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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

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*COMMITTEE SUBSTITUTE FOR*  
SENATE BILL NO. 381

(By Senator MILLER)

PASSED MARCH 9, 1996  
In Effect NINETY DAYS FROM Passage

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FOR

### Senate Bill No. 381

(SENATOR MILLER, *original sponsor*)

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

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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 reenacted, 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

18 requested information to any person making a written  
19 request for information regarding the registration of any  
20 vehicle at a fee of one dollar for each registration about  
21 which information is furnished.

**§17A-2-14. Destruction of records.**

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

**ARTICLE 2A. UNIFORM MOTOR VEHICLES RECORDS DISCLOSURE ACT.**

**§17A-2A-1. Short title.**

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

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

1 The purpose of this article is to implement the federal  
2 Driver's Protection Act of 1994 (Title XXX of Public  
3 Law 103-322) in order to protect the interest of individu-  
4 als in their personal privacy by prohibiting the disclo-  
5 sure and use of personal information contained in their  
6 motor vehicle record, except as authorized by the  
7 individual or by law.

**§17A-2A-3. Definitions.**

1 As used in this article:

2 (a) "Division" means the division of motor vehicles;

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

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

9 (d) "Motor vehicle record" means any record that  
10 pertains to a motor vehicle operator's or driver's license  
11 or permit, a motor vehicle registration, a motor vehicle  
12 title or an identification document issued by the division  
13 of motor vehicles or other state or local agency autho-  
14 rized to issue any such form of credential;

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

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

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

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

1 Notwithstanding any other provision of law to the  
2 contrary, and except as provided in sections five through  
3 eight, both inclusive, of this article, the division, and any  
4 officer, employee, agent or contractor thereof may not  
5 disclose any personal information obtained by the  
6 division in connection with a motor vehicle record.  
7 Notwithstanding the provisions of this article or any  
8 other provision of law to the contrary, finger images  
9 obtained and stored by the division of motor vehicles as  
10 part of the driver's licensing process may not be dis-  
11 closed to any person or used for any purpose other than  
12 the processing and issuance of driver's licenses and  
13 associated legal action unless the disclosure or other use

14 is expressly authorized by this code.

**§17A-2A-5. Required disclosures.**

1 Personal information as defined in section three of this  
2 article shall be disclosed for use in connection with  
3 matters of motor vehicles or driver safety and theft,  
4 motor vehicle emissions, motor vehicle product alter-  
5 ations, recalls or advisories, performance monitoring of  
6 motor vehicles and dealers by motor vehicle manufactur-  
7 ers and removal of nonowner records from the original  
8 owner records of motor vehicle manufacturers to carry  
9 out the purposes of the federal Automobile Information  
10 and Disclosure Act, "Public Law 85-506" (15 U.S.C. 1231  
11 et seq.), the Motor Vehicle Information and Cost Saving  
12 Act, "Public Law 92-513" (15 U.S.C. 1901 et seq.), the  
13 National Traffic and Motor Vehicle Safety Act of 1966,  
14 "Public Law 89-563" (U.S.C. 1381 et seq.), the Anti Car  
15 Theft Act of 1922, "Public Law 102-519" (15 U.S.C. 2021  
16 et seq.) and the Clean Air Act, "Public Law 88-206" (42  
17 U.S.C. 7401 et seq.), as amended, and all statutes and  
18 agency compliance with, the said acts of the Congress of  
19 the United States.

**§17A-2A-6. Disclosure with consent.**

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

**§17A-2A-7. Permitted disclosures.**

1 The division or its designee shall disclose personal  
2 information as defined in section three of this article to  
3 any person who requests the information if the person:  
4 (a) Has proof of his or her identity; and (b) verifies that  
5 the use of the personal information will be strictly  
6 limited to one or more of the following:  
7 (1) For use by any governmental agency, including any

8 court or law-enforcement agency, in carrying out its  
9 functions, or any private person or entity acting on  
10 behalf of a governmental agency in carrying out its  
11 functions;

12 (2) For use in connection with matters of motor vehicle  
13 or driver safety and theft, motor vehicle product alter-  
14 ations, recalls or advisories, performance monitoring of  
15 motor vehicles, motor vehicle parts and dealers, motor  
16 vehicle market research activities including survey  
17 research and removal of nonowner records from the  
18 original owner records of motor vehicle manufacturers;

19 (3) For use in the normal course of business by a  
20 legitimate business or its agents, employees or contrac-  
21 tors:

22 (A) For the purpose of verifying the accuracy of  
23 personal information submitted by the individual to the  
24 business or its agents, employees or contractors; and

25 (B) If the information as submitted is not correct or is  
26 no longer correct, to obtain the correct information, but  
27 only for the purposes of preventing fraud by, pursuing  
28 legal remedies against or recovering on a debt or security  
29 interest against the individual;

30 (4) For use in conjunction with any civil, criminal,  
31 administrative or arbitral proceeding in any court or  
32 governmental agency or before any self-regulatory body,  
33 including the service of process, investigation in antici-  
34 pation of litigation, the execution or enforcement of  
35 judgments and orders or pursuant to an order of any  
36 court;

37 (5) For use in research and producing statistical  
38 reports, so long as the personal information is not  
39 published, redisclosed or used to contact individuals;

40 (6) For use by any insurer or insurance support organi-  
41 zation or by a self-insured entity, its agents, employees  
42 or contractors in connection with claim investigation  
43 activities, antifraud activities, rating or underwriting;

44 (7) For use in providing notice to the owners of towed  
45 or impounded vehicles;

46 (8) For use by any licensed private investigator agency  
47 or licensed security service for any purpose permitted  
48 under this section;

49 (9) For use by an employer or its agent or insurer to  
50 obtain or verify information relating to a holder of a  
51 commercial driver's license that is required under the  
52 Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C.  
53 App. 2710 et seq.);

54 (10) For use in connection with the operation of private  
55 toll transportation facilities;

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

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

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

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

**§17A-2A-8. Disclosure of individual records.**

1 Personal information as defined in section three of this  
2 article that is contained in an individual record may be  
3 disclosed to any person making a request, without regard  
4 to intended use, after the division has provided in a clear  
5 and conspicuous manner on forms for issuance or  
6 renewal of operator or driver licenses, registrations,  
7 titles or identification documents, notice that personal  
8 information collected by the division may be disclosed to



9 any person making a request for an individual record,  
10 and has provided in a clear and conspicuous manner on  
11 the forms an opportunity for each person who is the  
12 subject of a record to prohibit such disclosure.

