

MINUTES OF THE HOUSE COMMITTEE ON TRANSPORTATION.

The meeting was called to order by Chairman Rex Crowell at 1:30 p.m. on February 23, 1993 in Room 519-S of the Capitol.

All members were present except: Rep. Steve Lloyd, Excused

Committee staff present: Tom Severn, Legislative Research Department
Hank Avila, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Donna Luttjohann, Committee Secretary

Conferees appearing before the committee: Rep. Doug Mays
John Peterson, Beech Aircraft
Glen Cogswell, R.L. Polk
Captain Bob Giffin, Kansas Highway Patrol

Others attending: See attached list

Chairman Crowell opened the hearing on HB 2491 concerning confidentiality of records of the Division of Vehicles. The Chairman recognized Rep. Doug Mays, a proponent of the bill. See his written testimony in Attachment 1.

John Peterson, Beech Aircraft, was recognized by Chairman Crowell. He testified that an amendment was needed in order to allow commercial businesses to access the records for business purposes. See Attachment 2.

Glen Cogswell, R.L. Polk, testified on the bill to offer comments. His written testimony is on file as Attachment 3.

The Chairman closed the hearing on HB 2491 and opened the hearing on HB 2445 concerning making a right turn on red onto a one-way street from a one-way street.

Captain Bob Giffin, Kansas Highway Patrol, testified as a proponent of the bill stating the passage of this bill would allow uniformity with a right turn on red. See Attachment 4.

Bob Storey did not appear before the committee, but his written testimony was placed in the record. See Attachment 5.

Chairman Crowell closed the hearing on HB 2445.

The Chairman called the committee's attention to HB 2089 regarding financial responsibilities of vehicle dealers and concerning temporary salespersons licenses under the Vehicle Dealers and Manufacturers Licensing Act. The Chairman recognized Rep. Walker Hendrix, who reported on the subcommittee's report. The report removed the current letter of credit as a bonding option and reduced the time the Division holds the bond from five years to two years. Rep. Hendrix noted he had been contacted with a request that motorcycle dealers be exempt from the legislation.

After reporting to the committee, Rep. Walker made the motion to amend the bill as stated by the subcommittee report. It was seconded by Rep. Shore. The motion carried.

Rep. Hendrix made a motion to amend by removing motorcycle dealers from the provisions of the bill. It was seconded by Rep. Crabb. The motion did not prevail.

Rep. Shore made the motion to pass the bill out favorably as amended. Rep. Pauls seconded the motion. The motion carried.

Chairman Crowell brought the committee's attention to HB 2415 regarding certification of emergency vehicles. Rep. Haulmark made a motion to amend the bill clarifying which vehicles need to be designated by the Board of County Commissioners, clarifying that the designation of a vehicle in one county is good statewide and making it clear that publicly owned ambulances, fire and police vehicles do not require designations by the Board of County Commissioners. It was seconded by Rep. Lawrence. The motion carried.

Rep. McKinney made the motion to pass the bill favorably as amended. It was seconded by Rep. Haulmark. The motion carried.

The Chairman brought the committee's attention to the minutes of February 8, 1993. There were no additions, deletions or changes and they stand approved.

Chairman Crowell adjourned the meeting at 2:34 p.m. with the next meeting scheduled for February 24, 1993, at 1:30 p.m. in Room 519-S of the Capitol.

GUEST LIST

HOUSE TRANSPORTATION COMMITTEE

FEBRUARY 23 , 1993

Name

Address

Representing

John W Smith Topeka KDOT

Doug Mays " SHIL

Robert D Cogswell " R L Peck & Co

T. Bruno Topeka Bollenberg Assoc.

John Peterson Topeka Beech Aircraft

James E. Tobaben Topeka KDOT

DOUG MAYS
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TOPEKA

HOUSE OF
REPRESENTATIVES

Testimony of
Representative Doug Mays
Before the
House Committee on Transportation

House Bill No. 2491

Chairman Crowell and members of the committee, thank you for the opportunity to offer testimony today. HB 2491 is an act relating to records of the state Division of Motor Vehicles. Specifically, it is aimed at restricting public access to names and home addresses of Kansas residents via their vehicle tag numbers. Currently, anyone can obtain this information from the Division for a fee of \$4.00.

The ease with which vehicle ownership records can be obtained has caused problems for numerous members of this community. Over the past several months, and with increasing frequency, certain highly visible members of a so-called "protest group" have made a practice of copying down or video taping the license tag numbers of anyone they deem not sympathetic to their cause. After obtaining the name and home address of the vehicle owner, the person and their family are subjected to harassing phone calls at various times of the day and night.

