

AN ACT

Bill 19-671
Act 19-487
effective
October 23, 2012

To amend section 389(c) of the Revised Statutes of the District of Columbia to repeal provisions governing release of motor vehicle accident reports by the Metropolitan Police Department; and to amend the District of Columbia Traffic Act, 1925 to prohibit the release and use of certain personal information from motor vehicle records and accident reports.

Codification
District of Columbia
Official Code
2001 Edition

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That
this act may be cited as the “Driver Privacy Protection Amendment Act of 2012”.

Driver Privacy
Protection
Amendment Act of
2012

Sec. 2. Section 389(c) of the Revised Statutes of the District of Columbia (D.C. Official Code § 5-113.06(c)), is repealed.

Amend
§ 5-113.06

Sec. 3. The District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat.1119; D.C. Official Code § 50-1401.01 *et seq.*), is amended by adding a new section 7b to read as follows:

“Sec.7b. Prohibition on release and use of certain personal information from motor vehicle records and accident reports.

New
§ 50-1401.01b

“(a) For the purposes of this section, the term:

“(1) “Accident report” means any record prepared as a result of a vehicular accident, also known as the Metropolitan Police Department form PD-10.

“(2) “Motor vehicle record” means any record that pertains to a motor vehicle operator’s application, permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Motor Vehicles.

“(3)(A) “Personal information” shall include an individual’s photograph or image, social security number, driver identification number or identification card number, name address, telephone number, medical or disability information, and emergency contact information.

“(B) The term “personal information” shall not include information relating to vehicular crashes, driving violations, or driver status.

“(b) Except as provided in subsections (c), (d) and (e) of this section, the Department of Motor Vehicles (“Department”), the Metropolitan Police Department, and any officer, employee, or contractor affiliated with either department, or any other person or entity shall not knowingly disclose or otherwise make available personal information about an individual obtained by the Department of Motor Vehicles or the Metropolitan Police Department in connection with a motor-vehicle record or an accident report.

“(c) Personal information contained in motor vehicle records or accident reports prohibited from disclosure by subsection (b) of this section may be released to a person upon the showing of sufficient written proof for the following uses:

“(1) To carry out the purposes of Titles I and IV of the Anti Car Theft Act of 1992, approved October 25, 1992 (106 Stat. 3384; 49 U.S.C. § 30501 *et seq.* 49 U.S.C. § 33101 *et seq.*); the Automobile Information Disclosure Act, approved July 7, 1958 (72 Stat. 325; 15 U.S.C. § 1231 *et seq.*), the Clean Air Act, approved December 17, 1963 (77 Stat. 392; 42 U.S.C. § 7401 *et seq.*), and chapters 301, 305, and 321-331 of Title 49 of the United States Code (49 U.S.C. §§ 30101 *et seq.*, 30501 *et seq.*, 32101 *et seq.*, - 33101 *et seq.*), in connection with matters of:

- “(A) Motor vehicles or driver safety and theft;
 - “(B) Motor vehicle emissions;
 - “(C) Motor vehicle product alterations, recalls, or advisories;
 - “(D) Performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and
 - “(E) Removal of non-owner records from the original owner records of motor vehicle manufacturers;
- “(2) By any government agency, including any court or law enforcement agency, in carrying out its core functions, or any private person or entity acting on behalf of a federal, state, or local agency in carrying out its core functions;
- “(3) In the normal course of business by a legitimate business or its agents, employees, or contractors, but only to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors;
- “(4) For use in connection with an actual or contemplated civil, criminal, administrative, or arbitral proceeding in a court or agency, or before a self-regulatory body for any of the following, except that the use shall not include the solicitation of clients, prohibited by section 125n of the District of Columbia Theft and White Collar Crimes Act of 1982, effective July 25, 2006 (D.C. Law 16-144; D.C. Official Code § 22-3225.14):
- “(A) A person listed on the accident report;
 - “(B) Service of process by a certified process server, special process server, or other person authorized to serve process in the District;
 - “(C) For an accident report, an investigation in anticipation of litigation by an attorney representing a person or entity involved in the motor vehicle accident and licensed to practice law in the District or any other United States jurisdiction, or the agent of the attorney;
 - “(D) For a motor vehicle record, an investigation in anticipation of litigation by an attorney licensed to practice law in the District or any other United States jurisdiction, or the agent of the attorney;
 - “(E) Execution or enforcement of judgments and orders; and
 - “(F) Compliance with a court order;
- “(5) In research activities and for use in producing statistical reports; so long as the personal information is not published, re-disclosed, 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 of investigation activities, anti-fraud activities, rating, or underwriting;
- “(7) In providing notice to the owners of towed or impounded vehicles;

