or is no longer correct, to obtain the correct  
17 information, but only for the purposes of preventing fraud by,  
18 pursuing legal remedies against, or recovering on a debt or  
19 security interest against, the individual.

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

23           ~~a.1.~~ Service of process by any certified process  
24 server, special process server, or other person authorized to  
25 serve process in this state.

26           ~~b.2.~~ Investigation in anticipation of litigation by an  
27 attorney licensed to practice law in this state or the agent  
28 of the attorney; however, the information may not be used for  
29 mass commercial solicitation of clients for litigation against  
30 motor vehicle dealers.

31           ~~c.3.~~ Investigation by any person in connection with

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1 any filed proceeding; however, the information may not be used  
 2 for mass commercial solicitation of clients for litigation  
 3 against motor vehicle dealers.

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

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

6 ~~6.(f)~~ For use in research activities and for use in  
 7 producing statistical reports, so long as the personal  
 8 information is not published, redisclosed, or used to contact  
 9 individuals.

10 ~~7.(g)~~ For use by any insurer or insurance support  
 11 organization, or by a self-insured entity, or its agents,  
 12 employees, or contractors, in connection with claims  
 13 investigation activities, anti-fraud activities, rating, or  
 14 underwriting.

15 ~~8.(h)~~ For use in providing notice to the owners of  
 16 towed or impounded vehicles.

17 ~~9.(i)~~ For use by any licensed private investigative  
 18 agency or licensed security service for any purpose permitted  
 19 under this subsection. Personal information obtained based on  
 20 an exempt driver's record may not be provided to a client who  
 21 cannot demonstrate a need based on a police report, court  
 22 order, or business or personal relationship with the subject  
 23 of the investigation.

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

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

30 ~~12.(l)~~ For bulk distribution for surveys, marketing,  
 31 or solicitations when the department has obtained the express

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1 consent of the person to whom such personal information  
2 pertains.

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

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

9 15.(o) For any other use if the person to whom the  
10 information pertains has given express consent in a format ~~on~~  
11 ~~a form~~ prescribed by the department. Such consent shall remain  
12 in effect until it is revoked by the person on a form  
13 prescribed by the department.

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

18 1. Social security numbers may be released only as  
19 provided in subparagraphs (b)2., 5., 7., and 10.

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

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

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

27 (d) The restrictions on disclosure of personal  
28 information provided by this subsection shall not in any way  
29 affect the use of organ donation information on individual  
30 driver licenses or affect the administration of organ donation  
31 initiatives in this state.

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1           (e)1. Personal information made confidential and  
 2 exempt ~~exempted from public disclosure according to this~~  
 3 ~~subsection~~ may be disclosed by the Department of Highway  
 4 Safety and Motor Vehicles to an individual, firm, corporation,  
 5 or similar business entity whose primary business interest is  
 6 to resell or redisclose the personal information to persons  
 7 who are authorized to receive such information. Prior to the  
 8 department's disclosure of personal information, such  
 9 individual, firm, corporation, or similar business entity must  
 10 first enter into a contract with the department regarding the  
 11 care, custody, and control of the personal information to  
 12 ensure compliance with the federal Driver's Privacy Protection  
 13 Act of 1994 and applicable state laws.

14           2. An authorized recipient of personal information  
 15 contained in a motor vehicle record, except a recipient under  
 16 subparagraph (b)12. ~~paragraph (1)~~, may contract with the  
 17 Department of Highway Safety and Motor Vehicles to resell or  
 18 redisclose the information for any use permitted under this  
 19 section. However, only authorized recipients of personal  
 20 information under subparagraph (b)12. ~~paragraph (1)~~ may resell  
 21 or redisclose personal information pursuant to subparagraph  
 22 (b)12. ~~paragraph (1)~~.

23           3. Any authorized recipient who resells or rediscloses  
 24 personal information shall maintain, for a period of 5 years,  
 25 records identifying each person or entity that receives the  
 26 personal information and the permitted purpose for which it  
 27 will be used. Such records shall be made available for  
 28 inspection upon request by the department.

29           (f) The department may ~~shall~~ adopt rules to carry out  
 30 the purposes of this subsection and the federal Driver's  
 31 Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.

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1 Rules adopted by the department may ~~shall~~ provide for the  
 2 payment of applicable fees and, prior to the disclosure of  
 3 personal information pursuant to this subsection, may ~~shall~~  
 4 require the meeting of conditions by the requesting person for  
 5 the purposes of obtaining reasonable assurance concerning the  
 6 identity of such requesting person, and, to the extent  
 7 required, assurance that the use will be only as authorized or  
 8 that the consent of the person who is the subject of the  
 9 personal information has been obtained. Such conditions may  
 10 include, but need not be limited to, the making and filing of  
 11 a written application in such form and containing such  
 12 information and certification requirements as the department  
 13 requires.