Individual law enforcement officers have also expressed a desire for restricted access to their home addresses. For obvious reasons, most law enforcement personnel have unlisted telephone numbers. Their concerns surrounding vehicular records should, therefore, be understandable.

HB 2491 will alleviate both problems. I respectfully urge its passage.

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Proposed amendment by Beech Aircraft Corporation

John C. Peterson

Session of 1993

HOUSE BILL No. 2491

By Committee on Transportation

2-17

AN ACT relating to records of the division of vehicles; amending
K.S.A. 74-2012 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-2012 is hereby amended to read as follows:
74-2012. (a) All records of the division of vehicles relating to the
physical or mental condition of any person or to expungement shall
be confidential. Records of the division relating to diversion agree-
ments for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908, and
amendments thereto, shall be confidential and shall be disclosed by
direct computer access only to: (1) A city, county or district attorney,
for the purpose of determining a person's eligibility for diversion;
(2) a municipal or district court, for the purpose of using the record
in connection with any matter before the court; (3) a law enforcement
agency, for the purpose of supplying the record to a person au-
thorized to obtain it under (1) or (2); or (4) an employer when a
person is required to retain a commercial driver's license due to the
nature of such person's employment.

*The name and address of any person contained in and derived
from records of the division of vehicles shall be confidential and
shall be disclosed only: (1) As provided in subsection (b); (2) as
otherwise provided by law; or (3) in accordance with criteria es-
tablished by rules and regulations adopted by the secretary of
revenue.*

All other records of the division of vehicles shall be subject to the
provisions of the open records act except as otherwise provided by
this section.

(b) Lists of persons' names and addresses contained in or derived
from records of the division of vehicles shall not be sold, given or
received for the purposes prohibited by K.S.A. 21-3914, and amend-
ments thereto, except that:

(1) The director of vehicles may provide to a requesting party,
and a requesting party may receive, such a list and accompanying
information from public records of the division upon written certi-
fication that the requesting party shall use the list solely for the
purpose of: (A) Assisting manufacturers of motor vehicles in compiling

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1 statistical reports or in notifying owners of vehicles believed to: (i)
2 Have safety-related defects, (ii) fail to comply with emission standards
3 or (iii) have any defect to be remedied at the expense of the man-
4 ufacturer; ~~(or)~~ (B) assisting an insurer authorized to do business in
5 this state, or the insurer's authorized agent, in processing an ap-
6 plication for, or renewal or cancellation of, a motor vehicle liability
7 insurance policy.

8 (2) Any law enforcement agency of this state which has access
9 to public records of the division may furnish to a requesting party,
10 and a requesting party may receive, such a list and accompanying
11 information from such records upon written certification that the
12 requesting party shall use the list solely for the purpose of assisting
13 an insurer authorized to do business in this state, or the insurer's
14 authorized agent, in processing an application for, or renewal or
15 cancellation of, a motor vehicle liability insurance policy.

16 (c) If a law enforcement agency of this state furnishes information
17 to a requesting party pursuant to subsection (b)(2), the law enforce-
18 ment agency shall charge the fee prescribed by the secretary of
19 revenue and approved by the director of accounts and reports pur-
20 suant to subsection (c)(5) of K.S.A. 45-219, and amendments thereto,
21 for any copies furnished and may charge an additional fee to be
22 retained by the law enforcement agency to cover its cost of providing
23 such copies. The fee prescribed pursuant to subsection (c)(5) of
24 K.S.A. 45-219, and amendments thereto, shall be paid monthly to
25 the secretary of revenue.

26 (d) The secretary of revenue, the secretary's agents or employees,
27 the director of vehicles or the director's agents or employees shall
28 not be liable for damages caused by any negligent or wrongful act
29 or omission of a law enforcement agency in furnishing any information
30 obtained from records of the division of vehicles.

31 (e) A fee in an amount fixed by the secretary of revenue and
32 approved by the director of accounts and reports pursuant to sub-
33 section (c)(5) of K.S.A. 45-219, and amendments thereto, of not less
34 than \$2 for each request for information in the public records of the
35 division concerning any vehicle or licensed driver shall be charged
36 by the division, except that the director may charge a lesser fee
37 pursuant to a contract between the secretary of revenue and any
38 person to whom the director is authorized to furnish information
39 under subsection (b), and such fee shall not be less than the cost
40 of production or reproduction of any information requested. Except
41 for the fees charged pursuant to a contract for title and registration
42 records on vehicles authorized by this subsection, \$1 shall be credited
43 to the highway patrol training center fund for each fee charged.

