



**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1997 ASSEMBLY BILL 338**

May 13, 1997 - Offered by COMMITTEE ON HIGHWAYS AND TRANSPORTATION.

1 **AN ACT to renumber** 341.08 (1m), 341.17 (5), 342.06 (1) (i), 343.14 (2m) and
2 343.51 (1m); **to amend** 341.17 (6), 343.24 (1) and 343.24 (2m); and **to create**
3 13.93 (2) (k), 85.05, 341.08 (1m) (a) 2. and (b), 341.17 (5) (a) 2. and (b), 341.17
4 (9) (g), 342.06 (1) (i) 1. b. and 2., 343.14 (2m) (a) 2. and (b), 343.235 (7), 343.24
5 (4) (g), 343.24 (5) and 343.51 (1m) (a) 2. and (b) of the statutes; **relating to:**
6 disclosure of personally identifiable information by the department of
7 transportation, granting rule-making authority and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

8 **SECTION 1.** 13.93 (2) (k) of the statutes is created to read:
9 13.93 (2) (k) Within 30 days after a final determination by a federal court of
10 competent jurisdiction, or a final determination by a court in this state, that 18 USC
11 2721 (a) or 18 USC 2723 is invalid, or if 18 USC 2721 or 18 USC 2723 is amended so

1 that the provisions of either of those sections no longer apply to this state, publish
2 a notice of such determination in the administrative register.

3 **SECTION 2.** 85.05 of the statutes is created to read:

4 **85.05 Prohibition on release and use of personally identifiable**
5 **information. (1) DEFINITIONS.** In this section:

6 (a) "Agent" means an authorized person who acts on behalf of or at the direction
7 of another person.

8 (c) "State agency" has the meaning given in s. 1.12 (1) (b).

9 **(2) IN GENERAL.** The department may not disclose personally identifiable
10 information obtained by the department in connection with a vehicle, operator's
11 license pr permit or special identification card except as provided in this section and
12 s. 341.17 (4).

13 **(3) PERMISSIBLE USES.** (a) The department may disclose personally identifiable
14 information that is subject to sub. (2) only as follows:

15 1. For use by any state agency, federal agency or law enforcement agency, as
16 defined in s. 165.77 (1) (b), or by an agent of a state agency, federal agency or law
17 enforcement agency in carrying out the agency's functions.

18 2. For use in connection with matters of driver safety; motor vehicle safety, theft
19 or emissions; motor vehicle product alterations, recalls or advisories; performance
20 monitoring by a motor vehicle manufacturer of motor vehicles or motor vehicle parts
21 made by that manufacturer or of motor vehicle dealers distributing that
22 manufacturer's vehicles; or for the removal, as required by federal law, of nonowner
23 records from the original owner records of motor vehicle manufacturers.

24 3. For use in the normal course of business by a legitimate business, or by an
25 agent, employe or contractor of the business, but only:

1 a. To verify the accuracy of personally identifiable information submitted to the
2 business, agent or contractor by the person about whom the information relates; and

3 b. If the information submitted is not correct, to obtain the correct information,
4 but only for the purposes of preventing fraud by, pursuing legal remedies against or
5 recovering on a debt or security interest against the individual.

6 4. For use in connection with any proceeding or action in any federal, state or
7 local court, or federal or state agency, or before any self-regulatory body, including
8 the service of legal process, investigation in anticipation of litigation, and the
9 execution or enforcement of judgments and orders, or pursuant to an order of a
10 federal, state or local court.

11 5. For use in any research activities, and for use in producing statistical reports,
12 so long as the personally identifiable information is not published, redisclosed or
13 used to contact individuals.

14 6. For use by any insurer, as defined in s. 600.03 (27), or insurance support
15 organization, or by an agent, employe or contractor of an insurer or insurance
16 support organization, in connection with claims investigation activities, antifraud
17 activities, rating or underwriting.

18 7. For use in providing notice to the owner of any towed or impounded vehicle.

