

ENROLLED

CS/HB 7027, Engrossed 1

2009 Legislature

1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act regarding personal information contained  
 4           in motor vehicle records; amending s. 119.0712, F.S.;  
 5           removing provisions which are duplicative of the federal  
 6           prohibition on release and use of personal information  
 7           contained in state motor vehicle records under the federal  
 8           Driver's Privacy Protection Act of 1994; referencing  
 9           federal law as controlling with respect to the  
 10          confidentiality and release of such records; providing  
 11          that such information received pursuant to federal law may  
 12          not be used for mass commercial solicitation of clients  
 13          for litigation against motor vehicle dealers; reorganizing  
 14          provisions; making editorial and conforming changes;  
 15          repealing s. 2, ch. 2004-62, Laws of Florida, which  
 16          provides for repeal of the exemption; providing an  
 17          effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 21           Section 1. Subsection (2) of section 119.0712, Florida  
 22           Statutes, is amended to read:  
 23           119.0712 Executive branch agency-specific exemptions from  
 24           inspection or copying of public records.--  
 25           (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.--  
 26           (a) For purposes of this subsection, the term "motor  
 27           vehicle record" means any record that pertains to a motor  
 28           vehicle operator's permit, motor vehicle title, motor vehicle

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29 registration, or identification card issued by the Department of  
 30 Highway Safety and Motor Vehicles.

31 (b) Personal information, including highly restricted  
 32 personal information as defined in 18 U.S.C. s. 2725, contained  
 33 in a motor vehicle record is confidential pursuant to the  
 34 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.  
 35 2721 et seq. Such information may be released only as authorized  
 36 by that act; however, information received pursuant to that act  
 37 may not be used for mass commercial solicitation of clients for  
 38 litigation against motor vehicle dealers.

39 (c)1. Emergency contact information ~~Personal information~~  
 40 ~~contained in a motor vehicle record that identifies an~~  
 41 ~~individual is confidential and exempt from s. 119.07(1) and s.~~  
 42 ~~24(a), Art. I of the State Constitution except as provided in~~  
 43 ~~this subsection. Personal information includes, but is not~~  
 44 ~~limited to, an individual's social security number, driver~~  
 45 ~~identification number or identification card number, name,~~  
 46 ~~address, telephone number, medical or disability information,~~  
 47 ~~and emergency contact information. For purposes of this~~  
 48 ~~subsection, personal information does not include information~~  
 49 ~~relating to vehicular crashes, driving violations, and driver's~~  
 50 ~~status. For purposes of this subsection, the term "motor vehicle~~  
 51 ~~record" means any record that pertains to a motor vehicle~~  
 52 ~~operator's permit, motor vehicle title, motor vehicle~~  
 53 ~~registration, or identification card issued by the Department of~~  
 54 ~~Highway Safety and Motor Vehicles.~~

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55 ~~(b) Personal information contained in motor vehicle~~  
 56 ~~records made confidential and exempt by this subsection may be~~  
 57 ~~released by the department for any of the following uses:~~

58 ~~1. For use in connection with matters of motor vehicle or~~  
 59 ~~driver safety and theft; motor vehicle emissions; motor vehicle~~  
 60 ~~product alterations, recalls, or advisories; performance~~  
 61 ~~monitoring of motor vehicles and dealers by motor vehicle~~  
 62 ~~manufacturers; and removal of nonowner records from the original~~  
 63 ~~owner records of motor vehicle manufacturers, to carry out the~~  
 64 ~~purposes of Titles I and IV of the Anti Car Theft Act of 1992,~~  
 65 ~~the Automobile Information Disclosure Act (15 U.S.C. ss. 1231 et~~  
 66 ~~seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and~~  
 67 ~~chapters 301, 305, and 321-331 of Title 49, United States Code.~~

