

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1174
(Transportation Committee)
(At the request of the Department of Transportation)

AN ACT to amend and reenact sections 39-33-01, 39-33-02, and 39-33-05 of the North Dakota Century Code, relating to privacy of driver and motor vehicle records; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 39-33-01 of the North Dakota Century Code is amended and reenacted as follows:

39-33-01. Definitions. As used in this chapter:

1. "Department" means the department of transportation, or an authorized agent or contractor of the department responsible for compiling and maintaining motor vehicle records.
2. "Disclose" means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about a person to any other person by any means of communication.
3. "Express consent" means consent in writing, including consent conveyed electronically which bears an electronic signature as defined by law.
4. "Highly restricted personal information" means an individual's photograph or image, social security number, and medical or disability information.
5. "Individual record" means a motor vehicle record containing personal information about a designated person who is the subject of the record as identified in a request.
4. 6. "Motor vehicle record" means any record that pertains to a motor vehicle operator's license or permit, motor vehicle registration, motor vehicle title, or identification document issued by the department, or other state or local agency authorized to issue any of such forms of credentials. A record includes all books, papers, photographs, photostats, cards, films, tapes, recordings, electronic data, printouts, or other documentary materials regardless of physical form or characteristics.
5. 7. "Person" does not include an agency of this state.
6. 8. "Personal information" means information that identifies a person, including an individual's photograph or computerized image, social security number, driver identification number, name, address, telephone number, and medical or disability information. The term does not include the five-digit zip code of an address, information on vehicular accidents, driving or equipment-related violations, and operator's license or registration status.

SECTION 2. AMENDMENT. Section 39-33-02 of the North Dakota Century Code is amended and reenacted as follows:

39-33-02. Disclosure and use of personal information from department records prohibited.

1. Notwithstanding any other provision of law, except as provided in sections 39-33-03, 39-33-04, and 39-33-05, the department may not knowingly disclose personal information about any person obtained by the department in connection with a motor vehicle record.

2. Notwithstanding any other provision of law, except as provided in subsections 1, 4, 6, and 9 of section 39-33-05, the department may not knowingly disclose highly restricted personal information about any person without the express consent of the person to whom such information pertains. This does not in any way affect the use of organ donation information on an individual's operator's license or affect the administration of organ donation initiatives in the state.

SECTION 3. AMENDMENT. Section 39-33-05 of the North Dakota Century Code is amended and reenacted as follows:

39-33-05. Permitted disclosures. The department may disclose personal information referred to in section 39-33-02 to any person, on proof of the identity of the person requesting a record and representation by the requester that the use of the personal information will be strictly limited to one or more of the following:

1. For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person acting on behalf of a government agency in carrying out its functions.
2. For use in connection with matters of motor vehicles 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 nonowner 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:
 - a. To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
 - b. If the 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 proceeding in any court or government 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 any 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 owner or lienholder of a towed or impounded vehicle.
8. For use by any licensed private investigative agency or licensed security service for any purpose permitted under this section.
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 which is required under the Commercial Motor Vehicle Safety Act of 1986 [title XII of Pub. L. 99-570].
10. For use in connection with the operation of private toll transportation facilities.
11. For any use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

12. For any other use in response to requests for individual motor vehicle records if the 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 person, and the department has provided in a clear and conspicuous manner on the forms an opportunity ~~to prohibit disclosure~~ obtained the express consent of the person to whom such personal information pertains.
13. For bulk distribution for surveys, marketing, or solicitations if the department of ~~transportation has implemented methods and procedures to ensure that:~~
 - a. ~~Individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit those uses; and~~
 - b. ~~The information disclosed may not be used for surveys, marketing, or solicitations directed at the individuals choosing to prohibit those uses~~ has obtained the express consent of the person to whom such personal information pertains.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1174 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 89 Nays 0 Absent 9

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 49 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State