

Enrolled House Bill 3464

Sponsored by Representative DALLUM; Representatives ANDERSON, BARKER, BARNHART, BEYER, BROWN, BUTLER, FLORES, HANNA, SCHAUFLER, SHIELDS, G SMITH, SUMNER, WITT, Senators DECKERT, NELSON, C STARR, WALKER

CHAPTER

AN ACT

Relating to use of personal information from motor vehicle records; creating new provisions; and amending ORS 802.179 and 802.181.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 802.179 is amended to read:

802.179. (1) The Department of Transportation, upon request or as required by law, shall disclose personal information from a motor vehicle record to a government agency for use in carrying out its governmental functions.

(2) The department shall disclose personal information from a motor vehicle record 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 nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of any of the following federal Acts:

- (a) The Automobile Information Disclosure Act.
- (b) The Motor Vehicle Information and Cost Saving Act.
- (c) The National Traffic and Motor Vehicle Safety Act of 1966.
- (d) The Anti-Car Theft Act of 1992.
- (e) The Clean Air Act.

(3)(a) If the department determines that a business is a legitimate business, the department shall disclose personal information to the business for use in the normal course of business in:

- (A) Verifying the accuracy of personal information submitted to the business; or
- (B) Correcting personal information submitted to the business, but only in order to:
 - (i) Prevent fraud;
 - (ii) Pursue legal remedies against the individual who submitted the personal information; or
 - (iii) Recover a debt from, or satisfy a security interest against, the individual.

(b) The department shall adopt rules specifying the kind of information that the department will accept as evidence that a business is a legitimate business.

(4) The department shall disclose personal information to:

(a) An attorney, a financial institution as defined in ORS chapter 706 or a collection agency registered under ORS 697.031 for use in connection with a civil, criminal, administrative or arbitration proceeding in any court, government agency or self-regulatory body. Permissible uses of

personal information under this paragraph include but are not limited to service of process, investigation in anticipation of litigation and the execution and enforcement of judgments and orders.

(b) A process server acting as an agent for an individual for use in serving documents in connection with an existing civil, criminal, administrative or arbitration proceeding, or a judgment, in any court, government agency or self-regulatory body. Nothing in this paragraph limits the activities of a process server when acting as an agent for an attorney, collection agency or like person or for a government agency.

(5) The department shall disclose personal information other than names to a researcher for use in researching health and educational questions and providing statistical reports, as long as the personal information is not published, redisclosed or used to contact individuals. The department may disclose information under this subsection only for research sponsored by an educational institution or a health research institution.

(6) The department shall disclose personal information to an insurer, an insurance support organization or a self-insured entity in connection with claims investigation activities, antifraud activities, underwriting or rating.

(7) The department shall disclose personal information regarding ownership or other financial interests in a vehicle to a person who is required by the state or federal Constitution, a statute or an ordinance to give notice to another person concerning the vehicle. Personal information disclosed under this subsection may be used only for giving the required notice. Persons authorized to receive personal information under this subsection include, but are not limited to:

- (a) Tow companies;
- (b) Persons who have or are entitled to have liens on the vehicle; and
- (c) Persons taking an action that could affect ownership rights to the vehicle.

(8) The department shall disclose personal information to any private security officer certified under ORS 181.878, to be used for the purpose of determining ownership of vehicles parked in a place over which the private security officer, acting within the scope of the officer's employment, exercises control.

(9) The department shall disclose personal information to the employer of an individual who holds a commercial driver license, or the insurer of the employer, to obtain or verify information about the holder of the commercial driver license.

(10) The department shall disclose personal information to the operator of a private toll facility for use in collecting tolls.

(11) The department may not disclose personal information for bulk distributors of surveys, marketing materials or solicitations except as provided in this subsection. The department shall implement methods and procedures to ensure:

- (a) That individuals are offered an opportunity to request that personal information about themselves be disclosed to bulk distributors; and
- (b) That the personal information provided by the department will be used, rented or sold solely for bulk distribution of surveys, marketing materials and solicitations.