68 ~~2. For use by any government agency, including any court~~  
 69 ~~or law enforcement agency, in carrying out its functions, or any~~  
 70 ~~private person or entity acting on behalf of a federal, state,~~  
 71 ~~or local agency in carrying out its functions.~~

72 ~~3. For use in connection with matters of motor vehicle or~~  
 73 ~~driver safety and theft; motor vehicle emissions; motor vehicle~~  
 74 ~~product alterations, recalls, or advisories; performance~~  
 75 ~~monitoring of motor vehicles, motor vehicle parts, and dealers;~~  
 76 ~~motor vehicle market research activities, including survey~~  
 77 ~~research; and removal of nonowner records from the original~~  
 78 ~~owner records of motor vehicle manufacturers.~~

79 ~~4. For use in the normal course of business by a~~  
 80 ~~legitimate business or its agents, employees, or contractors,~~  
 81 ~~but only:~~

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82           ~~a. To verify the accuracy of personal information~~  
 83 ~~submitted by the individual to the business or its agents,~~  
 84 ~~employees, or contractors; and~~

85           ~~b. If such information as so submitted is not correct or~~  
 86 ~~is no longer correct, to obtain the correct information, but~~  
 87 ~~only for the purposes of preventing fraud by, pursuing legal~~  
 88 ~~remedies against, or recovering on a debt or security interest~~  
 89 ~~against, the individual.~~

90           ~~5. For use in connection with any civil, criminal,~~  
 91 ~~administrative, or arbitral proceeding in any court or agency or~~  
 92 ~~before any self-regulatory body for:~~

93           ~~a. Service of process by any certified process server,~~  
 94 ~~special process server, or other person authorized to serve~~  
 95 ~~process in this state.~~

96           ~~b. Investigation in anticipation of litigation by an~~  
 97 ~~attorney licensed to practice law in this state or the agent of~~  
 98 ~~the attorney; however, the information may not be used for mass~~  
 99 ~~commercial solicitation of clients for litigation against motor~~  
 100 ~~vehicle dealers.~~

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

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

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

107           ~~6. For use in research activities and for use in producing~~  
 108 ~~statistical reports, so long as the personal information is not~~  
 109 ~~published, redisclosed, or used to contact individuals.~~

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110           ~~7. For use by any insurer or insurance support~~  
111 ~~organization, or by a self-insured entity, or its agents,~~  
112 ~~employees, or contractors, in connection with claims~~  
113 ~~investigation activities, anti-fraud activities, rating, or~~  
114 ~~underwriting.~~

115           ~~8. For use in providing notice to the owners of towed or~~  
116 ~~impounded vehicles.~~

117           ~~9. For use by any licensed private investigative agency or~~  
118 ~~licensed security service for any purpose permitted under this~~  
119 ~~subsection. Personal information obtained based on an exempt~~  
120 ~~driver's record may not be provided to a client who cannot~~  
121 ~~demonstrate a need based on a police report, court order, or~~  
122 ~~business or personal relationship with the subject of the~~  
123 ~~investigation.~~

124           ~~10. For use by an employer or its agent or insurer to~~  
125 ~~obtain or verify information relating to a holder of a~~  
126 ~~commercial driver's license that is required under 49 U.S.C. ss.~~  
127 ~~31301 et seq.~~

128           ~~11. For use in connection with the operation of private~~  
129 ~~toll transportation facilities.~~

130           ~~12. For bulk distribution for surveys, marketing, or~~  
131 ~~solicitations when the department has obtained the express~~  
132 ~~consent of the person to whom such personal information~~  
133 ~~pertains.~~

134           ~~13. For any use if the requesting person demonstrates that~~  
135 ~~he or she has obtained the written consent of the person who is~~  
136 ~~the subject of the motor vehicle record.~~

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137           ~~14. For any other use specifically authorized by state~~  
 138 ~~law, if such use is related to the operation of a motor vehicle~~  
 139 ~~or public safety.~~

