

**HB**

**324**

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

**TONY KNOWLES, GOVERNOR**

P.O. BOX 110200  
JUNEAU, ALASKA 99811-0200  
PHONE: (907) 465-2200  
FAX: (907) 465-2135

April 15, 2000

The Honorable Jerry Ward  
Alaska State Legislature  
State Capitol, Room 423  
Juneau, AK 99801

Dear Senator Ward:

I respectfully request that you schedule HB 324, an Act requiring written consent by the person who is the subject of the personal information contained in motor vehicle records, before release of that information, for action on the House floor.

HB 324 brings state law into compliance with federal legislation passed in the fall of 1999 regarding the confidentiality of personal information contained in vehicle records. The federal legislation mandates Alaska compliance by June 1, 2000. Penalty for non-compliance is a \$5000 per day fine levied by the U.S. Attorney General against the state.

Alaska's current law (AS28.10.505) allows the release of personal information contained in vehicle records, for solicitation and marketing purposes, if the owner does not *prohibit* the release of the personal information. The new federal legislation requires this personal information to remain confidential, for purposes of marketing and solicitation, unless the owner gives "express consent" (*allows*) to its release.

Other permitted uses for this information are largely law enforcement, safety, government agency, insurance or employment-related and these uses remain under the new federal and proposed state law.

Sincerely,



Robert Poe, Jr.  
Commissioner

cc: Sharon Barton, Director  
Division of Personnel



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My comments:

HB 324 brings state law into compliance with new federal legislation regarding the confidentiality of vehicle records.

It does not affect driver records; this information is confidential under state law and continues to be so.

The existing state law, which mirrors federal law, allows the release of vehicle record information for 11 permitted uses - most of which are law enforcement or government related. One of the permitted uses, however, is for marketing and solicitation - what most people refer to as "junk mail."

It is this use at which the federal legislation, and HB 324 to bring us into compliance with that legislation, are directed. The other permitted uses remain.

Federal legislation and HB 324 prohibit the release of vehicle record information for marketing and solicitation purposes unless the vehicle owner has given "express consent" to *allow* the release of the records. (Current federal and state law permit this information to be disclosed unless the owner has *prohibited* the release of it.)

The federal law mandates compliance by June 1, 2000; penalty is a \$5000 per day fine that is levied by the U.S. AG (Dept of Justice) against the state (and can also be levied against an individual).

**FISCAL NOTE**

No: 1

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

Bill Version: HB 324  
(H) Publish Date: 2/2/00

Revision Date/Time (Note if Correction): \_\_\_\_\_  
 Title: An Act relating to consent before releasing personal information contained in motor vehicle records.....  
 Sponsor: Rules Committee  
 Requestor: Governor

Department Affected: Administration  
 BRU: Division of Motor Vehicles  
 Component: Motor Vehicles  
 COMPONENT SERIAL NO. 2348

Expenditures/Revenues: (Thousands of Dollars)  
 Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2001	FY 2002	FY2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 2000) cost: \$ \_\_\_\_\_

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

Vehicle and driver records are sold across the counter at DMV for \$5 per record and the entire vehicle Database is sold to Information Services providers at \$50 per 1000 records. The use of vehicle records will be restricted to only a limited number of authorized uses under this bill and that will reduce the revenue derived from the sale of vehicle records by approximately \$200.0 per year.

There will be no operating cost to implement this bill.

Prepared by: Charles R. Hosack, Deputy Director  
 Division: Motor Vehicles

Phone: (907) 269-5559  
 Date: 12/15/99

Approved by Commissioner: Robert Poe Jr.  
 Agency: Department of Administration

Phone: 465-2200  
 Date: 12/15/99

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TONY KNOWLES  
GOVERNOR  
governor@gov.state.ak.us

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532  
www.gov.state.ak.us

January 31, 2000

The Honorable Brian Porter  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

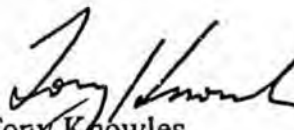
Dear Speaker Porter:

I am transmitting a bill relating to consent before releasing personal information contained in motor vehicle records to comply with recent changes to the federal Driver's Privacy Protection Act of 1994. Provisions in this bill must be in effect by June 1, 2000, to avoid any possible federal fines.

