

CHAPTER 180

MOTOR VEHICLES AND TRAFFIC REGULATION

HOUSE BILL 01-1025

BY REPRESENTATIVE(S) Bacon, Boyd, Coleman, Crane, Daniel, Dean, Fairbank, Fritz, Garcia, Groff, Grossman, Hodge, Jahn, Jameson, Mace, Madden, Marshall, Miller, Mitchell, Paschall, Plant, Ragsdale, Romanoff, Schultheis, Scott, Stengel, Tochtrop, Vigil, Williams S., and Williams T.;
also SENATOR(S) Tupa and Hagedorn.

AN ACT

CONCERNING THE PRIVACY OF MOTOR VEHICLE RECORDS MAINTAINED BY THE DEPARTMENT OF REVENUE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 24-72-204 (7) (a) and (7) (c), Colorado Revised Statutes, are amended to read:

24-72-204. Allowance or denial of inspection - grounds - procedure - appeal.

(7) (a) Except as permitted in paragraph (b) of this subsection (7), the department of revenue or a ~~designated~~ AN AUTHORIZED agent of the department shall not allow inspection of information contained in a driver's license application under section 42-2-107, C.R.S., a driver's license renewal application under section 42-2-118, C.R.S., a duplicate driver's license application under section 42-2-117, C.R.S., a commercial driver's license application under section ~~42-2-404~~ 42-2-403, C.R.S., an identification card application under section 42-2-302, C.R.S., a motor vehicle title application under section ~~42-6-103~~ 42-6-116, C.R.S., a motor vehicle registration application under section 42-3-112, C.R.S., or other official record or document maintained by the department under section 42-2-121, C.R.S., to a requestor, other than the person in interest.

(c) (I) FOR PURPOSES OF THIS PARAGRAPH (c), "LAW" SHALL MEAN THE FEDERAL "DRIVER'S PRIVACY PROTECTION ACT OF 1994", 18 U.S.C. SEC. 2721, ET SEQ., THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681, ET SEQ., SECTION 42-1-206, C.R.S., AND THIS PART (2).

(II) If the requestor release form indicates that the requestor will, IN ANY MANNER,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

use, OBTAIN, RESELL, OR TRANSFER THE information contained in records, requested individually or in bulk, for any purpose ~~other than a purpose authorized~~ PROHIBITED by law, ~~including an authorized use under the federal "Driver's Privacy Protection Act of 1994", 18 U.S.C. sec. 2721, et seq.,~~ the department or agent shall deny inspection of any motor vehicle or driver record.

(III) IN ADDITION TO COMPLETING THE REQUESTOR RELEASE FORM UNDER SECTION 42-1-206 (1) (b), C.R.S., AND SUBJECT TO THE PROVISIONS OF SECTION 42-1-206 (3.7), C.R.S., THE REQUESTOR SHALL SIGN AN AFFIDAVIT OF INTENDED USE UNDER PENALTY OF PERJURY THAT STATES THAT THE REQUESTOR SHALL NOT OBTAIN, RESELL, TRANSFER, OR USE THE INFORMATION IN ANY MANNER PROHIBITED BY LAW. THE DEPARTMENT OR THE DEPARTMENT 'S AUTHORIZED AGENT SHALL DENY INSPECTION OF ANY MOTOR VEHICLE OR DRIVER RECORD TO ANY PERSON, OTHER THAN A PERSON IN INTEREST AS DEFINED IN SECTION 24-72-202 (4), OR A FEDERAL, STATE, OR LOCAL GOVERNMENT AGENCY CARRYING OUT ITS OFFICIAL FUNCTIONS, WHO HAS NOT SIGNED AND RETURNED THE AFFIDAVIT OF INTENDED USE.

