

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1659

S.P. 540

In Senate, March 25, 1997

An Act Concerning the Disclosure of Motor Vehicle Records.

Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator O'GARA of Cumberland.

Be it enacted by the People of the State of Maine as follows:

2
3 **Sec. 1. 29-A MRSA §256**, as enacted by PL 1995, c. 645, Pt. B,
4 §6 and affected by §24, is amended to read:

6 **§256. Federal Driver's Privacy Protection Act of 1994**

8 The Secretary of State shall comply with the provisions of
9 chapter 3, subchapter IV and Title 18, United States Code,
10 Chapter 123 in disclosing records.

12 **Sec. 2. 29-A MRSA c. 3, sub-c. IV** is enacted to read:

14 SUBCHAPTER IV

16 DISCLOSURE OF RECORDS

18 §271. Definitions

20 As used in this subchapter, unless the context otherwise
22 indicates, the following terms have the following meanings.

24 1. Motor vehicle record. "Motor vehicle record" means a
26 record that pertains to a motor vehicle operator's permit or
27 license, motor vehicle title, registration or identification card
28 issued by the bureau.

30 2. Personal information. "Personal information" means
31 information that identifies an individual, including an
32 individual's photograph; social security number; driver license
33 identification number; name; address other than the 5-digit zip
34 code; telephone number; and medical or disability information,
35 but does not include information on vehicular accidents, driving
36 violations and driver's status.

38 §272. Disclosure of motor vehicle records

40 1. Disclosure prohibited. Notwithstanding federal Public
41 Law 1963, chapter 73, except as provided in subsection 2, the
42 bureau and any officer, employee or contractor of the bureau may
43 not knowingly disclose or otherwise make available to any person
44 personal information about any individual obtained by the bureau
45 in connection with a motor vehicle record.

46 2. Personal information; disclosure permitted. Personal
47 information must be disclosed for use in connection with matters
48 of motor vehicle or driver safety and theft; motor vehicle
49 emissions; motor vehicle product alterations, recalls or
50 advisories; performance monitoring of motor vehicles and dealers

2 by motor vehicle manufacturers; and removal of nonowner records
4 from the original owner records of motor vehicle manufacturers to
6 carry out the purposes of the Automobile Information Disclosure
8 Act, Public Law 85-506, the Motor Vehicle Information and Cost
Savings Act, Public Law 92-513, the National Traffic and Motor
Vehicle Safety Act of 1966, Public Law 89-563, the Anti-Car Theft
Act of 1992, Public Law 102-519 and the Clean Air Act, Public Law
88-206 and may be disclosed as follows:

10 A. For use by any government agency, including any court or
12 law enforcement agency in carrying out its functions or any
14 private person or entity acting on behalf of a federal,
state or local agency in carrying out its functions;

16 B. For use in connection with motor vehicle market research
activities, including survey research;

18 C. For use in the normal course of business by a legitimate
20 business or its agents, employees or contractors, but only:

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

26 (2) If the information submitted is not correct or is
28 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;

30 D. For use in connection with any civil, criminal,
32 administrative or arbitral proceeding in any federal or
34 state court or agency or before any self-regulatory body,
36 including service of process, investigation in anticipation
of litigation and the execution or enforcement of judgments
and orders or pursuant to an order of a federal or state
court;

38 E. For use in research activities and for use in producing
40 statistical reports for automotive-related purposes as long
42 as the personal information is not published, redisclosed or
used to contact individuals;

44 F. For use by any insurer or insurance support organization
46 or by a self-insured entity or its agents, employees or
contractors in connection with claims investigation
activities, antifraud activities, rating or underwriting;

48 G. For use in providing notice to the owners of towed or
50 impounded vehicles;

2 H. For use by any licensed security service for any purpose
3 permitted under this subsection;

4
5 I. For use by an employer or its agent or insurer to obtain
6 or verify information relating to a holder of a commercial
7 driver's license that is required under the Commercial Motor
8 Vehicle Safety Act, 49 United States Code, Section 2710;

10 J. For use in connection with the operation of private toll
11 transportation facilities;

12
13 K. For use by any requester, if the requester demonstrates
14 it has obtained the written consent of the individual to
15 whom the information pertains; or

16
17 L. For bulk distribution for surveys, marketing or
18 solicitations for automotive-related purposes if the bureau
19 has implemented methods and procedures to ensure that:

20 (1) Individuals are provided an opportunity, in a
21 clear and conspicuous manner, to prohibit those uses;
22 and

23 (2) The information is used, rented or sold solely for
24 bulk distribution for surveys, marketing and
25 solicitations and that surveys, marketing and
26 solicitations are not directed at those individuals who
27 have requested in a timely fashion that they not be
28 directed at them.

29
30 A person authorized to receive personal information under
31 this paragraph may resell or disclose personal information
32 only as provided in this paragraph.

33
34 A person authorized to receive personal information under
35 paragraphs A to K may resell or disclose the personal information
36 only for a use permitted by paragraphs A to K.

37
38 A person authorized to receive personal information under this
39 subsection who resells or discloses personal information covered
40 by this subchapter shall keep records identifying each person
41 that receives information and the permitted purpose for which the
42 information is used for a period of 5 years and shall make those
43 records available to the bureau upon request.

44
45 **§273. Violations**

46
47 **1. Obtains; discloses personal information.** A person who
48 knowingly obtains or discloses personal information from a motor
49 vehicle...
50

2 vehicle record for any use not permitted under section 272,
3 subsection 2 commits a Class E crime.

4 2. False representation. A person who makes a false
5 representation to obtain any personal information from an
6 individual's motor vehicle record commits a Class E crime.

8 3. Use of personal information. A person who knowingly
9 obtains, discloses or uses personal information from a motor
10 vehicle record for a purpose not permitted under this subchapter
11 is liable to the individual to whom the information pertains, who
12 may bring a civil action in Superior Court. The court may award:

14 A. Actual damages, but not less than liquidated damages in
15 the amount of \$2,500;

16 B. Punitive damages upon proof of willful or reckless
17 disregard of the law;

18 C. Reasonable attorney's fees and other litigation costs
19 reasonably incurred; and

20 D. Such other preliminary and equitable relief as the court
21 determines to be appropriate.

22 **§274. Effective date**

23 This subchapter takes effect September 13, 1998. The bureau
24 is authorized to take any action in advance that is necessary to
25 implement this subchapter.

26 **SUMMARY**

27 This bill implements the provisions of the federal Driver's
28 Privacy Protection Act of 1994, Public Law 103-202, which
29 prohibits states from disclosing personal information contained
30 in motor vehicle records except under certain circumstances.

31 This bill prohibits the Bureau of Motor Vehicles from
32 disclosing personal information except for use in connection with
33 matters of motor vehicle or driver safety and theft; motor
34 vehicle emissions; motor vehicle product alterations, recalls or
35 advisories; performance monitoring of motor vehicles and dealers
36 by motor vehicle manufacturers; and removal of nonowner records
37 from the original owner records of motor vehicle manufacturers.

38 The bill provides penalties for unauthorized disclosure of
39 personal information.

2 The bill takes effect September 13, 1998, as required by
3 federal law, but would authorize the Bureau of Motor Vehicles to
4 take any action in advance of that date necessary to implement
 the provisions of the bill.