

**Adopted
AMENDMENT NO 4 PROPOSED TO**

Senate Bill No. 2371

BY: Representatives Turner, Arnold

1 **AMEND** by inserting the following after line 1861 and
2 renumbering the succeeding sections:

3 " **SECTION 8.** The following shall be codified as Section
4 25-61-11.1, Mississippi Code of 1972:

5 25-61-11.1. Sections 8 through 17 of this act shall be known
6 and may be cited as the "Mississippi Consumer Privacy Act for
7 State Agencies".

8 **SECTION 9.** The following shall be codified as Section
9 25-61-11.3, Mississippi Code of 1972:

10 25-61-11.3. (1) Any records that include the address,
11 telephone number, electronic mail address, date of birth, or
12 social security number of any professional or occupational
13 licensee, and are held by a state agency that licenses professions



14 or occupations, shall not be deemed public records as provided in
15 Section 25-61-3, unless the licensee has consented to the release
16 of such records.

17 (2) The provisions of this section shall not prohibit the
18 agency from posting information on an Internet site that the
19 agency deems necessary to inform consumers of disciplinary
20 proceedings filed against the licensee.

21 **SECTION 10.** The following shall be codified as Section
22 25-61-11.4, Mississippi Code of 1972:

23 25-61-11.4. For purposes of Sections 8 through 17 of this
24 act, the following terms have the meanings as defined in this
25 section, unless the context clearly indicates otherwise:

26 (a) "Agency" includes any agency or political
27 subdivision of this state, or an authorized agent or contractor of
28 an agency or political subdivision of this state, that compiles or
29 maintains motor vehicle records.

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

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

36 (d) "Individual record" means a motor vehicle record
37 obtained by an agency containing personal information about an



38 individual who is the subject of the record as identified in a
39 request.

40 (e) "Motor vehicle record" means a record that pertains
41 to a motor vehicle operator's or driver's license or permit, motor
42 vehicle traffic citations, motor vehicle registration, motor
43 vehicle title, or identification document issued by an agency of
44 this state or a local agency authorized to issue an identification
45 document. The term "motor vehicle record" does not include:

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

47 (ii) An accident report prepared in accordance
48 with law.

49 (f) "Person" means an individual, organization, or
50 entity, but does not include this state or an agency of this
51 state.

52 (g) "Personal information" means information that
53 identifies a person, including a person's photograph or
54 computerized image, social security number, date of birth, driver
55 identification number, name, address, email address, telephone
56 number, or medical or disability information. The term "personal
57 information" does not include information on vehicle accidents,
58 driving or equipment-related violations, or driver's license or
59 registration status, or information contained in an accident
60 report prepared under law.

61 (h) "Record" means any book, paper, photograph,
62 photostat, card, film, tape, recording, electronic data, printout,



63 or other documentary material regardless of physical form or
64 characteristics.

65 **SECTION 11.** The following shall be codified as Section
66 25-61-11.5, Mississippi Code of 1972:

67 25-61-11.5. An agency shall not knowingly disclose personal
68 information about any person obtained by the agency in connection
69 with a motor vehicle record, except as provided by Sections 8
70 through 17 of this act. An agency that maintains motor vehicle
71 records that contain personal information is authorized to adopt
72 rules and regulations necessary to carry out the purposes of this
73 act.

74 **SECTION 12.** The following shall be codified as Section
75 25-61-11.6, Mississippi Code of 1972:

76 25-61-11.6. (1) Personal information obtained by an agency
77 in connection with a motor vehicle record shall be disclosed for
78 use in connection with any matter of:

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

80 (b) Motor vehicle theft;

81 (c) Motor vehicle product alterations, recalls, or
82 advisories;

83 (d) Performance monitoring of motor vehicles or motor
84 vehicle dealers by a motor vehicle manufacturer;

85 (e) Removal of nonowner records from the original owner
86 records of a motor vehicle manufacturer to carry out the purposes
87 of:



88 (i) The Automobile Information Disclosure Act, 15
89 USC Section 1231 et seq.;

90 (ii) 49 USC Chapters 301, 305, 323, 325, 327, 329,
91 and 331;

92 (iii) The Anti Car Theft Act of 1992, 18 USC
93 Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 USC
94 Sections 164Gb and 1646c, and 42 USC Section 3 75 Oa et seq., all
95 as amended;

96 (iv) The Clean Air Act, 42 USC Section 7401 et
97 seq., as amended; and

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

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

102 (g) Voter registration matters, as provided in Section
103 23-15-169 et seq.; or

104 (h) Motor vehicle emissions information.

