

By: Representatives Turner, Hulum, Stamps,
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To: Banking and Financial
Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 880

1 AN ACT TO CREATE NEW SECTION 25-61-11.1, MISSISSIPPI CODE OF
2 1972, TO ESTABLISH THE "MISSISSIPPI CONSUMER PRIVACY ACT FOR STATE
3 AGENCIES"; TO CREATE NEW SECTION 25-61-11.3, MISSISSIPPI CODE OF
4 1972, TO PROVIDE THAT CERTAIN RECORDS OF ANY PROFESSIONAL OR
5 OCCUPATIONAL LICENSEE THAT ARE HELD BY A STATE AGENCY THAT
6 LICENSES PROFESSIONS OR OCCUPATIONS SHALL NOT BE DEEMED PUBLIC
7 RECORDS, UNLESS THE LICENSEE HAS CONSENTED TO THE RELEASE OF SUCH
8 RECORDS; TO CREATE NEW SECTION 25-61-11.4, MISSISSIPPI CODE OF
9 1972, TO DEFINE CERTAIN TERMS; TO CREATE NEW SECTION 25-61-11.5,
10 MISSISSIPPI CODE OF 1972, TO PROHIBIT AN AGENCY FROM DISCLOSING A
11 PERSON'S PERSONAL INFORMATION OBTAINED BY THE AGENCY IN CONNECTION
12 WITH A MOTOR VEHICLE RECORD, EXCEPT AS PROVIDED IN THIS ACT; TO
13 CREATE NEW SECTION 25-61-11.6, MISSISSIPPI CODE OF 1972, TO
14 PROVIDE THAT PERSONAL INFORMATION OBTAINED BY AN AGENCY IN
15 CONNECTION WITH A MOTOR VEHICLE RECORD SHALL BE DISCLOSED FOR USE
16 IN CONNECTION WITH CERTAIN MATTERS; TO CREATE NEW SECTION
17 25-61-11.7, MISSISSIPPI CODE OF 1972, TO PROVIDE PENALTIES FOR ANY
18 REQUESTOR WHO MISREPRESENTS HIS OR HER PURPOSE FOR SEEKING MOTOR
19 VEHICLE INFORMATION, OR WHO VIOLATES ANY PROVISION OF THIS ACT OR
20 ANY RULES OF AN AGENCY PROMULGATED TO CARRY OUT THE PROVISIONS OF
21 THIS ACT, OR ANY CORPORATION, ASSOCIATION, FIRM OR OTHER ENTITY
22 WHO VIOLATES ANY PROVISION OF THIS ACT; TO CREATE NEW SECTION
23 25-61-11.8, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PERSON WHO
24 SELLS TO A PERSON WHO IS NOT AN AUTHORIZED RECIPIENT OF PERSONAL
25 INFORMATION OBTAINED BY AN AGENCY IN CONNECTION WITH A MOTOR
26 VEHICLE RECORD IS LIABLE TO THE PERSON WHO IS THE SUBJECT OF THE
27 INFORMATION FOR DAMAGES, COURT COSTS, FEES, OR ANY OTHER EQUITABLE
28 REMEDY DETERMINED TO BE APPROPRIATE BY THE COURT; TO CREATE NEW
29 SECTION 25-61-11.9, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT AN
30 AUTHORIZED RECIPIENT OF PERSONAL INFORMATION MAY REDISCLOSE THE
31 INFORMATION, INCLUDING REDISCLOSURE FOR COMPENSATION, ONLY FOR A
32 CERTAIN PERMITTED USE, AND TO PROVIDE CERTAIN REQUIREMENTS FOR
33 SUCH REDISCLOSURE; TO CREATE NEW SECTION 25-61-11.10, MISSISSIPPI
34 CODE OF 1972, TO PROVIDE THAT CERTAIN RECORDS HELD BY THE



