

By: Representatives Turner, Arnold

To: Banking and Financial Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1376

1 AN ACT TO CREATE THE MISSISSIPPI CONSUMER PRIVACY ACT FOR
2 STATE AGENCIES; TO PROVIDE THAT ANY RECORDS THAT INCLUDE THE
3 ADDRESS, TELEPHONE NUMBER, ELECTRONIC MAIL ADDRESS, DATE OF BIRTH
4 OR SOCIAL SECURITY NUMBER OF ANY LICENSEE AND ARE HELD BY A STATE
5 AGENCY THAT LICENSES PROFESSIONS OR OCCUPATIONS SHALL NOT BE
6 DEEMED PUBLIC RECORDS, UNLESS THAT LICENSEE HAS CONSENTED TO THE
7 RELEASE OF SUCH INFORMATION; TO PROVIDE LIMITED SITUATIONS WHEN
8 PERSONAL INFORMATION OBTAINED BY THE MISSISSIPPI DEPARTMENT OF
9 REVENUE IN CONNECTION WITH A MOTOR VEHICLE RECORD MAY BE DISCLOSED
10 TO ANY REQUESTOR BY THE DEPARTMENT; TO PROVIDE PENALTIES FOR THE
11 IMPROPER USE OF PERSONAL INFORMATION; TO PROVIDE THAT WHENEVER THE
12 DEPARTMENT PROVIDES A REQUESTOR ACCESS TO PERSONAL INFORMATION IN
13 BULK UNDER A CONTRACT, THE CONTRACT SHALL REQUIRE CERTAIN
14 INFORMATION; TO PROVIDE THAT ANY RECORDS HELD BY THE MISSISSIPPI
15 DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS THAT INCLUDE CERTAIN
16 PERSONAL INFORMATION OF A PERSON WHO HAS DONE BUSINESS WITH THE
17 DEPARTMENT SHALL NOT BE PUBLIC RECORDS; TO BRING FORWARD SECTION
18 49-7-4, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
19 AMENDMENT; AND FOR RELATED PURPOSES.

20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

21 **SECTION 1.** The provisions of this act shall be known and may
22 be cited as the "Mississippi Consumer Privacy Act for State
23 Agencies".

24 **SECTION 2.** The following shall be codified as Section
25 25-61-11.3, Mississippi Code of 1972:



26 25-61-11.3. (1) Any records that include the address,
27 telephone number, electronic mail address, date of birth or social
28 security number of any licensee and are held by a state agency
29 that licenses professions or occupations shall not be deemed
30 public records as provided in Section 25-61-3, unless that
31 licensee has consented to the release of such information.

32 (2) The provisions of this section shall not prohibit the
33 agency from posting information on an internet site that the
34 agency deems necessary to inform consumers of disciplinary
35 proceedings filed against the licensee.

36 **SECTION 3.** The following shall be codified as Section
37 25-61-11.4, Mississippi Code of 1972:

38 25-61-11.4. (1) Except as otherwise provided in this
39 section, the Mississippi Department of Revenue ("department")
40 shall not knowingly disclose to any person, firm, corporation,
41 association or other enterprise any personal information obtained
42 in connection with a motor vehicle. The department may adopt any
43 rules and regulations as necessary to effectuate the purposes of
44 this section.

45 (2) Personal information obtained by the department in
46 connection with a motor vehicle record shall be disclosed for use
47 in connection with matters of motor vehicle or driver safety and
48 theft, motor vehicle emissions, motor vehicle product alterations,
49 recalls, advisories, performance monitoring of motor vehicles and
50 dealers by motor vehicle manufacturers, and removal of nonowner



51 records from the original owner records of motor vehicle
52 manufacturers to carry out the provisions of Titles I and IV of
53 the Anti Car Theft Act of 1992, the Automobile Information
54 Disclosure Act, the Clean Water Act, and Chapters 301, 305 and 321
55 through 331 of Title 49, and all statutes and agency regulations
56 enacted or adopted pursuant to the authority of, or to attain
57 compliance with, the Acts of Congress.