; or (C) assisting an employer
authorized to do business in
this state in identifying and
locating persons owning
vehicles on the employer's
property

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- 1 (f) The secretary of revenue may adopt such rules and regulations
- 2 as are necessary to implement the provisions of this section.
- 3 Sec. 2. K.S.A. 74-2012 is hereby repealed.
- 4 Sec. 3. This act shall take effect and be in force from and after

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HOUSE BILL NO. 2491

WRITTEN TESTIMONY OF GLENN D. COGSWELL ON BEHALF OF

R. L. POLK & CO.

HOUSE TRANSPORTATION COMMITTEE

Mr. Chairman and members of the Committee:

My name is Glenn Cogswell and I appeared before the Committee on February 23, 1993 and requested and was graciously granted an opportunity to submit written testimony on behalf of R. L. Polk & Co. with respect to HB 2491.

A major division of R. L. Polk & Co. collects all kind of data concerning vehicle production, sales and distribution and tailors the information into reports meeting clients' specifications and also prepares a National Vehicle Population Profile which incorporates the information coded into the Vehicle Identification Number (VIN) on each car and truck. They have collected and provided statistical information to motor vehicle manufacturers since 1922 and safety recall files since 1968. They are under contract with 24 manufacturers of motor vehicles.

R. L. Polk opposes classification of division of vehicles records as confidential. They are public records which should be open and accessible to responsible parties for legitimate purposes. Generally, the bill is unduly restrictive; it limits the avenues of access to public records. It may prohibit routine access to records for legitimate uses by tow truck operators, financial institutions, insurance companies, auto auctions, trucking companies, registration consultants and many other parties.

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The bill proposes contradictory policies. On one hand, it declares names and addresses to be "confidential." On the other hand it provides broad authority to the Secretary of Revenue to disclose names and addresses. Therefore, records created by the Division of Vehicles would not be confidential because they could be disclosed by the Secretary of Revenue.

If the intent of the bill is to control the accessibility of individual records, then it should propose a specific administrative procedure. Example: Requester must file an application, 10-day review by the Division of Vehicles (with exemption for attorneys, news media, insurance companies, financial institutions, etc.), notification of individual who is the subject of the request, etc.

One of the specified uses that is permitted under the current law is assisting manufacturers of motor vehicles in compiling statistical reports. Periodically, clients of R. L. Polk require that the numerical reports furnished to them be documented to prove the accuracy of the data. This necessitates providing clients' names and addresses of vehicle owners from state-supplied records for review and comparison. This service could not be performed under House Bill 2491. Furthermore, this legislation would set a dangerous precedent in connection with the services rendered by Polk to the automobile manufacturers in other states. Currently no other state classifies both names and addresses from motor vehicle records as confidential as is proposed in House Bill 2491. If this

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bill were to become law in Kansas, other states might be encouraged to pass legislation which would further restrict Polk's access, and thereby manufacturers' access to motor vehicle registration data.

We believe House Bill 2491 is not good legislation. The problem that prompted its introduction may be dealt with by far less drastic measures than declaring the names and addresses of any person contained in or derived from records of the Division of Vehicles to be confidential. There are many justifiable and legitimate uses for such information which should be preserved.

We don't believe further restriction of access to vehicle records to be in the best interests of the public. If, however, the Committee is inclined to pass the bill out favorably then we strongly urge that it be amended on page 1, in line 28, by striking the words "shall be confidential and"

Summary of Testimony

Before the
House Transportation Committee

February 23, 1993

House Bill 2445

Presented by the Kansas Highway Patrol
(Captain Bob Giffin)

Appeared in Support

Mr. Chairman, members of the Committee, I appear before you today on behalf of Colonel Lonnie McCollum in support of House Bill 2445.

This bill, if enacted, would eliminate a signing requirement to permit left turns at red traffic signals, from a one-way street onto a one-way street. K.S.A. 8-1508(c)(3) currently permits a left turn on red at the intersection of one way streets if local authorities erect signs permitting such movements. The same statute permits right turns at a red traffic signal unless a prohibitive sign is erected.

Signing requirements governing turns at red traffic signals should be the same for left turns from a one-way street onto a one-way street as exists for right turns.

