

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2614

AN ACT

AMENDING SECTIONS 28-440 AND 28-447, ARIZONA REVISED STATUTES; REPEALING SECTIONS 28-450 AND 28-452, ARIZONA REVISED STATUTES; AMENDING SECTION 28-454, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 28-455, 28-456, 28-457 AND 28-458; AMENDING SECTIONS 28-3158, 28-3167 AND 28-5101, ARIZONA REVISED STATUTES; RELATING TO DEPARTMENT OF TRANSPORTATION RECORDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 28-440, Arizona Revised Statutes, is amended to
3 read:
4 28-440. Definitions
5 In this article, unless the context otherwise requires:
6 1. "BULK RECORDS" MEANS MULTIPLE RECORDS THAT ARE RETRIEVED
7 COLLECTIVELY FROM THE DEPARTMENT'S DATABASE AS A RESULT OF A SINGLE REQUEST.
8 BULK RECORDS DOES NOT INCLUDE RETRIEVING ONE RECORD AT A TIME FROM A SINGLE
9 REQUEST.
10 ~~1-~~ 2. "Duplicate" means a counterpart produced by any of the
11 following:
12 (a) The same impression or from the same matrix as the original.
13 (b) Means of photography, including enlargements and miniatures.
14 (c) Mechanical or electronic rerecording.
15 (d) Chemical reproduction.
16 (e) Any other equivalent technique that accurately reproduces the
17 original.
18 3. "ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND, SYMBOL OR PROCESS
19 ATTACHED TO OR LOGICALLY ASSOCIATED WITH A DOCUMENT AND EXECUTED OR ADOPTED
20 BY A PERSON WITH THE INTENT TO SIGN THE DOCUMENT.
21 4. "EXPRESS CONSENT" MEANS CONSENT IN WRITING, INCLUDING CONSENT THAT
22 IS CONVEYED ELECTRONICALLY AND THAT BEARS AN ELECTRONIC SIGNATURE.
23 5. "HIGHLY RESTRICTED PERSONAL INFORMATION" MEANS AN INDIVIDUAL'S
24 PHOTOGRAPH OR IMAGE, SOCIAL SECURITY NUMBER AND MEDICAL OR DISABILITY
25 INFORMATION.
26 6. "INSURANCE SUPPORT ORGANIZATION" HAS THE SAME MEANING PRESCRIBED IN
27 SECTION 20-2102.
28 7. "MEDICAL OR DISABILITY INFORMATION" MEANS A RESTRICTION OR MEDICAL
29 CODE PLACED ON A PERSON'S MOTOR VEHICLE RECORD PURSUANT TO SECTION 28-3159,
30 SUBSECTION A, PARAGRAPH 1 OR SECTION 28-3167.
31 8. "MOTOR VEHICLE RECORD" MEANS ANY RECORD THAT PERTAINS TO A DRIVER
32 LICENSE OR PERMIT, VEHICLE REGISTRATION, VEHICLE TITLE OR IDENTIFICATION
33 DOCUMENT ISSUED BY THE DEPARTMENT OR ITS DULY AUTHORIZED THIRD PARTIES,
34 AGENTS OR CONTRACTORS THAT ARE AUTHORIZED TO ISSUE ANY OF THOSE DOCUMENTS.
35 9. "OPT IN" MEANS A CUSTOMER OF THE DEPARTMENT HAS PROVIDED EXPRESS
36 CONSENT TO THE DEPARTMENT TO ALLOW THE RELEASE OF THE CUSTOMER'S PERSONAL
37 INFORMATION, INCLUDING HIGHLY RESTRICTED PERSONAL INFORMATION, IN A FORM
38 PRESCRIBED BY THE DIRECTOR.
39 ~~2-~~ 10. "Original":
40 (a) Of a record means the record itself or any counterpart intended to
41 have the same effect by the person executing or issuing it.
42 (b) Of a photograph means the negative or a print from the negative.
43 (c) Of data stored in a computer or similar device means a printout or
44 other output that is readable by sight and that is shown to reflect the data
45 accurately.

1 11. "PERSONAL INFORMATION" MEANS INFORMATION THAT IDENTIFIES AN
2 INDIVIDUAL, THAT INCLUDES AN INDIVIDUAL'S PHOTOGRAPH, SOCIAL SECURITY NUMBER,
3 DRIVER IDENTIFICATION NUMBER, NAME, ADDRESS, TELEPHONE NUMBER AND MEDICAL OR
4 DISABILITY INFORMATION. PERSONAL INFORMATION DOES NOT INCLUDE AN
5 INDIVIDUAL'S FIVE DIGIT ZIP CODE AND INFORMATION ABOUT VEHICULAR ACCIDENTS,
6 DRIVING VIOLATIONS AND DRIVER STATUS.

7 ~~3-~~ 12. "Photographs" includes still photographs, x-ray films,
8 videotapes, motion pictures and digitized electronic images.

9 ~~4-~~ 13. "Records" has the same meaning prescribed in section 41-1350.

10 14. "VEHICLE HISTORY REPORT" MEANS A REPORT THAT IS DEVELOPED TO TRACK
11 THE REGISTRATION AND TOTAL LOSS HISTORY OF A PARTICULAR VEHICLE AND INCLUDES
12 ODOMETER READINGS AND BRAND CODES, TITLE BRAND CODES AND ANY RELATED VEHICLE
13 DATA. VEHICLE HISTORY REPORT DOES NOT INCLUDE NAMES AND ADDRESSES.