58 (3) Personal information obtained by the department in
59 connection with a motor vehicle record may be disclosed to any
60 requestor by the department if the requestor:

61 (a) Provides the requestor's name and address and any
62 proof of that information required by the agency; and

63 (b) Represents that the use of the personal information
64 will be strictly limited to use:

65 (i) By a government agency, including any court or
66 law enforcement agency, in carrying out its functions; or

67 (ii) By a private person or entity acting on
68 behalf of a government agency in carrying out the functions of the
69 agency; or

70 (iii) In connection with:

71 1. Motor vehicle or motor vehicle operator
72 safety;

73 2. Motor vehicle theft;

74 3. Motor vehicle product alterations, recalls
75 or advisories;



76 4. Performance monitoring of motor vehicles,
77 motor vehicle parts or motor vehicle dealers;

78 5. Motor vehicle market research activities,
79 including survey research; or

80 6. Removal of nonowner records from the
81 original owner records of motor vehicle manufacturers;

82 (iv) In the normal course of business by a
83 legitimate business or an authorized agent of the business, but
84 only to verify the accuracy of personal information submitted by
85 the individual to the business or the agent of the business, and
86 if the information is not correct, to obtain the correct
87 information, for the sole purpose of preventing fraud by, pursuing
88 a legal remedy against, or recovering on a debt or security
89 interest against the individual;

90 (v) In conjunction with a civil, criminal,
91 administrative or arbitral proceeding in any court or government
92 agency or before any self-regulatory body, including service of
93 process, investigation in anticipation of litigation, execution or
94 enforcement of a judgment or order, or under an order of any
95 court;

96 (vi) In research or in producing statistical
97 reports, but only if the personal information is not published,
98 disclosed to another person or entity or used to contact any
99 individual;



100 (vii) In the normal course of business, by an
101 insurer, or insurance support organization, or by a self-insured
102 entity, or an authorized agent of an insurer, insurance support
103 organization, self-insured entity, or lender in connection with
104 claims processing or investigation activities, anti-fraud
105 activities, rating or underwriting, or in connection with lending
106 activities;

107 (viii) In providing notice to an owner or
108 lienholder, if any, of a vehicle that was towed or impounded and
109 is in the possession of a vehicle storage facility;

110 (ix) By an employer or an agent or insurer of the
111 employer to obtain or verify information relating to a holder of a
112 commercial driver's license that is required under 49 USC Chapter
113 313;

114 (x) By a consumer reporting agency, as defined by
115 the Fair Credit Reporting Act (15 USC Section 1681 et seq.), for a
116 purpose permitted under that act;

117 (xi) By a motor vehicle manufacturer, dealership,
118 or distributor, or an agent of or provider of services to a motor
119 vehicle manufacturer, dealership, or distributor, for motor
120 vehicle market research activities, including survey research;

121 (xii) In the normal course of business by a person
122 or authorized agent of a person who holds a license from the
123 Mississippi Motor Vehicle Commission, or is regulated by the
124 Department of Banking and Consumer Finance, the Board of Governors



125 of the Federal Reserve System, the Office of the Comptroller of
126 the Currency, the Federal Deposit Insurance Corporation, the
127 Consumer Financial Protection Bureau, or the National Credit Union
128 Administration;

129 (xiii) In connection with the operation of private
130 toll transportation facilities; or

131 (xiv) By any requestor, if the requestor
132 demonstrates it has obtained the written consent of the individual
133 to whom the information pertains.

134 (4) Any requestor who misrepresents his or her purpose for
135 seeking motor vehicle information, or who has violated any
136 provision of this section, or any rules of the department
137 promulgated to carry out the provisions of this section, shall be
138 guilty of a felony and upon conviction, shall be sentenced to the
139 custody of the Mississippi Department of Corrections for not more
140 than five (5) years. Any corporation, association, firm or other
141 entity that has violated the provisions of this section shall be
142 fined in an amount not to exceed One Hundred Thousand Dollars
143 (\$100,000.00) for each violation.

