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SENATE BILL 107

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

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;

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1 (2) necessary to comply with an order of a
2 court of this state or of the United States;

3 (3) required by a subpoena;

4 (4) made to or by a court in the course of a
5 judicial proceeding or made in a court record;

6 (5) made to a state contractor who requires
7 the sensitive personal information in order to perform the
8 state contractor's obligations under the contract and has
9 agreed in writing to be bound by the same restrictions on
10 disclosure that are imposed on state employees pursuant to this
11 section;

12 (6) required or permitted by state or federal
13 law; or

14 (7) made with the written consent of the
15 person whose information would be disclosed.

16 B. As used in this section, "sensitive personal
17 information" means a person's:

18 (1) status as a recipient of public
19 assistance, state services or as a crime victim;

20 (2) sexual orientation, gender identity,
21 physical or mental disability, immigration status, national
22 origin or religion; and

23 (3) social security number or individual tax
24 identification number."

25 SECTION 2. Section 66-2-7.1 NMSA 1978 (being Laws 1995,

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1 Chapter 135, Section 4, as amended by Laws 2007, Chapter 323,
2 Section 31 and by Laws 2007, Chapter 324, Section 1) is amended
3 to read:

4 "66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

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

15 (1) ~~to~~ the individual or the individual's
16 authorized representative;

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

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

25 ~~(3) for use in connection with matters of~~

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1 ~~motor vehicle and driver safety or theft; motor vehicle~~
2 ~~emissions; performance monitoring of motor vehicles, motor~~
3 ~~vehicle parts and dealers; motor vehicle market research~~
4 ~~activities, including survey research;]~~

5 (4) a court in response to a subpoena;

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

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

14 [~~(5) for use by any~~] (7) an insurer [~~or~~
15 ~~insurance support organization or by a self-insured entity or~~
16 ~~its agents, employees or contractors]~~ in connection with claims
17 investigation activities, antifraud activities, rating or
18 underwriting;

19 [~~(6)~~] (8) a towing company for providing
20 notice to owners of towed or impounded vehicles;

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

25 [~~(8) for use by~~] (10) any requester if the

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1 requester demonstrates that it has obtained the written consent
2 of the individual to whom the information pertains;

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

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

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

15 ~~[(10) for providing organ donor information]~~
16 (12) a person eligible to receive an
17 anatomical gift as provided in the Jonathan Spradling Revised
18 Uniform Anatomical Gift Act or Section 66-5-10 NMSA 1978; or

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

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

25 B. A request to the department, bureau or division

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

12 ~~[B-]~~ C. Any person who violates the provisions of
13 this section is guilty of a misdemeanor and upon conviction
14 shall be sentenced in accordance with the provisions of Section
15 31-19-1 NMSA 1978.

16 D. As used in this section:

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

21 (2) "law enforcement agency" means any police
22 department of a city, county, state or territory of the United
23 States or of the District of Columbia and any agency of the
24 federal government whose duties include the enforcement of
25 federal criminal laws."

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SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.