14 Sec. 2. Section 28-447, Arizona Revised Statutes, is amended to read:

15 ~~28-447.~~ Public records

16 A. An application for a license, permit, title or registration made to
17 the department and a document required by law or by the department to
18 accompany the application is a public record, except a medical report and a
19 report voluntarily submitted by a physician as defined in section 28-3005,
20 except as provided by section ~~28-452~~ 28-455 and except as otherwise provided
21 by law.

22 B. If the department is required or authorized to revoke, suspend or
23 cancel a driver license or to suspend vehicle registrations pursuant to
24 chapter 9 of this title, it shall notify the holder by a written notice that
25 includes a citation to the statute or rule under which the action is
26 authorized or required. The department shall retain a copy of the notice.
27 The copy of the notice shall contain a certification that the original notice
28 was mailed and the date the notice was mailed. The copy of the notice is a
29 public record. If the copy is addressed to a licensee at the address last
30 shown on the department's records, as evidenced by the person's driver
31 license application or subsequent notification pursuant to section 28-448 by
32 the person of a different address, it is presumed, unless otherwise shown by
33 clear and convincing evidence, that the person to whom the notice was
34 addressed received the original notice.

35 C. The department may place notes, date stamps, identifying numbers or
36 other information on an application, a record of conviction or any other
37 record as is necessary to ensure the accuracy of the record and to expedite
38 its handling. The information does not affect the validity of a record,
39 except that the markings are not considered a part of the record for
40 evidentiary purposes unless proven accurate by other records of the
41 department or other competent evidence.

42 Sec. 3. Repeal

43 Sections ~~28-450~~ and ~~28-452~~, Arizona Revised Statutes, are repealed.

1 Sec. 4. Section 28-454, Arizona Revised Statutes, is amended to read:
2 28-454. Public records; peace officers; prosecutors; redaction;
3 definition

4 A. Notwithstanding sections 28-447 and ~~28-452~~ 28-455, a peace officer
5 or prosecutor may request that persons be prohibited from accessing the peace
6 officer's or prosecutor's residential address and telephone number contained
7 in any record maintained by the department.

8 B. A peace officer or prosecutor may request this action by filing an
9 affidavit that states all of the following on an application form developed
10 by the administrative office of the courts in agreement with an association
11 of counties, an organization of peace officers and the department:

12 1. The peace officer's or prosecutor's full legal name and residential
13 address.

14 2. The position the peace officer or prosecutor currently holds and a
15 description of the peace officer's or prosecutor's duties.

16 3. The reasons the peace officer or prosecutor reasonably believes
17 that the peace officer's or prosecutor's life or safety or that of another
18 person is in danger and that redacting the residential address and telephone
19 number from the department's public records will serve to reduce the danger.

20 C. The affidavit shall be filed with the presiding judge of the
21 superior court in the county in which the affiant resides. To prevent a
22 multiplicity of filings, a peace officer shall deliver the affidavit to the
23 peace officer's commanding officer, who shall file the affidavits at one
24 time, and prosecutors shall deliver the affidavit to the head of the
25 prosecuting agency or that person's designee, who shall file the affidavits
26 at one time. In the absence of an affidavit that contains a request for
27 immediate action and that is supported by facts justifying an earlier
28 presentation, the commanding officer, or the head of the prosecuting agency
29 or that person's designee, shall not file affidavits more often than
30 quarterly.

31 D. On receipt of an affidavit or affidavits, the presiding judge of
32 the superior court shall cause to be filed with the clerk of the superior
33 court a petition on behalf of all requesting peace officers and prosecutors.
34 Each affidavit presented shall be attached to the petition. In the absence
35 of an affidavit that contains a request for immediate action and that is
36 supported by facts justifying an earlier consideration, the presiding judge
37 may accumulate affidavits and file a petition at the end of each quarter.

38 E. The presiding judge of the superior court shall review the petition
39 and each attached affidavit to determine whether the action requested by each
40 peace officer and prosecutor should be granted. The presiding judge of the
41 superior court shall order the redaction of the residence address and
42 telephone number from the public records maintained by the department if the
43 judge concludes that this action will reduce a danger to the life or safety
44 of the affiant or another person.

1 F. On entry of the court order, the clerk of the superior court shall
2 file the court order with the department. No more than one hundred fifty
3 days after the date the department receives the court order, the department
4 shall redact the residence addresses and telephone numbers of the peace
5 officers and prosecutors listed in the court order from the public records of
6 the department. The residence addresses and telephone numbers shall not be
7 disclosed and are not part of a public record.

8 G. If the court denies an affiant's request pursuant to this section,
9 the affiant may request a court hearing. The hearing shall be conducted by
10 the court in the county where the petition was filed.

11 H. On motion to the court, if the presiding judge of the superior
12 court concludes that a residential address or telephone number has been
13 sealed in error or that the cause for the original affidavit no longer
14 exists, the presiding judge may vacate the court order prohibiting public
15 access to the residential address or telephone number.

16 I. Notwithstanding sections 28-447 and ~~28-452~~ 28-455, the department
17 shall not release a photograph of a peace officer if the peace officer has
18 made a request as prescribed in this section that persons be prohibited from
19 accessing the peace officer's residential address and telephone number in any
20 record maintained by the department.

