

HOUSE BILL REPORT

SSB 5718

As Reported By House Committee On:

Transportation Policy & Budget

Title: An act relating to restricting the release and use of certain personal information from state motor vehicle and driver records.

Brief Description: Protecting certain personal information in state motor vehicle and driver records.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Wood, Newhouse, Haugen, Winsley and Oke; by request of Department of Licensing).

Brief History:

Committee Activity:

Transportation Policy & Budget: 3/26/97, 4/3/97 [DPA].

HOUSE COMMITTEE ON TRANSPORTATION POLICY & BUDGET

Majority Report: Do pass as amended. Signed by 23 members: Representatives K. Schmidt, Chairman; Hankins, Vice Chairman; Mielke, Vice Chairman; Mitchell, Vice Chairman; Fisher, Ranking Minority Member; Blalock, Assistant Ranking Minority Member; Cooper, Assistant Ranking Minority Member; Backlund; DeBolt; Gardner; Hatfield; Johnson; Murray; O'Brien; Ogden; Radcliff; Robertson; Romero; Scott; Skinner; Sterk; Wood and Zellinsky.

Minority Report: Without recommendation. Signed by 4 members: Representatives Buck; Cairnes; Chandler and Constantine.

Staff: Jennifer Joly (786-7305).

Background: SB 5718 implements the federal Driver's Privacy Protection Act of 1994, which goes into effect on September 13, 1997. Lack of substantial compliance with the act subjects nonconforming states to civil penalties of not more than \$5,000 per day.

Some examples of currently authorized recipients of Department of Licensing (DOL) vehicle and driver records include law enforcement agencies, motor vehicle manufacturers (for purposes of recall notification), insurance companies, and employers of commercial drivers.

Summary of Amended Bill: Disclosure and use of "personal information" contained in motor vehicle and driver records is prohibited, unless explicitly authorized by law or permitted by the individual named in the record.

For purposes of this act, "personal information" means information that identifies an individual, including an individual's photograph or computerized image, Social Security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information.

Any Social Security number obtained from a person applying for or renewing a non-commercial driver's license shall be used solely for the purpose of verifying the validity of the number with the Social Security Administration, as required by the Federal Illegal Immigration Control Act. Once the validity of the number has been established, all record of the number shall be destroyed; and no record of the number shall be maintained by DOL or its contractors or agents.

Personal information must be disclosed for use in connection with matters of (1) motor vehicle or driver safety and theft; (2) motor vehicle emissions; (3) motor vehicle alterations, recalls or advisories; (4) performance monitoring of motor vehicles and dealers by motor vehicle manufacturers; and (5) removal of nonowner records from the original owner records of motor vehicle manufacturers.

Upon proof of the identity of the person requesting a record(s) and representation by such person that the use of the personal information will be strictly limited to one of the following uses, the DOL may disclose it (1) for use by any government agency, including any court or law enforcement agency, in carrying out its functions; (2) for use in the normal course of business by a legitimate business or its agents, employees or contractors, but only (a) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and (b) if such information is not 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; (3) for use in connection with any civil, criminal, administrative or arbitral proceeding in any court or government agency or before any self-regulatory body; (4) for use in research activities and for use in producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals; (5) for use by any insurer in connection with claims investigation activities, anti-fraud activities, rating or underwriting; (6) for use in providing notice to the legal and registered owners of towed or impounded vehicles; (7) for use by any licensed private investigative agency or licensed security service for any purpose permitted under the act; (8) 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.); (9) for use in connection with the operation of private toll transportation facilities; (10) for public interest where the use

is related to operation of a motor vehicle or to public safety, including disclosure to the news media for public dissemination; and (11) for any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Disclosure of personal information that is required or permitted under this act is subject to payment by the requesting person to DOL of all fees for the information as prescribed by statute, regulation, administrative practice, or the terms of any contract with the requesting person. DOL may also impose other conditions regarding the identity of the requester, and to the extent required, that the use will be only as authorized, or that the consent of the person who is the subject of the information has been obtained.

A person requesting the disclosure of personal information from DOL records who knowingly misrepresents his or her identity, or knowingly makes a false statement to DOL on any required application, is guilty of false swearing, a gross misdemeanor.

Amended Bill Compared to Substitute Bill: Beginning October 1, 2000, the Federal Illegal Immigration Control Act, requires all states to either place drivers' Social Security numbers on the face of their licenses, or to complete a Social Security verification process. Any Social Security number obtained from a person applying for or renewing a non-commercial driver's license shall be used solely for the purpose of verifying the validity of the number with the Social Security Administration, as required by the federal act. Once the validity of the number has been established, all record of the number shall be destroyed; and no record of the number shall be maintained by DOL or its contractors or agents.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect on September 13, 1997.

Testimony For: This bill is necessary to implement the federal Driver's Privacy Protection Act. Failure to comply could result in fines of up to \$5,000 per day. Additionally, it could subject DOL to civil lawsuits from individuals. SB 5718 promotes uniformity by treating both driver and vehicle records in the same manner. The provision allowing disclosure of personal information to the media when it relates to the operation of a motor vehicle is necessary in order to allow reporting that contributes to the public safety, such as for stories that report driving under the influence convictions of bus drivers.

Testimony Against: This bill does not go far enough; it gives a false sense of security. The Code of Fair Information Practices provides that information collected for one purpose should not be used for other purposes. This bill is contrary to the

principles enumerated in the code. The bill should be amended to allow private investigators and attorneys to have access to personal information without the department providing notice to the vehicle owner. Alerting wrongdoers will only aid them in the commission of fraud.

Testified: Jack Arvil, licensed private investigator (con); Gene Robertson, licensed private investigator (con); Jeff Tissue, licensed private investigator (con); Clark Holloway, Department of Licensing (pro); Rowland Thompson, Allied Daily Newspapers of Washington (pro); and Janeane Dubuar, Computer Professionals for Social Responsibility (con).