

By: Representatives Turner, Arnold, Hulum

To: Banking and Financial Services

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 registration, motor vehicle title, or identification
91 document issued by an agency of this state or a local agency



92 authorized to issue an identification document. The term "motor
93 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, or address, but does not mean the
104 person's zip code, e-mail address, telephone number, or medical or
105 disability information. The term "personal information" does not
106 include information on vehicle accidents, driving or
107 equipment-related violations, or driver's license or registration
108 status, or information contained in an accident report prepared
109 under law.

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

114 **SECTION 4.** The following shall be codified as Section
115 25-61-11.5, Mississippi Code of 1972:



116 25-61-11.5. An agency shall not disclose personal
117 information about any person obtained by the agency in connection
118 with a motor vehicle record, except as provided by Sections 4
119 through 8 of this act. An agency that maintains motor vehicle
120 records that contain personal information is authorized to adopt
121 rules and regulations necessary to carry out the purposes of this
122 act.

123 **SECTION 5.** The following shall be codified as Section
124 25-61-11.6, Mississippi Code of 1972:

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

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

129 (b) Motor vehicle theft;

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

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

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

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

139 (ii) 49 U.S.C. Chapters 301, 305, 323, 325, 327,
140 329, and 331;



141 (iii) The Anti Car Theft Act of 1992, 18 U.S.C.
142 Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 U.S.C.
143 Sections 164Gb and 1646c, and 42 U.S.C. Section 3 75 Oa et seq.,
144 all as amended;

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

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

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

151 (g) Voter registration matters, as provided in Section
152 23-15-169 et seq.

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 of a
209 vehicle that was towed or impounded, and is in the possession of a
210 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 of this section does not authorize the
229 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, and driver's license number.

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

237 25-61-11.7. (1) Any requestor who misrepresents his or her
238 purpose for seeking motor vehicle information, or who has violated
239 any provision of this act, or any rules of an agency promulgated



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

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

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

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

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

261 (d) That if a requestor experiences a breach of system
262 security that includes data obtained under authority of this
263 section, the requestor shall notify the department of the breach



264 not later than forty-eight (48) hours after the discovery of the
265 breach;

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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



313 25-61-11.8. (1) A person who sells to a person who is not
314 an authorized recipient of personal information obtained by an
315 agency in connection with a motor vehicle record is liable to the
316 person who is the subject of the information for:

317 (a) Actual damages;

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

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

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

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

329 (ii) Injunctive relief; and

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

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

334 25-61-11.9. (1) An authorized recipient of personal
335 information may redisclose the information, including redisclosure
336 for compensation, only for a use permitted under Section 5 of this
337 act.



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

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

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

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

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

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

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

359 25-61-11.10. In addition to the records of licensees
360 exempted from the Public Records Act of 1983, by Section 49-7-4,
361 any records held by the Mississippi Department of Wildlife,
362 Fisheries and Parks that include the addresses, telephone numbers,



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

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

368 25-61-11.11. In addition to any penalties provided for under
369 this act, persons who violate the provisions of this act by using
370 information that was unlawfully obtained to contact individuals by
371 telephone, may also be investigated and sanctioned under the
372 provisions of the Mississippi Telephone Solicitation Act.

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

375 49-7-4. The records of the Department of Wildlife, Fisheries
376 and Parks relating to applications for and sales of any resident
377 or nonresident licenses issued under this chapter, and all records
378 related to holders of such licenses, are exempt from the
379 provisions of the Mississippi Public Records Act of 1983, in
380 accordance with Section 25-61-11, and shall be released only upon
381 order of a court having proper jurisdiction over a petition for
382 release of the record or records. However, upon request, the
383 records specified in this section shall be available to all law
384 enforcement agencies.

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



387 77-3-725. The commission may investigate alleged violations
388 and initiate proceedings relative to a violation of this article
389 or any rules and regulations promulgated pursuant to this article.
390 Such proceedings include, without limitation, proceedings to issue
391 a cease and desist order, and to issue an order imposing a civil
392 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each
393 violation. The commission shall afford an opportunity for a fair
394 hearing to the alleged violator(s) after giving written notice of
395 the time and place for said hearing. Failure to appear at any
396 such hearing may result in the commission finding the alleged
397 violator(s) liable by default. Any telephone solicitor found to
398 have violated this article, pursuant to a hearing or by default,
399 may be subject to a civil penalty not to exceed Ten Thousand
400 Dollars (\$10,000.00) for each violation to be assessed and
401 collected by the commission. Each telephonic communication shall
402 constitute a separate violation.

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

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

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



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

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