The new language in this bill makes the signing requirements regarding **all** turns at red traffic signals identical.

WRITTEN TESTIMONY OF BOB W. STOREY

HOUSE BILL NO. 2491

HOUSE TRANSPORTATION COMMITTEE

Mr. Chairman and Members of the Committee:

I represent DeHart and Darr Associates, Inc., a public relations firm in Washington D.C., which in turn represents direct marketing firms operating throughout the State of Kansas.

This testimony is presented in opposition to the language contained in H.B. 2491, specifically to the italicized portion contained on page 1.

Providing the information referred to in the italicized portion on page 1 to direct marketers is beneficial to the citizens of the State of Kansas.

The industry agrees that the names of citizens being provided to the wrong persons can be harmful, however, there is a way to handle this problem without affecting the rights of the legitimate direct marketing firms. (See the Arizona Law attached Chapter 202, page 4, line 39)

- A. Names and addresses of drivers license holders and owners of automobiles should be available for legitimate commercial mailing purposes.

Any problems connected with the release of these records can be easily managed.

No information about an individual is ever released as an individual record by a direct marketer so that someone (banker, employer, creditor, school) can make a decision about you, rather, the industry sends you information so you can make a decision.

- B. Management of vehicle department information.

Counter requests should only be available as the Secretary of Revenue deems and the Secretary should have the authority to deny any request for a single record or several records.

Commercial mailing requests should be available only by magnetic tape and only by written agreement between Secretary of Revenue and requestor which spells out restrictions on use of list, kind of material that will be mailed to the list, etc. Secretary tells all Kansans how to take name/address off DMA lists free. Secretary puts in a "dummy" name to monitor any violations of request or agreement. Requestor pays revenue to state for use of list on behalf of Direct Marketers.

C. Privacy and Direct Marketing.

Webster's says of "private" and "privacy":

"The quality of being hidden from, or undisturbed by, the observation of activities of other persons", "not shared with others", and "not available to the general public."

Direct Marketers agree!

The industry never releases a file about you. Information is never available to the general public, or to the media, or to anyone else.

So what does the industry do? It creates lists of names and addresses - - that is, without any information other than name and address. We buy and sell or rent lists to others for the purpose of introducing you to new or different products and services. The lists are created based on your statistics. The purpose of DMV lists are:

age
sex
area in which you live
city or rural
warm or cold
beach or mountains

and whether you like to buy via direct marketing, how often you buy, and in very general terms, what you buy - - clothing, gardening, tools, electronics, bedding.

The industry has done studies to try to determine how some of these facts create a marketplace for its products. You see lists are our marketplace. Most direct marketers not only do not have stores, but even if they do -- the store might not have the same products as the catalog or the store might not be near you.

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Direct marketers want you to decide, and we will follow your request to be deleted from our mailing list(s). Here's how.

"Do not send or do not call." Every member of the Direct Marketing Association (DMA) will remove you from our in-house mail or telephone list at your request. Send us the label or tell us not to call again. It's been our policy for over twenty years.

Mailing Lists generally: If you prefer not to receive direct mail solicitations or telephone solicitations of any kind, direct marketers sponsor a program, free to the consumer.

MPS Mail Preference Service
TPS Telephone Preference Service

Send your name and address to MPS, or send your name and telephone number to TPS c/o P. O. Box 3861, New York City 10163-3861. The industry publishes MPS/TPS and deletes the updates quarterly and makes them available to our members, including list brokers. List brokers prepare the magnetic tapes or labels for sending mail or the telephone calling lists for telemarketers. They delete MPS/TPS requests. This will cut down substantially on the advertising offers you receive.

The eventual goal in this growing industry is to send you the information you want and enjoy.

These efforts to serve you efficiently must not be misunderstood as an invasion of your privacy. It is not. The industry never releases an individual marketing record about a person.

D. What are the benefits of direct marketing?

1. You are able to review information about products and services at whatever time you wish, in the comfort of your own home. You can then order by phone or by mail or you can go to a retail establishment in your area.
2. The industry shares the nation's specialties -- oranges and grapefruit from Florida, nuts from Georgia, pears from Oregon, cheese from Wisconsin, maple syrup from Vermont are a few examples.
3. Energy saver -- USPS, UPS, and Federal Express make an efficient carpool and the products and services are delivered direct to you.
4. Availability of products that might not be able to be offered in retail establishments due to limited demand:

Special life helps for the elderly, handicapped, or persons suffering from diseases; tools for persons who

live alone and have arthritis; helps for after-cancer surgery patients.