**§17A-2A-9. Fees.**

1 Any person making a request for disclosure of personal  
2 information required or permitted under sections five  
3 through eight of this article, both inclusive, shall pay to  
4 the division all reasonable fees related to providing the  
5 information: *Provided*, That all fees under this section  
6 shall be set by legislative rule pursuant to article three,  
7 chapter twenty-nine-a of this code.

**§17A-2A-10. Additional conditions.**

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

**§17A-2A-11. Resale or redisclosure.**

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

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

11 (c) An authorized recipient of personal information for  
12 bulk distribution for surveys, marketing or solicitations,  
13 under subsection (11), section seven of this article may  
14 resell or redisclose personal information only in accor-

15 dance with the terms of said subsection concerning the  
16 right of individuals who have requested in a timely  
17 manner, not to have the surveys, marketing or solicita-  
18 tions directed at them.

19 (d) Any authorized recipient who resells or rediscloses  
20 personal information shall: (1) Maintain for a period of  
21 not less than five years, records as to the person or entity  
22 receiving information, and the permitted use for which  
23 it was obtained; and (2) make the records available for  
24 inspection by the division, upon request.

**§17A-2A-12. Rules.**

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

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

1 Any person who requests the disclosure of personal  
2 information from division records and misrepresents his  
3 or her identity or makes a false statement on any appli-  
4 cation required by the division pursuant to this article is  
5 guilty of a misdemeanor, and, upon conviction thereof,  
6 shall be fined not more than one thousand dollars or  
7 confined in jail for not more than one year, or both fined  
8 and confined.

**§17A-2A-14. Effective date.**

1 This article shall take effect the first day of September,  
2 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 bulle-  
tins.**

1 The commissioner shall annually, following a renewal  
2 of registration, compile and publish in books or bulletins  
3 a list of all registered vehicles and shall thereafter  
4 compile and publish monthly supplements thereto. The  
5 list of registered vehicles shall be arranged serially

6 according to the registration numbers assigned to  
7 registered vehicles and shall contain in addition the  
8 names and addresses of registered owners and a brief  
9 description of each vehicle.

10 Law-enforcement officers may be furnished with  
11 copies of the lists, and copies may also be furnished to  
12 other interested parties as may be authorized by the  
13 governor or by the commissioner. The commissioner may  
14 also furnish copies of the lists to similar officers in  
15 adjoining states. Subject to the provisions of article  
16 two-a of this chapter, copies may be furnished to any  
17 person upon application, at a price to be fixed by the  
18 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.**

1 The commissioner shall upon request and subject to the  
2 provisions of article two-a, chapter seventeen-a of this  
3 code, furnish any person a certified abstract of the  
4 operating record of any person subject to the provisions  
5 of this chapter, and if there is no record of any convic-  
6 tion of the person of a violation of any law relating to the  
7 operation of a motor vehicle or of any injury or damage  
8 caused by the person, the commissioner shall so certify.  
9 The commissioner shall collect five dollars for each  
10 abstract.

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

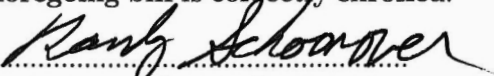
##### **ARTICLE 1. COMMERCIAL DRIVER'S LICENSE.**

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

1 Subject to the provisions of article two-a, chapter  
2 seventeen-a of this code, the commissioner shall furnish  
3 full information regarding the driving record of any  
4 person:

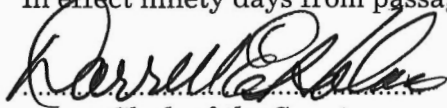
- 5 (a) To the driver license administrator of any other  
6 state or province or territory of Canada requesting that  
7 information;
- 8 (b) To any employer or prospective employer;
- 9 (c) To insurers upon request;
- 10 (d) To credit reporting organizations and for other  
11 legitimate business transactions; and
- 12 (e) To the driver.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

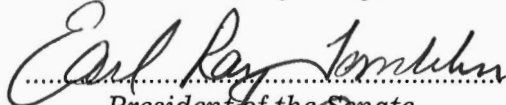
  
.....  
Chairman Senate Committee

  
.....  
Chairman House Committee

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

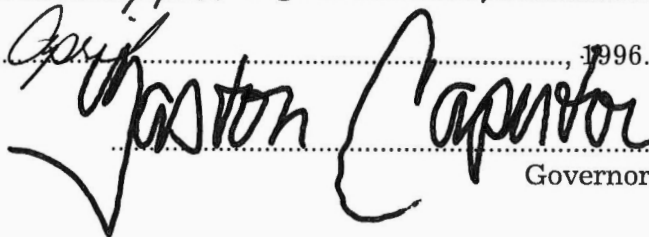
  
.....  
Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker House of Delegates

The within is approved this the 14<sup>th</sup>.....  
day of April....., 1996.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

3/28/96

Time

9:39am