

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

16
17 Be It Enacted by the Legislature of the State of Florida:

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

21 119.0712 Executive branch agency-specific exemptions
22 from inspection or copying of public records.--

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

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

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

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

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

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

1 a federal, state, or local agency in carrying out its
2 functions.

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

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

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

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

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

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

28 ~~b.2.~~ Investigation in anticipation of litigation by an
29 attorney licensed to practice law in this state or the agent
30 of the attorney; however, the information may not be used for
31

1 mass commercial solicitation of clients for litigation against
2 motor vehicle dealers.

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

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

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

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

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

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

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

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

31

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

3 ~~12.(l)~~ For bulk distribution for surveys, marketing,
4 or solicitations when the department has obtained the express
5 consent of the person to whom such personal information
6 pertains.

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

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

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

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

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

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

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

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

31

1 (d) The restrictions on disclosure of personal
2 information provided by this subsection shall not in any way
3 affect the use of organ donation information on individual
4 driver licenses or affect the administration of organ donation
5 initiatives in this state.

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

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

28 3. Any authorized recipient who resells or rediscloses
29 personal information shall maintain, for a period of 5 years,
30 records identifying each person or entity that receives the
31 personal information and the permitted purpose for which it

1 will be used. Such records shall be made available for
2 inspection upon request by the department.

3 (f) The department ~~may shall~~ adopt rules to carry out
4 the purposes of this subsection and the federal Driver's
5 Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq.
6 Rules adopted by the department ~~may shall~~ provide for the
7 payment of applicable fees and, prior to the disclosure of
8 personal information pursuant to this subsection, ~~may shall~~
9 require the meeting of conditions by the requesting person for
10 the 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.

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

23 Section 2. The Legislature finds that it is a public
24 necessity that personal information in an individual's motor
25 vehicle record held by the Department of Highway Safety and
26 Motor Vehicles be made confidential and exempt from public
27 disclosure. Making such personal information confidential and
28 exempt conforms state law to the requirements of the Federal
29 Driver's Privacy Protection Act of 1994, as amended by s. 350
30 of Pub. L. No. 106-69, 18 U.S.C. ss. 2721-2725, which
31 prohibits disclosure of information of a sensitive, personal

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

1 information contained in motor vehicle records. The
2 Legislature finds that access to this personal information by
3 these governmental and private entities should be continued in
4 a limited, regulated fashion in order to balance the privacy
5 rights of persons named in motor vehicle records with the need
6 for these entities to perform certain important regulatory and
7 economic functions that are important to the health, safety,
8 and welfare of the citizens of the state. Persons identified
9 in motor vehicle records may need to be notified of product
10 recalls, advisories, or product monitoring, and manufacturers
11 and others need current addresses to contact them. Government
12 agencies, including courts and law enforcement agencies and
13 persons acting on their behalf, may need access to carry out
14 their legislatively assigned functions. Additionally,
15 researchers, investigators, insurance companies, and other
16 businesses and industries often must rely on personal
17 information in motor vehicle records to operate and perform
18 certain business functions. Such information should be
19 available to legitimate businesses and their agents,
20 employees, or contractors in their normal course of business
21 to verify the accuracy of personal information and to obtain
22 correct information, to prevent fraud, to pursue legal
23 remedies, or to recover on a debt or security interest.
24 Further, such exempt information should be available for use
25 in connection with any civil, criminal, administrative, or
26 arbitral proceeding for service of process, execution or
27 enforcement of judgments and orders, and compliance with an
28 order of any court; for use by insurers or support
29 organizations in connection with claims, investigation
30 activities, anti-fraud activities, and rating or underwriting;
31 and for providing notice to owners of towed or impounded

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

20 Section 3. This act shall take effect July 1, 2007.
21
22
23
24
25
26
27
28
29
30
31