21 J. This section does not prohibit the use of a peace officer's
22 photograph that is either:

23 1. Used by a law enforcement agency to assist a person who has a
24 complaint against an officer to identify the officer.

25 2. Obtained from a source other than the department.

26 K. For the purposes of this section, "prosecutor" means a county
27 attorney, a municipal prosecutor or the attorney general and includes an
28 assistant or deputy county attorney, municipal prosecutor or attorney
29 general.

30 Sec. 5. Title 28, chapter 2, article 5, Arizona Revised Statutes, is
31 amended by adding sections 28-455, 28-456, 28-457 and 28-458, to read:

32 ~~28-455.~~ Release of personal information

33 A. IN ACCORDANCE WITH SECTION 28-458 AND THE DRIVER'S PRIVACY
34 PROTECTION ACT OF 1994 (18 UNITED STATES CODE SECTIONS 2721 THROUGH 2725) AND
35 NOTWITHSTANDING SECTION 28-447, THE DEPARTMENT SHALL NOT KNOWINGLY DISCLOSE
36 OR OTHERWISE MAKE AVAILABLE TO ANY PERSON:

37 1. PERSONAL INFORMATION OBTAINED BY THE DEPARTMENT IN CONNECTION WITH
38 A MOTOR VEHICLE RECORD EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

39 2. HIGHLY RESTRICTED PERSONAL INFORMATION OBTAINED BY THE DEPARTMENT
40 IN CONNECTION WITH A MOTOR VEHICLE RECORD WITHOUT THE EXPRESS CONSENT OF THE
41 PERSON TO WHOM THE INFORMATION APPLIES EXCEPT FOR USES ALLOWED IN SUBSECTION
42 C, PARAGRAPHS 1, 4, 6 AND 9 OF THIS SECTION. THIS PARAGRAPH DOES NOT AFFECT
43 THE USE OF ORGAN DONATION INFORMATION ON AN INDIVIDUAL'S DRIVER LICENSE OR
44 AFFECT THE ADMINISTRATION OF ORGAN DONATION IN THIS STATE.

1 B. THE DEPARTMENT SHALL DISCLOSE PERSONAL INFORMATION FOR USE IN
2 CONNECTION WITH THE FOLLOWING MATTERS:

- 3 1. MOTOR VEHICLE OR DRIVER SAFETY AND THEFT.
4 2. MOTOR VEHICLE EMISSIONS.
5 3. MOTOR VEHICLE PRODUCT ALTERATIONS, RECALLS OR ADVISORIES.
6 4. PERFORMANCE MONITORING OF MOTOR VEHICLES AND DEALERS BY MOTOR
7 VEHICLE MANUFACTURERS.

8 5. REMOVAL OF NONOWNER RECORDS FROM THE ORIGINAL OWNER RECORDS OF
9 MOTOR VEHICLE MANUFACTURERS TO CARRY OUT THE PURPOSES OF TITLES I AND IV OF
10 THE ANTI CAR THEFT ACT OF 1992 (18 UNITED STATES CODE SECTIONS 2311 THROUGH
11 2322), THE AUTOMOBILE INFORMATION DISCLOSURE ACT (15 UNITED STATES CODE
12 SECTIONS 1231, 1232 AND 1233), THE CLEAN AIR ACT OF 1963 (42 UNITED STATES
13 CODE SECTIONS 7401 THROUGH 7671) AND 49 UNITED STATES CODE CHAPTERS 301, 305
14 AND 321 THROUGH 331.

15 C. SUBJECT TO SUBSECTION A OF THIS SECTION, THE DEPARTMENT MAY
16 DISCLOSE PERSONAL INFORMATION AS FOLLOWS:

17 1. FOR USE BY ANY GOVERNMENT AGENCY, INCLUDING ANY COURT OR LAW
18 ENFORCEMENT AGENCY, IN CARRYING OUT ITS FUNCTIONS OR ANY PRIVATE PERSON OR
19 ENTITY ACTING ON BEHALF OF A GOVERNMENT AGENCY IN CARRYING OUT ITS FUNCTIONS.

20 2. FOR USE IN CONNECTION WITH MATTERS OF:

21 (a) PERFORMANCE MONITORING OF MOTOR VEHICLES, MOTOR VEHICLE PARTS AND
22 DEALERS.

23 (b) MOTOR VEHICLE MARKET RESEARCH ACTIVITIES, INCLUDING SURVEY
24 RESEARCH.

25 (c) REMOVAL OF NONOWNER RECORDS FROM THE ORIGINAL OWNER RECORDS OF
26 MOTOR VEHICLE MANUFACTURERS.

27 3. FOR USE IN THE NORMAL COURSE OF BUSINESS BY A LEGITIMATE BUSINESS
28 OR ITS AGENTS, EMPLOYEES OR CONTRACTORS, BUT ONLY:

29 (a) TO VERIFY THE ACCURACY OF PERSONAL INFORMATION SUBMITTED BY THE
30 INDIVIDUAL TO THE BUSINESS OR ITS AGENTS, EMPLOYEES OR CONTRACTORS.

