

The Driver Privacy Protection Act

In 1994, Congress enacted the Driver Privacy Protection Act (DPPA) to protect the personal information contained on an individual's motor vehicle records. **Personal information** is information that identifies an individual, such as a name, address, telephone number, medical or disability information, photograph or digital image, and license or social security number. Information relating to motor vehicle accidents, driving violations, or a driver's license or motor vehicle registration status is deemed public information under the federal law. A **motor vehicle record** includes a driver's license, permit, motor vehicle title and registration and identification card.

In September 1997, the Department of the Secretary of State adopted rules that conformed with the requirements of the federal law. In particular, Maine motorists could request that their personal information not be released to sales and marketing organizations and the general public by completing an 'opt-out' form. By completing the form, an individual's personal information could not be released unless in connection with one of the enumerated exceptions under the law.

The DPPA does allow for the release of personal information from motor vehicle records if used in connection with vehicle safety, vehicle theft or emissions and for market research, product recalls and court proceedings. Those agencies with access to personal information for these purposes are: law enforcement agencies, insurance companies, motor vehicle dealers, businesses and employers to verify personal information for employment, towing companies to notify owners of towed vehicles, and private detective and security agencies.

During the 1999 session Congress amended the federal DPPA. Under this amendment, states cannot release personal information on motor vehicle records to sales and marketing organizations and the general public, unless an individual specifically agrees to the release by completing an 'opt-in' form. In this manner, an individual's personal information is automatically protected from release to sales and marketing organizations and the general public without having to take any action. The exceptions from 1997 listed above were not changed under this amendment and are still in effect.

Congress in its 1999 amendment did identify specific personal information it deemed sensitive personal information and provided additional protections under the exceptions. **Sensitive personal information** includes photographs, digital images, social security numbers, and medical and disability information. This information may only be released in specific circumstances to government agencies, courts, and law enforcement agencies; to insurance companies; to commercial vehicle employers; and for legal proceedings.

To comply with the recent amendment to the DPPA, the Bureau of Motor Vehicles amended its rules under the Administrative Procedures Act, Department of the Secretary of State, 29 250A, Chapter 10, effective June 1, 2000.

DPPA SUMMARY

What is the Driver Privacy Protection Act?

The Driver Privacy Protection Act, also known as DPPA, is a federal law that requires state motor vehicle offices to limit the release of personal information on motor vehicle records. What is protected under the federal law is the following personal information contained in Bureau of Motor Vehicle records: an individual's name, address, telephone number, license and social security number, photograph or digital image, medical and disability information. A person's driving record is not protected. Records about companies and organizations are not protected under DPPA. The law applies only to motor vehicle records kept by the BMV, not to other sources of information.

Has Maine complied with the federal law?

Yes, Maine adopted administrative rules in 1997 to implement the DPPA requirements in this state. BMV has recently amended its rules to comply with the new changes in the federal law.

In particular, the federal law now requires that all personal information contained on motor vehicle records be considered private, unless a person specifically agrees to make the information public. This protection is available to Maine citizens without their taking any action. This is a change in the law, which previously required the individual to expressly request that their personal information be kept confidential, or to 'opt-out.' With the new federal requirements and the rules adopted by the BMV, a person must now 'opt-in' to allow their information to be released.

Maine has a Freedom of Access Law, how does the federal law impact this existing law?

While Maine's Freedom of Access law keeps most state records open for public inspection, DPPA is an exception to this law. The federal law says certain information may not be given out, but is silent on the release of other information not defined as personal information. Whereas the federal law does not address the privacy of non-personal information, the state law takes over and says we must provide access to that information.

Are there any exceptions when personal information is released under DPPA?

Yes, there are several agencies and organizations that may obtain personal information, regardless of the DPPA protections. Law enforcement agencies and federal and state government agencies may receive personal information from BMV records. However, personal information will not be released to any of the following individuals or agencies, unless they have filed an affirmation statement with the BMV asserting they are entitled to personal information under the DPPA.

- Organizations conducting vehicle recalls
- Insurance companies
- Businesses, in order to verify information already given by a person or to prevent fraud or to recover on a debt or lien
- Parties involved with a federal or state court case or arbitration, including attorneys
- Towing companies that tow abandoned or impounded vehicles
- An employer verifying information relating to a CDL
- Anyone with written permission of the person whose information they are requesting
- Private investigators acting for any purpose stated above

The federal law and administrative rules talk about 'sensitive personal information', what does this mean?

Sensitive personal information is defined as a person's photograph, digital image, social security number and medical and disability information. Federal law provides additional security for these items by limiting who can receive this information. In specific circumstances this information may be given to government agencies, courts and law enforcement agencies; to insurance companies; and to commercial vehicle employers. Sensitive personal information may also be released for use in connection with a legal proceeding. This is a more narrow exception and does not include all of the individuals or agencies that may complete an affirmation statement. Additional authorization will be required to obtain a person's photograph, digital image, social security number or medical and disability information.

