

HOUSE BILL 892

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CF SB 649

By: **Delegates Stein, Acevero, Atterbeary, Carr, Charkoudian, Charles, Ebersole, Feldmark, Fennell, W. Fisher, Forbes, Gilchrist, Hettleman, Ivey, M. Jackson, Kaiser, R. Lewis, Lierman, Luedtke, Moon, Mosby, Palakovich Carr, Queen, Rosenberg, Shetty, Stewart, Terrasa, Turner, Valderrama, Wells, and Wilkins**

Introduced and read first time: February 3, 2020

Assigned to: Environment and Transportation and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Information Act – Motor Vehicle Administration – Warrant for Personal**
3 **Information and Reporting**

4 FOR the purpose of requiring a custodian of records for the Motor Vehicle Administration
5 to deny inspection by U.S. Immigration and Customs Enforcement of the part of a
6 public record that contains personal information unless the custodian is provided
7 with a valid warrant issued by a federal court or a court of this State; requiring the
8 Motor Vehicle Administration to annually report certain information to the General
9 Assembly on a certain date; making conforming changes; and generally relating to
10 the disclosure of Motor Vehicle Administration records under the Public Information
11 Act.

12 BY repealing and reenacting, with amendments,
13 Article – General Provisions
14 Section 4–320
15 Annotated Code of Maryland
16 (2019 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – General Provisions**

20 4–320.

21 (a) (1) In this section, “telephone solicitation” means the initiation of a
22 telephone call to an individual or to the residence or business of an individual to encourage

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the purchase or rental of or investment in property, goods, or services.

2 (2) "Telephone solicitation" does not include a telephone call or message:

3 (i) to an individual who has given express permission to the person
4 making the telephone call;

5 (ii) to an individual with whom the person has an established
6 business relationship; or

7 (iii) by a tax-exempt, nonprofit organization.

8 (b) Except as provided in subsections (c) through (f) of this section, a custodian
9 may not knowingly disclose a public record of the Motor Vehicle Administration containing
10 personal information.

11 (c) A custodian shall disclose personal information when required by federal law.

12 (d) (1) This subsection applies only to the disclosure of personal information
13 for any use in response to a request for an individual motor vehicle record.

14 (2) The custodian may not disclose personal information without written
15 consent from the person in interest.

16 (3) (i) At any time the person in interest may withdraw consent to
17 disclose personal information by notifying the custodian.

18 (ii) The withdrawal by the person in interest of consent to disclose
19 personal information shall take effect as soon as practicable after it is received by the
20 custodian.

21 (e) (1) This subsection applies only to the disclosure of personal information
22 for inclusion in lists of information to be used for surveys, marketing, and solicitations.

23 (2) The custodian may not disclose personal information for surveys,
24 marketing, and solicitations without written consent from the person in interest.

25 (3) (i) At any time the person in interest may withdraw consent to
26 disclose personal information by notifying the custodian.

27 (ii) The withdrawal by the person in interest of consent to disclose
28 personal information shall take effect as soon as practicable after it is received by the
29 custodian.

30 (4) The custodian may not disclose personal information under this
31 subsection for use in telephone solicitations.

1 (5) Personal information disclosed under this subsection may be used only
2 for surveys, marketing, or solicitations and only for a purpose approved by the Motor
3 Vehicle Administration.

4 (f) Notwithstanding subsections (d) and (e) of this section, a custodian shall
5 disclose personal information:

6 (1) **EXCEPT AS PROVIDED UNDER SUBSECTION (J) OF THIS SECTION,**
7 for use by a federal, state, or local government, including a law enforcement agency, or a
8 court in carrying out its functions;

9 (2) for use in connection with matters of:

10 (i) motor vehicle or driver safety;

11 (ii) motor vehicle theft;

12 (iii) motor vehicle emissions;

13 (iv) motor vehicle product alterations, recalls, or advisories;

14 (v) performance monitoring of motor vehicle parts and dealers; and

15 (vi) removal of nonowner records from the original records of motor
16 vehicle manufacturers;

17 (3) for use by a private detective agency licensed by the Secretary of State
18 Police under Title 13 of the Business Occupations and Professions Article or a security
19 guard service licensed by the Secretary of State Police under Title 19 of the Business
20 Occupations and Professions Article for a purpose allowed under this subsection;

21 (4) **EXCEPT AS PROVIDED UNDER SUBSECTION (J) OF THIS SECTION,**
22 for use in connection with a civil, an administrative, an arbitral, or a criminal proceeding
23 in a federal, state, or local court or regulatory agency for service of process, investigation in
24 anticipation of litigation, and execution or enforcement of judgments or orders;

25 (5) for purposes of research or statistical reporting as approved by the
26 Motor Vehicle Administration provided that the personal information is not published,
27 redisclosed, or used to contact the individual;

28 (6) for use by an insurer, an insurance support organization, or a
29 self-insured entity, or its employees, agents, or contractors, in connection with rating,
30 underwriting, claims investigating, and antifraud activities;

31 (7) for use in the normal course of business activity by a legitimate business
32 entity or its agents, employees, or contractors, but only:

1 (i) to verify the accuracy of personal information submitted by the
2 individual to that entity; and

3 (ii) if the information submitted is not accurate, to obtain correct
4 information only for the purpose of:

- 5 1. preventing fraud by the individual;
- 6 2. pursuing legal remedies against the individual; or
- 7 3. recovering on a debt or security interest against the
8 individual;

9 (8) for use by an employer or insurer to obtain or verify information
10 relating to a holder of a commercial driver's license that is required under the Commercial
11 Motor Vehicle Safety Act of 1986 (49 U.S.C. § 31101 et seq.);

12 (9) for use in connection with the operation of a private toll transportation
13 facility;

14 (10) for use in providing notice to the owner of a towed or impounded motor
15 vehicle;

16 (11) for use by an applicant who provides written consent from the
17 individual to whom the information pertains if the consent is obtained within the 6-month
18 period before the date of the request for personal information;

19 (12) for use in any matter relating to:

20 (i) the operation of a Class B (for hire), Class C (funeral and
21 ambulance), or Class Q (limousine) vehicle; and

22 (ii) public safety or the treatment by the operator of a member of the
23 public;

24 (13) for a use specifically authorized by State law, if the use is related to the
25 operation of a motor vehicle or public safety;

26 (14) for use by a hospital to obtain, for hospital security, information
27 relating to ownership of vehicles parked on hospital property;

28 (15) for use by a procurement organization requesting information under §
29 4-516 of the Estates and Trusts Article for the purposes of organ, tissue, and eye donation;

30 (16) for use by an electric company, as defined in § 1-101 of the Public
31 Utilities Article, but only:

1 (i) information describing a plug-in electric drive vehicle, as defined
2 in § 11-145.1 of the Transportation Article, and identifying the address of the registered
3 owner of the plug-in vehicle;

4 (ii) for use in planning for the availability and reliability of the
5 electric power supply; and

6 (iii) if the information is not:

7 1. published or redisclosed, including redisclosed to an
8 affiliate as defined in § 7-501 of the Public Utilities Article; or

9 2. used for marketing or solicitation; and

10 (17) for use by an attorney, a title insurance producer, or any other
11 individual authorized to conduct a title search of a manufactured home under Title 8B of
12 the Real Property Article.

13 (g) (1) A person receiving personal information under subsection (e) or (f) of
14 this section may not use or redisclose the personal information for a purpose other than the
15 purpose for which the custodian disclosed the personal information.

16 (2) A person receiving personal information under subsection (e) or (f) of
17 this section who rediscloses the personal information shall:

18 (i) keep a record for 5 years of the person to whom the information
19 is redisclosed and the purpose for which the information is to be used; and

20 (ii) make the record available to the custodian on request.

21 (h) (1) The custodian shall adopt regulations to implement and enforce this
22 section.

23 (2) (i) The custodian shall adopt regulations and procedures for
24 securing from a person in interest a waiver of privacy rights under this section when an
25 applicant requests personal information about the person in interest that the custodian is
26 not authorized to disclose under subsections (c) through (f) of this section.

27 (ii) The regulations and procedures adopted under this paragraph
28 shall:

29 1. state the circumstances under which the custodian may
30 request a waiver; and

31 2. conform with the waiver requirements in the federal
32 Driver's Privacy Protection Act of 1994 and other federal law.

1 (i) The custodian may develop and implement methods for monitoring
2 compliance with this section and ensuring that personal information is used only for the
3 purposes for which it is disclosed.

4 (J) (1) A CUSTODIAN SHALL DENY INSPECTION BY U.S. IMMIGRATION
5 AND CUSTOMS ENFORCEMENT OF THE PART OF A PUBLIC RECORD THAT CONTAINS
6 PERSONAL INFORMATION UNLESS THE CUSTODIAN IS PROVIDED WITH A VALID
7 WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE.

8 (2) ON OR BEFORE JUNE 1, 2022, AND EACH JUNE 1 THEREAFTER,
9 THE MOTOR VEHICLE ADMINISTRATION SHALL REPORT TO THE GENERAL
10 ASSEMBLY, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE,
11 THE FOLLOWING INFORMATION FOR THE IMMEDIATELY PRECEDING CALENDAR
12 YEAR:

13 (I) THE NUMBER OF REQUESTS RECEIVED FROM U.S.
14 IMMIGRATION AND CUSTOMS ENFORCEMENT FOR PERSONAL INFORMATION;

15 (II) THE NUMBER OF REQUESTS RECEIVED FROM U.S.
16 IMMIGRATION AND CUSTOMS ENFORCEMENT FOR PERSONAL INFORMATION FOR
17 WHICH A VALID WARRANT ISSUED BY A FEDERAL COURT OR A COURT OF THIS STATE
18 WAS PROVIDED;

19 (III) THE NUMBER AND PURPOSE OF FACIAL RECOGNITION
20 SEARCHES COMPLETED BY U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
21 BASED ON PERSONAL INFORMATION PROVIDED TO U.S. IMMIGRATION AND
22 CUSTOMS ENFORCEMENT BY THE MOTOR VEHICLE ADMINISTRATION; AND

23 (IV) THE NUMBER OF INDIVIDUALS WHOSE PERSONAL
24 INFORMATION WAS PROVIDED TO U.S. IMMIGRATION AND CUSTOMS
25 ENFORCEMENT BY THE MOTOR VEHICLE ADMINISTRATION.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2020.