31 (b) IF THE INFORMATION SUBMITTED IS NOT CORRECT OR IS NO LONGER
32 CORRECT, TO OBTAIN THE CORRECT INFORMATION FOR THE PURPOSE OF PREVENTING
33 FRAUD BY, PURSUING LEGAL REMEDIES AGAINST OR RECOVERING ON A DEBT OR SECURITY
34 INTEREST AGAINST THE INDIVIDUAL.

35 4. FOR USE BY AN ATTORNEY LICENSED TO PRACTICE LAW OR BY A LICENSED
36 PRIVATE INVESTIGATOR IN CONNECTION WITH ANY CIVIL, CRIMINAL, ADMINISTRATIVE
37 OR ARBITRATION PROCEEDING IN ANY COURT OR GOVERNMENT AGENCY OR BEFORE ANY
38 SELF-REGULATORY BODY, INCLUDING THE SERVICE OF PROCESS, INVESTIGATION IN
39 ANTICIPATION OF LITIGATION AND THE EXECUTION OR ENFORCEMENT OF JUDGMENTS AND
40 ORDERS, OR PURSUANT TO A COURT ORDER.

41 5. FOR USE IN RESEARCH ACTIVITIES AND FOR USE IN PRODUCING STATISTICAL
42 REPORTS IF THE PERSONAL INFORMATION IS NOT PUBLISHED, REDISCLOSED OR USED TO
43 CONTACT INDIVIDUALS.

44 6. FOR USE BY ANY INSURER THAT WRITES AUTOMOBILE LIABILITY OR MOTOR
45 VEHICLE LIABILITY POLICIES AND THAT IS UNDER THE JURISDICTION OF THE

1 DEPARTMENT OF INSURANCE OR INSURANCE SUPPORT ORGANIZATION OR BY A
2 SELF-INSURED ENTITY OR ITS AGENTS, EMPLOYEES OR CONTRACTORS IN CONNECTION
3 WITH CLAIMS INVESTIGATION ACTIVITIES, ANTIFRAUD ACTIVITIES, RATING OR
4 UNDERWRITING.

5 7. FOR USE IN PROVIDING NOTICE TO THE OWNERS OF TOWED OR IMPOUNDED
6 VEHICLES.

7 8. FOR USE BY ANY LICENSED PRIVATE INVESTIGATIVE AGENCY OR LICENSED
8 SECURITY SERVICE FOR ANY PURPOSE ALLOWED UNDER THIS SECTION.

9 9. FOR USE BY AN EMPLOYER OR ITS AGENT OR INSURER TO OBTAIN OR VERIFY
10 INFORMATION RELATING TO A HOLDER OF A COMMERCIAL DRIVER LICENSE THAT IS
11 REQUIRED UNDER THE COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986 (49 UNITED
12 STATES CODE SECTIONS 31301 THROUGH 31317).

13 10. FOR USE IN CONNECTION WITH THE OPERATION OF PRIVATE TOLL
14 TRANSPORTATION FACILITIES.

15 11. FOR ANY OTHER USE IN RESPONSE TO REQUESTS FOR INDIVIDUAL MOTOR
16 VEHICLE RECORDS IF THE STATE HAS OBTAINED THE EXPRESS CONSENT OF THE PERSON
17 TO WHOM THE PERSONAL INFORMATION PERTAINS.

18 12. FOR BULK DISTRIBUTION FOR SURVEYS, MARKETING OR SOLICITATIONS IF
19 THE DEPARTMENT HAS OBTAINED THE EXPRESS CONSENT OF THE PERSON TO WHOM THE
20 PERSONAL INFORMATION PERTAINS.

21 13. FOR USE BY ANY REQUESTER IF THE REQUESTER DEMONSTRATES IT HAS
22 OBTAINED THE WRITTEN CONSENT OF THE INDIVIDUAL TO WHOM THE INFORMATION
23 PERTAINS.

24 14. FOR ANY OTHER USE THAT IS SPECIFICALLY AUTHORIZED BY LAW AND THAT
25 IS RELATED TO THE OPERATION OF A MOTOR VEHICLE OR PUBLIC SAFETY, INCLUDING
26 THE FOLLOWING:

27 (a) USE BY A FINANCIAL INSTITUTION OR ENTERPRISE UNDER THE
28 JURISDICTION OF THE DEPARTMENT OF FINANCIAL INSTITUTIONS OR A FEDERAL
29 MONETARY AUTHORITY.

30 (b) USE BY A MOTOR VEHICLE DEALER WHO IS LICENSED AND BONDED BY THE
31 DEPARTMENT OR A STATE ORGANIZATION OF LICENSED AND BONDED MOTOR VEHICLE
32 DEALERS.

33 (c) USE BY A PERSON WHO IS INVOLVED IN AN ACCIDENT OR THE OWNER OF A
34 VEHICLE INVOLVED IN AN ACCIDENT IF THE PERSON WHO REQUESTS THE INFORMATION
35 SUBMITS PROOF TO THE DEPARTMENT OF INVOLVEMENT IN THE ACCIDENT.

36 (d) USE BY A PERSON APPLYING FOR A BONDED TITLE IF ALL OF THE
37 FOLLOWING CONDITIONS EXIST:

38 (i) THE REQUESTER VERIFIES TO THE SATISFACTION OF THE DIRECTOR THAT
39 THE VEHICLE ON WHICH THE REQUESTER IS REQUESTING THE RECORD IS IN THE
40 REQUESTER'S POSSESSION.

