SENATE BILL 327

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Antoinette Sedillo Lopez

AN ACT

RELATING TO PRIVACY; PROHIBITING THE DISCLOSURE OF SENSITIVE PERSONAL INFORMATION; RESTRICTING THE DISCLOSURE OF CERTAIN INFORMATION BY CERTAIN STATE EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Governmental Conduct Act is enacted to read:

"[NEW MATERIAL] SENSITIVE PERSONAL INFORMATION.--

A. An employee of a state agency, including a district court or magistrate court, shall not disclose sensitive personal information acquired by virtue of the employee's position with the state agency to anyone outside the state agency except when such disclosure is:

(1) necessary to carry out a function of the state agency;
(2) necessary to comply with an order of a
court of this state or of the United States;
(3) required by a subpoena;
(4) made to or by a court in the course of a
judicial proceeding or made in a court record;
(5) made to a state contractor who requires
the sensitive personal information in order to perform the
state contractor's obligations under the contract and has
agreed in writing to be bound by the same restrictions on
disclosure that are imposed on state employees pursuant to this
section;
(6) required or permitted by state or federal
law; or
(7) made with the written consent of the
person whose information would be disclosed.

B. As used in this section, "sensitive personal
information" means a person's:
(1) status as a recipient of public assistance
or state services or as a crime victim;
(2) sexual orientation, gender identity,
physical or mental disability, immigration status, national
origin or religion; and
(3) social security number or individual tax
identification number."

SECTION 2. Section 66-2-7.1 NMSA 1978 (being Laws 1995,
Chapter 135, Section 4, as amended by Laws 2007, Chapter 323, Section 31 and by Laws 2007, Chapter 324, Section 1) is amended to read:

"66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

A. It is unlawful for any department or bureau employee or contractor or for any former department or bureau employee or contractor to disclose to any person other than another employee of the department or bureau any personal information about an individual obtained by the department or bureau in connection with a driver's license or permit, the titling or registration of a vehicle, the administration of the Ignition Interlock Licensing Act and the interlock device fund or an identification card issued by the department pursuant to the Motor Vehicle Code except to:

(1) [the individual or the individual's authorized representative;]

(2) [a law enforcement agency when the personal information is shown to be needed to pursue a criminal investigation;]

[(2) for use by any] (3) a governmental agency, [including any court] other than a law enforcement agency, when the personal information is shown to be needed by the agency in carrying out its functions; [or by any private person acting on behalf of the government;]

(3) for use in connection with matters of
motor vehicle and driver safety or theft; motor vehicle emissions; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research;]

(4) a court in response to a subpoena;

(5) a motor vehicle manufacturer in connection with motor vehicle production alterations, recalls, [or] advisories [and] or removal of non-owner records from original owner records; [of motor vehicle manufacturers;]

(4—for use in] (6) a college or university for research activities [and] or for [use in] producing statistical reports, so long as the personal information is not published, redisclosed or used to contact individuals;

[(5—for use by any] (7) an 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;

[(6)] (8) a towing company for providing notice to owners of towed or impounded vehicles;

[(7—for use by] (9) an employer [or its agent or insurer] for use in obtaining or verifying information relating to [a holder of a] an employee's commercial driver's license;

[(8—for use by] (10) any requester if the
requester demonstrates that it has obtained the written consent of the individual to whom the information pertains;

[(9) for use by] (11) an insured state-chartered or federally chartered credit union; an insured state or national bank; an insured state or federal savings and loan association; or an insured savings bank, but only:

(a) to verify the accuracy of personal information submitted by an individual to the credit union, bank, savings and loan association or savings bank; and

(b) if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purpose of preventing fraud by pursuing legal remedies against or recovering on a debt or security interest from the individual;

[(10) for providing organ donor information]

(12) a person eligible to receive an anatomical gift as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act or Section 66-5-10 NMSA 1978; or

[(11) for providing the names and addresses of all lienholders and owners of record of abandoned vehicles to storage facilities or wrecker yards]

(13) a person upon whose property or in whose possession is found an abandoned vehicle for the purpose of providing notice as required in Section 66-3-121 NMSA 1978.

B. A request to the department, bureau or division
to disclose personal information pursuant to Subsection A of this section shall be submitted in writing to the secretary, the director of the bureau or division or the secretary's or director's designee and shall state with particularity the reasons that the information is needed by the person making the request. The secretary, director or designee shall make a determination in writing whether the information shall be disclosed. No such personal information shall be disclosed by any department or bureau employee or contractor in the absence of such a written determination by the secretary, director or designee.

[C. Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.]

D. As used in this section:

(1) "governmental agency" means any agency of a city, county, state or territory of the United States or of the District of Columbia and any agency of the federal government; and

(2) "law enforcement agency" means any police department of a city, county, state or territory of the United States or of the District of Columbia and any agency of the federal government whose duties include the enforcement of federal criminal laws."
SECTION 3. EFFECTIVE DATE.--The effective date of the
provisions of this act is July 1, 2021.

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