

A bill to be entitled

An act relating to public records; amending s. 119.07, F.S.; revising the exemption from public records requirements for personal information contained in a motor vehicle record; removing the requirement that the exemption be conditioned on a request for exemption by the person who is the subject of the record; revising certain conditions under which the Department of Highway Safety and Motor Vehicles may release information in connection with a legal proceeding; revising conditions for the release of information for bulk distribution use; providing for release of information when the department has obtained consent from the subject of the record; providing that the restrictions on the disclosure of information do not affect the use of organ donor information; providing for future repeal and legislative review; providing legislative finding of public necessity; providing an effective date.

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

Section 1. Paragraph (aa) of subsection (3) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection, examination, and duplication of records; exemptions.--

(3)

(aa) ~~Upon a request made in a form designated by the Department of Highway Safety and Motor Vehicles,~~ Personal information contained in a motor vehicle record that identifies

30 the subject of that record ~~requester~~ is exempt from subsection
 31 (1) and s. 24(a), Art. I of the State Constitution except as
 32 provided in this paragraph. Personal information includes, but
 33 is not limited to, the subject's ~~requester's~~ social security
 34 number, driver identification number, name, address, telephone
 35 number, and medical or disability information. For purposes of
 36 this paragraph, personal information does not include
 37 information relating to vehicular crashes, driving violations,
 38 and driver's status. ~~Such request may be made only by the person~~
 39 ~~who is the subject of the motor vehicle record.~~ For purposes of
 40 this paragraph, "motor vehicle record" means any record that
 41 pertains to a motor vehicle operator's permit, motor vehicle
 42 title, motor vehicle registration, or identification card issued
 43 by the Department of Highway Safety and Motor Vehicles. Personal
 44 information contained in motor vehicle records exempted by ~~an~~
 45 ~~individual's request pursuant to~~ this paragraph shall be
 46 released by the department for any of the following uses:

47 1. For use in connection with matters of motor vehicle or
 48 driver safety and theft; motor vehicle emissions; motor vehicle
 49 product alterations, recalls, or advisories; performance
 50 monitoring of motor vehicles and dealers by motor vehicle
 51 manufacturers; and removal of nonowner records from the original
 52 owner records of motor vehicle manufacturers, to carry out the
 53 purposes of the Automobile Information Disclosure Act, the Motor
 54 Vehicle Information and Cost Saving Act, the National Traffic
 55 and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of
 56 1992, and the Clean Air Act.

57 2. For use by any government agency, including any court
 58 or law enforcement agency, in carrying out its functions, or any

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59 private person or entity acting on behalf of a federal, state,
60 or local agency in carrying out its functions.

61 3. For use in connection with matters of motor vehicle or
62 driver safety and theft; motor vehicle emissions; motor vehicle
63 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. For use in the normal course of business by a
69 legitimate business or its agents, employees, or contractors,
70 but only:

71 a. 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. 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. 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. 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. 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. 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. Execution or enforcement of judgments and orders.

95 e. Compliance with an order of any court.

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

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

104 8. For use in providing notice to the owners of towed or
 105 impounded vehicles.

106 9. For use by any licensed private investigative agency or
 107 licensed security service for any purpose permitted under this
 108 paragraph. Personal information obtained based on an exempt
 109 driver's record may not be provided to a client who cannot
 110 demonstrate a need based on a police report, court order, or a
 111 business or personal relationship with the subject of the
 112 investigation.

113 10. For use by an employer or its agent or insurer to
 114 obtain or verify information relating to a holder of a
 115 commercial driver's license that is required under 49 U.S.C. ss.
 116 31301 et seq ~~the Commercial Motor Vehicle Safety Act of 1986, 49~~

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117 ~~U.S.C. App. 2710 et seq.~~

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

120 12. 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. ~~implemented methods and procedures to ensure that:~~

124 a. ~~Individuals are provided an opportunity, in a clear and~~
125 ~~conspicuous manner, to prohibit such uses; and~~

126 b. ~~The information will be used, rented, or sold solely~~
127 ~~for bulk distribution for survey, marketing, and solicitations,~~
128 ~~and that surveys, marketing, and solicitations will not be~~
129 ~~directed at those individuals who have timely requested that~~
130 ~~they not be directed at them.~~

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

134 14. For any other use specifically authorized by state
135 law, if such use is related to the operation of a motor vehicle
136 or public safety.

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

142
143 The restrictions on disclosure of personal information provided
144 by this paragraph shall not in any way affect the use of organ
145 donation information on individual driver licenses nor affect

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146 the administration of organ donation initiatives in this state.
 147 Personal information exempted from public disclosure according
 148 to this paragraph may be disclosed by the Department of Highway
 149 Safety and Motor Vehicles to an individual, firm, corporation,
 150 or similar business entity whose primary business interest is to
 151 resell or redisclose the personal information to persons who are
 152 authorized to receive such information. Prior to the
 153 department's disclosure of personal information, such
 154 individual, firm, corporation, or similar business entity must
 155 first enter into a contract with the department regarding the
 156 care, custody, and control of the personal information to ensure
 157 compliance with the federal Driver's Privacy Protection Act of
 158 1994 and applicable state laws. An authorized recipient of
 159 personal information contained in a motor vehicle record, except
 160 a recipient under subparagraph 12., may contract with the
 161 Department of Highway Safety and Motor Vehicles to resell or
 162 redisclose the information for any use permitted under this
 163 paragraph. However, only authorized recipients of personal
 164 information under subparagraph 12. may resell or redisclose
 165 personal information pursuant to subparagraph 12. Any authorized
 166 recipient who resells or rediscloses personal information shall
 167 maintain, for a period of 5 years, records identifying each
 168 person or entity that receives the personal information and the
 169 permitted purpose for which it will be used. Such records shall
 170 be made available for inspection upon request by the department.
 171 The department shall adopt rules to carry out the purposes of
 172 this paragraph and the federal Driver's Privacy Protection Act
 173 of 1994, 18 U.S.C. 2721 et seq ~~Title XXX, Pub. L. No. 103-322.~~
 174 Rules adopted by the department shall provide for the payment of