There is even a catalog for persons confined to a wheelchair!

5. Enrichment:

books
records
videos
collectibles
books on tape
large print books

6. Most importantly, we market to every nook and cranny in the nation. If you have an address we deliver -- to the farm, to rural areas, to small towns. Direct marketing makes goods and services available to you.

So what is this privacy issue and how do direct marketers fit into the controversy?

Privacy applies to so many things it is mind boggling. Many of the issues touch us -- as consumers and as business persons. But Direct Marketing is not a privacy issue.

We think we have developed a good distinction for all of us to use -- consumers, businesspersons and public officials -- in considering rules related to consumer privacy guidelines.

A record about an individual, released as an individual record and which can be used to deny a benefit (credit, insurance, employment) or to embarrass an individual should be regulated as private information. When information is released as an individual record, the consumer should authorize release of the record or be told of denial of benefit as a result of the record or both and have the opportunity to correct the record.

When information is maintained only for the purpose of compiling a solicitation list of individuals sharing common interests, purchase history, demographic profile (population statistics and regard to socioeconomic factors such as age, sex, occupation), and membership. The laws or regulations should only prohibit release of an individual record and require strict control of data files -- such as access by authorized personnel. Direct marketers will delete names upon request and the names will never be released as an individual record.

Thank you very much for allowing me the opportunity to offer written testimony on behalf of my client.

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LAW

State of Arizona
House of Representatives
Thirty-ninth Legislature
Second Regular Session
1990

Senate Engrossed House Bill
ISSUED BY
JIM SHUMWAY
SECRETARY OF STATE

CHAPTER 202
HOUSE BILL 2059

AN ACT

RELATING TO TRANSPORTATION; PRESCRIBING DETERMINATION OF THE COST OF FURNISHING CERTAIN INFORMATION AND COPIES OF RECORDS; PRESCRIBING CERTAIN NONAPPLICABILITY OF REQUIREMENTS RELATING TO RELEASING INFORMATION OR A COPY FROM A PUBLIC RECORD; PROVIDING FOR RELEASE AND SALE OF CERTAIN INFORMATION FOR COMMERCIAL PURPOSES; PRESCRIBING AN EXCEPTION; PRESCRIBING VIOLATION AND CLASSIFICATION OF A CRIMINAL OFFENSE; PRESCRIBING A DEFINITION; AMENDING SECTIONS 28-209 AND 28-210, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-216, AND REPEALING SECTION 28-1123, ARIZONA REVISED STATUTES.

Be it enacted by the Legislature of the State of Arizona;

Section 1. Section 28-209, Arizona Revised Statutes, is amended to read:

28-209. Copies of records; fees; stamps or coupons;
exemptions

A. The department may furnish information from the records required by this title to be kept, or furnish copies from the records and may charge a fee for providing such information, provided the fee shall be not more than three dollars for each item, ~~except that a fee of five dollars shall be made for each certified abstract furnished under the provisions of section 28-1123.~~ THE ASSISTANT DIRECTOR FOR THE MOTOR VEHICLE DIVISION SHALL DETERMINE the cost of such service, and the amount charged for the service, ~~within the foregoing limits, shall be determined by the assistant director for the motor vehicle division.~~

B. The department may sell stamps or coupons in appropriate denominations for the convenient enforcement of this section. Such stamps or coupons may be used to accompany requests for information in lieu of cash, but otherwise shall be nonredeemable and shall be cancelled by the division upon furnishing the information.

C. The department shall not make any charge for any copies of records, or for information furnished from its records, to the state or any of its departments, agencies or political subdivisions, any court, or the federal government or any of its agencies.

D. This section shall not apply to information required by law to be kept confidential nor to statistical information, the purpose of which relates to traffic accidents, traffic offenses or traffic enforcement.

H.B. 2059

1 Sec. 2. Section 28-210, Arizona Revised Statutes, is amended to
2 read:

3 28-210. Public records; fees; identification of
4 requester; supplying information by mail;
5 prescribing conditions for divulging certain
6 information; records custodians; certification
7 of records

8 A. Any application for a license, permit, title or registration
9 made to the motor vehicle division, along with any document required by
10 law or by the motor vehicle division to accompany such application, except
11 for medical reports and reports voluntarily submitted by a physician as
12 defined in section 28-429, shall be a public record.