35 MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS OF ANY
36 PERSON WHO HAS DONE BUSINESS WITH THE DEPARTMENT SHALL NOT BE
37 PUBLIC RECORD; TO CREATE NEW SECTION 25-61-11.11, MISSISSIPPI CODE
38 OF 1972, TO PROVIDE THAT, IN ADDITION TO ANY PENALTIES PROVIDED
39 FOR UNDER THIS ACT, PERSONS WHO VIOLATE THE PROVISIONS OF THIS ACT
40 BY USING INFORMATION THAT WAS UNLAWFULLY OBTAINED TO CONTACT
41 INDIVIDUALS BY TELEPHONE, MAY ALSO BE INVESTIGATED AND SANCTIONED
42 UNDER THE PROVISIONS OF THE MISSISSIPPI TELEPHONE SOLICITATION
43 ACT; TO BRING FORWARD SECTION 49-7-4, MISSISSIPPI CODE OF 1972,
44 WHICH RELATES TO RECORDS OF THE DEPARTMENT OF WILDLIFE, FISHERIES
45 AND PARKS FOR APPLICATIONS FOR AND SALES OF ANY RESIDENT OR
46 NONRESIDENT LICENSES, FOR PURPOSES OF POSSIBLE AMENDMENT; TO BRING
47 FORWARD SECTION 77-3-725, MISSISSIPPI CODE OF 1972, WHICH RELATES
48 TO VIOLATIONS OF THE MISSISSIPPI TELEPHONE SOLICITATION ACT, FOR
49 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

51 **SECTION 1.** The following shall be codified as Section
52 25-61-11.1, Mississippi Code of 1972:

53 25-61-11.1. The provisions of this act shall be known and
54 may be cited as the "Mississippi Consumer Privacy Act for State
55 Agencies".

56 **SECTION 2.** The following shall be codified as Section
57 25-61-11.3, Mississippi Code of 1972:

58 25-61-11.3. (1) Any records that include the address,
59 telephone number, electronic mail address, date of birth, or
60 social security number of any professional or occupational
61 licensee, and are held by a state agency that licenses professions
62 or occupations, shall not be deemed public records as provided in
63 Section 25-61-3, unless the licensee has consented to the release
64 of such records.

65 (2) The provisions of this section shall not prohibit the
66 agency from posting information on an internet site that the



67 agency deems necessary to inform consumers of disciplinary
68 proceedings filed against the licensee.

69 **SECTION 3.** The following shall be codified as Section
70 25-61-11.4, Mississippi Code of 1972:

71 25-61-11.4. For purposes of Sections 4 through 15 of this
72 act, the following terms have the meanings as defined in this
73 section, unless the context clearly indicates otherwise:

74 (a) "Agency" includes any agency or political
75 subdivision of this state, or an authorized agent or contractor of
76 an agency or political subdivision of this state, that compiles or
77 maintains motor vehicle records.

78 (b) "Authorized recipient" means a person who is
79 permitted to receive and use personal information from an agency
80 in a manner authorized by this chapter.

81 (c) "Disclose" means to make available or make known
82 personal information contained in a motor vehicle record about a
83 person to another person, by any means of communication.

84 (d) "Individual record" means a motor vehicle record
85 obtained by an agency containing personal information about an
86 individual who is the subject of the record as identified in a
87 request.

88 (e) "Motor vehicle record" means a record that pertains
89 to a motor vehicle operator's or driver's license or permit, motor
90 vehicle traffic citations, motor vehicle registration, motor
91 vehicle title, or identification document issued by an agency of



92 this state or a local agency authorized to issue an identification
93 document. The term "motor vehicle record" does not include:

94 (i) A record that pertains to a motor carrier; or

95 (ii) An accident report prepared in accordance
96 with law.

97 (f) "Person" means an individual, organization, or
98 entity, but does not include this state or an agency of this
99 state.

100 (g) "Personal information" means information that
101 identifies a person, including a person's photograph or
102 computerized image, social security number, date of birth, driver
103 identification number, name, address, email address, telephone
104 number, or medical or disability information. The term "personal
105 information" does not include information on vehicle accidents,
106 driving or equipment-related violations, or driver's license or
107 registration status, or information contained in an accident
108 report prepared under law.

109 (h) "Record" means any book, paper, photograph,
110 photostat, card, film, tape, recording, electronic data, printout,
111 or other documentary material regardless of physical form or
112 characteristics.

113 **SECTION 4.** The following shall be codified as Section
114 25-61-11.5, Mississippi Code of 1972:

115 25-61-11.5. An agency shall not knowingly disclose personal
116 information about any person obtained by the agency in connection



117 with a motor vehicle record, except as provided by Sections 4
118 through 8 of this act. An agency that maintains motor vehicle
119 records that contain personal information is authorized to adopt
120 rules and regulations necessary to carry out the purposes of this
121 act.