29 DEPARTMENT OF THE SECRETARY OF STATE
250 BUREAU OF MOTOR VEHICLES
Chapter 10: RULES IMPLEMENTING THE FEDERAL DRIVER'S PRIVACY PROTECTION ACT

Summary: This rule establishes the procedure for the disclosure of personal information contained in motor vehicle records in accordance with state (29-A MRSA §256) and federal law (18 U.S.C. Chapter 123).

- §1. Purpose.
The purpose of this rule is to implement the federal Driver's Privacy Protection Act of 1994 (Title 18 U.S.C. Chapter 123), as amended, relating to the disclosure of personal information contained in motor vehicle records.
- §2. Definitions.
For the purpose of these rules the following definitions apply:
1. Bureau means the State of Maine, Department of the Secretary of State, Bureau of Motor Vehicles.
 2. Disclose means to engage in any practice or conduct to make available and make known personal information contained in a motor vehicle record about an individual to any other person, organization or entity, by any means of communication.
 3. Motor vehicle record means any record that pertains to a motor vehicle operator's or driver's license or permit, motor vehicle registration, motor vehicle title, or identification card issued by the Bureau.
 4. Person means an individual, organization or entity, but does not include this state or an agency thereof.
 5. Personal information means information that identifies an individual, including an individual's photograph or digital image, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's license or registration status.
 6. Sensitive personal information means an individual's photograph, social security number, and medical and disability information from a motor vehicle record, but does not include information on vehicular accidents, driving violations and driver's license or registration status.
- §3. Prohibition on disclosure of personal information from motor vehicle records. Except as provided in Sections 4-7, the Bureau and any officer, employee, agent or contractor thereof shall not knowingly disclose or otherwise make available to any person personal information about any individual obtained by the Bureau in connection with a motor vehicle record.
- §4. Mandatory disclosures. Personal information must be disclosed 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 and dealers by motor vehicle manufacturers, and removal of nonowner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Federal Automobile Information Disclosure Act, 15 U.S.C. 1231 et seq., the Motor Vehicle Information Cost Saving Act, 15 U.S.C. 1901 et seq., the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1381 et seq., the Anti-Car Theft Act of 1992, 15 U.S.C. 2021 et seq., and the Clear Air Act, 42 U.S.C. 7401 et seq., as amended.
- §5. Disclosure with written consent. Personal information may be disclosed to any person, if the person demonstrates, in such form and manner as the Bureau prescribes, that the person has obtained the written consent of the individual to whom the information pertains. Disclosure of personal information will be denied by the Bureau unless written consent was provided to the person requesting the information within the last 12 months.
- §6. Disclosure by choice. Federal law allows the disclosure of personal information to any person or organization, including sales and marketing organizations. An individual may authorize the Bureau to disclose this information by completing a separate form prescribed by the Bureau.
- §7. Authorized disclosures. Unless prohibited by statute, personal information will be disclosed as follows:
1. Personal and sensitive personal information will 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 acting on behalf of a government agency in carrying out its functions.
 - B. For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of

process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court.

- C. 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 investigation activities, anti-fraud activities, rating or underwriting.
 - D. 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.).
2. Personal information, except for sensitive personal information unless the individual to whom the sensitive personal information pertains authorizes, in writing, disclosure of such information, will be disclosed as follows:
- A. 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 activities, including survey research, and removal of nonowner records from the original owner records of motor vehicle manufacturers.
 - B. 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) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
 - C. 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.
 - D. For use in providing notice to the owners of towed or impounded vehicles.
 - E. For use by a licensed private investigative agency or licensed security service for any purpose permitted by this rule.
 - F. For use in connection with the operation of private toll transportation facilities.
 - G. For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.
3. Personal information will also be disclosed as follows:
- A. For bulk distribution for surveys, marketing or solicitations if the Bureau has obtained the written consent of the individual to whom such personal information pertains.
 - B. For any other use in response to requests for individual motor vehicle records if the Bureau obtained the written consent of the individual to whom such personal information pertains.
 - C. For use by any requestor, if the requestor demonstrates it has obtained the written consent of the individual to whom the information pertains.

§8. Resale or redisclosure of personal information

- 1. Unlimited Resale and Redisclosure. A recipient of personal information pertaining to an individual, who has authorized disclosure pursuant to Section 6, may resell or redisclose personal information for any purpose.
- 2. Limit on Resale and Redisclosure. Except as otherwise provided in this Section, a recipient of personal information under Sections 4 and 7 may resell or redisclose personal information only for a use permitted under Sections 4 and 7.
- 3. Records and Inspection. A recipient of personal information under Sections 4 and 7, other than a recipient under Section 7(3)(B), who resells or rediscloses personal information must keep for a period of five years' records identifying each person who receives that information and the permitted purpose for which the information will be used and must make such records available to the Bureau or another person or state agency designated by the Bureau upon request.

§9. Conditions prior to disclosure of personal information.

The Bureau may, prior to the disclosure of personal information, require persons requesting such information to provide periodically assurances concerning identity and intended use of such information.