41 (ii) THE RECORD IS REQUESTED IN ORDER FOR THE REQUESTER TO NOTIFY THE
42 REGISTERED OWNER OF THE REQUESTER'S INTENT TO APPLY TO THE DEPARTMENT FOR A
43 BONDED TITLE.

44 (iii) THE REQUESTER PROVIDES A VERIFICATION OF A VEHICLE INSPECTION
45 THAT WAS PERFORMED BY AN AUTHORIZED DEPARTMENT EMPLOYEE OR AGENT.

1 (e) USE BY AN OPERATOR OF A SELF-SERVICE STORAGE FACILITY WHO ALLEGES
2 BOTH OF THE FOLLOWING:

3 (i) THAT THE VEHICLE ON WHICH THE OPERATOR IS REQUESTING THE RECORD IS
4 IN THE OPERATOR'S POSSESSION.

5 (ii) THAT THE RECORD IS REQUESTED TO ALLOW THE OPERATOR TO NOTIFY THE
6 REGISTERED OWNER AND ANY LIENHOLDERS OF RECORD OF THE OPERATOR'S INTENT TO
7 FORECLOSE ITS LIEN AND TO SELL THE VEHICLE.

8 (f) FOR ANY OTHER USE AS DETERMINED BY THE DIRECTOR AND ESTABLISHED BY
9 RULE.

10 D. THE DEPARTMENT MAY ESTABLISH AND CARRY OUT PROCEDURES UNDER WHICH
11 THE DEPARTMENT, ON RECEIVING A REQUEST FOR PERSONAL INFORMATION THAT DOES NOT
12 FALL WITHIN ONE OF THE EXCEPTIONS PRESCRIBED IN SUBSECTION B OR C OF THIS
13 SECTION, MAY MAIL A COPY OF THE REQUEST TO THE INDIVIDUAL ABOUT WHOM THE
14 INFORMATION WAS REQUESTED. THE MAILING SHALL INFORM THE INDIVIDUAL OF THE
15 REQUEST AND CONTAIN A STATEMENT THAT THE INFORMATION WILL NOT BE RELEASED
16 UNLESS THE INDIVIDUAL WAIVES THE INDIVIDUAL'S RIGHT TO PRIVACY UNDER THIS
17 SECTION.

18 E. IN ADDITION TO THE PERMISSIBLE USES PRESCRIBED IN SUBSECTION C OF
19 THIS SECTION, THE DEPARTMENT MAY DISCLOSE ITS MOTOR VEHICLE RECORDS
20 INFORMATION, INCLUDING PERSONAL INFORMATION, AS A BULK RECORD ONLY UNDER ANY
21 OF THE FOLLOWING CONDITIONS:

22 1. IF THE DIRECTOR DETERMINES EITHER OF THE FOLLOWING:

23 (a) THE SALE OR RELEASE OF THE RECORD IS NECESSARY FOR THE PUBLIC
24 HEALTH OR SAFETY.

25 (b) THE USE IS FOR GENERAL RESEARCH OR GENERAL STATISTICAL PURPOSES
26 THAT DO NOT PROVIDE SPECIFIC FACTORS FROM A RECORD.

27 2. FOR SURVEYS, MARKETING OR SOLICITATIONS IF THE DEPARTMENT HAS
28 OBTAINED THE EXPRESS CONSENT OF THE PERSON TO WHOM THE PERSONAL INFORMATION
29 PERTAINS.

30 3. FOR THE RELEASE OF MOTOR VEHICLE TITLE AND MOTOR VEHICLE
31 REGISTRATION INFORMATION, VEHICLE IDENTIFICATION NUMBERS, TITLE BRANDS,
32 ODOMETER READINGS AND BRANDS AND TITLE LIEN INFORMATION TO A REQUESTER IF THE
33 REQUESTER IS IN THE BUSINESS OF PREPARING VEHICLE HISTORY REPORTS AND THE
34 INFORMATION IS USED TO DEVELOP A VEHICLE HISTORY REPORT.

35 F. THE DIRECTOR SHALL PROVIDE IN A CLEAR AND CONSPICUOUS MANNER ON
36 FORMS FOR THE ISSUANCE OR RENEWAL OF DRIVER LICENSES, NONOPERATING
37 IDENTIFICATION LICENSES AND TITLE AND REGISTRATION, THE OPPORTUNITY FOR
38 EXPRESS CONSENT SO THAT EACH PERSON WHO IS THE SUBJECT OF A RECORD OF THE
39 DEPARTMENT MAY OPT IN, FOR ANY PURPOSE AS PRESCRIBED BY THE DIRECTOR.
40 EXPRESS CONSENT SHALL BE CONVEYED IN A FORM PRESCRIBED BY THE DIRECTOR AND
41 SHALL INCLUDE AT LEAST THE FOLLOWING:

42 1. CLEAR AND CONSPICUOUS NOTICE INFORMING THE PERSON WHO IS GIVING
43 EXPRESS CONSENT THAT BY GIVING EXPRESS CONSENT, THE PERSON IS ALLOWING THE
44 DEPARTMENT TO DISCLOSE INFORMATION CONTAINED IN THE PERSON'S MOTOR VEHICLE
45 RECORD TO ANY PERSON REQUESTING INFORMATION FOR ANY PURPOSE.