122 **SECTION 5.** The following shall be codified as Section
123 25-61-11.6, Mississippi Code of 1972:

124 25-61-11.6. (1) Personal information obtained by an agency
125 in connection with a motor vehicle record shall be disclosed for
126 use in connection with any matter of:

127 (a) Motor vehicle or motor vehicle operator safety;

128 (b) Motor vehicle theft;

129 (c) Motor vehicle product alterations, recalls, or
130 advisories;

131 (d) Performance monitoring of motor vehicles or motor
132 vehicle dealers by a motor vehicle manufacturer;

133 (e) Removal of nonowner records from the original owner
134 records of a motor vehicle manufacturer to carry out the purposes
135 of:

136 (i) The Automobile Information Disclosure Act, 15
137 U.S.C. Section 1231 et seq.;

138 (ii) 49 U.S.C. Chapters 301, 305, 323, 325, 327,
139 329, and 331;

140 (iii) The Anti Car Theft Act of 1992, 18 U.S.C.
141 Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 U.S.C.



142 Sections 164Gb and 1646c, and 42 U.S.C. Section 3 75 Oa et seq.,
143 all as amended;

144 (iv) The Clean Air Act, 42 U.S.C. Section 7401 et
145 seq., as amended; and

146 (v) Any other statute or regulation enacted or
147 adopted under, or in relation to, a law included in this section.

148 (f) Child support enforcement activities as provided in
149 Section 93-11-155;

150 (g) Voter registration matters, as provided in Section
151 23-15-169 et seq; or

152 (h) Motor vehicle emissions information.

153 (2) Personal information obtained by an agency in connection
154 with a motor vehicle record shall be disclosed to a requestor who:

155 (a) Is the subject of the information; or

156 (b) Demonstrates, in such form and manner as the agency
157 requires, that the requestor has obtained the written consent of
158 the person who is the subject of the information.

159 (3) Personal information obtained by an agency in connection
160 with a motor vehicle record may be disclosed to any requestor by
161 an agency if the requestor:

162 (a) Provides his or her name and address, and any proof
163 of that information as required by the agency; and

164 (b) Represents that the use of the personal information
165 will be strictly limited to use by:



166 (i) A government agency, including any court or
167 law enforcement agency, in carrying out its functions;

168 (ii) A private person or entity acting on behalf
169 of a government agency in carrying out the functions of the
170 agency;

171 (iii) Use in connection with a matter of:

172 1. Motor vehicle or motor vehicle operator
173 safety;

174 2. Motor vehicle theft;

175 3. Motor vehicle product alterations,
176 recalls, or advisories;

177 4. Performance monitoring of motor vehicles,
178 motor vehicle parts, or motor vehicle dealers; or

179 5. Removal of nonowner records from the
180 original owner records of motor vehicle manufacturers.

181 (iv) Use in the normal course of business by a
182 legitimate business, or an authorized agent of the business, but
183 only:

184 1. To verify the accuracy of personal
185 information submitted by the individual to the business or the
186 agent of the business; and

187 2. If the information is not correct, to
188 obtain the correct information for the sole purpose of preventing
189 fraud by pursuing a legal remedy against or recovering on a debt
190 or security interest against the individual.



191 (v) Use in conjunction with a civil, criminal,
192 administrative, or arbitral proceeding in any court or government
193 agency or before any self-regulatory body, including service of
194 process, investigation in anticipation of litigation, execution or
195 enforcement of a judgment or order, or under an order of any
196 court;

197 (vi) Use by a motor vehicle manufacturer,
198 dealership, or distributor, or an agent of or provider of services
199 to a motor vehicle manufacturer, dealership, or distributor, for
200 motor vehicle market research activities, including survey
201 research, but only if the personal information is not published,
202 redisclosed, or used to contact any individual;

203 (vii) Use by an insurer, insurance support
204 organization, or self-insured entity, or an authorized agent of an
205 insurer, insurance support organization, or self-insured entity,
206 in connection with claims processing or investigation activities,
207 antifraud activities, rating, or underwriting;

208 (viii) Use in providing notice to an owner or lien
209 holder of a vehicle that was towed or impounded, and is in the
210 possession of a vehicle storage facility;

211 (ix) Use by an employer or an agent or insurer of
212 the employer to obtain or verify information relating to a holder
213 of a commercial driver's license that is required under 49 U.S.C.
214 Chapter 313;



215 (x) Use by a consumer reporting agency, as defined
216 by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.),
217 for a purpose permitted under that act;

218 (xi) In the normal course of business by a person,
219 or authorized agent of a person, who holds a license from the
220 Mississippi Motor Vehicle Commission, or is regulated by the
221 Department of Banking and Consumer Finance, the Board of Governors
222 of the Federal Reserve System, the Office of the Comptroller of
223 the Currency, the Federal Deposit Insurance Corporation, the
224 Consumer Financial Protection Bureau, or the National Credit Union
225 Administration;

226 (xii) In connection with the operation of private
227 toll transportation facilities.