144 (5) Whenever the department provides a requestor access to
145 personal information in bulk under a contract, the contract shall
146 require:

147 (a) That the requestor post a performance bond in an
148 amount of not more than One Million Dollars (\$1,000,000.00);



149 (b) A prohibition on the sale or redistribution of the
150 personal information for the purpose of marketing extended vehicle
151 warranties by telephone;

152 (c) That the requestor provide proof of general
153 liability and cyber-threat insurance coverage in an amount
154 specified by the contracting agency that is at least Three Million
155 Dollars (\$3,000,000.00) and reasonably related to the risks
156 associated with unauthorized access and use of the records;

157 (d) That if a requestor experiences a breach of system
158 security that includes data obtained under authority of this
159 section, the requestor shall notify the department of the breach
160 not later than forty-eight (48) hours after the discovery of the
161 breach;

162 (e) That the requestor include in each contract with a
163 third party that receives the personal information from the
164 requestor that the third party must comply with federal and state
165 laws regarding the records;

166 (f) That the requestor and any third party receiving
167 the personal information from the requestor protect the personal
168 information with appropriate and accepted industry standard
169 security measures for the type of information and the known risks
170 from unauthorized access and use of the information; and

171 (g) That the requestor annually provides to the agency
172 a report of all third parties to which the personal information



173 was disclosed under this section and the purpose of the
174 disclosure.

175 (6) The bond and insurance requirements of this section
176 shall not apply to a government agency, including a court of law
177 or law enforcement agency.

178 (7) An agency that discloses any motor vehicle records in
179 bulk shall include in the records at least two (2) records that
180 are created solely for the purpose of monitoring compliance with
181 this chapter and detecting, by receipt of certain forms of
182 communications or actions directed at the subjects of the created
183 records, potential violations of this chapter or contract terms
184 required by this section.

185 (8) An agency that discloses motor vehicle records shall
186 designate an employee to be responsible for:

187 (a) Monitoring compliance with this chapter and
188 contract terms required by this section;

189 (b) Referring potential violations of this chapter to
190 law enforcement agencies; and

191 (c) Making recommendations to the administrative head
192 of the agency or his or her designee on the eligibility of a
193 person under this section to receive personal information.

194 (9) This section does not affect any rights or remedies
195 available under a contract or any other law. If an agency
196 determines that a person has violated the terms of a contract with



197 the agency that authorized the disclosure of personal information
198 in connection with a motor vehicle record, the agency may:

199 (a) Cease disclosing personal information to that
200 person; and

201 (b) Allow the person to remedy the violation and
202 continue receiving personal information.

203 (10) Nothing in this section shall be construed to prohibit
204 the Mississippi Department of Revenue from providing information
205 to a private firm for the management and upkeep of a tax lien
206 registry.

207 **SECTION 4.** The following shall be codified as Section
208 25-61-11.5, Mississippi Code of 1972:

209 25-61-11.5. In addition to the records of licensees exempted
210 from the Public Records Act of 1983 by Section 49-7-4, any records
211 held by the Mississippi Department of Wildlife, Fisheries and
212 Parks that include the addresses, telephone numbers, electronic
213 mail addresses, dates of birth or social security numbers of any
214 person who has done business with the department shall not be
215 public records as defined by Section 25-61-3.

216 **SECTION 5.** In addition to any penalties provided for under
217 this act, persons who violate the provisions of this act by using
218 information unlawfully obtained to contact individuals by
219 telephone may also be investigated and sanctioned in accordance
220 with Section 77-3-725.



221 **SECTION 6.** Section 49-7-4, Mississippi Code of 1972, is
222 brought forward as follows:

223 49-7-4. The records of the Department of Wildlife, Fisheries
224 and Parks relating to applications for and sales of any resident
225 or nonresident licenses issued under this chapter, and all records
226 related to holders of such licenses, are exempt from the
227 provisions of the Mississippi Public Records Act of 1983, in
228 accordance with Section 25-61-11, and shall be released only upon
229 order of a court having proper jurisdiction over a petition for
230 release of the record or records. However, upon request, the
231 records specified in this section shall be available to all law
232 enforcement agencies.

233 **SECTION 7.** This act shall take effect and be in force from
234 and after July 1, 2022.