(12) The department shall disclose personal information to a person who requests the information if the requester provides the department with written permission from the individual whose personal information is requested. The written permission from the individual must be notarized.

(13) The department shall disclose personal information to a person who is in the business of disseminating such information under the following conditions:

(a) In addition to any other requirements under the contract executed pursuant to paragraph (b) of this subsection, the person requesting the information must file a performance bond with the department in the amount of \$25,000. The bond must be executed in favor of the State of Oregon and its form is subject to approval by the Attorney General.

(b) The disseminator shall enter into a contract with the department. A contract under this paragraph shall contain at least the following provisions:

(A) That the disseminator will not reproduce or distribute the personal information in bulk but only in response to an individual record inquiry.

(B) That the disseminator will provide the personal information only [as provided in ORS 802.181.] **to a person or government agency authorized to receive the information under this section and only if the person or government agency has been authorized by the department to receive the information.**

(C) That the disseminator will have a method of ensuring that the disseminator can delay for a period of up to two days the giving of personal information to a requester who is not a subscriber.

(14) The department shall disclose personal information to representatives of the news media for the gathering or dissemination of information related to the operation of a motor vehicle or to public safety.

(15) The department shall disclose personal information as provided in ORS 802.220 (5).

(16) The department shall adopt rules providing for the release of personal information from motor vehicle records to a person who has a financial interest in the vehicle. Rules adopted under this subsection may include, but need not be limited to, rules establishing procedures for the department to verify the financial interest of the person making the request for personal information.

(17) The department shall adopt rules providing for the release of personal information from motor vehicle records to a person who is injured by the unsafe operation of a vehicle or who owns property that is damaged because of the unsafe operation of a vehicle.

(18) The department shall disclose personal information to a private investigator licensed by any licensing authority within the State of Oregon, to be used for any purpose permitted any person under this section. A licensed private investigator requesting information must prove to the department that the person has a corporate surety bond, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or such other security as the Oregon Board of Investigators may prescribe by rule in the minimum amount of \$5,000 or errors and omissions insurance in the minimum amount of \$5,000.

SECTION 2. ORS 802.181 is amended to read:

802.181. (1) Except as otherwise provided in subsections (2) to (5) of this section, a person or government agency that is authorized under ORS 802.179 to receive personal information from motor vehicle records may resell or redisclose the information only:

(a) To a person or government agency authorized to receive [it] **the information** under ORS 802.179 and only **if the person or government agency is authorized by the Department of Transportation to receive the resold or redisclosed information; and**

(b) For purposes authorized under ORS 802.179.

(2) A researcher who receives personal information under ORS 802.179 (5) may not resell or redisclose the information except as provided in ORS 802.179 (5).

(3) A person who receives personal information under ORS 802.179 (11) may not resell or redisclose the information except as provided in ORS 802.179 (11).

(4) A representative of the news media who receives personal information under ORS 802.179 (14) may not resell or redisclose the information except as provided in ORS 802.179 (14).

(5) No one who receives personal information from the department under ORS 802.179 may sell or redisclose the information to a person who is in the business of disseminating the information.

(6) A person who resells or rediscloses personal information as authorized by this section, other than a representative of the news media, must keep records for a period of five years that identify each person who receives the information and the permitted purpose for which the person received the information. Records kept in accordance with this subsection must be made available to the department [of Transportation] on request.

(7) The State of Oregon is immune from liability for any claim resulting from the resale or redisclosure of personal information under this section.

SECTION 3. The amendments to ORS 802.181 by section 2 of this 2005 Act provide immunity to the State of Oregon only for causes of action arising on or after the effective date of this 2005 Act.

Passed by House May 6, 2005

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Chief Clerk of House

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Speaker of House

Passed by Senate June 1, 2005

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President of Senate

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State