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Introduced and read first time: January 29, 1998  
Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Motor Vehicle Administration - Access to Public Records - Release of**  
3 **Personal Information**

4 FOR the purpose of prohibiting the disclosure, except under certain circumstances, of  
5 Motor Vehicle Administration records containing certain personal information  
6 unless the person who is the subject of the record consents to the disclosure in  
7 writing; requiring the Administration to provide certain notice that the  
8 Administration is prohibited from disclosing personal information, except under  
9 certain circumstances, unless the disclosure is authorized by a certain person in  
10 interest; authorizing certain individuals to permit the disclosure of personal  
11 information under certain circumstances; making stylistic changes; and  
12 generally relating to access to certain personal information contained in certain  
13 public records of the Motor Vehicle Administration under certain circumstances.

14 BY repealing and reenacting, without amendments,  
15 Article - State Government  
16 Section 10-611  
17 Annotated Code of Maryland  
18 (1995 Replacement Volume and 1997 Supplement)

19 BY repealing and reenacting, with amendments,  
20 Article - State Government  
21 Section 10-616(p)  
22 Annotated Code of Maryland  
23 (1995 Replacement Volume and 1997 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article - Transportation  
26 Section 12-112  
27 Annotated Code of Maryland

1 (1992 Replacement Volume and 1997 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - State Government**

5 10-611.

6 (a) In this Part III of this subtitle the following words have the meanings  
7 indicated.

8 (b) "Applicant" means a person or governmental unit that asks to inspect a  
9 public record.

10 (c) "Custodian" means:

11 (1) the official custodian; or

12 (2) any other authorized individual who has physical custody and control  
13 of a public record.

14 (d) "Official custodian" means an officer or employee of the State or of a  
15 political subdivision who, whether or not the officer or employee has physical custody  
16 and control of a public record, is responsible for keeping the public record.

17 (e) "Person in interest" means:

18 (1) a person or governmental unit that is the subject of a public record or  
19 a designee of the person or governmental unit;

20 (2) if the person has a legal disability, the parent or legal representative  
21 of the person; or

22 (3) as to requests for correction of certificates of death under §  
23 5-310(d)(2) of the Health - General Article, the spouse, adult child, parent, adult  
24 sibling, grandparent, or guardian of the person of the deceased at the time of the  
25 deceased's death.

26 (f) (1) "Personal information" means information that identifies an  
27 individual including an individual's address, driver's license number or any other  
28 identification number, medical or disability information, name, photograph or  
29 computer generated image, Social Security number, or telephone number.

30 (2) "Personal information" does not include an individual's driver's  
31 status, driving offenses, 5-digit zip code, or information on vehicular accidents.

32 (g) (1) "Public record" means the original or any copy of any documentary  
33 material that:

1 (i) is made by a unit or instrumentality of the State government or  
2 of a political subdivision or received by the unit or instrumentality in connection with  
3 the transaction of public business; and

4 (ii) is in any form, including:

- 5 1. a card;
- 6 2. a computerized record;
- 7 3. correspondence;
- 8 4. a drawing;
- 9 5. film or microfilm;
- 10 6. a form;
- 11 7. a map;
- 12 8. a photograph or photostat;
- 13 9. a recording; or
- 14 10. a tape.

15 (2) "Public record" includes a document that lists the salary of an  
16 employee of a unit or instrumentality of the State government or of a political  
17 subdivision.

18 (3) "Public record" does not include a digital photographic image or  
19 signature of an individual, or the actual stored data thereof, recorded by the Motor  
20 Vehicle Administration.

21 (h) (1) "Telephone solicitation" means the initiation of a telephone call to an  
22 individual or to the residence or business of an individual for the purpose of  
23 encouraging the purchase or rental of or investment in property, goods, or services.

24 (2) "Telephone solicitation" does not include a telephone call or message:

25 (i) to an individual who has given express permission to the person  
26 making the telephone call;

27 (ii) to an individual with whom the person has an established  
28 business relationship; or

29 (iii) by a tax-exempt, nonprofit organization.

1 10-616.

2 (p) (1) Except as provided in paragraphs (2) through (5) of this subsection, a  
3 custodian may not knowingly disclose a public record of the Motor Vehicle  
4 Administration containing personal information.

5 (2) A custodian shall disclose personal information when required by  
6 federal law.

