

Committee Substitute for House Bill No. 95

An act relating to public records requirements; amending s. 119.07, F.S.; providing an exemption from public records requirements, upon request by the subject, for personal identifying information in motor vehicle records; authorizing disclosure for specified uses; authorizing disclosure for any use with the consent of the subject; authorizing disclosure to certain entities for resale or redisclosure to persons authorized to receive such information and providing requirements with respect thereto; authorizing certain resale or redisclosure by authorized recipients of such information and requiring such persons to maintain records; providing for fees; authorizing the department to impose conditions upon requests for disclosure; amending s. 319.17, F.S., relating to indexes and records of motor vehicles and mobile homes, s. 319.25, F.S., relating to title records, and s. 320.05, F.S., relating to registration records; amending s. 322.20, F.S., to increase fees for services and documents and to conform; providing a finding of public necessity; providing an effective date.

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

Section 1. Paragraph (bb) is added to subsection (3) of section 119.07, Florida Statutes, 1996 Supplement, to read:

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

(3)

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

1. For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles and dealers

by motor vehicle manufacturers; and removal of nonowner records from the original owner records of motor vehicle manufacturers, to carry out the purposes of the Automobile Information Disclosure Act, the Motor Vehicle Information and Cost Saving Act, the National Traffic and Motor Vehicle Safety Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air Act.

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

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

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

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

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

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

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

b. Investigation in anticipation of litigation by an attorney licensed to practice law in this state or the agent of the attorney.

c. Investigation by any person in connection with any filed proceeding.

d. Execution or enforcement of judgments and orders.

e. Compliance with an order of any court.

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

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

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

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

10. For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. App. 2710 et seq.

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

12. For bulk distribution for surveys, marketing, or solicitations when the department has implemented methods and procedures to ensure that:

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

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

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

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

Personal information exempted from public disclosure according to this paragraph may be disclosed by the Department of Highway Safety and Motor Vehicles to an individual, firm, corporation, or similar business entity whose primary business interest is to resell or redisclose the personal information to persons who are authorized to receive such information. Prior to the department's disclosure of personal information, such individual, firm, corporation, or similar business entity must first enter into a contract with the department regarding the care, custody, and control of the personal information to ensure compliance with the federal Driver's Privacy Protection Act of 1994 and applicable state laws. An authorized recipient of personal information contained in a motor vehicle record, except a recipient under subparagraph 12., may contract with the Department of Highway Safety and Motor Vehicles to resell or redisclose the information for any use permitted under this paragraph. However, only authorized recipients of personal information under subparagraph 12. may resell or redisclose personal information pursuant to subparagraph 12. Any authorized recipient who resells or rediscloses personal information shall maintain, for a period of 5 years, records identifying each person or entity that receives the personal information and the permitted purpose for which it will be used. Such records shall be made available for inspection upon request by the department. The department shall adopt rules to carry out the purposes of this

paragraph and the federal Driver's Privacy Protection Act of 1994, Title XXX, Pub. L. No. 103-322. Rules adopted by the department shall provide for the payment of applicable fees and, prior to the disclosure of personal information pursuant to this paragraph, shall require the meeting of conditions by the requesting person for the purposes of obtaining reasonable assurance concerning the identity of such requesting person, and, to the extent required, assurance that the use will be only as authorized or that the consent of the person who is the subject of the personal information has been obtained. Such conditions may include, but need not be limited to, the making and filing of a written application in such form and containing such information and certification requirements as the department requires.

Section 2. Subsection (3) of section 319.17, Florida Statutes, is amended to read:

319.17 Rules; forms; indexes and records.—

(3) The department shall maintain indexes of motor vehicles and mobile homes by name of owner, by title number, and by manufacturer's motor number or vehicle identification number. The department shall keep a permanent record of notices of liens and satisfactions thereof. Such indexes and records shall be open to the inspection of the public at all reasonable times, except as provided in chapter 119.