228 (4) Subsection (3)(b)(iv) of this section does not authorize
229 the disclosure of personal information to a person who is not a
230 business licensed by, registered with, or subject to regulatory
231 oversight by a government agency.

232 (5) The only personal information an agency may release
233 under subsection (3) of this section is the person's
234 name, address, date of birth, email address, telephone number,
235 medical or disability information and driver's license number.

236 **SECTION 6.** The following shall be codified as Section
237 25-61-11.7, Mississippi Code of 1972:

238 25-61-11.7. (1) Any requestor who misrepresents his or her
239 purpose for seeking motor vehicle information, or who has violated



240 any provision of this act, or any rules of an agency promulgated
241 to carry out the provisions of this act, shall be guilty of a
242 felony, and upon conviction, shall be sentenced to the custody of
243 the Mississippi Department of Corrections for not more than five
244 (5) years. Any corporation, association, firm or other entity
245 that has violated the provisions of this act shall be fined in an
246 amount not to exceed One Hundred Thousand Dollars (\$100,000.00)
247 for each violation.

248 (2) Whenever the agency provides a requestor access to
249 personal information in bulk as provided under Section 5 of this
250 act, the agency shall enter into a contract with the requestor
251 which shall require:

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

254 (b) A prohibition on the sale or redistribution of the
255 personal information for the purpose of marketing extended vehicle
256 warranties by telephone;

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

262 (d) That if a requestor experiences a breach of system
263 security that includes data obtained under authority of this
264 section, the requestor shall notify the agency of the breach not



265 later than forty-eight (48) hours after the discovery of the
266 breach;

267 (e) That the requestor include in each contract with a
268 third party that receives the personal information from the
269 requestor, that the third party must comply with federal and state
270 laws regarding the records;

271 (f) That the requester, and any third party receiving
272 the personal information from the requestor, protect the personal
273 information with appropriate and accepted industry standard
274 security measures for the type of information and the known risks
275 from unauthorized access and use of the information; and

276 (g) That the requestor annually provides to the agency
277 a report of all third parties to which the personal information
278 was disclosed under this act and the purpose of the disclosure.

279 Nothing in this subsection (5) shall bar an agency from
280 adopting a rule that prohibits the bulk transfer of data.

281 (6) The bond and insurance requirements of this act shall
282 not apply to a government agency, including a court of law or law
283 enforcement agency.

284 (7) An agency that discloses any motor vehicle records in
285 bulk shall include in the records at least two (2) records that
286 are created solely for the purpose of monitoring compliance with
287 this act and detecting by receipt of certain forms of
288 communications or actions directed at the subjects of the created



289 records, potential violations of this act or contract terms
290 required by this act.

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

293 (a) Monitoring compliance with this act and contract
294 terms required by this act;

295 (b) Referring potential violations of this act to law
296 enforcement agencies; and

297 (c) Making recommendations to the administrative head
298 of the agency or his or her designee on the eligibility of a
299 person under this act to receive personal information.

300 (9) This act does not affect any rights or remedies
301 available under a contract or any other law. If an agency
302 determines that a person has violated the terms of a contract with
303 the agency that authorized the disclosure of personal information
304 in connection with a motor vehicle record, the agency may:

305 (a) Cease disclosing personal information to that
306 person; and

307 (b) Allow the person to remedy the violation and
308 continue receiving personal information.

309 (10) Nothing in this act shall be construed to prohibit the
310 Mississippi Department of Revenue from providing information to a
311 private firm for the management and upkeep of a tax lien registry.

312 **SECTION 7.** The following shall be codified as Section
313 25-61-11.8, Mississippi Code of 1972:



314 25-61-11.8. (1) A person who sells to a person who is not
315 an authorized recipient of personal information obtained by an
316 agency in connection with a motor vehicle record is liable to the
317 person who is the subject of the information for:

318 (a) Actual damages;

319 (b) If the actual damages to the person are less than
320 Two Thousand Five Hundred Dollars (\$2,500.00), an additional
321 amount so that the total amount of damages equals Two Thousand
322 Five Hundred Dollars (\$2,500.00); and

323 (c) Court costs incurred by the person who is the
324 subject of the information in bringing the action.

