

FOR CONSIDERATION By the Committee on Transportation

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1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; reenacting s. 119.0712(2) (a), (b),
4 (c), (d), (e), and (f), F.S., relating to an exemption
5 from public-records requirements for personal
6 information contained in motor vehicle records;
7 repealing s. 2 of chapter 2004-62, Laws of Florida;
8 deleting provisions providing for repeal of the
9 exemption; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Paragraphs (a), (b), (c), (d), (e), and (f) of
14 subsection (2) of section 119.0712, Florida Statutes, are
15 reenacted to read:

16 119.0712 Executive branch agency-specific exemptions from
17 inspection or copying of public records.—

18 (2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

19 (a) Personal information contained in a motor vehicle
20 record that identifies an individual is confidential and exempt
21 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution
22 except as provided in this subsection. Personal information
23 includes, but is not limited to, an individual's social security
24 number, driver identification number or identification card
25 number, name, address, telephone number, medical or disability
26 information, and emergency contact information. For purposes of
27 this subsection, personal information does not include
28 information relating to vehicular crashes, driving violations,
29 and driver's status. For purposes of this subsection, the term

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30 "motor vehicle record" means any record that pertains to a motor
31 vehicle operator's permit, motor vehicle title, motor vehicle
32 registration, or identification card issued by the Department of
33 Highway Safety and Motor Vehicles.

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

37 1. For use in connection with matters of motor vehicle or
38 driver safety and theft; motor vehicle emissions; motor vehicle
39 product alterations, recalls, or advisories; performance
40 monitoring of motor vehicles and dealers by motor vehicle
41 manufacturers; and removal of nonowner records from the original
42 owner records of motor vehicle manufacturers, to carry out the
43 purposes of Titles I and IV of the Anti Car Theft Act of 1992,
44 the Automobile Information Disclosure Act (15 U.S.C. ss. 1231 et
45 seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and
46 chapters 301, 305, and 321-331 of Title 49, United States Code.

47 2. For use by any government agency, including any court or
48 law enforcement agency, in carrying out its functions, or any
49 private person or entity acting on behalf of a federal, state,
50 or local agency in carrying out its functions.

51 3. For use in connection with matters of motor vehicle or
52 driver safety and theft; motor vehicle emissions; motor vehicle
53 product alterations, recalls, or advisories; performance
54 monitoring of motor vehicles, motor vehicle parts, and dealers;
55 motor vehicle market research activities, including survey
56 research; and removal of nonowner records from the original
57 owner records of motor vehicle manufacturers.

58 4. For use in the normal course of business by a legitimate

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59 business or its agents, employees, or contractors, but only:

60 a. To verify the accuracy of personal information submitted
61 by the individual to the business or its agents, employees, or
62 contractors; and

63 b. If such information as so submitted is not correct or is
64 no longer correct, to obtain the correct information, but only
65 for the purposes of preventing fraud by, pursuing legal remedies
66 against, or recovering on a debt or security interest against,
67 the individual.

68 5. For use in connection with any civil, criminal,
69 administrative, or arbitral proceeding in any court or agency or
70 before any self-regulatory body for:

71 a. Service of process by any certified process server,
72 special process server, or other person authorized to serve
73 process in this state.

74 b. Investigation in anticipation of litigation by an
75 attorney licensed to practice law in this state or the agent of
76 the attorney; however, the information may not be used for mass
77 commercial solicitation of clients for litigation against motor
78 vehicle dealers.

79 c. Investigation by any person in connection with any filed
80 proceeding; however, the information may not be used for mass
81 commercial solicitation of clients for litigation against motor
82 vehicle dealers.

83 d. Execution or enforcement of judgments and orders.

84 e. Compliance with an order of any court.

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

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88 7. For use by any insurer or insurance support
89 organization, or by a self-insured entity, or its agents,
90 employees, or contractors, in connection with claims
91 investigation activities, anti-fraud activities, rating, or
92 underwriting.

93 8. For use in providing notice to the owners of towed or
94 impounded vehicles.

95 9. For use by any licensed private investigative agency or
96 licensed security service for any purpose permitted under this
97 subsection. Personal information obtained based on an exempt
98 driver's record may not be provided to a client who cannot
99 demonstrate a need based on a police report, court order, or
100 business or personal relationship with the subject of the
101 investigation.

102 10. For use by an employer or its agent or insurer to
103 obtain or verify information relating to a holder of a
104 commercial driver's license that is required under 49 U.S.C. ss.
105 31301 et seq.

106 11. For use in connection with the operation of private
107 toll transportation facilities.

108 12. For bulk distribution for surveys, marketing, or
109 solicitations when the department has obtained the express
110 consent of the person to whom such personal information
111 pertains.

112 13. For any use if the requesting person demonstrates that
113 he or she has obtained the written consent of the person who is
114 the subject of the motor vehicle record.

115 14. For any other use specifically authorized by state law,
116 if such use is related to the operation of a motor vehicle or

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117 public safety.

118 15. For any other use if the person to whom the information
119 pertains has given express consent in a format prescribed by the
120 department. Such consent shall remain in effect until it is
121 revoked by the person on a form prescribed by the department.

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

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

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

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

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

135 (d) The restrictions on disclosure of personal information
136 provided by this subsection shall not in any way affect the use
137 of organ donation information on individual driver licenses or
138 affect the administration of organ donation initiatives in this
139 state.

140 (e)1. Personal information made confidential and exempt may
141 be disclosed by the Department of Highway Safety and Motor
142 Vehicles to an individual, firm, corporation, or similar
143 business entity whose primary business interest is to resell or
144 redisclose the personal information to persons who are
145 authorized to receive such information. Prior to the

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146 department's disclosure of personal information, such
147 individual, firm, corporation, or similar business entity must
148 first enter into a contract with the department regarding the
149 care, custody, and control of the personal information to ensure
150 compliance with the federal Driver's Privacy Protection Act of
151 1994 and applicable state laws.

152 2. An authorized recipient of personal information
153 contained in a motor vehicle record, except a recipient under
154 subparagraph (b)12., may contract with the Department of Highway
155 Safety and Motor Vehicles to resell or redisclose the
156 information for any use permitted under this section. However,
157 only authorized recipients of personal information under
158 subparagraph (b)12. may resell or redisclose personal
159 information pursuant to subparagraph (b)12.

160 3. Any authorized recipient who resells or rediscloses
161 personal information shall maintain, for a period of 5 years,
162 records identifying each person or entity that receives the
163 personal information and the permitted purpose for which it will
164 be used. Such records shall be made available for inspection
165 upon request by the department.

166 (f) The department may adopt rules to carry out the
167 purposes of this subsection and the federal Driver's Privacy
168 Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted
169 by the department may provide for the payment of applicable fees
170 and, prior to the disclosure of personal information pursuant to
171 this subsection, may require the meeting of conditions by the
172 requesting person for the purposes of obtaining reasonable
173 assurance concerning the identity of such requesting person,
174 and, to the extent required, assurance that the use will be only

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175 as authorized or that the consent of the person who is the
176 subject of the personal information has been obtained. Such
177 conditions may include, but need not be limited to, the making
178 and filing of a written application in such form and containing
179 such information and certification requirements as the
180 department requires.

181 Section 2. Section 2 of chapter 2004-62, Laws of Florida,
182 is repealed.

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