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

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

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



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

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

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

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

120 (ii) A private person or entity acting on behalf
121 of a government agency in carrying out the functions of the
122 agency;

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

124 1. Motor vehicle or motor vehicle operator
125 safety;

126 2. Motor vehicle theft;

127 3. Motor vehicle product alterations,
128 recalls, or advisories;

129 4. Performance monitoring of motor vehicles,
130 motor vehicle parts, or motor vehicle dealers; or

131 5. Removal of nonowner records from the
132 original owner records of motor vehicle manufacturers.

133 (iv) Use in the normal course of business by a
134 legitimate business, or an authorized agent of the business, but
135 only:



136 1. To verify the accuracy of personal
137 information submitted by the individual to the business or the
138 agent of the business; and

139 2. If the information is not correct, to
140 obtain the correct information for the sole purpose of preventing
141 fraud by pursuing a legal remedy against or recovering on a debt
142 or security interest against the individual.

143 (v) Use in conjunction with a civil, criminal,
144 administrative, or arbitral proceeding in any court or government
145 agency or before any self-regulatory body, including service of
146 process, investigation in anticipation of litigation, execution or
147 enforcement of a judgment or order, or under an order of any
148 court;

149 (vi) Use by a motor vehicle manufacturer,
150 dealership, or distributor, or an agent of or provider of services
151 to a motor vehicle manufacturer, dealership, or distributor, for
152 motor vehicle market research activities, including survey
153 research, but only if the personal information is not published,
154 redisclosed, or used to contact any individual;

155 (vii) Use by an insurer, insurance support
156 organization, or self-insured entity, or an authorized agent of an
157 insurer, insurance support organization, or self-insured entity,
158 in connection with claims processing or investigation activities,
159 antifraud activities, rating, or underwriting;



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

163 (ix) Use by an employer or an agent or insurer of
164 the employer to obtain or verify information relating to a holder
165 of a commercial driver's license that is required under 49 USC
166 Chapter 313;

167 (x) Use by a consumer reporting agency, as defined
168 by the Fair Credit Reporting Act (15 USC Section 1681 et seq.),
169 for a purpose permitted under that act;

170 (xi) In the normal course of business by a person,
171 or authorized agent of a person, who holds a license from the
172 Mississippi Motor Vehicle Commission, or is regulated by the
173 Department of Banking and Consumer Finance, the Board of Governors
174 of the Federal Reserve System, the Office of the Comptroller of
175 the Currency, the Federal Deposit Insurance Corporation, the
176 Consumer Financial Protection Bureau, or the National Credit Union
177 Administration;

178 (xii) In connection with the operation of private
179 toll transportation facilities.

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



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

188 **SECTION 13.** The following shall be codified as Section
189 25-61-11.7, Mississippi Code of 1972:

190 25-61-11.7. (1) Any requestor who misrepresents his or her
191 purpose for seeking motor vehicle information, or who has violated
192 any provision of this act, or any rules of an agency promulgated
193 to carry out the provisions of this act, shall be guilty of a
194 felony, and upon conviction, shall be sentenced to the custody of
195 the Mississippi Department of Corrections for not more than five
196 (5) years. Any corporation, association, firm or other entity
197 that has violated the provisions of this act shall be fined in an
198 amount not to exceed One Hundred Thousand Dollars (\$100,000.00)
199 for each violation.

200 (2) Whenever the agency provides a requestor access to
201 personal information in bulk as provided under Section 12 of this
202 act, the agency shall enter into a contract with the requestor
203 which shall require:

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

206 (b) A prohibition on the sale or redistribution of the
207 personal information for the purpose of marketing extended vehicle
208 warranties by telephone;



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

214 (d) That if a requestor experiences a breach of system
215 security that includes data obtained under authority of this
216 section, the requestor shall notify the agency of the breach not
217 later than forty-eight (48) hours after the discovery of the
218 breach;

219 (e) That the requestor include in each contract with a
220 third-party that receives the personal information from the
221 requestor, that the third-party must comply with federal and state
222 laws regarding the records;

223 (f) That the requester, and any third-party receiving
224 the personal information from the requestor, protect the personal
225 information with appropriate and accepted industry standard
226 security measures for the type of information and the known risks
227 from unauthorized access and use of the information; and

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

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



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

236 (7) An agency that discloses any motor vehicle records in
237 bulk shall include in the records at least two (2) records that
238 are created solely for the purpose of monitoring compliance with
239 this act and detecting by receipt of certain forms of
240 communications or actions directed at the subjects of the created
241 records, potential violations of this act or contract terms
242 required by this act.