7 (3) (i) This paragraph applies only to the disclosure of personal  
8 information for any use in response to a request for an individual motor vehicle  
9 record.

10 (ii) The custodian shall provide notice in a clear and conspicuous  
11 manner on the forms for the issuance or renewal of a driver's license, certificate of  
12 title, registration, or identification card that personal information may NOT be  
13 disclosed to any person WITHOUT WRITTEN CONSENT FROM THE PERSON IN  
14 INTEREST.

15 (iii) The custodian shall provide an opportunity to [prohibit]  
16 ALLOW disclosure under this paragraph in a clear and conspicuous manner on the  
17 forms for the issuance or renewal of a driver's license, certificate of title, registration,  
18 or identification card.

19 (iv) The custodian may not disclose personal information under this  
20 paragraph [if a] UNLESS THE person in interest [prohibited] ALLOWS disclosure  
21 under this paragraph [or] by notifying the custodian in writing.

22 (v) If the person in interest does not [prohibit] ALLOW disclosure of  
23 the personal information as provided in subparagraph (iv) of this paragraph, the  
24 custodian [shall] MAY NOT disclose the personal information.

25 (4) (i) This paragraph applies only to the disclosure of personal  
26 information for inclusion in lists of information to be used for surveys, marketing, and  
27 solicitations.

28 (ii) The custodian shall provide notice in a clear and conspicuous  
29 manner on the forms for the issuance or renewal of a driver's license, certificate of  
30 title, registration, or identification card that personal information may NOT be  
31 disclosed for surveys, marketing, and solicitations WITHOUT WRITTEN CONSENT  
32 FROM THE PERSON IN INTEREST.

33 (iii) The custodian shall provide an opportunity to [prohibit]  
34 ALLOW disclosure under this paragraph in a clear and conspicuous manner on the  
35 forms for the issuance or renewal of a driver's license, certificate of title, registration,  
36 or identification card.

37 (iv) The custodian may not disclose personal information under this  
38 paragraph [if a] UNLESS THE person in interest [prohibited] ALLOWS disclosure  
39 under this paragraph [or] by notifying the custodian in writing.

1 (v) [Except as provided in subparagraph (vi) of this paragraph, if]  
2 IF the person in interest does not [prohibit] ALLOW disclosure of the personal  
3 information as provided in subparagraph (iv) of this paragraph, the custodian may  
4 NOT disclose the personal information.

5 (vi) The custodian may not disclose personal information under this  
6 paragraph for use in telephone solicitations.

7 (vii) Personal information disclosed under this paragraph may be  
8 used only for surveys, marketing, or solicitations and only for a purpose approved by  
9 the Motor Vehicle Administration.

10 (5) Notwithstanding the provisions of [paragraph (3) or (4)]  
11 PARAGRAPHS (3) AND (4) of this subsection, a custodian shall disclose personal  
12 information:

13 (i) for use by a federal, state, or local government, including a law  
14 enforcement agency, or a court in carrying out its functions;

15 (ii) for use in connection with matters of:

16 1. motor vehicle or driver safety;

17 2. motor vehicle theft;

18 3. motor vehicle emissions;

19 4. motor vehicle product alterations, recalls, or advisories;

20 5. performance monitoring of motor vehicle parts and  
21 dealers; and

22 6. removal of nonowner records from the original records of  
23 motor vehicle manufacturers;

24 (iii) for use by a private detective agency licensed by the Secretary of  
25 State Police under Title 13 of the Business Occupations and Professions Article or a  
26 security guard service licensed by the Secretary of State Police under Title 19 of the  
27 Business Occupations and Professions Article for a purpose permitted under this  
28 paragraph;

29 (iv) for use in connection with a civil, administrative, arbitral, or  
30 criminal proceeding in a federal, State, or local court or regulatory agency for service  
31 of process, investigation in anticipation of litigation, and execution or enforcement of  
32 judgments or orders;

33 (v) for purposes of research or statistical reporting as approved by  
34 the Motor Vehicle Administration provided that the personal information is not  
35 published, redisclosed, or used to contact the individual;

1 (vi) for use by an insurer, insurance support organization, or  
2 self-insured entity, or its employees, agents, or contractors, in connection with rating,  
3 underwriting, claims investigating, and antifraud activities;

4 (vii) for use in the normal course of business activity by a legitimate  
5 business entity, its agents, employees, or contractors, but only:

