

SENATE BILL 387

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R4

1999 Regular Session
(91r0372)

ENROLLED BILL

-- Judicial Proceedings/Commerce and Government Matters --

Introduced by **Senators Frosh, Blount, Colburn, Collins, Conway, Currie, Dyson, Ferguson, Forehand, Hogan, Hollinger, Jimeno, Kasemeyer, Kelley, Lawlah, Madden, McCabe, Middleton, Neall, Pinsky, Roesser, Ruben, Sfikas, Stoltzfus, Stone, Teitelbaum, Van Hollen, Exum, Mitchell, and Jacobs**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____M.

President.

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 certain circumstances; repealing provisions requiring that a person in interest
11 be given certain notice and take certain actions before certain personal
12 information is protected from disclosure; requiring the disclosure of personal
13 information relating to specified classes of vehicles for certain purposes;

1 providing for a delayed effective date; and generally relating to access to
2 personal information contained in records of the Motor Vehicle Administration.

3 BY repealing and reenacting, without amendments,
4 Article - State Government
5 Section 10-611
6 Annotated Code of Maryland
7 (1995 Replacement Volume and 1998 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - State Government
10 Section 10-616(p)
11 Annotated Code of Maryland
12 (1995 Replacement Volume and 1998 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Transportation
15 Section 12-112
16 Annotated Code of Maryland
17 (1998 Replacement Volume and 1998 Supplement)

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

20 **Article - State Government**

21 10-611.

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

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

26 (c) "Custodian" means:

27 (1) the official custodian; or

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

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

33 (e) "Person in interest" means:

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

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

5 (3) as to requests for correction of certificates of death under §
6 5-310(d)(2) of the Health - General Article, the spouse, adult child, parent, adult
7 sibling, grandparent, or guardian of the person of the deceased at the time of the
8 deceased's death.

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

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

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

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

20 (ii) is in any form, including:

- 21 1. a card;
- 22 2. a computerized record;
- 23 3. correspondence;
- 24 4. a drawing;
- 25 5. film or microfilm;
- 26 6. a form;
- 27 7. a map;
- 28 8. a photograph or photostat;
- 29 9. a recording; or
- 30 10. a tape.

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

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

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

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

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

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

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

13 10-616.

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

17 (2) A custodian shall disclose personal information when required by
18 federal law.

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

22 (ii) The custodian [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 to
25 any person] **MAY NOT DISCLOSE PERSONAL INFORMATION WITHOUT WRITTEN**
26 **CONSENT FROM THE PERSON IN INTEREST.**

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

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

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

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

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

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

9 (ii) The custodian [shall provide notice in a clear and conspicuous
10 manner on the forms for the issuance or renewal of a driver's license, certificate of
11 title, registration, or identification card that personal information may be disclosed
12 for surveys, marketing, and solicitations] MAY NOT DISCLOSE PERSONAL
13 INFORMATION FOR SURVEYS, MARKETING, AND SOLICITATIONS WITHOUT WRITTEN
14 CONSENT FROM THE PERSON IN INTEREST.

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

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

22 (v) Except as provided in subparagraph (vi) of this paragraph, if
23 the person in interest does not prohibit disclosure of the personal information as
24 provided in subparagraph (iv) of this paragraph, the custodian may disclose the
25 personal information.

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

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

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

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

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

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

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

4 1. motor vehicle or driver safety;

5 2. motor vehicle theft;

6 3. motor vehicle emissions;

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

8 5. performance monitoring of motor vehicle parts and
9 dealers; and

10 6. removal of nonowner records from the original records of
11 motor vehicle manufacturers;

12 (iii) for use by a private detective agency licensed by the Secretary of
13 State Police under Title 13 of the Business Occupations and Professions Article or a
14 security guard service licensed by the Secretary of State Police under Title 19 of the
15 Business Occupations and Professions Article for a purpose permitted under this
16 paragraph;

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

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

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

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

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

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

33 A. preventing fraud by the individual;

34 B. pursuing legal remedies against the individual; or

1 C. recovering on a debt or security interest against the
2 individual;

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

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

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

10 (xi) for use by an applicant who provides written consent from the
11 individual to whom the information pertains if the consent is obtained within the
12 6-month period before the date of the request for personal information; ~~and~~

13 (xii) FOR USE IN ANY MATTER RELATING TO:

14 1. THE OPERATION OF A CLASS B (FOR HIRE), CLASS C
15 (FUNERAL AND AMBULANCE), OR CLASS Q (LIMOUSINE) VEHICLE; AND

16 2. PUBLIC SAFETY OR THE TREATMENT BY THE OPERATOR
17 OF A MEMBER OF THE PUBLIC; AND

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

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

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

25 1. keep a record for 5 years of the person to whom the
26 information is redisclosed and the purpose for which the information is to be used;
27 and

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

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

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

- 1 2. The regulations and procedures adopted under this
- 2 subparagraph shall:
- 3 A. state the circumstances under which the custodian may
- 4 request a waiver; and
- 5 B. conform with the waiver requirements in the federal
- 6 Driver's Privacy Protection Act of 1994 and other federal law.

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

10 **Article - Transportation**

11 12-112.

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

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

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

25 (d) (1) (i) In this subsection the following terms have the meanings
26 indicated.

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

29 (iii) "Telephone solicitation" has the meaning indicated in §
30 10-611(h) of the State Government Article.

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

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

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

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

9 (i) To another governmental agency; or

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

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