

HOUSE BILL No. 2126

AN ACT concerning the division of motor vehicles; relating to the disclosure of records; adopting the driver's privacy protection act; amending K.S.A. 74-2012 and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 74-2012 is hereby amended to read as follows: 74-2012. (a) (1) All motor vehicle records shall be subject to the provisions of the open records act, except as otherwise provided under the provisions of this section and by K.S.A. 65-2422d and 74-2022, and amendments thereto.

(2) Nothing in this section shall prevent the transmittal of motor vehicle records for the purpose of processing voter registration applications.

(3) For the purpose of this section, "motor vehicle records" means any record that pertains to a motor vehicle drivers' license, motor vehicle certificate of title, motor vehicle registration or identification card issued by the division of vehicles.

(b) All motor vehicle records which relate to the physical or mental condition of any person, have been expunged or are photographs or digital images maintained in connection with the issuance of drivers' licenses shall be confidential and shall not be disclosed except in accordance with a proper judicial order or as otherwise more specifically provided in this section or by other law. Photographs or digital images maintained by the division of vehicles in connection with the issuance of drivers' licenses may be disclosed to any federal, state or local agency, including any court or law enforcement agency, to assist such agency in carrying out the functions required of such governmental agency. In January of each year the division shall report to the house committee on veterans, military and homeland security regarding the utilization of the provisions of this subsection. Motor vehicle records relating to diversion agreements for the purposes of K.S.A. 8-1567, 12-4415 and 22-2908, and amendments thereto, shall be confidential and shall not be disclosed except in accordance with a proper judicial order or by direct computer access to:

(1) A city, county or district attorney, for the purpose of determining a person's eligibility for diversion or to determine the proper charge for a violation of K.S.A. 8-2,144 or 8-1567, and amendments thereto, or any ordinance of a city or resolution of a county in this state which prohibits any acts prohibited by those statutes;

(2) a municipal or district court, for the purpose of using the record in connection with any matter before the court;

(3) a law enforcement agency, for the purpose of supplying the record to a person authorized to obtain it under paragraph (1) or (2); or

(4) an employer when a person is required to retain a commercial driver's license due to the nature of such person's employment.

(c) Lists of persons' names and addresses contained in or derived from motor vehicle records shall not be sold, given or received for the purposes prohibited by K.S.A. 2018 Supp. 45-230, and amendments thereto, except that:

(1) The director of vehicles may provide to a requesting party, and a requesting party may receive, such a list and accompanying information from motor vehicle records upon written certification that the requesting party shall use the list solely for the purpose of:

~~(A) Assisting manufacturers of motor vehicles in compiling statistical reports or in notifying owners of vehicles believed to:~~

~~(i) Have safety-related defects;~~

~~(ii) fail to comply with emission standards; or~~

~~(iii) have any defect to be remedied at the expense of the manufacturer;~~

~~(B) assisting an insurer authorized to do business in this state, or the insurer's authorized agent:~~

~~(i) In processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy; or~~

~~(ii) in conducting antifraud activities by identifying potential undisclosed drivers of a motor vehicle currently insured by an insurer licensed to do business in this state by providing only the following information: Drivers' license number, license type, date of birth, name, address, issue date and expiration date;~~

~~(C) assisting the selective service system in the maintenance of a list of persons 18 to 26 years of age in this state as required under the provisions of section 3 of the federal military selective service act;~~

~~(D) assisting any federal, state or local agency, including any court or law enforcement agency, or any private person acting on behalf of such agencies in carrying out the functions required of such governmental agency, except that such records shall not be redisclosed;~~

~~(E)(B) assisting businesses with the verification or reporting of information derived from the title and registration records of the division to prepare and assemble vehicle history reports, except that such vehicle history reports shall not include the names or addresses of any current or previous owners;~~

~~(F) assisting businesses in producing motor vehicle title or motor vehicle registration, or both, statistical reports, so long as personal information is not published, redisclosed or used to contact individuals;~~

~~(G)(C) assisting an employer or an employer's authorized agent in monitoring the driving record of the employees required to drive in the course of employment to ensure driver behavior, performance or safety;~~

~~or~~

~~(H)(D) assisting the Kansas commission on veterans affairs office in notifying veterans of the facilities, benefits and services available to veterans; or~~

~~(E) any other purpose authorized by the driver's privacy protection act, 18 U.S.C. § 2721, as it existed on January 1, 2018.~~

(2) Any law enforcement agency of this state which has access to motor vehicle records may furnish to a requesting party, and a requesting party may receive, such a list and accompanying information from such records upon written certification that the requesting party shall use the list solely for the purpose of assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in processing an application for, or renewal or cancellation of, a motor vehicle liability insurance policy.

(d) If a law enforcement agency of this state furnishes information to a requesting party pursuant to subsection (c)(2), the law enforcement agency shall charge the fee prescribed by the secretary of revenue pursuant to K.S.A. 74-2022, and amendments thereto, for any copies furnished and may charge an additional fee to be retained by the law enforcement agency to cover its cost of providing such copies. The fee prescribed pursuant to K.S.A. 74-2022, and amendments thereto, shall be paid monthly to the secretary of revenue and upon receipt thereof shall be deposited in the state treasury to the credit of the electronic databases fee fund, except for the \$1 of the fee for each record required to be credited to the highway patrol training center fund under subsection (f).

(e) The secretary of revenue, the secretary's agents or employees, the director of vehicles or the director's agents or employees shall not be liable for damages caused by any negligent or wrongful act or omission of a law enforcement agency in furnishing any information obtained from motor vehicle records.

(f) A fee in an amount fixed by the secretary of revenue pursuant to K.S.A. 74-2022, and amendments thereto, of not less than \$2 for each full or partial motor vehicle record shall be charged by the division, except that the director may charge a lesser fee pursuant to a contract between the secretary of revenue and any person to whom the director is authorized to furnish information under subsection (c)(1), and such fee shall not be less than the cost of production or reproduction of any full or partial motor vehicle record requested. ~~Except for the fees charged pursuant to a contract for motor vehicle records authorized by this subsection pertaining to motor vehicle titles~~

~~or motor vehicle registrations or pursuant to subsection (e)(1)(B)(ii) or (e)(1)(D), \$1 shall be credited to the highway patrol training center fund for each motor vehicle record provided by the division of vehicles. One dollar shall be credited to the highway patrol training center fund for each motor vehicle record provided by the division of vehicles, except for fees charged:~~

~~(1) Pursuant to a contract for motor vehicle records authorized by this subsection pertaining to motor vehicle titles or motor vehicle registrations; or~~

~~(2) for motor vehicle records authorized for disclosure pursuant to subsection (c)(1)(E) for the purposes of:~~

~~(A) Assisting an insurer authorized to do business in this state, or the insurer's authorized agent, in conducting antifraud activities; or~~

~~(B) assisting any federal, state or local agency, including any court or law enforcement agency, or any private person acting on behalf of such agencies, in carrying out the functions required of such governmental agency.~~

~~(g) The secretary of revenue may adopt such rules and regulations as are necessary to implement the provisions of this section.~~

Sec. 2. K.S.A. 74-2012 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.