

ASSEMBLY TRANSPORTATION AND COMMUNICATIONS
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2049

STATE OF NEW JERSEY

DATED: MAY 5, 1997

The Assembly Transportation and Communications Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2049.

This substitute bill would implement the provisions of the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-202, which prohibits States from disclosing personal information contained in motor vehicle records except under certain circumstances.

Personal information is defined as any information that identifies an individual, including an individual's photograph; social security number; driver identification number; name; address other than the five-digit zip code; telephone number; and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status. Motor vehicle record is defined to include any record that pertains to a motor vehicle operator's permit, driver's license, motor vehicle title, motor vehicle registration, or identification card issued by the Division of Motor Vehicles (DMV).

The substitute bill would prohibit the DMV from disclosing personal information except 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.

The substitute bill further authorizes the DMV to disclose personal information in 11 circumstances, including, in part:

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;

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;

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 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;

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; and

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," 49 U.S.C.App. §2710 et seq.

The release of personal information shall not include an individual's social security number except in accordance with applicable State or federal law.

A person authorized to receive personal information under the act would be able to resell or redisclose the personal information only for a use permitted under the act, subject to regulation by the DMV. The bill further requires that a person authorized to receive personal information who resells or rediscloses personal information covered by the act must keep records for a period of five years identifying each person or entity that receives the information and the permitted purpose for which the information will be used and must make those records available to the DMV upon request. The substitute bill also provides that any person who receives, from any source, personal information from a motor vehicle record shall release or disclose that information only in accordance with the act.

The substitute bill provides for a review process for requests for driver records. A person requesting a motor vehicle record would be required to produce proper identification and submit a written request form for approval by the division. The written request form would bear notice that the making of false statements therein is punishable and would include, but not be limited to, the requestor's name and address; the requestor's driver's license number or corporate identification number; the requestor's reason for requesting the record; the driver's license number or the name, address and birth date of the person whose driver record is requested; the license plate number or VIN number of the vehicle for which a record is requested; any additional information determined by the director to be appropriate; and the requestor's certification as to the truth of the foregoing statements. Prior to the approval of the written request form, the division may also require the requestor to submit documentary

evidence supporting the reason for the request.

The substitute bill also provides that the division may permit a person to participate in a public information program on an ongoing basis. A person would be required to complete and submit for approval of the director or the director's designee, on a case by case basis, a written application form. The written application form would bear notice that the making of false statements therein is punishable and would include, but not be limited to, the applicant's name, address and telephone number; the nature of the applicant's business activity; a description of each of the applicant's intended uses of the information contained in the motor vehicle records to be requested; the number of employees with access to the information; the name, title and signature of the authorized company representative; and any additional information determined by the director to be appropriate. The director may also require the applicant to submit a copy of its business credentials, such as license to do business or certificate of incorporation. Prior to approval by the director or the director's designee, the applicant shall certify in writing as to the truth of all statements contained in the completed application form.

The substitute bill provides penalties for violation of the act. A person who knowingly obtains or discloses personal information from a motor vehicle record for any use not permitted by the act is guilty of a crime of the fourth degree. In addition, a person making a false statement on the written application required by subsection b. of section 2 of the act is guilty of a crime of the fourth degree under the provisions of N.J.S.2C:28-3. A crime of the fourth degree is punishable by a term of imprisonment of up to 18 months or a fine of up to \$7,500 or both.

The substitute bill also provides that a person who knowingly obtains, discloses or uses personal information from a motor vehicle record for a purpose not permitted under the act shall be liable to the individual to whom the information pertains for civil damages.

Finally, the substitute bill provides that nothing in the act shall be construed as authorizing the division to obtain personal information except that information required to be provided by a person seeking access to motor vehicle records.