WEST VIRGINIA CODE CHAPTER 17a ARTICLE 2A

WV Legislature

§17A-2A-1. Short title.

This act may be cited as the "Uniform Motor Vehicle Records Disclosure Act".

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§17A-2A-2. Statement of intent and purpose.

The purpose of this article is to implement the federal Driver's Protection Act of 1994 (Title XXX of Public Law 103-322) in order to protect the interest of individuals in their personal privacy by prohibiting the disclosure and use of personal information contained in their motor vehicle record, except as authorized by the individual or by law.

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§17A-2A-3. Definitions.

As used in this article:

(a) "Division" means the Division of Motor Vehicles;

(b) "Disclose" means to make available or make known information contained in a motor vehicle record to any person, organization or entity;

(c) "Individual record" is a motor vehicle record which contains personal information about a designated person who is the subject of the record as identified in a request;

(d) "Motor vehicle record" means any record that pertains to a motor vehicle operator's or driver's license or permit, a motor vehicle registration, a motor vehicle title or an identification document issued by the Division of Motor Vehicles or other state or local agency authorized to issue any such form of credential;

(e) "Person" means an individual, organization or entity, but does not include the state or an agency thereof;

(f) "Personal information" means information that identifies a person, including his or her photograph or computerized image, social security number, driver identification number, name, address excluding the five-digit zip code, telephone number and medical or disability information. Personal information does not include information on vehicle accidents, driving or equipment related violations and driver's license or registration status;

(g) "Record" includes any book, paper, photograph, photostat, card, film, tape, recording, electronic data, printout or other documentary material regardless of physical form or characteristic.

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§17A-2A-4. Prohibition on disclosure and use of personal information from motor vehicles records.

Notwithstanding any other provision of law to the contrary, and except as provided in sections five through eight, both inclusive, of this article, the division, and any officer, employee, agent or contractor thereof may not disclose any personal information obtained by the division in connection with a motor vehicle record. Notwithstanding the provisions of this article or any other provision of law to the contrary, finger images obtained and stored by the Division of Motor Vehicles as part of the driver's licensing process may not be disclosed to any person or used for any purpose other than the processing and issuance of driver's licenses and associated legal action unless the disclosure or other use is expressly authorized by this code. Notwithstanding the provisions of this article or any other provision of law to the contrary, an individual's photograph or image, social security number, and medical or disability information shall not be disclosed pursuant to West Virginia Code §17A-2A-7(2),(3), (5), (7), (8), (10) and (11), without the express written consent of the person to whom such information applies.

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§17A-2A-5. Required disclosures.

Personal information as defined in section three of this article shall be disclosed 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 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 the federal Automobile Information and Disclosure Act, "Public Law 85-506" (15 U.S.C. 1231 et seq.), the Motor Vehicle Information and Cost Saving Act, "Public Law 92-513" (15 U.S.C. 1901 et seq.), the National Traffic and Motor Vehicle Safety Act of 1966, "Public Law 89-563" (U.S.C. 1381 et seq.), the Anti Car Theft Act of 1992, "Public Law 102-519" (15 U.S.C. 2021 et seq.) and the Clean Air Act, "Public Law 88-206" (42 U.S.C. 7401 et seq.), as amended, and all statutes and agency compliance with, the said acts of the Congress of the United States.

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§17A-2A-6. Disclosure with consent.

Personal information as defined in section three of this article shall be disclosed upon request if the person making the request demonstrates in such form and manner as the department prescribes that he or she has obtained the written consent of the person who is the subject of the information.

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§17A-2A-7. Permitted disclosures.

The division or its designee shall disclose personal information as defined in section three of this article to any person who requests the information if the person: (a) Has proof of his or her identity; and (b) verifies that the use of the personal information will be strictly limited to one or more of the following:

(1) For use by any governmental agency, including any court or law-enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a governmental agency in carrying out its functions;

(2) For use in connection with matters of motor vehicle or driver safety and theft, 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) For the purpose of verifying the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and

(B) If the information as 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 conjunction with any civil, criminal, administrative, or arbitral proceeding in any court or governmental agency or before any self-regulatory body, including investigation in anticipation of litigation, the service of process, the execution or enforcement of judgments and orders, or pursuant to an order of any court;

(5) For use in research and 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, its agents, employees or contractors in connection with claim 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 investigator 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 that is required under the Commercial Motor Vehicle

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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; and

(11) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

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§17A-2A-8.

Repealed.

Acts, 2001 Reg. Sess., Ch. 200.

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§17A-2A-9. Fees.

Any person making a request for disclosure of personal information required or permitted under sections five through eight of this article, inclusive, shall pay to the division all reasonable fees related to providing the information: *Provided*, That all fees under this section shall be set by legislative rule pursuant to §29A-3-1 *et seq*. of this code: *Provided, however*, That nothing herein shall prohibit the division from entering into a separate fee agreement with a private toll transportation facility to facilitate permitted disclosures pursuant to §17A-2A-7 of this code.

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§17A-2A-10. Additional conditions.

Prior to disclosing personal information the division may require the person making the request to: (a) Verify his or her identity; (b) verify that the information will be used only as authorized, or that the consent of the person who is the subject of the information has been obtained; and (c) make and file a written application in such form and containing certification requirements as the division may prescribe.

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§17A-2A-11. Resale or redisclosure.

(a) An authorized recipient of personal information may resell or redisclose the information for any use permitted under section seven.

(b) Any authorized recipient who resells or rediscloses personal information shall: (1) Maintain for a period of not less than five years, records as to the person or entity receiving information, and the permitted use for which it was obtained; (2) make the records available for inspection by the division, upon request; and (3) only be disseminated in accordance with express consent obtained pursuant to section four of this article.

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§17A-2A-12. Rules.

The division may promulgate rules in accordance with the provisions of chapter twenty-nine-a of this code to carry out the purposes of this article.

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§17A-2A-13. Penalty for false representation.

Any person who requests the disclosure of personal information from division records and misrepresents his or her identity or makes a false statement on any application required by the division pursuant to this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail for not more than one year, or both fined and confined.

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§17A-2A-14. Effective date.

This article shall take effect September 1, 1997.

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