6 1. to verify the accuracy of personal information submitted  
7 by the individual to that entity; and

8 2. if the information submitted is not accurate, to obtain  
9 correct information only for the purpose of:

10 A. preventing fraud by the individual;

11 B. pursuing legal remedies against the individual; or

12 C. recovering on a debt or security interest against the  
13 individual;

14 (viii) for use by an employer or insurer to obtain or verify information  
15 relating to a holder of a commercial driver's license that is required under the  
16 Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. et seq.);

17 (ix) for use in connection with the operation of a private toll  
18 transportation facility;

19 (x) for use in providing notice to the owner of a towed or impounded  
20 motor vehicle;

21 (xi) for use by an applicant who provides written consent from the  
22 individual to whom the information pertains if the consent is obtained within the  
23 6-month period before the date of the request for personal information; and

24 (xii) for a use specifically authorized by the law of this State, if the  
25 use is related to the operation of a motor vehicle or public safety.

26 (6) (i) A person receiving personal information under paragraph (4) or  
27 (5) of this subsection may not use or redisclose the personal information for a purpose  
28 other than the purpose for which the custodian disclosed the personal information.

29 (ii) A person receiving personal information under paragraph (4) or  
30 (5) of this subsection who rediscloses the personal information shall:

31 1. keep a record for 5 years of the person to whom the  
32 information is redisclosed and the purpose for which the information is to be used;  
33 and

34 2. make the record available to the custodian on request.

1                   (7)     (i)     The custodian shall adopt regulations to implement and enforce  
2 the provisions of this subsection.

3                                 (ii)     1.     The custodian shall adopt regulations and procedures for  
4 securing a person in interest's waiver of privacy rights under this subsection when an  
5 applicant requests personal information about the person in interest that the  
6 custodian is not authorized to disclose under paragraphs (2) through (5) of this  
7 subsection.

8   2.     The regulations and procedures adopted under this  
9 subparagraph shall:

10   A.     state the circumstances under which the custodian may  
11 request a waiver; and

12   B.     conform with the waiver requirements in the federal  
13 Driver's Privacy Protection Act of 1994 and other federal law.

14                   (8)     The custodian may develop and implement methods for monitoring  
15 compliance with this section and ensuring that personal information is used only for  
16 purposes for which it is disclosed.

#### 17   **Article - Transportation**

18 12-112.

19     (a)     Unless the information is classified as confidential under § 12-111 of this  
20 subtitle or otherwise as provided by law, and subject to § 10-616(p) of the State  
21 Government Article, the Administration may furnish listings of vehicle registration  
22 and other public information in its records to those persons who request them, but  
23 only if the Administration approves of the purpose for which the information is  
24 requested.

25     (b)     The Administration shall charge a fee for any listing furnished under this  
26 section. The fee charged may not be less than the cost to this State of preparing that  
27 listing. The revenue from the fee shall not be subject to the distribution provisions of  
28 Title 8, Subtitle 4 of this article.

29     (c)     A person furnished any information under this section is prohibited from  
30 distributing or otherwise using the information for any purpose other than that for  
31 which it was furnished.

32     (d)     (1)     (i)     In this subsection the following terms have the meanings  
33 indicated.

34   (ii)     "Personal information" has the meaning indicated in § 10-611(f)  
35 of the State Government Article.

36   (iii)     "Telephone solicitation" has the meaning indicated in §  
37 10-611(h) of the State Government Article.

1           (2)     The Administration shall provide notice in a clear and conspicuous  
2 manner on the forms for the issuance or renewal of a driver's license, certificate of  
3 title, registration, or identification card that personal information may NOT be  
4 disclosed [for inclusion in listings of information for use in surveys, marketing, or  
5 solicitations] WITHOUT WRITTEN CONSENT FROM THE PERSON IN INTEREST.

6           (3)     An individual may [prohibit] ALLOW disclosure of personal  
7 information under this section when applying for or renewing a driver's license,  
8 certificate of title, registration, or identification card or by notifying the  
9 Administrator in writing at any time.

10          (4)     The Administration may not disclose personal information under this  
11 section for use in telephone solicitations.

12          (5)     This subsection does not prevent the Administration from furnishing  
13 personal information under this section:

14                 (i)     To another governmental agency; or

15                 (ii)    For another purpose permissible under § 10-616(p) of the State  
16 Government Article.

17     SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 1998.