“(8) For use by a licensed private investigative agency or licensed security service for a purpose permitted under this subsection; provided, that the use shall not include the solicitation of clients, prohibited by section 125n of the District of Columbia Theft and White Collar Crimes Act of 1982, effective July 25, 2006 (D.C. Law 16-144; D.C. Official Code § 22-3225.14). Personal information obtained based on an exempt driver’s record may not be provided to a client who cannot demonstrate a need based on a permitted use under this subsection;

“(9) By an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license required under 49 U.S.C. § 31301 *et seq.*;

“(10) For bulk distribution for surveys, marketing, or solicitations when the department has obtained the express consent of the person to whom such personal information pertains;

“(11) By an organ or tissue donor organization; provided, that the person to whom such information applies has consented in a writing submitted to the Department to be an organ or tissue donor;

“(12) For any use if the requesting person demonstrates that he or she has obtained the written consent of the person who is the subject of the motor vehicle record or accident report. The consent shall remain in effect until it is revoked by the person who is the subject of the motor vehicle record; and

“(13) For use in connection with the operation of private toll transportation facilities.

“(d) Notwithstanding subsection (c) of this section, without the express consent of the person to whom such information applies, the following information contained in motor vehicle records or accident reports may be released only as specified in this subsection:

“(1) Social security numbers may be released only as provided in subsections (c)(2) or (c)(9) of this section;

“(2) An individual's photograph or image may be released only as provided in subsection (c)(2) of this section;

“(3) Medical disability information may be released only as provided in subsections (c)(2) or (c)(9) of this section; and

“(4) Emergency contact information may be released only to law enforcement agencies for the purposes of contacting individuals listed in the event of an emergency.

“(e)(1) Personal information made confidential and prohibited from disclosure may be disclosed by the Department to a firm, corporation, or similar business entity whose primary business interest is to resell or re-disclose the personal information to persons who are authorized to receive such information. Before the Department's disclosure of personal information, such firm, corporation, or similar business entity must first enter into a contract with the Department regarding the care, custody, and control of the personal information to ensure compliance with the Driver's Privacy Protection Act of 1994, approved September 13, 1994 (108 Stat. 2099; 18 U.S.C. § 2721 *et seq.*), and applicable District laws.

“(2) An authorized recipient of personal information contained in a motor vehicle record, except a recipient under subsection (c)(10) of this section, may contract with the

Department of Motor Vehicles to resell or re-disclose the information for any use permitted under this section. However only authorized recipients of personal information under subsection (c)(10) of this section may resell or re-disclose personal information pursuant to subsection (c)(10) of this section.

“(3) An authorized recipient who resells or re-discloses personal information shall maintain, for a period of 5 years, records identifying each person or entity that receives the personal information and the permitted purpose for which it will be used. The records shall be made available for inspection upon request by the Department.

“(4) The Department of Motor Vehicles and the Metropolitan Police Department may require documentation to support a request for personal information, and either department shall have the sole discretion to determine whether the documentation provided is sufficient to support the request.

“(f) The Department of Motor Vehicles and the Metropolitan Police Department may adopt rules to carry out the purposes of this section. Rules adopted by either department may provide for the payment of applicable fees. In addition, the rules may require an individual requesting the disclosure of personal information pursuant to this subsection to provide proof of identity and, to the extent required, provide assurance that the use will be only as authorized or that the consent of the person who is the subject of the personal information has been obtained. These conditions may include the making and filing of a written application in a form and containing information and certification requirements required by either department.

“(g) Failure to comply with the restrictions set forth in this section may subject the violator to penalties and civil action as set forth in the Driver's Privacy Protection Act of 1994, approved September 13, 1994 (108 Stat. 2099; 18 U.S.C. §§ 2721, 2723, 2724).”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.