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175 applicable fees and, prior to the disclosure of personal
176 information pursuant to this paragraph, shall require the
177 meeting of conditions by the requesting person for the purposes
178 of obtaining reasonable assurance concerning the identity of
179 such requesting person, and, to the extent required, assurance
180 that the use will be only as authorized or that the consent of
181 the person who is the subject of the personal information has
182 been obtained. Such conditions may include, but need not be
183 limited to, the making and filing of a written application in
184 such form and containing such information and certification
185 requirements as the department requires.

186 Section 2. Paragraph (aa) of subsection (3) of s. 119.07,
187 Florida Statutes, is subject to the Open Government Sunset
188 Review Act of 1995 in accordance with s. 119.15, Florida
189 Statutes, and shall stand repealed on October 2, 2009, unless
190 reviewed and saved from repeal through reenactment by the
191 Legislature.

192 Section 3. The Legislature finds that it is a public
193 necessity that personal information in an individual's motor
194 vehicle record held by the Department of Highway Safety and
195 Motor Vehicles be exempt from public disclosure. Making such
196 personal information exempt conforms state law to the
197 requirements of the Federal Driver's Privacy Protection Act of
198 1994, as amended by s. 350 of Pub. L. No. 106-69, which
199 prohibits disclosure of such information of a sensitive,
200 personal nature, with specified exceptions. Additionally, the
201 Legislature notes that the state has a compelling interest in
202 regulating motor vehicles and motor vehicle drivers. The sale of
203 automobiles not only provides jobs for Floridians, but taxes

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204 collected from their sale and use provide revenues to the state.
 205 It should also be noted that automobiles also are attractive
 206 targets for thieves. Theft of automobiles not only deprives the
 207 lawful owners of their property but such theft interferes with
 208 the chain of title and causes insurance rates to rise. As a
 209 result, the state must collect information about automobile
 210 sales, the sellers and buyers, insurance companies, and other
 211 businesses. Further, the Legislature notes that automobiles, if
 212 used improperly, can cause injury and death to persons in this
 213 state. Therefore, the state, must ensure that persons who drive
 214 in this state are properly trained, licensed, and insured. As a
 215 result, the state must collect personal information regarding
 216 persons who drive in this state. The personal information that
 217 is contained in motor vehicle records, if readily available for
 218 public inspection and copying, could be used to invade the
 219 personal privacy of the persons named in the records or it could
 220 be used for other purposes, such as solicitation, harassment,
 221 stalking, and intimidation. Limiting access to the state's motor
 222 vehicle records will protect the privacy of persons who are
 223 listed in those records and minimize the opportunity for
 224 invading that privacy. Thus, the Legislature finds that such
 225 personal information in motor vehicle records should be exempt
 226 from the requirements of Article I, s. 24 of the State
 227 Constitution. Nevertheless, the Legislature also notes that
 228 there are a number of reasons that certain agencies, businesses,
 229 and other persons should be granted limited access to exempt
 230 personal information contained in motor vehicle records. The
 231 Legislature finds that access to this personal information by
 232 these governmental and private entities should be continued in a

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233 limited, regulated fashion in order to balance the privacy
234 rights of persons named in motor vehicle records with the need
235 for these entities to perform certain important regulatory and
236 economic functions that are important to the health, safety, and
237 welfare of the citizens of the state. Persons named in motor
238 vehicle records may need to be notified of product recalls,
239 advisories, or product monitoring and manufacturers and others
240 need current addresses to contact them. Government agencies,
241 including courts and law enforcement agencies and persons acting
242 on their behalf, may need access to carry out their
243 legislatively assigned functions. Additionally, researchers,
244 investigators, insurance companies, and other businesses and
245 industries often must rely on personal information in motor
246 vehicle records to operate and perform certain business
247 functions. Such information should be available in the normal
248 course of business by legitimate businesses, their agents,
249 employees, or contractors to verify the accuracy of personal
250 information and to obtain correct information; to prevent fraud;
251 to pursue legal remedies against; or to recover on a debt or
252 security interest. Further, such exempt information should be
253 available for use in connection with any civil, criminal,
254 administrative, or arbitral proceeding for service of process;
255 execution of enforcement of judgments and orders; compliance
256 with an order of any court; by insurers or support organizations
257 in connection with claims for investigation activities, anti-
258 fraud activities, and rating or underwriting; and for providing
259 notice to owners of towed or impounded vehicles. Access to such
260 exempt information should also be provided for investigation in
261 anticipation of litigation or for a filed proceeding, but the

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262 Legislature finds that authorizing access to motor vehicle
263 records for these limited purposes should not be construed to
264 permit mass commercial solicitation of clients for litigation
265 against motor vehicle dealers because it would be contrary to
266 the limited access contemplated by the exceptions to the
267 exemption and would further invade the privacy of persons named
268 in these records. Further, researchers, investigators, or
269 insurance companies may need to access the large database of
270 motor vehicle records for use in producing statistical reports,
271 but the Legislature finds that this access should not infringe
272 upon the privacy of the persons named in the records by
273 publishing, redisclosing, or using that information or to
274 contact the named persons. Thus, the Legislature specifically
275 finds that it is a public necessity that personal information in
276 motor vehicle records must be exempt, with the limited
277 exceptions to that exemption authorized herein.

278 Section 4. This act shall take effect October 1, 2004.