

Council Substitute for House Bill No. 7027

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

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

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

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

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

(a) For purposes of this subsection, the term “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.

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

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

~~(b) Personal information contained in motor vehicle records made confidential and exempt by this subsection may 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 Titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. ss. 1231 et seq.), the Clean Air Act (42 U.S.C. ss. 7401 et seq.), and chapters 301, 305, and 321-331 of Title 49, United States Code.~~

~~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; however, the information may not be used for mass commercial solicitation of clients for litigation against motor vehicle dealers.~~

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

- 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 subsection. 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 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 49 U.S.C. ss. 31301 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 obtained the express consent of the person to whom such personal information pertains.~~
 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.~~
 15. ~~For any other use if the person to whom the information pertains has given express consent in a format prescribed by the department. Such consent shall remain in effect until it is revoked by the person on a form prescribed by the department.~~
- 2.(c) ~~Notwithstanding paragraph (b), Without the express consent of the person to whom such emergency contact information applies, the emergency contact following information contained in a motor vehicle record records may only be released as specified in this paragraph:~~
1. ~~Social security numbers may be released only as provided in subparagraphs (b)2., 5., 7., and 10.~~
 2. ~~An individual's photograph or image may be released only as provided in s. 322.142.~~

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

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

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

~~(e)1. Personal information made confidential and exempt 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.~~

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

~~3. 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.~~

~~(d)(f) The department may adopt rules to carry out the purposes of this subsection and the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Rules adopted by the department may provide for the payment of applicable fees and, prior to the disclosure of personal information pursuant to this subsection or the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., may 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.~~

~~(g) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed October 2, 2012,~~

~~unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

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

Approved by the Governor June 10, 2009.

Filed in Office Secretary of State June 10, 2009.