

HB

110

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 1
 BILL NO. Bill Version: CSSS HB 110(STA)
 (H) Publish Date: 3/18/96

Revision Date: 03/06/96 Dept. Affected: Public Safety
 Title: An Act relating to confidentiality of information BRU: Motor Vehicles
motor vehicle records... Component: Field Services
 Sponsor: Representative Barnes
 Requestor: H. STA. COMPONENT SERIAL NO. 0502

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL	1.4					
CONTRACTUAL	2.5					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	3.9	0.	0.	0.	0.	0.
CAPITAL EXPENDITURES	0.	0.	0.	0.	0.	0.
CHANGE IN REVENUES ()	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)	(50.0)
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Reimburse						
1003 GE Match						
1004 GE	3.9					
1005 GE/Program Reimburse						
1006 GE/MHTIA						
Other						
TOTAL	3.9	0.	0.	0.	0.	0.

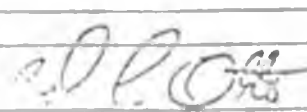
Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared By Juanita M. Hensley Phone 465-2050
 Division Motor Vehicles Date 03/06/96
 Approved by Commissioner  Date _____
 Agency Ronald L. Cise, Dept. of Public Safety

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ANALYSIS CONTINUED

In 1994 the State received approximately \$150.0 for the sale of vehicle records. This was for individual records at \$5.00 each and for the sale of master file updates to two major vendors at a cost of \$50.00 per 1,000 records. The main use of these records was to determine the address of the individual or, in case of major vendors, to generate mailing lists. It is estimated that \$50.0 of this revenue annually will be lost if the addresses are confidential. It is anticipated that one vendor will not be able to get the records because they make their data base available to everyone and this will be a loss of \$25.0. It is estimated that an additional \$25.0 will be lost from the walk-in customers who will have no legitimate purpose for obtaining the record.

This bill will require the Department to promulgate regulations regarding the release of motor vehicle records. Public hearings will be held in Anchorage, Fairbanks, Soldotna/Kenai and Juneau. Travel = \$980.00 Airfare from Juneau to Anchorage, Anchorage to Fairbanks, Fairbanks to Soldotna/Kenai and return to Juneau. Per-diem = \$336.00, Car Rental in Anchorage, Fairbanks and Soldotna = \$75.00. Total of travel expenses = \$1.4.

Contractual. Publishing cost to publish notice of regulations and public hearings 2 times in 6 different newspapers = \$2.1, Cost of contracting with the Legislative Information Office to hold public hearings are \$25.00 an hour, 4 hours in each location = \$0.4. Total cost of contractual is \$2.5.



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SPONSOR STATEMENT CS SS HB 110(STA) AM

This legislation was introduced at the request of two of my constituents who had experienced stalking by persons who had obtained their addresses from DMV through license plate information. Additionally, in 1994, confidentiality of license plate information was included in the President's Crime Package.

The intent of the federal legislation (18 U.S.C. 2721) was to protect the personal privacy of persons licensed by states to drive a motor vehicle or persons who register a motor vehicle by prohibiting disclosure of information on drivers maintained by the state. This information is only to be disclosed under permissible uses.

The businesses that currently purchase the list for dissemination to their customers who are banks, credit unions, insurance companies, etc., will still be able to do so. However, they will be required to abide by the restrictions imposed by the Federal Act.

If Alaska is not in compliance with the federal law by September 13, 1997, DMV employees could be liable for civil fines of \$2,500.00 per day or be in violation of state statute and the state could be subject to fines of \$5,000.00 per day until compliance is reached.

This bill is supported by the Council on Domestic Violence and Sexual Assault and the Dept. of Public Safety.

I appreciate your consideration of this bill and request your support.

SPONSOR STATEMENT

SEC. 30002. PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL
INFORMATION FROM STATE MOTOR VEHICLE RECORDS

(a) In General.--Title 18, United States Code, is amended
by inserting
after chapter 121 the following new chapter:

CHAPTER 123--PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL
INFORMATION FROM STATE MOTOR VEHICLE RECORDS

Sec. 2721. Prohibition on release and use of certain personal
information from State motor vehicle records

(a) In General.--Except as provided in subsection (b), a
State department of motor vehicles, and any officer, employee,
or contractor, thereof, shall not knowingly disclose or
otherwise make available to any person or entity personal
information about any individual obtained by the department in
connection with a motor vehicle record.

(b) Permissible Uses.--Personal information referred to
in subsection (a) 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 the Automobile
Information Disclosure Act, the Motor Vehicle Information and
Cost Saving Act, the National Traffic and Motor Vehicle Safety
Act of 1966, the Anti-Car Theft Act of 1992, and the Clean Air
Act, and may be disclosed as follows:

(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 Federal, State, or local agency in
carrying out its functions

(2) 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

(3) For use in the normal course of business by a
legitimate business or its agents, employees, or

contractors, but only--

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

“(B) 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.

“(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or 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 a Federal, State, or local court.

“(5) 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.

“(6) 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.

“(7) For use in providing notice to the owners of towed or impounded vehicles.

“(8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

“(9) 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. App. 2710 et seq.).

“(10) For use in connection with the operation of private toll transportation facilities.

“(11) For any other use in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information

collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures.

(12) For bulk distribution for surveys, marketing or solicitations if the motor vehicle department has implemented methods and procedures to ensure that--

(A) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

(B) the information will be used, rented, or sold solely for bulk distribution for surveys, marketing, and solicitations, and that surveys, marketing, and solicitations will not be directed at those individuals who have requested in a timely fashion that they not be directed at them.

(13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

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

(c) Resale or Redisclosure --An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b) (11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b) (11)) that resells or rediscloses personal information covered by this title must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

(d) Waiver Procedures --A State motor vehicle department may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing

such individual of the request, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this section.

Sec. 2722. Additional unlawful acts

(a) Procurement for Unlawful Purpose.--It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under section 2721(b) of this title.

(b) False Representation.--It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

Sec. 2723 Penalties

(a) Criminal Fine.--A person who knowingly violates this chapter shall be fined under this title.

(b) Violations by State Department of Motor Vehicles.--Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than \$5,000 a day for each day of substantial noncompliance.

Sec. 2724 Civil action

(a) Cause of Action.--A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

(b) Remedies.--The court may award--

(1) actual damages, but not less than liquidated damages in the amount of \$2,500;

(2) punitive damages upon proof of willful or reckless disregard of the law;

(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

Sec. 2725 Definitions

In this chapter--