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

18 Section 2. The Legislature finds that it is a public  
 19 necessity that personal information in an individual's motor  
 20 vehicle record held by the Department of Highway Safety and  
 21 Motor Vehicles be made confidential and exempt from public  
 22 disclosure. Making such personal information confidential and  
 23 exempt conforms state law to the requirements of the Federal  
 24 Driver's Privacy Protection Act of 1994, as amended by s. 350  
 25 of Pub. L. No. 106-69, 18 U.S.C. ss. 2721-2725, which  
 26 prohibits disclosure of information of a sensitive, personal  
 27 nature, with specified exceptions. Additionally, the  
 28 Legislature notes that the state has a compelling interest in  
 29 regulating motor vehicles and motor vehicle drivers. The sale  
 30 of automobiles not only provides jobs for Floridians, but  
 31 taxes collected from their sale and use provide revenues to

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1 the state. It should also be noted that automobiles also are  
2 attractive targets for thieves. Theft of automobiles not only  
3 deprives the lawful owners of their property but interferes  
4 with the chain of title and causes insurance rates to rise. As  
5 a result, the state must collect information about automobile  
6 sales, the sellers and buyers, insurance companies, and other  
7 businesses. Further, the Legislature notes that automobiles,  
8 if used improperly, can cause injury and death to persons in  
9 this state. Therefore, the state must ensure that persons who  
10 drive in this state are properly trained, licensed, and  
11 insured. As a result, the state must collect personal  
12 information regarding persons who drive in this state. The  
13 personal information that is contained in motor vehicle  
14 records, if readily available for public inspection and  
15 copying, could be used to invade the personal privacy of the  
16 persons identified in the records or could be used for other  
17 purposes, such as solicitation, harassment, stalking, and  
18 intimidation. Limiting access to the state's motor vehicle  
19 records will protect the privacy of persons who are identified  
20 in those records and minimize the opportunity for invading  
21 that privacy. Thus, the Legislature finds that such personal  
22 information in motor vehicle records should be exempt from the  
23 requirements of s. 24(a), Art. I of the State Constitution.  
24 Nevertheless, the Legislature also notes that there are a  
25 number of reasons that certain agencies, businesses, and other  
26 persons should be granted limited access to exempt personal  
27 information contained in motor vehicle records. The  
28 Legislature finds that access to this personal information by  
29 these governmental and private entities should be continued in  
30 a limited, regulated fashion in order to balance the privacy  
31 rights of persons named in motor vehicle records with the need



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1 for these entities to perform certain important regulatory and  
2 economic functions that are important to the health, safety,  
3 and welfare of the citizens of the state. Persons identified  
4 in motor vehicle records may need to be notified of product  
5 recalls, advisories, or product monitoring, and manufacturers  
6 and others need current addresses to contact them. Government  
7 agencies, including courts and law enforcement agencies and  
8 persons acting on their behalf, may need access to carry out  
9 their legislatively assigned functions. Additionally,  
10 researchers, investigators, insurance companies, and other  
11 businesses and industries often must rely on personal  
12 information in motor vehicle records to operate and perform  
13 certain business functions. Such information should be  
14 available to legitimate businesses and their agents,  
15 employees, or contractors in their normal course of business  
16 to verify the accuracy of personal information and to obtain  
17 correct information, to prevent fraud, to pursue legal  
18 remedies, or to recover on a debt or security interest.  
19 Further, such exempt information should be available for use  
20 in connection with any civil, criminal, administrative, or  
21 arbitral proceeding for service of process, execution or  
22 enforcement of judgments and orders, and compliance with an  
23 order of any court; for use by insurers or support  
24 organizations in connection with claims, investigation  
25 activities, anti-fraud activities, and rating or underwriting;  
26 and for providing notice to owners of towed or impounded  
27 vehicles. Access to such exempt information should also be  
28 provided for investigation in anticipation of litigation or  
29 for a filed proceeding, but the Legislature finds that  
30 authorizing access to motor vehicle records for these limited  
31 purposes should not be construed to permit mass commercial

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1 solicitation of clients for litigation against motor vehicle  
2 dealers because it would be contrary to the limited access  
3 contemplated by the exceptions to the exemption and would  
4 further invade the privacy of persons named in these records.  
5 Further, researchers, investigators, or insurance companies  
6 may need to access the large database of motor vehicle records  
7 for use in producing statistical reports, but the Legislature  
8 finds that this access should not infringe upon the privacy of  
9 the persons named in the records by publishing, redisclosing,  
10 or using that information or to contact the named persons.  
11 Thus, the Legislature specifically finds that it is a public  
12 necessity that personal information in motor vehicle records  
13 be made confidential and exempt with the limited exceptions to  
14 that exemption authorized in this act.

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

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

A bill to be entitled

An act relating to public records; amending s.  
119.0712, F.S.; revising the public-records  
exemption for personal information in records  
of the Department of Highway Safety and Motor  
Vehicles; including identification card numbers  
in a list of items that are considered personal  
information; revising provisions for disclosure  
of personal information in department records;

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1 providing conditions for the release of certain  
2 information without the express consent of the  
3 person to whom such information applies;  
4 providing for future review and repeal;  
5 providing a statement of public necessity;  
6 providing an effective date.

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