Section 3. Subsection (2) of section 319.25, Florida Statutes, is amended to read:

319.25 Cancellation of certificates.—

(2) The department is authorized, upon application of any person and payment of the proper fees, to prepare and furnish lists containing title information in such form as the department may authorize, to search the records of the department and make reports thereof, and to make photographic copies of the department records and attestations thereof, except as provided in chapter 119.

Section 4. Section 320.05, Florida Statutes, 1996 Supplement, is amended to read:

320.05 Records of the department; inspection procedure; lists and searches; fees.—

(1) Except as provided in s. 119.07(3), the department may release records as provided in this section.

(2)(4) Upon receipt of an application for the registration of a motor vehicle or mobile home, as herein provided for, the department shall register the motor vehicle or mobile home under the distinctive number assigned to such motor vehicle or mobile home by the department, which registration record shall be open to the inspection of the public during business hours. Information on a motor vehicle registration may not be made available to a person unless the person requesting the information furnishes positive proof of identification. The agency that furnishes a motor vehicle registration record

shall record the name and address of any person other than a representative of a law enforcement agency who requests and receives information from a motor vehicle registration record and shall also record the name and address of the person who is the subject of the inquiry or other information identifying the entity about which information is requested. A record of each such inquiry must be maintained for a period of 6 months from the date upon which the information was released to the inquirer. Nothing in this section shall prohibit any financial institution, insurance company, motor vehicle dealer, licensee under chapter 493, attorney, or other agency which the department determines has the right to know from obtaining, for professional or business use only, information in such records from the department through any means of telecommunication pursuant to a code developed by the department providing all fees specified in subsection (3) ~~(2)~~ have been paid.

~~(3)~~(a) The department is authorized, upon application of any person and payment of the proper fees, to prepare and furnish lists containing motor vehicle or vessel information in such form as the department may authorize, to search the records of the department and make reports thereof, and to make photographic copies of the department records and attestations thereof.

(b) Fees therefor shall be charged and collected as follows:

1. For providing lists of motor vehicle or vessel records for the entire state, or any part or parts thereof, divided according to counties, a sum computed at a rate of not less than 1 cent nor more than 5 cents per item.

2. For providing noncertified photographic copies of motor vehicle or vessel documents, \$1 per page.

3. For providing noncertified photographic copies of micrographic records, \$1 per page.

4. For providing certified copies of motor vehicle or vessel records, \$3 per record.

5. For providing noncertified computer-generated printouts of motor vehicle or vessel records, 50 cents per record.

6. For providing certified computer-generated printouts of motor vehicle or vessel records, \$3 per record.

7. For providing electronic access to motor vehicle, vessel, and mobile home registration data requested by tag, vehicle identification number, title number, or decal number, 50 cents per item.

8. For providing electronic access to driver's license status report by name, sex, and date of birth or by driver license number, 50 cents per item.

9. For providing lists of licensed mobile home dealers and manufacturers and recreational vehicle dealers and manufacturers, \$15 per list.

10. For providing lists of licensed motor vehicle dealers, \$25 per list.
11. For each copy of a videotape record, \$15 per tape.
12. For each copy of the Division of Motor Vehicles Procedures Manual, \$25.

(c) Fees collected pursuant to paragraph (b) shall be deposited into the Highway Safety Operating Trust Fund.

(d) The department shall furnish such information without charge to any court or governmental entity.

(e) When motor vehicle, vessel, or mobile home registration data is provided by electronic access through a tax collector's office, a fee for the electronic access is not required to be assessed. However, at the tax collector's discretion, a fee equal to or less than the fee charged by the department for such information may be assessed by the tax collector for the electronic access. Notwithstanding paragraph (c), any funds collected by the tax collector as a result of providing such access shall be retained by the tax collector.

~~(4)~~(3) The department is authorized to reproduce such documents, records, and reports as required to meet the requirements of the law and the needs of the public, either by photographing, microphotographing, or reproducing on film the document, record, or report, or by using an electronic digitizing process capable of reproducing a true and correct image of the original source document. The photographs, microphotographs, or electronic digitized copy of any records made in compliance with the provisions of this section shall have the same force and effect as the originals thereof and shall be treated as originals for the purpose of their admissibility into evidence. Duly certified or authenticated reproductions of such photographs, microphotographs, or electronically digitized records shall be admitted into evidence equally with the original photographs, microphotographs, or electronically digitized records.