13 B. If the motor vehicle division or department is required or
14 authorized to revoke, suspend or cancel a driver's license or to suspend
15 vehicle registrations pursuant to chapter 7 of this title, it shall notify
16 the holder by a notice in writing which shall include a citation to the
17 statute or rule under which such action is authorized or required. A copy
18 of such notice shall be retained by the motor vehicle division or
19 department and such copy shall be a public record. Such copy shall also
20 contain a certification that the original notice was mailed by registered
21 mail with instruction to deliver it to the addressee only and the date of
22 mailing the notice. If such copy is addressed to a licensee at the
23 address last shown on the motor vehicle division's records, as evidenced
24 by the person's driver's license application or subsequent written
25 notification by such person of a different address, and a certified copy
26 of the notice of revocation, suspension or cancellation is accompanied by
27 a records custodian's statement that the original notice had not been
28 returned to the motor vehicle division or department, it shall be presumed
29 unless otherwise shown by clear and convincing evidence that the person to
30 whom the notice was addressed received the original notice.

31 C. The motor vehicle division may place such notes, date stamps,
32 identifying numbers or other information on any application, record of
33 conviction or other record as is necessary to insure the accuracy of such
34 record and to expedite its handling. Such information shall not affect
35 the validity of any record, except such markings shall not be considered a
36 part of the record for evidentiary purposes unless proven accurate by
37 other records of the department or other competent evidence.

38 D. Certified copies of public records designated in this section
39 shall be furnished to any person upon payment of a fee of five dollars. A
40 fee shall not be charged for certified copies furnished to the state or
41 any of its departments, agencies or political subdivisions, any court, or
42 the federal government or any of its agencies.

43 E. A person requesting a copy of or information from a public
44 record designated in this section shall identify himself and state the
45 reason for making the request. The motor vehicle division shall verify
46 the name and address of the person making the request by requiring the
47 person to produce such information as the motor vehicle division

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1 determines necessary to insure that the name and address of the person are
2 the person's true name and address.

3 F. Notwithstanding subsection A of this section, the motor vehicle
4 division shall not:

5 1. Divulge any information from a vehicle title or registration
6 record unless the person requesting the information provides to the
7 division the following:

8 (a) The name of the owner.

9 (b) The vehicle identification number of the vehicle.

10 (c) The vehicle license plate number assigned to the vehicle.

11 2. Release a copy of a record or divulge information concerning a
12 person's driving record unless the person requesting the driving record
13 provides to the division all of the following:

14 (a) The name of the licensee.

15 (b) The driver's license number of the licensee or a statement that
16 the license has been suspended or revoked.

17 (c) The date of birth of the licensee or the expiration date of the
18 driver's license of the licensee.

19 G. The procedures required by subsection F of this section do not
20 apply to:

21 1. Any state or any of its departments, agencies or political
22 subdivisions.

23 2. Any court.

24 3. A law enforcement officer.

25 4. A licensed private investigator.

26 5. Financial institutions and enterprises under the jurisdiction of
27 the state banking department or a federal monetary authority.

28 6. The federal government or any of its agencies.

29 7. Any attorney admitted to practice in this state who alleges that
30 the information is relevant to any pending or potential court proceeding.

31 8. A motor vehicle dealer which is licensed and bonded by the
32 department OR A STATE ORGANIZATION OF LICENSED AND BONDED MOTOR VEHICLE
33 DEALERS.

34 9. The release of any of the following to a person involved in an
35 accident or the vehicle owner of a vehicle involved in an accident:

36 (a) The driving record of a person operating a motor vehicle
37 involved in the accident.

38 (b) The vehicle title or registration record of a vehicle involved
39 in the accident.

40 The person requesting the information shall submit proof to the department
41 of involvement in the accident.

42 10. The release of the driving record or title and registration
43 record if that record is for the requester's vehicle or is the requester's
44 own driving record, except that the assistant director for the motor
45 vehicle division may require any information from the requester which is
46 deemed necessary to ensure that the requester is entitled to receive the
47 record.

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11. AN INSURER THAT WRITES AUTOMOBILE LIABILITY OR MOTOR VEHICLE LIABILITY POLICIES AND THAT IS UNDER THE JURISDICTION OF THE DEPARTMENT OF INSURANCE, EXCEPT THAT AN INSURER REQUESTING INFORMATION PURSUANT TO SUBSECTION F OF THIS SECTION SHALL PROVIDE TWO OF THE THREE REQUIREMENTS UNDER SUBSECTION F, PARAGRAPH 1 OR 2 OF THIS SECTION BEFORE THE MOTOR VEHICLE DIVISION DIVULGES OR RELEASES THE INFORMATION.

