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SENATE

Senate Bill No. 791

RECEIVED BY

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

The 1987 Constitution guarantees the right to privacy of every individual regardless of sex, status or belief, which includes the privacy of information pertaining him. In the hierarchy of civil and political rights, this right occupies a higher degree than any other right. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other human rights laws recognize the significance of this right to the attainment of real development, that is, the realization of all human rights.

There is no hard and fast rule defining the scope of the right to privacy. More often than not, this right is being interpreted in the light of circumstances surrounding the particular case. This means that the right to privacy can collide with the right of the people to public information, which is another right recognized by the Constitution. In case of motor vehicle record, which is kept by the Land Transportation Office and/or Department of Transportation and Communication, protection should be provided to the privacy of information against the unlawful disclosure of individual motor vehicle record.

However, at present, there is no law regulating the disclosure of motor vehicle records notwithstanding the fact that indiscriminate disclosure, as said earlier would violate the right to privacy of the individual involved.

Thus, this bill seeks to establish guidelines in the disclosure of such motor vehicle.


Immediate passage of this bill is earnestly sought.


JINGGOY EJERCITO ESTRADA
Senator

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AN ACT
PROVIDING PRIVACY PROTECTION FOR MOTOR VEHICLE OWNERS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. - This Act shall be known as the "**Driver's Privacy Protection Act.**"

SEC. 2. Declaration of Policy - It is hereby declared to be the policy of the State to protect the right to privacy of every individual by prohibiting disclosure of personal information in motor vehicle record.

SEC. 3. Definition of Terms - For purposes of this Act, the term:

- (1) "Motor vehicle record" means any record that pertains to vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Land Transportation Office;
- (2) "Person" means any individual, organization or corporation, partnership or any entity, but does not include the government or any subdivision or agency or instrumentality thereof, including government owned or controlled corporations;
- (3) "Personal information" means the information that identifies an individual, including photograph, social security number, driver information number, name, address, telephone number and medical or disability information, but does not include information on vehicular accidents, driving violations and driver's status.

SEC. 4. Permissible Uses - Personal information may only be disclosed as follows:

- (a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions or any private person or entity acting on behalf of the government or its agency in carrying out its functions;

- (b) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; 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 non-owner records of motor vehicle manufacturers;
- (c) For use in the normal course of business by a legitimate business or its agents, employees or contractors, but only –
 - (1) to verify the accuracy of personal information submitted by the individual to the business or its agents, employees or contractors; and
 - (2) to obtain the correct information, if such information as so submitted is not correct or is no longer correct, but only for the purposes of preventing fraud by pursuing legal remedies against, or recovering on a debt or security interest against the individual;
- (d) For use in connection with any civil, criminal, administrative or arbitration proceeding in any court or any government agency, or before any self anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a court;
- (e) For use 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;
- (f) For use by any insurer or insurance support organization, or by a self ensured entity, or its agents, employees or contractors, in connection with claims investigation activities, antifraud activities rating or underwriting;
- (g) For use in providing notice to the owners of towed or impounded vehicles;
- (h) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this Section;
- (i) For use by any employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license;
- (j) For use in connection with the operation of private toll transportation facilities;
- (k) For bulk distribution for surveys, marketing or solicitations if motor vehicle department has implemented methods and procedures to ensure that –
 - (1) individuals are provided an opportunity, in clear and conspicuous manner, to prohibit such uses; and

- (2) 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 they not be directed at them.
- (l) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains;
- (m) For any other use specifically authorized under the existing laws of any government agency that holds the record, if such is related to the operation of a motor vehicle or public safety.

SEC. 5. Prohibited Acts - Except as otherwise provided by the Land Transportation Office and/or Department of Transportation and Communication, any agency, officer or employee or contractor shall not knowingly disclose or otherwise make available to any person or entity personal information about any individual obtained by the Office in connection with a motor vehicle record.

SEC. 6. Other Unlawful Acts -

- (a) Procurement for unlawful purpose. It shall be unlawful for any person knowingly to obtain or disclose personal information, from a motor vehicle record, for any use not permitted under this Act;
- (b) False Representation. It shall be unlawful for any person to make false representation to obtain any personal information from an individual's motor vehicle record.

SEC. 7. Re-Disclosure- An authorized recipient of personal information may redisclose the information only for a use permitted under Section 4. Any authorized recipient except a recipient under Section 4 that re-disclosed personal information covered by this Act must keep for a period of 5 years records identifying each entity that receives information and the permitted purpose for which the information will be used and must make such records available to the Land Transportation Office upon request.

SEC. 8. Waiver Procedure - The Land Transportation Office and/or Department of Transportation and Communication may establish and carry out procedures under which the department or its agents, upon receiving a request for personal information that does not fall within one of the exceptions in Section 4, may mail a copy of the request to the individual about whom request is taken, together with a statement to the effect that the information will not be released unless the individual waives such individual's right to privacy under this Section.

SEC. 9. Penalties. - -

- (a) A person who knowingly violates this Act shall be fined in the amount of not less than ten thousand pesos (P10,000.00) or imprisoned for not less than three (3) months or both at the discretion of the court. If the offense is committed by a corporation, trust, firm, partnership or association or other entity, the penalty shall

be imposed upon the guilty officer or officers of such corporation, trust, firm, partnership or association or entity;

(b) Violations by Government Agencies. Any government agency that has a policy or practice of substantial noncompliance with this Act shall be subject to a penalty to be imposed by the court of not more than one hundred thousand pesos (P100,000.00) a day for each day of substantial non-compliance.

SEC. 10. Civil Action --

a) Cause of Action. Any individual to whom the information pertains, may bring a criminal or civil action in court, against any person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this Act.

SEC 11. Remedies- In case of violations of this Act, the court may award:

- (1) damages, in the amount of P50,000.00;
- (2) punitive damages upon proof of willful or reckless disregard of the law;
- (3) reasonable attorney's fees and other litigation costs reasonably incurred;
- (4) such other preliminary and equitable relief as the court determines to be appropriate

SEC. 12. Separability Clause - If any provision or part hereof is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 13. Repealing Clause. - Any law, presidential decree, or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SEC. 14. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,