19 8. For use by any person holding a private detective license under s. 440.26 (2)
20 (a) 2., or a private security permit under s. 440.26 (5), for any purpose permitted
21 under this section.

22 9. For use by an employer or its agent or insurer to obtain or verify information
23 relating to a holder of a commercial driver's license that is required under state or
24 federal law.

1 10. For any other use in response to a request for department records. The
2 department may not disclose under this subdivision the personally identifiable
3 information of any person who, pursuant to sub. (5), has prohibited the department
4 from releasing his or her personally identifiable information.

5 11. For bulk distribution for surveys, marketing or solicitations, but only if the
6 personally identifiable information will be used, rented or sold solely for bulk
7 distribution for surveys, marketing or solicitations. The department may not
8 disclose under this subdivision the personally identifiable information of any person
9 who, pursuant to sub. (5), has prohibited the department from releasing his or her
10 personally identifiable information.

11 12. For use by any requester who has the written consent to disclosure of the
12 individual to whom the information relates.

13 (b) The department shall disclose personally identifiable information to the
14 persons described in par. (a) for the purposes applicable to that person under par. (a).

15 **(4) RESALE OR REDISCLOSURE.** (a) Except as provided in par. (b) or (c), a recipient
16 of personally identifiable information may resell or redisclose the information only
17 for a use permitted under sub. (3) (a). This paragraph does not apply to personally
18 identifiable information disclosed under sub. (3) (a) 10. or 11.

19 (b) A person receiving information under sub. (3) (a) 10. may resell or redisclose
20 information for any purpose.

21 (c) A person receiving information under sub. (3) (a) 11. may resell or redisclose
22 information only pursuant to sub. (3) (a) 11.

23 (d) A person who resells or rediscloses personally identifiable information
24 obtained under this section must keep, for a period of 5 years, records identifying
25 each person to whom the information is resold or redisclosed and the permitted

1 purpose for which the information will be used and must make such records available
2 to the department upon request.

3 **(5) DEPARTMENT FORMS.** The department shall provide, in a clear and
4 conspicuous manner, on all forms used by the department for application for the
5 issuance or renewal of a license or permit issued under ch. 343 to operate a motor
6 vehicle, of registration of or title to a vehicle, of an identification card or of a special
7 identification card, or on another form provided by the department with such
8 application forms, a statement that the department may disclose personally
9 identifiable information to any person or business under sub. (3) (a) 10. or 11., an
10 opportunity for the applicant to prohibit such disclosure and a place for a person who
11 has made a designation under this subsection to reverse the designation.

12 **(6) DEPARTMENT RULE MAKING.** Rules promulgated under this section may not
13 conflict with and shall be at least as stringent as standards set by the federal Driver's
14 Privacy Protection Act of 1994, 18 USC 2721, and the regulations adopted under that
15 act.

16 **(7) FEES.** The department shall charge the following fees for conducting
17 searches of vehicle operators' records:

18 (a) For each file search, \$3.

19 (b) For each computerized search, \$3.

20 (c) For each search requested by telephone, \$4, or an established monthly
21 service rate determined by the department.

22 **(8) PENALTIES.** (a) Any person who willfully requests or obtains personally
23 identifiable information from the department under this section under false
24 pretenses may be required to forfeit not more than \$500 for each violation.

1 (b) Any person who willfully discloses personally identifiable information in
2 violation of this section may be required to forfeit not more than \$500 for each
3 violation.

4 **(9) APPLICABILITY.** This section does not apply on or after the first day of the first
5 month beginning after the revisor of statutes publishes the notice required under s.
6 13.93 (2) (k).

7 **SECTION 3.** 341.08 (1m) of the statutes is renumbered 341.08 (1m) (a) 1.

8 **SECTION 4.** 341.08 (1m) (a) 2. and (b) of the statutes are created to read:

9 341.08 **(1m)** (a) 2. The forms for application for original registration and for
10 renewal of registration under sub. (1), or another form provided by the department
11 with such application forms, shall include the information required under s. 85.05
12 (5).