Section 5. Subsections (8), (9), (10), (11), (12), and (13) of section 322.20, Florida Statutes, 1996 Supplement, are renumbered as subsections (9), (10), (11), (12), (13), and (14), respectively, and amended, and a new subsection (8) is added to that section, to read:

322.20 Records of the department; fees; destruction of records.—

(8) Except as provided in s. 119.07(3), the department may release records as provided in this section.

(9)~~(8)~~ The department may, upon application, furnish to any person, from the records of the Division of Driver Licenses, a list of the names, addresses, and birth dates of the licensed drivers of the entire state or any portion thereof by age group. In addition, the department may furnish to the courts, for the purpose of establishing jury selection lists, the names, addresses, and birth dates of the persons of the entire state or any portion thereof by age group having identification cards issued by the department. Each person who requests such information shall pay a fee, set by the

department, of 1 cent per name listed, except that the department shall furnish such information without charge to the courts for the purpose of jury selection or to any state agency or to any state attorney, sheriff, or chief of police. Such court, state agency, state attorney, or law enforcement agency may not sell, give away, or allow the copying of such information. Noncompliance with this prohibition shall authorize the department to charge the noncomplying court, state agency, state attorney, or law enforcement agency the appropriate fee for any subsequent lists requested. The department may adopt rules necessary to implement this subsection.

(10)(9) The Division of Driver Licenses is authorized, upon application of any person and payment of the proper fees, to search and to assist such person in the search of the records of the department and make reports thereof and to make photographic copies of the departmental records and attestations thereof.

(11)(10)(a) The department is authorized to charge the following fees for the following services and documents:

1. For providing a transcript of any one individual's driver history record or any portion thereof for the past 3 years or for searching for such record when no record is found to be on file \$2.10 ~~\$2.00~~

2. For providing a transcript of any one individual's driver history record or any portion thereof for the past 7 years or for searching for such record when no record is found to be on file ~~\$3.10~~ \$3.00

3. For providing a certified copy of a transcript of the driver history record or any portion thereof for any one individual ~~\$3.10~~ \$3.00

4. For providing a certified photographic copy of a document, per page \$1.00

5. For providing an exemplified record \$15.00

6. For providing photocopies of documents, papers, letters, clearances, or license or insurance status reports, per page \$0.50

7. For assisting persons in searching any one individual's driver record at a terminal located at the department's general headquarters in Tallahassee \$2.00

(b) The department shall furnish such information without charge to any local, state, or federal law enforcement agency or court upon proof satisfactory to the department as to the purpose of the investigation.

(12)(11) The fees collected under this section shall be placed in the Highway Safety Operating Trust Fund.

(13)(12) The department is authorized in accordance with chapter 257 to destroy reports, records, documents, papers, and correspondence in the Division of Driver Licenses which are considered obsolete.

~~(14)~~(13) The department is authorized to photograph, microphotograph, or reproduce on film such documents, records, and reports as it may select. The photographs or microphotographs in the form of film or print of any records made in compliance with the provisions of this section shall have the same force and effect as the originals thereof and shall be treated as originals for the purpose of their admissibility in evidence. Duly certified or authenticated reproductions of such photographs or microphotographs shall be admitted in evidence equally with the original photographs or microphotographs.

Section 6. The Legislature finds that it is a public necessity that personal information in a person's motor vehicle record held by the Department of Highway Safety and Motor Vehicles be exempt from public disclosure. Limiting access to motor vehicle records will afford the public an added measure of protection by preventing individuals from obtaining for malicious purposes personal information contained in the state's motor vehicle records. Further, such an exemption will conform state law to the requirements of the federal Driver's Privacy Protection Act of 1994, which prohibits disclosure of such information of a sensitive, personal nature, with specified exceptions.

Section 7. This act shall take effect September 13, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.