

SENATE BILL 387

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SB 159/98 - JPR

1999 Regular Session
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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**

Introduced and read first time: February 5, 1999
Assigned to: Judicial Proceedings

A BILL ENTITLED

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; and generally relating to access to personal
13 information contained in records of the Motor Vehicle Administration.

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 1998 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 1998 Supplement)

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

1 (1998 Replacement Volume and 1998 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 be disclosed to
13 any person] **MAY NOT DISCLOSE PERSONAL INFORMATION 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) If the person in interest does not prohibit disclosure of the
23 personal information as provided in subparagraph (iv) of this paragraph, the
24 custodian shall disclose the personal information.]

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

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

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

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

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

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

8 (v) Except as provided in subparagraph (vi) of this paragraph, if
9 the person in interest does not prohibit disclosure of the personal information as
10 provided in subparagraph (iv) of this paragraph, the custodian may disclose the
11 personal information.

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

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

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

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

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

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

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

29 1. motor vehicle or driver safety;

30 2. motor vehicle theft;

31 3. motor vehicle emissions;

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

33 5. performance monitoring of motor vehicle parts and
34 dealers; and

35 6. removal of nonowner records from the original records of
36 motor vehicle manufacturers;

1 (iii) for use by a private detective agency licensed by the Secretary of
2 State Police under Title 13 of the Business Occupations and Professions Article or a
3 security guard service licensed by the Secretary of State Police under Title 19 of the
4 Business Occupations and Professions Article for a purpose permitted under this
5 paragraph;

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

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

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

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

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

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

22 A. preventing fraud by the individual;

23 B. pursuing legal remedies against the individual; or

24 C. recovering on a debt or security interest against the
25 individual;

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

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

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

33 (xi) for use by an applicant who provides written consent from the
34 individual to whom the information pertains if the consent is obtained within the
35 6-month period before the date of the request for personal information; and

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

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

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

8 1. keep a record for 5 years of the person to whom the
9 information is redisclosed and the purpose for which the information is to be used;
10 and

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

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

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

19 2. The regulations and procedures adopted under this
20 subparagraph shall:

21 A. state the circumstances under which the custodian may
22 request a waiver; and

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

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

28 **Article - Transportation**

29 12-112.

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

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

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

8 (d) (1) (i) In this subsection the following terms have the meanings
9 indicated.

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

12 (iii) "Telephone solicitation" has the meaning indicated in §
13 10-611(h) of the State Government Article.

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

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

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

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

28 (i) To another governmental agency; or

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

31 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
32 October 1, 1999.