

Model Legislation
Concerning Disclosure of Personal Information Contained in
Motor Vehicle Records

- Section 1. *Short Title.* This Act may be cited as the Uniform Motor Vehicle Records Disclosure Act.
- Section 2. *Statement of Intent and Purpose.* The purpose of this Act is to implement the federal Driver's Privacy Protection Act of 1994¹ in order to protect the interest of individuals in their personal privacy by prohibiting the disclosure and use of personal information, including highly restricted personal information, contained in their motor vehicle records, except as authorized by such individuals or by law.
- Section 3. *Definitions.* As used in this Act:
- (a) "department" means the motor vehicle agency or agencies of this state, or the duly authorized agents or contractors thereof, responsible to compile and maintain motor vehicle records;
 - (b) "disclose" and "disclosure" means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about an individual to any other individual, organization or entity, by any means of communication;
 - (c) "express consent" means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in subsection (5) of section 106 of Public Law 106-229;²
 - (d) "highly restricted personal information" means an individual's photograph or image, social security number, and medical or disability information concerning the individual;
 - (e) "individual record" means a motor vehicle record containing personal information about a designated individual who is the subject of the record as identified in a request for disclosure;
 - (f) "motor vehicle record" means any record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by a department of

¹ 18 U.S.C. §§2721 to 2725, inclusive. Pub. L. 103-322, effective September 13, 1997, as amended by Pub.L. 104-287 and Pub. L. 104-294, effective October 11, 1996, Pub. L. 106-69, effective October 9, 1999, and Pub. L. 106-346, effective October 23, 2000.

² 15 U.S.C. §7001 to 7006, 7021 and 7031. Pub. L. 106-229, effective June 30, 2000.

motor vehicles, or other state or local agency authorized to issue any of such forms of credentials;

(g) "person" means an individual, organization or entity, but does not include this state or an agency thereof;

(h) "personal information" means information that identifies an individual, including such individual's photograph or image, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include other contents of a motor vehicle record, including information on vehicular accidents, driving or equipment-related violations, dispositions by any court or administrative body, and driver's license or registration status;³

(i) "record" includes all books, papers, photographs, photostats, cards, films, tapes, recordings, electronic data, printouts or other documentary materials regardless of physical form or characteristics.

Section 4 *Prohibition on disclosure and use of certain information from state motor vehicle records.* Notwithstanding any other provision of state law to the contrary, except as provided in Sections 5 to 7, inclusive, and Section 9 the department, and any officer, employee, agent or contractor thereof shall not disclose personal information or highly restricted personal information obtained by the department in connection with a motor vehicle record.

Section 5. *Required disclosures.* Personal information and highly restricted personal information shall be disclosed 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 non-owner 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, 15 USC 2021 et seq., the Automobile Information Disclosure Act, 15 USC 1231 et seq., the Clean Air Act, 42 USC 7401 et seq., as amended, chapters 301, 305 and 321 to 331, inclusive, of Title 49, and all statutes and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance with, the said Acts of Congress.⁴

³ The DPPA states expressly that personal information "does not include information on vehicular accidents, driving violations, and drivers' status". Since the purpose of the DPPA is to regulate the disclosure of personal information, it is the opinion of the Committee that Congress did not intend the DPPA to impact the use and disclosure by state motor vehicle agencies of non-personal information. Consequently, the language of the definition concerning items that are not defined as personal information has been clarified and expanded, to refer more accurately to the kinds of violation and status information that are typically maintained by state motor vehicle agencies.

⁴ Pub. L. 104-287, §1(1) substituted "titles I and IV of the Anti Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. 1231 et seq.), the Clean Air Act (42 U.S.C. 7401 et seq.), and chapters 301, 305, and 321-

Section 6. *Permitted disclosures of personal information.* Personal information may be disclosed to any person by the motor vehicle department, its officers, employees or contractors, on proof of the identity of the person requesting a record or records and representation by such person that the use of the personal information will be strictly limited to one or more of the following described uses:

(a) 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 government agency in carrying out its functions;

(b) 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 non-owner records from the original owner records of motor vehicle manufacturers;

(c) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only--

(1) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors, and

(2) 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;

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court;

(e) 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;

(f) 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, antifraud activities, rating or underwriting.

(g) For use in providing notice to the owners of towed or impounded vehicles;⁵

(h) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this section;

(i) 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 the Commercial Motor Vehicle Safety Act of 1986;⁶

(j) For use in connection with the operation of private toll transportation facilities;

(k) For bulk distribution for surveys, marketing or solicitations if the department has obtained the express consent of the person to whom such personal information pertains;

(l) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Section 7. *Disclosure of Highly Restricted Personal Information.* Highly restricted personal information may be disclosed to any person by the motor vehicle department, its officers, employees or contractors in accordance with the provisions of subsections (a) or (b) of this section, and in accordance with such additional conditions as may be imposed pursuant to Sections 10 and 11.