1 2. A WRITTEN SIGNATURE OR AN ELECTRONIC SIGNATURE.
2 3. AN EXPLANATION OF THE DIFFERENCE BETWEEN A ONE-TIME AUTHORIZATION
3 AND GENERAL CONSENT OR OPT-IN.
4 G. SUBJECT TO THE REQUIREMENTS OF SUBSECTION F OF THIS SECTION,
5 EXPRESS CONSENT MAY BE CONVEYED AS EITHER OF THE FOLLOWING:
6 1. A ONE-TIME AUTHORIZATION SUBMITTED BY A REQUESTER ON A CONSENT TO
7 RELEASE FORM OR BY OTHER WRITTEN FORMAT AS PRESCRIBED BY THE DIRECTOR.
8 2. GENERAL CONSENT OR OPT IN ON CERTAIN DEPARTMENT FORMS.
9 H. DRIVER HISTORIES SHALL NOT BE DISCLOSED UNDER SUBSECTION E OF THIS
10 SECTION.
11 I. EXCEPT AS PROVIDED IN SUBSECTION J OF THIS SECTION AND SECTION
12 28-446, SUBSECTION B, RECORDS PROVIDED PURSUANT TO SUBSECTIONS B AND C OF
13 THIS SECTION ARE SUBJECT TO THE FEES PRESCRIBED IN SECTION 28-446,
14 SUBSECTIONS A AND C.
15 J. FOR RECORDS SEARCHED AND PROVIDED FOR THE PURPOSES DESCRIBED IN
16 SUBSECTION E OF THIS SECTION, THE DIRECTOR:
17 1. SHALL CHARGE A SEARCH FEE THAT IS A MINIMUM OF SIX HUNDRED DOLLARS
18 PER MILLION RECORDS SEARCHED.
19 2. SHALL CHARGE A RECORDS FEE THAT IS A MINIMUM OF THIRTY DOLLARS PER
20 THOUSAND RECORDS PROVIDED.
21 3. MAY PRORATE THE CHARGE FOR FRACTIONAL QUANTITIES THAT ARE SEARCHED
22 OR PROVIDED.
23 4. MAY CHARGE ONLY THE SEARCH FEE IF THE REQUEST IS IN ACCORDANCE WITH
24 SUBSECTION E, PARAGRAPH 2 OF THIS SECTION.
25 K. RECORDS REQUESTS THAT REQUIRE A DATABASE SEARCH FOR SPECIFIC
26 CRITERIA WITHIN A RECORD ARE SUBJECT TO A SEARCH FEE. IN ADDITION TO THIS
27 SEARCH FEE, EACH MOTOR VEHICLE RECORD PROVIDED TO A RECORDS REQUESTER AS A
28 RESULT OF A CRITERIA SEARCH INCURS RECORD FEES IN ACCORDANCE WITH SUBSECTION
29 I OF THIS SECTION.
30 28-456. Subsequent sale or disclosure of record information by
31 authorized recipient
32 A. EXCEPT AS PROVIDED IN SUBSECTIONS B AND C OF THIS SECTION, AN
33 AUTHORIZED RECIPIENT OF PERSONAL INFORMATION MAY RESELL OR REDISCLOSE THE
34 INFORMATION ONLY FOR A USE PERMITTED UNDER SECTION 28-455, SUBSECTION B OR C.
35 B. AN AUTHORIZED RECIPIENT UNDER SECTION 28-455, SUBSECTION C,
36 PARAGRAPH 11 MAY RESELL OR REDISCLOSE PERSONAL INFORMATION FOR ANY LAWFUL
37 PURPOSE.
38 C. AN AUTHORIZED RECIPIENT UNDER SECTION 28-455, SUBSECTION C,
39 PARAGRAPH 12 MAY RESELL OR REDISCLOSE PERSONAL INFORMATION PURSUANT TO
40 SECTION 28-455, SUBSECTION C, PARAGRAPH 12.
41 D. ANY AUTHORIZED RECIPIENT, EXCEPT A RECIPIENT UNDER SECTION 28-455,
42 SUBSECTION C, PARAGRAPH 11, THAT RESELLS OR REDISCLOSES PERSONAL INFORMATION
43 COVERED BY THIS SECTION SHALL KEEP FOR A PERIOD OF FIVE YEARS RECORDS
44 IDENTIFYING EACH PERSON OR ENTITY THAT RECEIVES INFORMATION AND THE PERMITTED

1 PURPOSE FOR WHICH THE INFORMATION WILL BE USED AND SHALL MAKE THE RECORDS
2 AVAILABLE TO THE DEPARTMENT ON REQUEST.

3 28-457. Unlawful acts; classification; civil actions

4 A. THE DEPARTMENT, INCLUDING DEPARTMENT EMPLOYEES, SHALL NOT KNOWINGLY
5 OBTAIN OR DISCLOSE PERSONAL INFORMATION OR HIGHLY RESTRICTED PERSONAL
6 INFORMATION EXCEPT AS AUTHORIZED BY LAW.

7 B. A PERSON SHALL NOT KNOWINGLY OBTAIN OR DISCLOSE PERSONAL
8 INFORMATION OR HIGHLY RESTRICTIVE PERSONAL INFORMATION FROM A MOTOR VEHICLE
9 RECORD FOR ANY USE NOT PERMITTED UNDER SECTION 28-455, SUBSECTION B OR C.

