

HOUSE BILL 722

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SB 159/98 - JPR

1999 Regular Session  
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By: **Delegates Kopp, Barve, Billings, Bronrott, Cadden, Clagett, Cryor, DeCarlo, Dewberry, Edwards, Goldwater, Greenip, Grosfeld, Healey, Heller, Hixson, Hubbard, Hurson, Kagan, Leopold, Mandel, McIntosh, Menes, Morhaim, Owings, Petzold, Pitkin, Proctor, Rawlings, Rzepkowski, and Shriver**

Introduced and read first time: February 12, 1999  
Assigned to: Commerce and Government Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 24, 1999

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Motor Vehicle Administration - Privacy Protection Act of 1999**

3 FOR the purpose of prohibiting the disclosure, except under certain circumstances, of  
4 Motor Vehicle Administration records containing certain personal information  
5 unless the individual who is the subject of the record consents to the disclosure  
6 in writing; authorizing a person in interest to withdraw consent to the  
7 disclosure of certain personal information; providing that a certain withdrawal  
8 of consent take effect at a certain time; making a stylistic change; authorizing  
9 certain individuals to allow the disclosure of personal information under the  
10 circumstances; repealing provisions requiring that a person in interest be given  
11 certain notice and take certain actions before certain personal information is  
12 protected from disclosure; requiring the disclosure of personal information  
13 relating to specified classes of vehicles; providing for a delayed effective date;  
14 and generally relating to access to personal information contained in records of  
15 the Motor Vehicle Administration.

16 BY repealing and reenacting, without amendments,  
17 Article - State Government  
18 Section 10-611  
19 Annotated Code of Maryland  
20 (1995 Replacement Volume and 1998 Supplement)

21 BY repealing and reenacting, with amendments,

1 Article - State Government  
2 Section 10-616(p)  
3 Annotated Code of Maryland  
4 (1995 Replacement Volume and 1998 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article - Transportation  
7 Section 12-112  
8 Annotated Code of Maryland  
9 (1998 Replacement Volume and 1998 Supplement)

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

12 **Article - State Government**

13 10-611.

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

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

18 (c) "Custodian" means:

19 (1) the official custodian; or

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

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

25 (e) "Person in interest" means:

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

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

30 (3) as to requests for correction of certificates of death under §  
31 5-310(d)(2) of the Health - General Article, the spouse, adult child, parent, adult  
32 sibling, grandparent, or guardian of the person of the deceased at the time of the  
33 deceased's death.

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

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

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

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

12 (ii) is in any form, including:

- 13 1. a card;
- 14 2. a computerized record;
- 15 3. correspondence;
- 16 4. a drawing;
- 17 5. film or microfilm;
- 18 6. a form;
- 19 7. a map;
- 20 8. a photograph or photostat;
- 21 9. a recording; or
- 22 10. a tape.

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

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

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

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

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

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

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

6 10-616.

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

10 (2) A custodian shall disclose personal information when required by  
11 federal law.

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

15 (ii) The custodian [shall provide notice in a clear and conspicuous  
16 manner on the forms for the issuance or renewal of a driver's license, certificate of  
17 title, registration, or identification card that personal information may be disclosed to  
18 any person] **MAY NOT DISCLOSE PERSONAL INFORMATION WITHOUT WRITTEN  
19 CONSENT FROM THE PERSON IN INTEREST.**

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

24 (iv) The custodian may not disclose personal information under this  
25 paragraph if a person in interest prohibited disclosure under this paragraph or by  
26 notifying the custodian in writing.

27 (v) If the person in interest does not prohibit disclosure of the  
28 personal information as provided in subparagraph (iv) of this paragraph, the  
29 custodian shall disclose the personal information.]

