

Act No. 99
Public Acts of 1997
Approved by the Governor
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STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997

Introduced by Reps. London, Brater, DeHart, Llewellyn, LaForge, Whyman, Cherry, Mans, Schermesser, Leland, Olshove, Curtis, Emerson, Gernaat, Oxender, Scott, Kukuk, Green, Byl, Birkholz, Jellema, Gire, Hale, Varga, Schauer, Goschka, Middleton, Parks, Harder, Martinez, Baird, Agee, Schroer and Galloway

Reps. Anthony, Baade, Bankes, Bodem, Bogardus, Brackenridge, Brewer, Callahan, Cassis, Crissman, Cropsey, Dalman, DeVuyst, Dobb, Dobronski, Freeman, Jelinek, Kaza, Kelly, Law, McBryde, Profit, Prusi, Rocca, Sikkema, Stallworth, Tesanovich, Thomas, Vaughn, Voorhees and Wallace named co-sponsors

ENROLLED HOUSE BILL No. 4700

AN ACT to amend 1972 PA 222, entitled "An act to provide for an official personal identification card; to provide for its form, issuance and use; to provide for certain duties of the secretary of state; and to prescribe certain penalties for violations," by amending the title and sections 1 and 2 (MCL 28.291 and 28.292), section 2 as amended by 1996 PA 204, and by adding sections 1a, 5a, 6, 7, 8, 9, and 10.

The People of the State of Michigan enact:

TITLE

An act to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; and to prescribe certain penalties for violations.

Sec. 1. (1) A person who is a resident of this state may apply to the department of state for an official state personal identification card. Upon application the applicant shall supply a birth certificate attesting to his age or other sufficient documents or identification as the secretary of state may require.

(2) The secretary of state shall not issue an official state personal identification card to a person who holds an operator's or chauffeur's license issued pursuant to the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, unless the license has been suspended, revoked, or restricted.

Sec. 1a. As used in this act:

(a) "Highly restricted personal information" includes an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(b) "Personal information" means information that identifies an individual, including the individual's photograph or image, name, address (but not the 5-digit zip code), driver license number, social security number, telephone number, digitized signature, and medical and disability information.

Sec. 2. (1) The official state personal identification card shall contain the following:

(a) An identification number permanently assigned to the person.

(b) The full name, date of birth, sex, residential address, height, weight, eye color, image, and signature of the person to whom the identification card is issued.

(c) An indication that the identification card contains 1 or more of the following:

(i) The blood type of the person.

(ii) Immunization data of the person.

(iii) Medication data of the person.

(iv) A statement that the person is deaf.

(v) A statement that the person has made an anatomical gift.

(vi) Emergency contact information of the person.

(2) The secretary of state shall prescribe the form of the identification card. Except as otherwise required in this act, other information required on the identification card pursuant to this act may appear on the identification card in a form prescribed by the secretary of state.

(3) The identification card shall not contain a fingerprint or finger image of the applicant.

(4) The secretary of state may retain and use a person's image described in subsection (1)(b) only for programs administered by the secretary of state. Except as provided in this subsection, the secretary of state shall not use a person's image unless written permission for that purpose is granted by the person to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state shall have access to any information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law.

(5) If a person presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, and is issued or is the holder of an official state personal identification card, the secretary of state shall mark the person's identification card in a manner that clearly indicates that the cardholder is legally blind.

(6) If the secretary of state issues an official state personal identification card to a person who at the time of application is 20-1/2 years of age or less, the secretary of state shall mark the person's identification card in a manner that clearly indicates that the cardholder is less than 21 years of age.

(7) An official state personal identification card may contain an identifier for voter registration purposes. An official state personal identification card may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's identification card number, birth date, expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The identification card shall identify the encoded information.

(8) An official state personal identification card shall be issued only upon authorization of the secretary of state, and shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the identification card without ready detection.

(9) Except as otherwise provided in this act, an applicant shall pay a fee of \$6.00 to the secretary of state for each original or renewal identification card issued. Until January 1, 2002, a service fee of \$1.00 shall be added to each fee collected for an original or renewal identification card. The department of treasury shall deposit the fees received and collected under this section in the state treasury to the credit of the general fund. The legislature shall appropriate the fees credited to the general fund under this act to the secretary of state for the administration of this act. Appropriations from the Michigan transportation fund shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(10) An original or renewal official state personal identification card shall expire on the birthday of the person to whom it is issued in the fourth year following the date of issuance. The secretary of state shall not issue an official state personal identification card under this act for a period greater than 4 years. A person may apply for a renewal of an official state personal identification card by mail or by other methods prescribed by the secretary of state.

(11) The secretary of state shall waive the fee under this section if the applicant is a person 65 years of age or older, is a person who has had his or her operator's or chauffeur's license suspended, revoked, or denied under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, because of a mental or physical infirmity or disability, is a person who presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, or is a person who presents other good cause for a fee waiver.

(12) A person who has been issued an official state personal identification card shall apply for a renewal official state personal identification card if the person changes his or her name.

(13) A person who has been issued an official state personal identification card shall apply for a corrected identification card if he or she changes his or her residential address. The secretary of state may correct the address on an identification card by a method prescribed by the secretary of state. A fee shall not be charged for a change of residential address.