10 C. A PERSON SHALL NOT MAKE A FALSE REPRESENTATION TO OBTAIN ANY
11 PERSONAL INFORMATION OR HIGHLY RESTRICTIVE PERSONAL INFORMATION FROM AN
12 INDIVIDUAL'S MOTOR VEHICLE RECORD.

13 D. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1
14 MISDEMEANOR.

15 E. IN ADDITION TO ANY CRIMINAL PENALTIES OR SANCTIONS FOR VIOLATIONS
16 OF THIS SECTION, CIVIL ACTIONS MAY ALSO BE BROUGHT IN A UNITED STATES
17 DISTRICT COURT PURSUANT TO 18 UNITED STATES CODE SECTION 2724.

18 28-458. Motor vehicle records release; department review panel

19 THE DIRECTOR SHALL SELECT A DEPARTMENT REVIEW PANEL TO DO ALL OF THE
20 FOLLOWING:

21 1. MEET AS NECESSARY TO REVIEW APPLICATIONS FOR THE RELEASE OF MOTOR
22 VEHICLE RECORDS INFORMATION.

23 2. VERIFY THE ACCURACY OF AN APPLICANT'S INFORMATION THAT IS REQUIRED
24 BY THE DIRECTOR.

25 3. BASED ON THE REVIEW AND VERIFICATION OF THE APPLICATION AND
26 INFORMATION REQUIRED BY THE DIRECTOR, DETERMINE THE APPLICANT'S ELIGIBILITY
27 TO RECEIVE MOTOR VEHICLE RECORDS INFORMATION FOR PURPOSES AUTHORIZED BY LAW.

28 Sec. 6. Section 28-3158, Arizona Revised Statutes, is amended to read:

29 28-3158. Driver license or instruction permit application

30 A. A person who applies for an instruction permit or for a driver
31 license shall use a form furnished by the department.

32 B. An applicant shall pay the fee prescribed by section 28-3002 for a
33 driver license or for an instruction permit issued under section 28-3154,
34 28-3155, 28-3156 or 28-3225. Payment of the fee required by this section
35 entitles the applicant to not more than three attempts to pass the written
36 examination or road test within twelve months from the date of the
37 application. The department shall refund an application fee pursuant to
38 section 28-373. An applicant who submits documentation of successful
39 completion of a driver education course approved by the department is not
40 required to take the road test.

41 C. An applicant for an instruction permit or a driver license shall
42 give the department satisfactory proof of the applicant's full legal name,
43 date of birth, sex and residence address and that the applicant's presence in
44 the United States is authorized under federal law.

1 D. The application for an instruction permit or a driver license shall
2 state the following:

3 1. A brief description of the applicant and any other identifying
4 information required by the department.

5 2. Whether the applicant has been licensed, and if so, the type of
6 license issued, when the license was issued and what state or country issued
7 the license.

8 3. Whether the license was suspended or revoked or whether an
9 application was ever refused, and if so, the date of and reason for the
10 suspension, revocation or refusal.

11 4. If the applicant was never licensed, the applicant's last previous
12 state or country of residence.

13 5. The social security number of the applicant unless the application
14 is for a nonresident commercial driver license.

15 E. The department shall:

16 1. Verify that a social security number provided by an applicant is a
17 valid number assigned to that applicant.

18 2. Retain the social security number in its records.

19 F. The social security number provided to the department pursuant to
20 subsection D of this section for an applicant's driver license or instruction
21 permit shall not appear on an applicant's driver license or instruction
22 permit unless the applicant requests that the social security number appear
23 on the applicant's driver license or instruction permit as the driver license
24 or instruction permit number. Except as provided in sections ~~28-450~~ 28-455
25 and 41-1954, the department shall not release the social security number to
26 any person unless the applicant requests that the social security number
27 appear on the applicant's driver license or instruction permit as the driver
28 license or instruction permit number. The provisions of this subsection
29 shall be included in each application.

30 G. The department may adopt and implement procedures to deny a driver
31 license or instruction permit to a person who has been deported. The
32 department may adopt and implement procedures to reinstate a person's
33 privilege to apply for a driver license or permit if the person's legal
34 presence status is restored.

35 H. On request of an applicant, the department shall allow the
36 applicant to provide on the license or permit a post office box address that
37 is regularly used by the applicant.

38 I. The department may request an applicant who appears in person for a
39 license, a duplicate license or reinstatement of a driving privilege to
40 complete satisfactorily the vision screening prescribed by the department.

41 Sec. 7. Section 28-3167, Arizona Revised Statutes, is amended to read:
42 28-3167. Medical code information on license; rules; immunity

43 A. The department shall provide on each driver license and on each
44 nonoperating identification license a space where a licensee may indicate
45 that the licensee suffers from some type of adverse medical condition using a

1 medical code prescribed by the department if the licensee presents a signed
2 statement from a physician licensed pursuant to title 32, chapter 13 or 17
3 stating that the person suffers from the condition.

4 B. The department shall prescribe by rule a medical code to identify
5 the medical conditions using a system of numerals or letters commonly
6 accepted by the medical profession. EXCEPT FOR THE PURPOSES OF ENTERING THE
7 MEDICAL CODE ON THE DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE,
8 AND UNLESS THE PERSON AFFIRMATIVELY REQUESTS IN WRITING THAT THE PERSON WANTS
9 THE MEDICAL CODE AS PART OF THE COMPUTER RECORD the department ~~is~~ SHALL not
10 ~~required to~~ maintain the medical code in the department computer AFTER THE
11 DEPARTMENT ISSUES THE DRIVER LICENSE OR NONOPERATING IDENTIFICATION LICENSE.