30 **(III) 1. AT ANY TIME THE PERSON IN INTEREST MAY WITHDRAW  
31 CONSENT TO DISCLOSE PERSONAL INFORMATION BY NOTIFYING THE CUSTODIAN.**

32 **2. THE WITHDRAWAL BY THE PERSON IN INTEREST OF  
33 CONSENT TO DISCLOSE PERSONAL INFORMATION SHALL TAKE EFFECT AS SOON AS  
34 PRACTICABLE AFTER IT IS RECEIVED BY THE CUSTODIAN.**

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

1 (ii) The custodian [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 be disclosed  
4 for surveys, marketing, and solicitations] MAY NOT DISCLOSE PERSONAL  
5 INFORMATION FOR SURVEYS, MARKETING, AND SOLICITATIONS WITHOUT WRITTEN  
6 CONSENT FROM THE PERSON IN INTEREST.

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

11 (iv) The custodian may not disclose personal information under this  
12 paragraph if a person in interest prohibited disclosure under this paragraph or by  
13 notifying the custodian in writing.

14 (v) Except as provided in subparagraph (vi) of this paragraph, if  
15 the person in interest does not prohibit disclosure of the personal information as  
16 provided in subparagraph (iv) of this paragraph, the custodian may disclose the  
17 personal information.

18 (vi)] (III) 1. AT ANY TIME THE PERSON IN INTEREST MAY  
19 WITHDRAW CONSENT TO DISCLOSE PERSONAL INFORMATION BY NOTIFYING THE  
20 CUSTODIAN.

21 2. THE WITHDRAWAL BY THE PERSON IN INTEREST OF  
22 CONSENT TO DISCLOSE PERSONAL INFORMATION SHALL TAKE EFFECT AS SOON AS  
23 PRACTICABLE AFTER IT IS RECEIVED BY THE CUSTODIAN.

24 (IV) The custodian may not disclose personal information under this  
25 paragraph for use in telephone solicitations.

26 [(vii)] (V) Personal information disclosed under this paragraph may  
27 be used only for surveys, marketing, or solicitations and only for a purpose approved  
28 by the Motor Vehicle Administration.

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

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

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

35 1. motor vehicle or driver safety;

36 2. motor vehicle theft;

37 3. motor vehicle emissions;

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

2 5. performance monitoring of motor vehicle parts and  
3 dealers; and

4 6. removal of nonowner records from the original records of  
5 motor vehicle manufacturers;

6 (iii) for use by a private detective agency licensed by the Secretary of  
7 State Police under Title 13 of the Business Occupations and Professions Article or a  
8 security guard service licensed by the Secretary of State Police under Title 19 of the  
9 Business Occupations and Professions Article for a purpose permitted under this  
10 paragraph;

11 (iv) for use in connection with a civil, administrative, arbitral, or  
12 criminal proceeding in a federal, state, or local court or regulatory agency for service  
13 of process, investigation in anticipation of litigation, and execution or enforcement of  
14 judgments or orders;

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

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

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

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

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

27 A. preventing fraud by the individual;

28 B. pursuing legal remedies against the individual; or

29 C. recovering on a debt or security interest against the  
30 individual;

31 (viii) for use by an employer or insurer to obtain or verify information  
32 relating to a holder of a commercial driver's license that is required under the  
33 Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. A. § 2701 et seq.);

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

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

3 (xi) for use by an applicant who provides written consent from the  
4 individual to whom the information pertains if the consent is obtained within the  
5 6-month period before the date of the request for personal information; ~~and~~

6 (xii) FOR USE BY THE PUBLIC IN MATTERS RELATING TO A CLASS B  
7 (FOR HIRE), CLASS C (FUNERAL AND AMBULANCE), OR CLASS Q (LIMOUSINE)  
8 VEHICLE; AND

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

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

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

16 1. keep a record for 5 years of the person to whom the  
17 information is redisclosed and the purpose for which the information is to be used;  
18 and

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

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

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

27 2. The regulations and procedures adopted under this  
28 subparagraph shall:

29 A. state the circumstances under which the custodian may  
30 request a waiver; and

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

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

**Article - Transportation**

1

2 12-112.

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

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

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

16 (d) (1) (i) In this subsection the following terms have the meanings  
17 indicated.

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

20 (iii) "Telephone solicitation" has the meaning indicated in §  
21 10-611(h) of the State Government Article.

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

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

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

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

36 (i) To another governmental agency; or



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

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 ~~October 1, 1999~~ July 1, 2000.