

To: All Dealer Members of the  
Rochester Automobile Dealers' Association

RE: NYS Department of Motor Vehicles  
Driver's Privacy Protection Act (DPPA)

The Department of Motor Vehicles must comply with this federal law implemented in September 1997. R.A.D.A. supplies our dealer members with DMV inquiry search information. Personal information, which includes name and address, can be released from State Motor Vehicle records only in circumstances defined as "permissible use." New York DMV is requiring the R.A.D.A. to have "Permissible Use Certification" on file for all association members.

Each dealership member of the R.A.D.A. must return to R.A.D.A. the original "Certification of Permissible Use" signed by a corporate officer within seven (7) days. Certification will remain on file at the R.A.D.A. for five (5) years.

**DRIVER'S PRIVACY PROTECTION ACT****(18 U.S.C. §2721 et seq.)****PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION  
FROM STATE MOTOR VEHICLE RECORDS****SEC. 2721. PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL INFORMATION FROM STATE MOTOR VEHICLE RECORDS.**

(a) In General. A State department of motor vehicles, and any officer, employee, or contractor, thereof, shall not knowingly disclose or otherwise make available to any person or entity:

- (1) personal information, as defined in 18 U.S.C. §2725(3), about any individual obtained by the department in connection with a motor vehicle record, except as provided in subsection (b) of this section; or
- (2) highly restricted personal information, as defined in 18 U.S.C. §2725(4), about any individual obtained by the department in connection with a motor vehicle record, without the express consent of the person to whom such information applies, except uses permitted in subsections (b)(1), (b)(4), (b)(6), and (b)(9): Provided, That subsection (a)(2) shall not in any way affect the use of organ donation information on an individual's driver's license or affect the administration of organ donation initiatives in the States.

(b) Permissible Uses. -Personal information referred to in subsection (a) shall 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 non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of titles I and IV of the Anti-Car Theft Act of 1992, the Automobile Information Disclosure Act (15 U.S.C. §1231 et seq.), the Clean Air Act (42 U.S.C. §7401 et seq.), and chapters 301, 305, and 321-331 of title 49 (49 U.S.C. §30101 et seq., §30501 et seq., §32101 et seq.-§33101 et seq.), and, subject to subsection (a)(2), may be disclosed as follows:

- (1) 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 a Federal, State, or local agency in carrying out its functions.
- (2) 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 from the original owner records of motor vehicle manufacturers.
- (3) 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 as so submitted is not correct or is no longer 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.
- (4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or 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 a Federal, State, or local court.
- (5) 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.
- (6) 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, antifraud activities, rating or underwriting.
- (7) For use in providing notice to the owners of towed or impounded vehicles.
- (8) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.
- (9) 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 Chapter 313 of title 49 [49 U.S.C. §31301 et seq.].
- (10) For use in connection with the operation of private toll transportation facilities.
- (11) For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains.
- (12) For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.
- (13) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.
- (14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

(c) Resale or Redisclosure. - An authorized recipient of personal information (except a recipient under subsection (b)(11) or (12)) may resell or redisclose the information only for a use permitted under subsection (b) (but not for uses under subsection (b)(11) or (12)). An authorized recipient under subsection (b)(11) may resell or redisclose personal information for any purpose. An authorized recipient under subsection (b)(12) may resell or redisclose personal information pursuant to subsection (b)(12). Any authorized recipient (except a recipient under subsection (b)(11)) that resells or rediscloses personal information covered by this chapter [18 U.S.C. §2701 et seq.] must keep for a period of 5 years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.

(d) Waiver Procedures. - A State motor vehicle department 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 subsection (b), may mail a copy of the request to the individual about whom the information was requested, informing such individual of the request, 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.

(e) Prohibition on conditions. No State may condition or burden in any way the issuance of an individual's motor vehicle record as defined in 18 U.S.C. §2725(1) to obtain express consent. Nothing in this paragraph shall be construed to prohibit a State from charging an administrative fee for issuance of a motor vehicle record.

#### Sec. 2722. Additional 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 section 2721(b) of this title.

(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. 2723. Penalties

(a) Criminal Fine. - A person who knowingly violates this chapter shall be fined under this title.

(b) Violations by State Department of Motor Vehicles. - Any State department of motor vehicles that has a policy or practice of substantial noncompliance with this chapter shall be subject to a civil penalty imposed by the Attorney General of not more than \$5,000 a day for each day of substantial noncompliance.

#### Sec. 2724. Civil action

(a) Cause of Action. - A person who knowingly obtains, discloses or uses personal information, from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

(b) Remedies. - The court may award -

- (1) actual damages, but not less than liquidated damages in the amount of \$2,500;
- (2) punitive damages upon proof of willful or reckless disregard of the law;
- (3) reasonable attorneys' fees and other litigation costs reasonably incurred; and
- (4) such other preliminary and equitable relief as the court determines to be appropriate.

#### Sec. 2725. Definitions

In this chapter -

- (1) "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;
- (2) "person" means an individual, organization or entity, but does not include a State or agency thereof; and
- (3) "personal information" means information that identifies an individual, including an individual's photograph, 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 status;
- (4) "'highly restricted personal information'" means an individual's photograph or image, social security number, medical or disability information; and
- (5) "express consent" means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in section 106(5) of Public Law 106-229 [15 U.S.C. §7006(5)].