325 (2) A person whose personal information has been disclosed
326 for compensation to a person who is not an authorized recipient of
327 such information may sue for:

328 (i) The damages, costs, and fees authorized under
329 subsection (a) of this section;

330 (ii) Injunctive relief; and

331 (iii) Any other equitable remedy determined to be
332 appropriate by the court.

333 **SECTION 8.** The following section shall be codified as
334 Section 25-61-11.9, Mississippi Code of 1972:

335 25-61-11.9. (1) An authorized recipient of personal
336 information may redisclose the information, including redisclosure
337 for compensation, only for a use permitted under Section 5 of this
338 act.



339 (2) An authorized recipient who rediscloses personal
340 information obtained from an agency shall be required by that
341 agency to:

342 (a) Maintain for a period of not less than five (5)
343 years, records as to any person or entity receiving that
344 information and the permitted use for which it was obtained; and

345 (b) Provide copies of those records to the agency upon
346 request.

347 (3) A person who receives personal information under
348 subsection (2) of this section may not redisclose the personal
349 information, including redisclosure for compensation, to a person
350 who is not an authorized recipient of such information.

351 (4) An authorized recipient shall notify each person who
352 receives such personal information that the person may not
353 redisclose the personal information to a person who is not an
354 authorized recipient of such information.

355 (5) A person commits an offense if he or she violates this
356 section. The penalties established in Section 6, subsection (1) of
357 this act shall apply to violations of this section.

358 **SECTION 9.** The following shall be codified as Section
359 25-61-11.10, Mississippi Code of 1972:

360 25-61-11.10. In addition to the records of licensees
361 exempted from the Public Records Act of 1983, by Section 49-7-4,
362 any records held by the Mississippi Department of Wildlife,
363 Fisheries and Parks that include the addresses, telephone numbers,



364 electronic mail addresses, dates of birth, or social security
365 numbers of any person who has done business with the department
366 shall not be public records as defined by Section 25-61-3.

367 **SECTION 10.** The following shall be codified as Section
368 25-61-11.11, Mississippi Code of 1972:

369 25-61-11.11. In addition to any penalties provided for under
370 this act, persons who violate the provisions of this act by using
371 information that was unlawfully obtained to contact individuals by
372 telephone, may also be investigated and sanctioned under the
373 provisions of the Mississippi Telephone Solicitation Act.

374 **SECTION 11.** Section 49-7-4, Mississippi Code of 1972, is
375 brought forward as follows:

376 49-7-4. The records of the Department of Wildlife, Fisheries
377 and Parks relating to applications for and sales of any resident
378 or nonresident licenses issued under this chapter, and all records
379 related to holders of such licenses, are exempt from the
380 provisions of the Mississippi Public Records Act of 1983, in
381 accordance with Section 25-61-11, and shall be released only upon
382 order of a court having proper jurisdiction over a petition for
383 release of the record or records. However, upon request, the
384 records specified in this section shall be available to all law
385 enforcement agencies.

386 **SECTION 12.** Section 77-3-725, Mississippi Code of 1972, is
387 brought forward as follows:



388 77-3-725. The commission may investigate alleged violations
389 and initiate proceedings relative to a violation of this article
390 or any rules and regulations promulgated pursuant to this article.
391 Such proceedings include, without limitation, proceedings to issue
392 a cease and desist order, and to issue an order imposing a civil
393 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each
394 violation. The commission shall afford an opportunity for a fair
395 hearing to the alleged violator(s) after giving written notice of
396 the time and place for said hearing. Failure to appear at any
397 such hearing may result in the commission finding the alleged
398 violator(s) liable by default. Any telephone solicitor found to
399 have violated this article, pursuant to a hearing or by default,
400 may be subject to a civil penalty not to exceed Ten Thousand
401 Dollars (\$10,000.00) for each violation to be assessed and
402 collected by the commission. Each telephonic communication shall
403 constitute a separate violation.

404 All penalties collected by the commission shall be deposited
405 in the special fund created under Section 77-3-721 for the
406 administration of this article.

407 The commission may issue subpoenas, require the production of
408 relevant documents, administer oaths, conduct hearings, and do all
409 things necessary in the course of investigating, determining and
410 adjudicating an alleged violation.

411 The remedies, duties, prohibitions and penalties set forth
412 under this article shall not be exclusive and shall be in addition



413 to all other causes of action, remedies and penalties provided by
414 law, including, but not limited to, the penalties provided by
415 Section 77-1-53.

416 **SECTION 13.** This act shall take effect and be in force from
417 and after July 1, 2023.