Alaska law currently restricts the release of personal information by the division of motor vehicles (DMV) in the Department of Administration to government agencies, including law enforcement and the courts, to businesses to verify information submitted to them by individuals, and to other persons for purposes prescribed by law. It also allows the release for commercial purposes or any other purpose if the person who is the subject of the information is given an opportunity to request that the information not be released for these purposes. This bill provides that information may be released for commercial or other purposes only if the person who is the subject of the information has provided written consent to the release. Thus, rather than giving a person an opportunity to object to the release of personal information, the DMV cannot release the information unless the person has affirmatively consented in writing to the release.

These amendments will protect the privacy of Alaskans.

Sincerely,

  
Tony Knowles  
Governor

**2000 LEGISLATIVE PROPOSAL FORM**  
**(CONTINUATION SHEET)**

**SUBJECT OF PROPOSED BILL:** Privacy of Motor Vehicle Records. Changes required by federal law.

**SUMMARY OF INTENT: CONTINUED**

These changes will affect mainly the information contained in vehicle records. Alaska driver records are private and confidential so the state law is more restrictive than the federal law.

Under the original provisions of the federal law there were a number of allowable uses for releasing information and most of these remain i.e. any government agency, any tow truck operator, any connection with a civil or criminal court case or administrative proceeding, insurance companies, etc. DMV could also release records for marketing, solicitation or any other use if the state provided a clear and conspicuous method to allow owners to prevent the release of this information. This was called the "opt-out" program and DMV implemented this when the state law went into effect in 1996. The changes to the federal law affect only the release of records for marketing, surveys, solicitation, or other uses. Rather than allowing these uses if a state has an "opt-out" program, the new law will allow these uses only if the owner has given "express consent" to allow the release of the records. This type of provision is referred to as an "opt-in" program.

It is highly unlikely that any significant number of vehicle owners will give permission for their information to be released. It is anticipated that except for the uses authorized in the federal law, the vehicle records will be considered private. There are four private information companies who purchase the complete DMV database and these companies will have their business use of the records significantly curtailed. Private individuals such as a person who wants to check ownership and lien information when buying a used vehicle will not be able to get this information after the law goes into effect. DMV currently sells these records either in volume amounts or individually and the revenue loss is estimated to be Between \$300,000 to \$500,000 annually.

Failure to conform to the federal law will not result in loss of highway funding. The state may be fined \$5,000 each day for non-compliance and persons, including individual employees, who release information illegally may be liable for civil claims.

To be in compliance with the federal law AS 28.10.505(d)(10) and AS 28.10.505(e) must be changed as follows:

10) for bulk distribution for surveys, marketing, or solicitations if the state has obtained the express consent of the person to whom such information pertains. [if the department has implemented methods and procedures to ensure that

(A) persons that are provided an opportunity, in a clear and conspicuous manner, to prohibit 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 timely fashion that the material not be mailed to them;] and

(e) Personal information contained in an individual record may be disclosed, without regard to the intended use of the personal information if the state has obtained the express consent of the person to whom such information pertains. [if the department provides in a clear and conspicuous manner on forms for issuance or renewal of registrations, titles, or identification documents notice that personal information collected by the department may be disclosed to a person making a request for an individual record, and has provided in a clear and conspicuous manner on the forms an opportunity for a person who is the subject of a record to prohibit disclosure.]

Authorized MV Record Release  
New Law Effective June 1, 2000

- (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 use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.
- (12) 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.

# POM for Senator Ward



From: Rev John R Midkiff  
Po Box 110

Telephone: 320-1127

Glennallen, AK 99588  
Email:

NON Constituent

Registered Voter: Y

Bill: HB 324 Title: PERSONAL INFO IN MOTOR VEH. RECORDS  
Message:

**This bill needs to be passed. This information is private and given to the DMV for its use only. My government is not supposed to be in the business of selling or supplying mailing lists for any reason.**

Entered in GLN on 4/18/00 POMID: 6168

Distribution: 60

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Message 34 out of 45.