(a) Highly restricted personal information may be disclosed to any person making a request if such person represents that the use of such information will be strictly limited to one or more of the following:

(1) 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 government agency in carrying out its functions;

(2) For use in connection with any civil, criminal, administrative, or

⁵State law may require the provision of notice to lien holders as listed on certificates of title, as well as to owners, with respect to the pending sale or other disposition of towed, impounded or abandoned vehicles. If so, the Committee believes that specific reference to lien holders may be added to this subsection, consistent with the DPPA.

⁶ Pub. L. 104-287, §1 (2), substituted “chapter 313 of title 49” for “the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et seq.).”

arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court;

- (3) 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 the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. Chap. 313);
 - (4) 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, antifraud activities, rating or underwriting.
- (b) Highly restricted personal information may be disclosed on submittal to the department of satisfactory evidence that the individual who is the subject of the record has given express consent to disclosure, and if the person making the request represents that the use of such information will be strictly limited to one or more of the following:
- (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, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers;
 - (2) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only--
 - (i) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors, and
 - (ii) 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;
 - (3) 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;

- (4) For use in providing notice to the owners of towed or impounded vehicles;
- (5) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this section;
- (6) For use in connection with the operation of private toll transportation facilities;
- (7) For bulk distribution for surveys, marketing or solicitations;
- (8) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Section 8. *Exception for Organ Donor Information.* The provisions subsection (b) of Section 7 concerning the requirement to obtain express consent to disclose highly restricted personal information shall not apply to the use of organ donation information on an individual's driver's license, or the record pertaining to such license, or affect the administration of any initiative or program pertaining to organ donation.

Section 9. *Disclosure of Individual Records.* Personal information and highly restricted personal information that is contained in an individual record may be disclosed to any requesting person, without regard to the intended use of such information, as set forth in Sections 6 and 7, if the department has obtained the express consent of the individual to whom such personal information pertains.

Section 10. *Fees.* Each disclosure of personal information or highly restricted personal information that is made in accordance with the provisions of Sections 5 to 7, inclusive, or Section 9 shall be subject to payment by the requesting person to the department of all fees for such information required by statute, regulation, administrative practice or the terms of any contract with the requesting person, on such terms for payment as may be required or agreed.

Section 11. *Additional Conditions.* In addition to provision for payment of applicable fees, the department may, prior to the disclosure of personal information or highly restricted personal information as permitted under the preceding Sections 5 to 7, inclusive, or Section 9 require the submission of satisfactory evidence or assurance concerning the identity of the requesting person and, to the extent required, that the use of the information will be only as authorized, or the express consent of the person who is the subject of the information has been obtained. Such conditions to disclosure 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 may prescribe.

Section 12. *Resale or Redisclosure.*

(a) An authorized recipient of personal information, except a recipient under subsection (k) of Section 6 or under subdivision (7) of subsection (b) of Section 7, may resell or redisclose the information for any use permitted under Section 6 (but not including the use for bulk distribution for surveys, marketing or solicitations as set forth in subsection (k) of Section 6).

(b) An authorized recipient of an individual record or records under Section 9 may resell or redisclose personal information for any purpose.

(c) An authorized recipient of personal information or highly restricted personal information for bulk distribution for surveys, marketing or solicitations, under subsection (k) of Section 6, or under subdivision (7) of subsection (b) of Section 7 may resell or redisclose personal information only in accordance with the terms of the said subsection, concerning express consent.

(d) Any authorized recipient, except a recipient of an individual record or records under Section 9, who resells or rediscloses personal information shall be required by the department to (A) maintain for a period of not less than five years, records as to the information obtained, and the permitted use for which it was obtained, and (B) to make such records available for inspection by the department, upon request.

Section 13. *Regulations and Waiver Procedure.* The department is authorized to adopt administrative regulations to carry out the purposes of this Act. The regulations may include procedures under which the department, upon receiving a request for personal information that is not subject to disclosure in accordance with the provisions of Sections 6, 7, or 9, may mail a copy of such request to each individual who is the subject of the information, informing each such individual of the request, together with a statement to the effect that disclosure is prohibited and will not be made unless the individual affirmatively elects to waive such individual's right to privacy under this Act.

Section 14. *Penalty for False Representation.* Any person requesting the disclosure of personal information from department records who misrepresents his or her identity or makes a false statement to the department on any application required to be submitted pursuant to this Act shall be guilty of [the appropriate penalty under state law].⁷

⁷ The provision of this section may be unnecessary if the state already has a statutory provision that confers the authority on the motor vehicle department or chief administrator to require that applications to the department be made under oath, or specifying that all applications are subject to penalties for false statement or perjury. See, e.g., Uniform Vehicle Code §6.302.

A state may wish (but is not, in the opinion of the Committee, required) to establish penalties, as well as to create a right to bring a civil action in state court, to enact into state law the federal penalties and rights created by Sections 2722 and 2724 of the DPPA. The penalties in these sections are intended to enforce the obligations of the Act with respect to obtaining, disclosing or using personal information, except as permitted under the Act.

Section 15. *Effective Date.* This Act shall take effect [enter effective date]. [not later than September 13, 1997].