

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

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HOUSE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **HB 1045** - 01/22/2001

Introduced by: The Committee on State Affairs at the request of the Department of
Revenue

1 FOR AN ACT ENTITLED, An Act to prohibit the disclosure and use of personal information
2 contained in certain motor vehicle records.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Terms used in this Act mean:

7 (1) "Department," the Department of Revenue;

8 (2) "Disclose," to knowingly engage in any practice or conduct to make available and
9 make known personal information contained in a motor vehicle record about a person
10 to any other person, organization, or entity, by any means of communication;

11 (3) "Express consent," consent in writing, and includes consent that is conveyed
12 electronically that bears an electronic signature;

13 (4) "Individual record," a motor vehicle record containing personal information about a
14 designated person who is the subject of the record as identified in a request;

1 (5) "Motor vehicle record," any record that pertains to a motor vehicle registration,
2 motor vehicle title, or document issued by the department or any other state or local
3 agency authorized to issue any such forms of credentials;

4 (6) "Personal information," information that identifies a person, including a social security
5 number, driver identification number, name, address (but not the five-digit zip code),
6 telephone number, and medical or disability information, but does not include
7 information on vehicular accidents, driving or equipment-related violations, or
8 registration status;

9 (7) "Record," includes any book, paper, photograph, photostat, card, film, tape,
10 recording, electronic data, printout, or other documentary material regardless of
11 physical form or characteristics.

12 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Notwithstanding any other provision of state law to the contrary, except as provided in
15 sections 3 to 5, inclusive, of this Act, the department and any officer, employee, agent, or
16 contractor thereof may not disclose personal information about any person obtained by the
17 department in connection with a motor vehicle record. Under no circumstances may a person's
18 social security number or medical or disability information from a motor vehicle record be
19 disclosed, except for the purposes permitted by subdivisions (1), (3), and (5) of section 5 of this
20 Act.

21 Section 3. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 Personal information shall be disclosed for use in connection with matters of motor vehicle
24 or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls, or

1 advisories, performance monitoring of motor vehicles and dealers by motor vehicle
2 manufacturers, and removal of nonowner records from the original owner records of motor
3 vehicle manufacturers to carry out the purposes of Titles I and IV of the Anti Car Theft Act of
4 1992, 15 U.S.C. 2021 et seq., as of January 1, 2001, the Automobile Information Disclosure
5 Act, 15 U.S.C. 1231 et seq., as of January 1, 2001, and the Clean Air Act, 42 U.S.C. 7401 et
6 seq., as of January 1, 2001, chapters 301, 305, and 321-331 of Title 49, as of January 1, 2001,
7 and agency regulations enacted or adopted pursuant to the authority of, or to attain compliance
8 with, these Acts of Congress.

9 Section 4. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Personal information may be disclosed to any person who demonstrates, in such form and
12 manner as the department prescribes, that express consent of the person who is the subject of
13 the information has been obtained.

14 Section 5. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Personal information may be disclosed to any person by the department on proof of the
17 identity of the person requesting the record and representation by such person that the use of the
18 personal information will be strictly limited to the following described uses:

19 (1) For use by any government agency, including any court or law enforcement agency,
20 in carrying out its functions, or any private person or entity acting on behalf of a
21 government agency in carrying out its functions;

22 (2) For use in the normal course of business by a legitimate business or its agents,
23 employees, or contractors, but only under the following circumstances:

24 (a) To verify the accuracy of personal information submitted by the individual to

1 the business or its agents, employees, or contractors; and

2 (b) If such information as submitted is not correct or is no longer correct, to obtain
3 the correct information for the purposes of preventing fraud by pursuing legal
4 remedies against, or recovering on a debt or security interest against, the
5 individual;

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

10 (4) For use in research activities, and for use in producing statistical reports, so long as
11 the personal information is not published, redisclosed, or used to contact individuals;

12 (5) For use by any insurer or insurance support organization, or by a self-insured entity,
13 or its agents, employees, or contractors, in connection with claims investigation
14 activities, anti-fraud activities, rating, or underwriting;

15 (6) For use in providing notice to the owners or lienholders of towed or impounded
16 vehicles;

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

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

20 (9) For any other use specifically authorized under the law of the state that holds the
21 record, if such use is related to the operation of a motor vehicle or public safety.

22 Section 6. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 The department may, prior to the disclosure of personal information as permitted under

1 sections 2 to 5, inclusive, of this Act, require the requesting person to meet conditions for the
2 purposes of obtaining reasonable assurance concerning the identity of such requesting person,
3 and, to the extent required, that the use will be only as authorized, or the consent of the person
4 who is the subject of the information has been obtained. Such conditions may include the making
5 and filing of a written application in such form and containing such information and certification
6 requirements as the department may prescribe.

7 Section 7. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Any authorized recipient, except a recipient of an individual record under section 6 of this
10 Act, who resells or rediscloses personal information shall maintain for a period of at least five
11 years records as to the information obtained and the permitted use for which it was obtained for
12 a period of at least five years and shall make such records available for inspection by the
13 department, upon request.

14 Section 8. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 Any person who requests disclosure of personal information from department records to
17 misrepresent his or her identity or to knowingly make a false statement to the department on any
18 application required to be submitted pursuant to this Act is guilty of a Class 1 misdemeanor.

19 Section 9. That § 32-5-90.2 be repealed.

20 ~~32-5-90.2. The department may issue lists of motor vehicles and information relating to~~
21 ~~motor vehicles if issuance is necessary for the enforcement of this title or if the list or information~~
22 ~~is needed to protect the public safety and welfare. In addition, any motor vehicle title or~~
23 ~~registration list maintained by the department may be made available to the public for a~~
24 ~~reasonable fee. State agencies are exempt from payment of this fee for approved state use. The~~

1 ~~lists may not be resold. The secretary may promulgate rules pursuant to chapter 1-26 to establish~~
2 ~~criteria for the sale and to establish the fee for the sale of such lists.~~

3 Section 10. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 For the purpose of license renewal, any person in possession of a motor vehicle title or
6 license renewal certificate provided by the state or the county may renew the vehicle's
7 registration on behalf of the owner. Presentation of the motor vehicle title or license renewal
8 certificate by anyone other than the owner is deemed consent of the vehicle owner. Any person
9 who knowingly misrepresents or makes any false statement for license renewal is guilty of a
10 Class 1 misdemeanor.