140           ~~15. For any other use if the person to whom the~~  
 141 ~~information pertains has given express consent in a format~~  
 142 ~~prescribed by the department. Such consent shall remain in~~  
 143 ~~effect until it is revoked by the person on a form prescribed by~~  
 144 ~~the department.~~

145           ~~2.(c) Notwithstanding paragraph (b),~~ Without the express  
 146 consent of the person to whom such emergency contact information  
 147 applies, the emergency contact ~~following~~ information contained  
 148 in a motor vehicle record ~~records may only be released as~~  
 149 ~~specified in this paragraph:~~

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

152           ~~2. An individual's photograph or image may be released~~  
 153 ~~only as provided in s. 322.142.~~

154           ~~3. Medical disability information may be released only as~~  
 155 ~~provided in ss. 322.125 and 322.126.~~

156           ~~4. Emergency contact information may be released only to~~  
 157 ~~law enforcement agencies for purposes of contacting those listed~~  
 158 ~~in the event of an emergency.~~

159           ~~(d) The restrictions on disclosure of personal information~~  
 160 ~~provided by this subsection shall not in any way affect the use~~  
 161 ~~of organ donation information on individual driver licenses or~~  
 162 ~~affect the administration of organ donation initiatives in this~~  
 163 ~~state.~~

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164           ~~(c)1. Personal information made confidential and exempt~~  
165 ~~may be disclosed by the Department of Highway Safety and Motor~~  
166 ~~Vehicles to an individual, firm, corporation, or similar~~  
167 ~~business entity whose primary business interest is to resell or~~  
168 ~~redisclose the personal information to persons who are~~  
169 ~~authorized to receive such information. Prior to the~~  
170 ~~department's disclosure of personal information, such~~  
171 ~~individual, firm, corporation, or similar business entity must~~  
172 ~~first enter into a contract with the department regarding the~~  
173 ~~care, custody, and control of the personal information to ensure~~  
174 ~~compliance with the federal Driver's Privacy Protection Act of~~  
175 ~~1994 and applicable state laws.~~

176           ~~2. An authorized recipient of personal information~~  
177 ~~contained in a motor vehicle record, except a recipient under~~  
178 ~~subparagraph (b)12., may contract with the Department of Highway~~  
179 ~~Safety and Motor Vehicles to resell or redisclose the~~  
180 ~~information for any use permitted under this section. However,~~  
181 ~~only authorized recipients of personal information under~~  
182 ~~subparagraph (b)12. may resell or redisclose personal~~  
183 ~~information pursuant to subparagraph (b)12.~~

184           ~~3. Any authorized recipient who resells or rediscloses~~  
185 ~~personal information shall maintain, for a period of 5 years,~~  
186 ~~records identifying each person or entity that receives the~~  
187 ~~personal information and the permitted purpose for which it will~~  
188 ~~be used. Such records shall be made available for inspection~~  
189 ~~upon request by the department.~~

190           (d) ~~(f)~~ The department may adopt rules to carry out the  
191 purposes of this subsection and the federal Driver's Privacy

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192 Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted  
193 by the department may provide for the payment of applicable fees  
194 and, prior to the disclosure of personal information pursuant to  
195 this subsection or the federal Driver's Privacy Protection Act  
196 of 1994, 18 U.S.C. ss. 2721 et seq., may require the meeting of  
197 conditions by the requesting person for the purposes of  
198 obtaining reasonable assurance concerning the identity of such  
199 requesting person, and, to the extent required, assurance that  
200 the use will be only as authorized or that the consent of the  
201 person who is the subject of the personal information has been  
202 obtained. Such conditions may include, but need not be limited  
203 to, the making and filing of a written application in such form  
204 and containing such information and certification requirements  
205 as the department requires.

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

210 Section 2. Section 2 of chapter 2004-62, Laws of Florida,  
211 is repealed.

212 Section 3. This act shall take effect October 1, 2009.