(14) Except as otherwise provided in subsections (12) and (13), a person who has been issued an official state personal identification card may apply for a renewal official state personal identification card for 1 or more of the following reasons:

(a) The person wants to change any information on the identification card.

(b) An identification card issued under this act is lost, destroyed, or mutilated, or becomes illegible.

(15) A person may indicate on an official state personal identification card in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, a statement that the person is deaf, or a statement that the person has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(16) If an applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the official state personal identification card shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

Sec. 5a. (1) A person who makes a false representation or false certification to obtain personal information under this act, or who uses personal information for a purpose other than a permissible purpose identified in section 8 or 10, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than \$1,500.00 or more than \$7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than \$5,000.00 or more than \$15,000.00, or both.

Sec. 6. Records maintained under this act, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this act, in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and in other applicable laws.

Sec. 7. (1) The secretary of state may provide a commercial look-up service of records maintained under this act. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if the legislature does not specify a fee, a market-based price established by the secretary of state. The secretary of state shall process a commercial look-up request only if the request is in a form or format as prescribed by the secretary of state. The secretary of state may use fee revenues received under this subsection for necessary expenses.

(2) The secretary of state shall establish and maintain a computerized central file of the information contained on application forms received under this act. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(3) Except as provided in section 10(2), the secretary of state shall not provide an entire computerized central file or other file of records maintained under this act to a nongovernmental person or entity, unless the purchaser pays the prescribed fee for each individual record contained within the computerized file.

Sec. 8. (1) Except as provided in this section and in section 10, personal information in a record maintained under this act shall not be disclosed, unless the person requesting the information furnishes proof of identity satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 10. However, highly restricted personal information shall be used and disclosed only as expressly permitted in section 2 or in another applicable provision of law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information

and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this act may be disclosed by the secretary of state as follows:

(a) For use by a federal, state, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions.

(b) For use in connection with matters of motor vehicle and driver safety or auto theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles; motor vehicle market research activities, including survey research; and the removal of nonowner records from the original records of motor vehicle manufacturers.

(c) For use in the normal course of business by a legitimate business, including the agents, employees, and contractors of the business, but only to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as so submitted is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by pursuing legal remedies against, or recovering on a debt against, the individual.

(d) For use in connection with a civil, criminal, administrative, or arbitral proceeding in a federal, state, or local court or governmental agency or before a self-regulatory body, including use for service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, if the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigating activity, antifraud activity, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded vehicle.

(h) For use either by a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, or by a private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, only for a purpose permitted under this section.

(i) For use by an employer, or the employer's agent or insurer, to obtain or verify information relating either to the holder of a commercial driver license that is required under the commercial motor vehicle safety act of 1966, title XII of Public Law 99-570, 100 Stat. 3207-170, or to the holder of a chauffeur's license that is required under chapter 3 of the Michigan vehicle code, 1949 PA 300, MCL 257.301 to 257.329.

(j) For use by a car rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.

(k) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(l) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

Sec. 9. (1) An authorized recipient of personal information disclosed under section 8 may resell or redisclose the information only for a use permitted under section 8.

(2) An authorized recipient of personal information disclosed under section 8 who resells or rediscloses the information shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

Sec. 10. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this act to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this act in bulk, in addition to those lists distributed at cost or at no cost under this section, for any of the purposes permitted under section 8(3) as well as for purposes of surveys, marketing, and solicitations. The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) Before selling and furnishing any list of information under subsection (2) for surveys, marketing, and solicitations, the secretary of state shall implement methods and procedures that accomplish all of the following:

(a) Furnish individuals with a conspicuous opportunity to be informed of their right to prohibit the disclosure of personal information about them for purposes of surveys, marketing, and solicitations through an ongoing public information campaign which shall include the use of printed signs in branch offices and notices included with application and renewal forms to the extent that the secretary of state continues to use paper forms for those purposes, and may include periodic press releases, public service announcements, advertisements, pamphlets, notices in electronic media, and other types of notice. Each printed sign shall be not less than 8-1/2 inches wide by 11 inches high and contain a caption in not less than 46-point type. If the secretary of state furnishes notice on forms, the information printed on the forms shall be similar to the information printed on branch office signs. The secretary of state shall review the public information campaign on an annual basis in order to update notice content and furnish notice by more effective means.

(b) Provide individuals with a conspicuous opportunity, through a telephonic, automated, or other efficient system, to notify the secretary of state of their desire to prohibit the disclosure of personal information about them, for purposes of surveys, marketing, and solicitations. The secretary of state may contract with another public or private person or agency to implement this subdivision.

(c) Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this act, and that surveys, marketing, and solicitations will not be directed at those individuals who in a timely fashion have notified the secretary of state that surveys, marketing, and solicitations should not be directed at them.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information provided or sold is used only for a permissible use and that the rights of individuals and of the department are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for survey, marketing, and solicitations shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on driving behavior or sanctions to a nongovernmental agency, including an individual.

Enacting section 1. This amendatory act takes effect July 1, 1997.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

(a) Senate Bill No. 319.

(b) Senate Bill No. 534.

(c) House Bill No. 4701.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.