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

245 (a) Monitoring compliance with this act and contract
246 terms required by this act;

247 (b) Referring potential violations of this act to law
248 enforcement agencies; and

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

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



257 (a) Cease disclosing personal information to that
258 person; and

259 (b) Allow the person to remedy the violation and
260 continue receiving personal information.

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

264 **SECTION 14.** The following shall be codified as Section
265 25-61-11.8, Mississippi Code of 1972:

266 25-61-11.8. (1) A person who sells to a person who is not
267 an authorized recipient of personal information obtained by an
268 agency in connection with a motor vehicle record is liable to the
269 person who is the subject of the information for:

270 (a) Actual damages;

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

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

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

280 (i) The damages, costs, and fees authorized under
281 paragraph (a) of subsection (2) of this section;



282 (ii) Injunctive relief; and
283 (iii) Any other equitable remedy determined to be
284 appropriate by the court.

285 **SECTION 15.** The following section shall be codified as
286 Section 25-61-11.9, Mississippi Code of 1972:

287 25-61-11.9. (1) An authorized recipient of personal
288 information may redisclose the information, including redisclosure
289 for compensation, only for a use permitted under Section 12 of
290 this act.

291 (2) An authorized recipient who rediscloses personal
292 information obtained from an agency shall be required by that
293 agency to:

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

297 (b) Provide copies of those records to the agency upon
298 request.

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

303 (4) An authorized recipient shall notify each person who
304 receives such personal information that the person may not
305 redisclose the personal information to a person who is not an
306 authorized recipient of such information.



307 (5) A person commits an offense if he or she violates this
308 section. The penalties established in Section 13, subsection (1)
309 of this act shall apply to violations of this section.

310 **SECTION 16.** The following shall be codified as Section
311 25-61-11.10, Mississippi Code of 1972:

312 25-61-11.10. In addition to the records of licensees
313 exempted from the Public Records Act of 1983, by Section 49-7-4,
314 any records held by the Mississippi Department of Wildlife,
315 Fisheries and Parks that include the addresses, telephone numbers,
316 electronic mail addresses, dates of birth, or social security
317 numbers of any person who has done business with the department
318 shall not be public records as defined by Section 25-61-3.

319 **SECTION 17.** The following shall be codified as Section
320 25-61-11.11, Mississippi Code of 1972:

321 25-61-11.11. In addition to any penalties provided for under
322 this act, persons who violate the provisions of this act by using
323 information that was unlawfully obtained to contact individuals by
324 telephone, may also be investigated and sanctioned under the
325 provisions of the Mississippi Telephone Solicitation Act.

326 **SECTION 18.** Section 49-7-4, Mississippi Code of 1972, is
327 brought forward as follows:

328 49-7-4. The records of the Department of Wildlife, Fisheries
329 and Parks relating to applications for and sales of any resident
330 or nonresident licenses issued under this chapter, and all records
331 related to holders of such licenses, are exempt from the



332 provisions of the Mississippi Public Records Act of 1983, in
333 accordance with Section 25-61-11, and shall be released only upon
334 order of a court having proper jurisdiction over a petition for
335 release of the record or records. However, upon request, the
336 records specified in this section shall be available to all law
337 enforcement agencies.

338 **SECTION 19.** Section 77-3-725, Mississippi Code of 1972, is
339 brought forward as follows:

340 77-3-725. The commission may investigate alleged violations
341 and initiate proceedings relative to a violation of this article
342 or any rules and regulations promulgated pursuant to this article.
343 Such proceedings include, without limitation, proceedings to issue
344 a cease and desist order, and to issue an order imposing a civil
345 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each
346 violation. The commission shall afford an opportunity for a fair
347 hearing to the alleged violator(s) after giving written notice of
348 the time and place for said hearing. Failure to appear at any
349 such hearing may result in the commission finding the alleged
350 violator(s) liable by default. Any telephone solicitor found to
351 have violated this article, pursuant to a hearing or by default,
352 may be subject to a civil penalty not to exceed Ten Thousand
353 Dollars (\$10,000.00) for each violation to be assessed and
354 collected by the commission. Each telephonic communication shall
355 constitute a separate violation.



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

359 The commission may issue subpoenas, require the production of
360 relevant documents, administer oaths, conduct hearings, and do all
361 things necessary in the course of investigating, determining and
362 adjudicating an alleged violation.

363 The remedies, duties, prohibitions and penalties set forth
364 under this article shall not be exclusive and shall be in addition
365 to all other causes of action, remedies and penalties provided by
366 law, including, but not limited to, the penalties provided by
367 Section 77-1-53."

368 **AMEND title to conform.**