12. THE RELEASE OF A TITLE AND REGISTRATION RECORD IF THE REQUESTER HAS VERIFIED TO THE SATISFACTION OF THE ASSISTANT DIRECTOR FOR THE MOTOR VEHICLE DIVISION THAT THE VEHICLE ON WHICH HE IS REQUESTING THE RECORD IS IN HIS POSSESSION, THAT HE REQUIRES THE RECORD IN ORDER TO NOTIFY THE REGISTERED OWNER OF HIS INTENT TO APPLY TO THE MOTOR VEHICLE DIVISION FOR A BONDED TITLE AND HE PROVIDES A VERIFICATION OF A VEHICLE INSPECTION THAT WAS PERFORMED BY AN AUTHORIZED MOTOR VEHICLE DIVISION EMPLOYEE OR AGENT.

H. The motor vehicle division may supply the requested information by mail.

I. The assistant director for the motor vehicle division may designate as custodian of the division's public records so many employees of the division as he deems necessary. When a public record of the department has been certified by a records custodian and authenticated as required under proof of records (records of public officials), rules of civil procedure and the rules of evidence for courts in this state, it shall be admissible in evidence without further foundation.

~~J. Notwithstanding subsection F of this section, information may be supplied for commercial purposes, as defined in section 30-121.03, if the information is transmitted in a machine readable form such as computer magnetic tape to the person making the request. The director shall charge a minimum of six hundred dollars per million records searched and a minimum of thirty dollars per thousand records provided, prorated for fractional quantities searched or provided.~~

~~K. J. The MOTOR VEHICLE division shall maintain for a period of at least six months a file of requests for information other than those from governmental agencies exempted in subsection G of this section and commercial inquirers exempted in subsection J of this section. The file shall be maintained by the name of the person whose record was requested.~~

Sec. 3. Title 28, chapter 2, article 1, Arizona Revised Statutes, is amended by adding section 28-216, to read:

28-216. Information supplied for commercial purposes;
purpose; violation; classification; definition

A. NOTWITHSTANDING SECTION 28-210, THE MOTOR VEHICLE DIVISION MAY SUPPLY INFORMATION FOR COMMERCIAL PURPOSES IF THE INFORMATION IS TRANSMITTED IN A MACHINE READABLE FORM SUCH AS COMPUTER MAGNETIC TAPE TO THE PERSON MAKING THE REQUEST. THE ASSISTANT DIRECTOR FOR THE MOTOR VEHICLE DIVISION MAY SELL RECORDS INFORMATION, EXCEPT DRIVER HISTORIES, FOR COMMERCIAL PURPOSES. FROM THE RECORDS INFORMATION PURCHASED A COMMERCIAL RECORDS REQUESTER SHALL NOT SELL OR RELEASE A VEHICLE IDENTIFICATION NUMBER, PLATE NUMBER, DRIVER LICENSE NUMBER OR A DATE OF BIRTH, EXCEPT THAT THE ASSISTANT DIRECTOR MAY APPROVE SPECIFIC PURPOSES

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1 FOR WHICH A RECORDS INFORMATION REQUESTER MAY RELEASE THE VEHICLE
2 IDENTIFICATION NUMBER TO A VEHICLE MANUFACTURER.

3 B. THE MOTOR VEHICLE DIVISION OR A COMMERCIAL RECORDS REQUESTER
4 SHALL NOT SELL OR RELEASE AN INDIVIDUAL RECORD OR ANY RECORDS INFORMATION
5 FOR ANY COMMERCIAL PURPOSE BASED ON A REQUEST WHICH PROVIDES ONE OR MORE
6 FACTORS UNIQUE TO A SINGLE RECORD, EXCEPT THAT THE ASSISTANT DIRECTOR FOR
7 THE MOTOR VEHICLE DIVISION MAY APPROVE:

8 1. THE SALE OR RELEASE BY A RECORDS INFORMATION REQUESTER OF THE
9 INFORMATION, IF THE ASSISTANT DIRECTOR DETERMINES THE SALE OR RELEASE IS
10 NECESSARY FOR THE PUBLIC HEALTH OR SAFETY.