SECTION 2. 42-1-206 (1) (b), (3.7) (a), the introductory portion to 42-1-206 (3.7) (b), 42-1-206 (3.7) (b) (I), and (3.7) (b) (IV), Colorado Revised Statutes, are amended, and the said 42-1-206 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-1-206. Records open to inspection - furnishing of copies. (1) (b) (I) FOR PURPOSES OF SUBSECTIONS (1) TO (3) AND (5) OF THIS SECTION, "LAW" SHALL MEAN THE FEDERAL "DRIVER'S PRIVACY PROTECTION ACT OF 1994", 18 U.S.C. SEC. 2721, ET SEQ., THE FEDERAL "FAIR CREDIT REPORTING ACT", 15 U.S.C. SEC. 1681, ET SEQ., PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S., AND THIS SECTION. The department shall prepare a requestor release form and make such form available to the department's ~~designated~~ AUTHORIZED agents. The form shall include the following:

(A) A statement indicating whether the requestor will use the motor vehicle or driver records or transfer OR RESELL such records to another person for any purpose ~~other than a purpose authorized~~ PROHIBITED by law; ~~including any authorized use under the federal "Driver's Privacy Protection Act of 1994", 18 U.S.C. sec. 2721, et seq., and~~

(B) A warning that any person using motor vehicle or driver records, OR OBTAINING, RESELLING, OR TRANSFERRING THE SAME, for ~~improper~~ purposes PROHIBITED BY LAW may be subject to civil penalties under federal AND STATE law; AND

(C) AN AFFIDAVIT OF INTENDED USE THAT STATES THAT SUCH REQUESTOR SHALL NOT OBTAIN, USE, RESELL, OR TRANSFER THE INFORMATION FOR ANY PURPOSE PROHIBITED BY LAW.

(II) The department or a ~~designated~~ AN AUTHORIZED agent shall require any person, other than a person in interest as defined in section 24-72-202 (4), C.R.S., or a federal, state, or local government agency carrying out its official functions, requesting inspection of a motor vehicle or driver record from the department or agent individually or in bulk, to sign a requestor release form AND, UNDER PENALTY OF PERJURY, AN AFFIDAVIT OF INTENDED USE prior to providing the record to such person.

The department or ~~designated~~ AUTHORIZED agent may allow inspection of motor vehicle and driver records only as authorized under section 24-72-204 (7), C.R.S.

(3.7) (a) The department shall establish a system to allow bulk electronic transfer of information to primary users and vendors who are ~~authorized~~ PERMITTED to receive such information pursuant to section 24-72-204 (7), C.R.S. BULK TRANSFERS TO VENDORS SHALL BE LIMITED STRICTLY TO VENDORS WHO TRANSFER OR RESELL SUCH INFORMATION FOR PURPOSES PERMITTED BY LAW. Such information shall consist of the information contained in a driver's license application under section 42-2-107, a driver's license renewal application under section 42-2-118, a duplicate driver's license application under section 42-2-117, a commercial driver's license application under section ~~42-2-404~~ 42-2-403, an identification card application under section 42-2-302, a motor vehicle title application under section 42-6-116, a motor vehicle registration application under section 42-3-112, or other official record or document maintained by the department under section 42-2-121.

(b) The department shall promulgate rules governing ANNUAL contracts with primary users and vendors for the purpose of establishing bulk electronic transfer of information to primary users and vendors PURSUANT TO AN ANNUAL AFFIDAVIT AND RELEASE FORM, and shall require that the contracts include, at a minimum:

(I) A provision for a REASONABLE fee that encompasses all DIRECT costs OF THE DEPARTMENT related to the bulk electronic transfer of information to that primary user or vendor;

(IV) A provision that prohibits any resale or transfer of the information other than as specified in the contract OR IN A MANNER THAT IS PROHIBITED BY LAW.

(5) ANY PERSON WHO WILLFULLY AND KNOWINGLY OBTAINS, RESELLS, TRANSFERS, OR USES INFORMATION IN VIOLATION OF LAW SHALL BE LIABLE TO ANY INJURED PARTY FOR TREBLE DAMAGES, REASONABLE ATTORNEY FEES, AND COSTS.

SECTION 3. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 4. Effective date - applicability. (1) This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to any request for motor vehicle or driver records made to the department of revenue on or after the applicable effective date of this act.

Approved: May 30, 2001