ENROLLED

Committee Substitute for
Senate Bill No. 381

(By Senator

PASSED March 9, 1996
In Effect NINETY DAYS FROM Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 381

(SENATOR MILLER, original sponsor)

[Passed March 9, 1996; in effect ninety days from passage.]

AN ACT to amend and reenact sections thirteen and fourteen, article two, chapter seventeen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said chapter by adding thereto a new article, designated article two-a; to amend and reenact section twenty-two, article three of said chapter; to amend and reenact section two, article two, chapter seventeen-d of said code; and to amend and reenact section seventeen, article one, chapter seventeen-e of said code, all relating to disclosure of information contained in motor vehicle records; implemen­tation of the federal Drivers Privacy Protection Act of one thousand nine hundred ninety-four; prohibitions on disclosure and use of personal information from state motor vehicle records except in accordance with the provisions of the act; provisions regarding resale or redisclosure; fees associated with disclosures; penalties
for false representation; and authorizing division of
motor vehicles to promulgate rules.

Be it enacted by the Legislature of West Virginia:

That sections thirteen and fourteen, article two, chapter
seventeen-a of the code of West Virginia, one thousand nine
hundred thirty-one, as amended, be amended and reenacted;
that said chapter be further amended by adding thereto a new
article, designated article two-a; that section twenty-two,
article three of said chapter be amended and reenacted; that
section two, article two, chapter seventeen-d of said code be
amended and reenacted; and that section seventeen, article
one, chapter seventeen-e of said code be amended and reen-
acted, all to read as follows:

CHAPTER 17A. MOTOR VEHICLE ADMINISTRATION,
REGISTRATION, CERTIFICATE OF TITLE,
AND ANTITHEFT PROVISIONS.

ARTICLE 2. DEPARTMENT OF MOTOR VEHICLES.

§17A-2-13. Authority to administer oaths and certify copies
of records; information as to registration.

1 (a) Officers and employees of the division designated
2 by the commissioner are, for the purpose of administer-
3 ing the motor vehicle laws, authorized to administer
4 oaths and acknowledge signatures, and shall do so
5 without fee.

6 (b) The commissioner and such officers of the division
7 as he or she may designate are hereby authorized to
8 prepare under the seal of the division and deliver upon
9 request in conformance with article two-a of this chapter
10 a certified copy of any record of the division, charging a
11 fee of one dollar for each document so authenticated,
12 and every such certified copy is admissible in any
13 proceeding in any court in like manner as the original
14 thereof.

15 (c) Subject to the provisions of article two-a of this
16 chapter, the commissioner and such officers of the
17 division as he or she may designate may furnish the
requested information to any person making a written
request for information regarding the registration of any
vehicle at a fee of one dollar for each registration about
which information is furnished.


The commissioner may destroy any records of the
division which have been maintained on file for three
years which he or she deems obsolete and of no further
service in carrying out the powers and duties of the
division: Provided, That where it is shown that both
parties to an accident have filed valid evidence of
insurance, the records relating thereto may be destroyed
after a period of six months.

ARTICLE 2A. UNIFORM MOTOR VEHICLES RECORDS DISCLOSURE ACT.


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


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 individu-
als in their personal privacy by prohibiting the discol-
sure and use of personal information contained in their
motor vehicle record, except as authorized by the
individual or by law.


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.

§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


1 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.


1 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 (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 the service of process, investigation in anticipation of litigation, 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 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;

(11) For bulk distribution for surveys, marketing or solicitations after the division has implemented methods and procedures to ensure that:

(A) Persons are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

(B) The information will be used, rented or sold solely for bulk distribution for surveys, marketing and solicitations, and that surveys, marketing and solicitations will not be directed at those individuals who have requested in a timely fashion that the material not be directed at them; and

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


Personal information as defined in section three of this article that is contained in an individual record may be disclosed to any person making a request, without regard to intended use, after the division has provided in a clear and conspicuous manner on forms for issuance or renewal of operator or driver licenses, registrations, titles or identification documents, notice that personal information collected by the division may be disclosed to
any person making a request for an individual record, and has provided in a clear and conspicuous manner on the forms an opportunity for each person who is the subject of a record to prohibit such disclosure.


Any person making a request for disclosure of personal information required or permitted under sections five through eight of this article, both 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 article three, chapter twenty-nine-a of this code.

§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.


(a) An authorized recipient of personal information, except a recipient under subsection (11), section seven of this article or section eight of this article, may resell or redisclose the information for any use permitted under said section seven except the use for bulk distribution for surveys, marketing or solicitations as provided in said subsection (11).

(b) An authorized recipient of an individual record under section eight of this article may resell or redisclose personal information for any purpose.

(c) An authorized recipient of personal information for bulk distribution for surveys, marketing or solicitations, under subsection (11), section seven of this article may resell or redisclose personal information only in accor-
dance with the terms of said subsection concerning the right of individuals who have requested in a timely manner, not to have the surveys, marketing or solicitations directed at them.

(d) 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; and (2) make the records available for inspection by the division, upon request.


1. 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.


1. 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 one thousand dollars or confined in jail for not more than one year, or both fined and confined.


1. This article shall take effect the first day of September, one thousand nine hundred ninety-seven.

ARTICLE 3. ORIGINAL AND RENEWAL OF REGISTRATION; ISSUANCE OF CERTIFICATES OF TITLE.

§17A-3-22. Issuance and distribution of registration bulletins.

1. The commissioner shall annually, following a renewal of registration, compile and publish in books or bulletins a list of all registered vehicles and shall thereafter compile and publish monthly supplements thereto. The list of registered vehicles shall be arranged serially
according to the registration numbers assigned to registered vehicles and shall contain in addition the names and addresses of registered owners and a brief description of each vehicle.

Law-enforcement officers may be furnished with copies of the lists, and copies may also be furnished to other interested parties as may be authorized by the governor or by the commissioner. The commissioner may also furnish copies of the lists to similar officers in adjoining states. Subject to the provisions of article two-a of this chapter, copies may be furnished to any person upon application, at a price to be fixed by the commissioner.

CHAPTER 17D. MOTOR VEHICLE SAFETY RESPONSIBILITY LAW.

ARTICLE 2. ADMINISTRATION OF LAW.

§17D-2-2. Commissioner to furnish abstract of operating record; fee for abstract.

The commissioner shall upon request and subject to the provisions of article two-a, chapter seventeen-a of this code, furnish any person a certified abstract of the operating record of any person subject to the provisions of this chapter, and if there is no record of any conviction of the person of a violation of any law relating to the operation of a motor vehicle or of any injury or damage caused by the person, the commissioner shall so certify. The commissioner shall collect five dollars for each abstract.

CHAPTER 17E. UNIFORM COMMERCIAL DRIVER'S LICENSE ACT.

ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.

§17E-1-17. Driving record information to be furnished.

Subject to the provisions of article two-a, chapter seventeen-a of this code, the commissioner shall furnish full information regarding the driving record of any person:
(a) To the driver license administrator of any other state or province or territory of Canada requesting that information;

(b) To any employer or prospective employer;

(c) To insurers upon request;

(d) To credit reporting organizations and for other legitimate business transactions; and

(e) To the driver.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originated in the Senate.
In effect ninety days from passage.

Chairman House Committee

The within is approved this the ... day of ... 1996.