11 2. THE USE OF THE INFORMATION BY A RECORDS INFORMATION REQUESTER IF
12 THE DIRECTOR DETERMINES THAT THE USE IS FOR GENERAL RESEARCH OR GENERAL
13 STATISTICAL PURPOSES WHICH DO NOT PROVIDE ANY SPECIFIC FACTORS FROM A
14 RECORD.

15 C. THE ASSISTANT DIRECTOR FOR THE MOTOR VEHICLE DIVISION SHALL
16 CHARGE A MINIMUM OF SIX HUNDRED DOLLARS PER MILLION RECORDS SEARCHED AND A
17 MINIMUM OF THIRTY DOLLARS PER THOUSAND RECORDS PROVIDED, AND THE ASSISTANT
18 DIRECTOR MAY PRORATE THE CHARGE FOR FRACTIONAL QUANTITIES SEARCHED OR
19 PROVIDED.

20 D. THE ASSISTANT DIRECTOR FOR THE MOTOR VEHICLE DIVISION SHALL NOT
21 PROVIDE RECORDS FOR A COMMERCIAL PURPOSE TO ANY PERSON CONVICTED OF A
22 CLASS 1 MISDEMEANOR PURSUANT TO SUBSECTION G OF THIS SECTION FOR A PERIOD
23 OF FIVE YEARS AFTER CONVICTION.

24 E. IN PROVIDING A RECORD FOR A COMMERCIAL PURPOSE, THE MOTOR
25 VEHICLE DIVISION SHALL NOT DISCLOSE THE STREET OR RESIDENCE ADDRESS OF ANY
26 PERSON WHO HAS PROVIDED THE MOTOR VEHICLE DIVISION WITH AN ALTERNATE
27 MAILING ADDRESS FOR THE DRIVER RECORD, THE TITLE AND REGISTRATION RECORD
28 OR THE MOBILE HOME RECORD. IF NO ALTERNATE MAILING ADDRESS HAS BEEN
29 PROVIDED TO THE MOTOR VEHICLE DIVISION, THE MOTOR VEHICLE DIVISION SHALL
30 PROVIDE THE STREET OR RESIDENCE ADDRESS OF THE PERSON TO THE COMMERCIAL
31 REQUESTER.

32 F. THE ASSISTANT DIRECTOR FOR THE MOTOR VEHICLE DIVISION MAY ADOPT
33 RULES THAT HE DEEMS NECESSARY TO CARRY OUT THE PURPOSES OF THIS SECTION.

34 G. A PERSON WHO COMMITS ANY ONE OF THE FOLLOWING ACTS WITH REGARD
35 TO RECORDS REQUESTED FOR A COMMERCIAL PURPOSE IS GUILTY OF A CLASS 1
36 MISDEMEANOR:

37 1. WITHOUT AUTHORIZATION, KNOWINGLY DISCLOSES INFORMATION FROM ANY
38 DEPARTMENT RECORD.

39 2. USES ANY FALSE REPRESENTATION TO OBTAIN INFORMATION FROM A
40 DEPARTMENT RECORD.

41 3. USES INFORMATION OBTAINED FROM A DEPARTMENT RECORD FOR A PURPOSE
42 OTHER THAN THE ONE STATED IN THE REQUEST.

43 4. SELLS OR MAKES OTHER DISTRIBUTION OF THE INFORMATION OBTAINED
44 FROM THE DEPARTMENT TO A PERSON OR ORGANIZATION FOR PURPOSES NOT DISCLOSED
45 IN THE REQUEST.

46 5. VIOLATES ANY PROVISION OF THIS SECTION.

47 H. IN THIS SECTION "COMMERCIAL PURPOSE" MEANS A PURPOSE WHICH IS
48 NOT ILLEGAL AND FOR WHICH THE REQUESTER CAN REASONABLY EXPECT A MONETARY

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1 THROUGH THE CONTACT OF PERSONS BY MAIL, THROUGH THE COMPILING OF
2 S. STATISTICS OR BY PROVIDING RESEARCH SERVICES. COMMERCIAL PURPOSE DOES NOT
3 MEAN THE USE OF A PUBLIC RECORD AS EVIDENCE OR AS A RESEARCH FOR EVIDENCE
4 IN AN ACTION IN A JUDICIAL OR QUASI-JUDICIAL BODY OF THIS STATE OR A
5 POLITICAL SUBDIVISION OF THIS STATE.

6 Sec. 4. Repeal

7 Section 28-1123, Arizona Revised Statutes, is repealed.

Approved by the Governor May 9, 1990

Filed in the Office of Secretary of State May 9, 1990