12 C. The department and this state are exempt from liability for damages
13 from the use of medical code information provided on a license pursuant to
14 this section.

15 Sec. 8. Section 28-5101, Arizona Revised Statutes, is amended to read:
16 28-5101. Third party authorization

17 A. The director may authorize third parties to perform certain title
18 and registration, motor carrier licensing and tax reporting, dealer licensing
19 and driver license functions.

20 B. The director may authorize a person to be a third party electronic
21 service provider. An authorized third party electronic service provider
22 shall meet all of the requirements established by the department relating to
23 security, the minimum number of types of transactions, payment options and
24 multiple service delivery channels. Before authorization by the director
25 pursuant to this subsection, a person shall submit a plan approved by the
26 director for transition of an authorized third party electronic service
27 provider's customer service transactions to the department for the purposes
28 of continued operation by the department. The director may require updates
29 of the plan as deemed necessary by the director.

30 C. A person shall not engage in any business pursuant to this article
31 unless the director authorizes the person to engage in the business.

32 D. The director may furnish necessary documents or license plates
33 subject to this article.

34 E. Except as provided in subsection F of this section, an authorized
35 third party or an authorized third party electronic service provider shall
36 submit to the department all statutorily prescribed fees and taxes it
37 collects. In addition to the statutorily prescribed fees and taxes, an
38 authorized third party or an authorized third party electronic service
39 provider may collect and retain a reasonable and commensurate fee for its
40 services.

41 F. In addition to payment pursuant to section 28-374, the department
42 shall reimburse the authorized third party or third party electronic service
43 provider as follows:

- 44 1. One dollar of each registration fee for a vehicle or an aircraft.
- 45 2. One dollar of each title fee for a vehicle or an aircraft.

1 3. An amount equal to two per cent of each vehicle license tax payment
2 the authorized third party collects and submits to the department or four
3 dollars for each registration year or part of a registration year, whichever
4 is more. The reimbursement amount shall not exceed the amount of vehicle
5 license tax collected.

6 4. Four dollars for each application that the third party processes
7 and that relates to driver licenses, nonoperating identification licenses or
8 permits.

9 5. An amount equal to two per cent of each overweight or excess size
10 vehicle registration or permit fee the third party collects and submits to
11 the department or one dollar for each overweight or excess size vehicle
12 registration or permit processed, whichever is more.

13 6. One dollar for each motor vehicle record, excluding motor vehicle
14 records released to commercial recipients, including insurers and their
15 authorized agents ~~as defined in section 28-450.~~

16 7. Five dollars for each tax report filing.

17 8. One dollar for each fuel tax permit.

18 9. One dollar for each nonsufficient funds check payment.

19 10. One dollar for each abandoned vehicle report.

20 11. One dollar for each abandoned vehicle payment.

21 12. Two dollars for each special license plate application.

22 13. One dollar for each vehicle dealer license plate application.

23 14. Five dollars for each application for an initial vehicle dealer
24 license or continuation of a vehicle dealer license.

25 15. One dollar of each twelve dollar fee paid pursuant to section
26 28-2356.

27 G. Each authorized third party that holds itself out as providing
28 services to the general public shall post a sign in a conspicuous location in
29 each facility of the authorized third party that contains the amount charged
30 for each transaction performed by the authorized third party and the amount
31 charged by the department for the same transaction.

32 Sec. 9. Joint legislative study committee on motor vehicle
33 records; duties; report

34 A. The joint legislative study committee on the release of motor
35 vehicle records is established consisting of the following members:

36 1. Three members of the senate who are appointed by the president of
37 the senate, not more than two of whom are members of the same political
38 party. The president shall designate one of these members to serve as
39 cochairperson of the committee.

40 2. Three members of the house of representatives who are appointed by
41 the speaker of the house of representatives, not more than two of whom are
42 members of the same political party. The speaker shall designate one of
43 these members to serve as cochairperson of the committee.

44 B. The committee shall meet at a time and place set by the
45 cochairpersons.

1 C. Members of the committee are not eligible to receive compensation
2 but are eligible for reimbursement of expenses pursuant to title 38,
3 chapter 4, article 2.

4 D. The committee shall:

5 1. Review federal and state laws governing the release of motor
6 vehicle records information.

7 2. Review current Arizona department of transportation policies and
8 procedures relating to the release of motor vehicle records information.

9 3. Identify the form and content of the information released by the
10 department of transportation through the release of motor vehicle records.

11 4. Identify the recipients of motor vehicle records information and
12 the subsequent uses of the information.

13 5. Examine the Arizona department of transportation's current
14 processes to inform persons of the consequences related to providing express
15 consent for the release of motor vehicle records information.

16 7. Make recommendations concerning laws, rules or procedures relating
17 to the release of motor vehicle records information.

18 E. The committee shall report its findings and recommendations to the
19 governor, the president of the senate and the speaker of the house of
20 representatives on or before December 31, 2006 and shall provide a copy of
21 this report to the secretary of state and the director of the Arizona state
22 library, archives and public records.

23 Sec. 10. Repeal

24 Section 9 of this act is repealed from and after September 30, 2007.