§10. Fees.

All applicable costs and fees must be paid prior to the disclosure of personal information.

There will be no fiscal impact to municipalities resulting from the adoption of these rules.

STATUTORY AUTHORITY: 29-A MRSA §153

EFFECTIVE DATE:

September 15, 1997

AMENDED:

June 1, 2000

**Attachment to contract for motor vehicle record services with
InforME/Maine Information Network
AFFIRMATION STATEMENT**

As an individual, or an authorized agent of a company, requesting Maine Bureau of Motor Vehicle (BMV) driver or vehicle records through batch, interactive or other processes, I hereby certify on a continuing basis that I am qualified under the Rules of the Department of the Secretary of State 29-250 Chapter 10, which implements the Driver's Privacy Protection Act (DPPA), to request "personal information" from the BMV.

If an authorized agent of a company, I further certify on a continuing basis that I have made those personnel from our company who will be handling, requesting or disseminating such records from the BMV (or will in the future make any new persons who will be handling, requesting or disseminating such records from the BMV) familiar with the provisions of Chapter 10 and that all of them agree (or for future personnel, will at that time agree) to abide by its provisions as a condition of the company being granted access to such information.

Please indicate which permissible use category qualifies your entity to have access to personal information. Please check all that apply:

- For use by a government agency, including a court or law enforcement agency, in carrying out its functions, or a person acting on behalf of a government agency* in carrying out its functions.
- For use in connection with matters concerning:
 - A. motor vehicle or driver safety and theft;
 - B. motor vehicle emissions;
 - C. motor vehicle product alterations, recalls or advisories;
 - D. performance monitoring of motor vehicles, motor vehicle parts, and dealers;
 - E. motor vehicle market research activities**, including survey research; and
 - F. the removal of non-owner records from the original owner records of motor vehicle manufacturers.
- For use in the normal course of business by a business or its agents*, employees, or contractors*, but only:
 - A. to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors; and
 - B. if information submitted to a business is not correct or is no longer correct, to obtain the correct information only for purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.
- For use in connection with a civil, a criminal, an administrative, or an arbitration proceeding in a court or government agency or before a self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or under an order of a court.
- For use in research activities**, and for use in producing statistical reports, as long as the personal information is not published, re-disclosed, or used to contact the individuals who are the subject of the personal information.
- For use by an insurer, an insurance support organization, or a self-insured entity, or the agents*, employees, or contractors* of an insurer, and insurance support organization, or a self-insured entity in connection with claims investigation activities, anti-fraud activities, rating, or underwriting.
- For use in providing notice to the owners of towed or impounded vehicles.
- For use by a licensed private investigative agency or licensed security service for a purpose allowed under this section.
- 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. 2710 et seq.)
- For use in connection with the operation of private toll transportation facilities.
- For any use in response to requests for individual motor vehicle records when the bureau has obtained the written consent of the person to whom the personal information pertains.

- For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety. Please explain and cite authorizing Federal or state law/rule:

** If you are acting on behalf of, or are contracting with, a business, government agency, court or law enforcement agency, please complete the DPPA Supplemental Information Form*

*** An explanation that details the reason(s) why you feel your research/survey activities qualify under this category must be attached to this document by completing the DPPA Supplemental Information Form.*

I understand penalties may be imposed against me for any violation of the DPPA. I further agree to indemnify and hold harmless the State of Maine, InforME, and Maine Information Network, LLC, from any liability or costs that may result from any access to or use of personal information, which was obtained by me, or others under my authorization, and which was not used in accordance with Chapter 10.

Signature

Printed Name and Title

Organization Name

Type of Business (i.e. Employment Service, Insurance Company, Government, etc.)

Address (physical and mailing) & Phone

Date

All requests for access to personal information contained on a motor vehicle record are reviewed by personnel at the Bureau of Motor Vehicle prior to approval. You will be contacted by appropriate personnel if additional information is required during the approval process.

STATE OF MAINE
Bureau of Motor Vehicles

AFFIRMATION STATEMENT
For Access to Motor Vehicle Record Information

DPPA Supplemental Information Form

The Bureau of Motor Vehicles is required to protect personal information contained on motor vehicle records and needs the following information to complete the review of your request for access to personal information.

For contractors/agents acting on behalf of another:

If you are acting on behalf of, or are contracting with, a business, government agency, court or law enforcement agency, please provide the following information:

1. Please provide a copy of the contract/memorandum of agreement you have with the entity you are acting on behalf of, or are contracting services.

2. Please indicate the type of service you are providing to this entity:

3. Please explain how the personally identifiable information will be used:

For research activities and/or for producing statistical reports:

If you are requesting access to personal information for use in research activities and for use in producing statistical reports, please provide the following information:

1. Please provide a basic overview of the research activity/statistical report to include the project title and the objective:

2. Please explain how the personally identifiable information will be used in your research activity/statistical report:

3. How will the research activity/statistical report provide improvements to highway and/or driver safety?