13 (b) 1. Paragraph (a) 1. does not apply after the effective date of this subdivision
14 [revisor inserts date].

15 2. Subdivision 1. and par. (a) 2. do not apply on or after the first day of the first
16 month beginning after the revisor of statutes publishes the notice required under s.
17 13.93 (2) (k).

18 **SECTION 5.** 341.17 (5) of the statutes is renumbered 341.17 (5) (a) 1.

19 **SECTION 6.** 341.17 (5) (a) 2. and (b) of the statutes are created to read:

20 341.17 **(5)** (a) 2. Public officers and agencies receiving free copies of registration
21 lists under sub. (4) shall keep such lists current and may not open the lists to public
22 inspection.

23 (b) 1. Paragraph (a) 1. does not apply after the effective date of this subdivision
24 [revisor inserts date].

1 2. Subdivision 1. and par. (a) 2. do not apply on or after the first day of the first
2 month beginning after the revisor of statutes publishes the notice required under s.
3 13.93 (2) (k).

4 **SECTION 7.** 341.17 (6) of the statutes is amended to read:

5 341.17 (6) The department shall sell subscriptions to the registration lists
6 compiled under this section, and may sell other registration information. In
7 computing the charge to be made for subscriptions to the registration lists and for
8 other registration information, the department shall determine the costs of
9 compiling the lists and other information and shall fairly apportion the major share
10 of those costs among the subscribers and other purchasers. Subscriptions and
11 registration information shall be sold under this subsection only for the uses
12 specified under s. 85.05, unless the revisor of statutes publishes the notice required
13 under s. 13.93 (2) (k).

14 **SECTION 8.** 341.17 (9) (g) of the statutes is created to read:

15 341.17 (9) (g) 1. Except as provided in subd. 2., this subsection does not apply
16 after the effective date of this subdivision [revisor inserts date].

17 2. Subdivision 1. does not apply on or after the first day of the first month
18 beginning after the revisor of statutes publishes the notice as required under s. 13.93
19 (2) (k).

20 **SECTION 9.** 342.06 (1) (i) of the statutes is renumbered 342.06 (1) (i) 1. a.

21 **SECTION 10.** 342.06 (1) (i) 1. b. and 2. of the statutes are created to read:

22 342.06 (1) (i) 1. b. The information required under s. 85.05 (5).

23 2. a. Subdivision 1. a. does not apply after the effective date of this subd. 2. a.
24 [revisor inserts date].

1 b. Subdivisions 2. a. and 1. b. do not apply on or after the first day of the first
2 month beginning after the revisor of statutes publishes the notice required under s.
3 13.93 (2) (k).

4 **SECTION 11.** 343.14 (2m) of the statutes is renumbered 343.14 (2m) (a) 1.

5 **SECTION 12.** 343.14 (2m) (a) 2. and (b) of the statutes are created to read:

6 343.14 **(2m)** (a) 2. The forms for application for a license or identification card
7 or for renewal thereof, or another form provided by the department with such
8 application forms, shall include the information required under s. 85.05 (5).

9 (b) 1. Paragraph (a) 1. does not apply after the effective date of this subdivision
10 [revisor inserts date].

11 2. Subdivision 1. and par. (a) 2. do not apply on or after the first day of the first
12 month beginning after the revisor of statutes publishes the notice required under s.
13 13.93 (2) (k).

14 **SECTION 13.** 343.235 (7) of the statutes is created to read:

15 343.235 **(7)** (a) Except as provided in par. (b), this section does not apply after
16 the effective date of this paragraph [revisor inserts date].

17 (b) Paragraph (a) does not apply on or after the first day of the first month
18 beginning after the revisor of statutes publishes the notice required under s. 13.93
19 (2) (k).

20 **SECTION 14.** 343.24 (1) of the statutes is amended to read:

21 343.24 **(1)** The Subject to s. 85.05, the department shall upon request furnish
22 any person an abstract of the operating record of any person. The abstract shall be
23 certified if certification is requested. Such abstract is not admissible in evidence in
24 any action for damages or criminal proceeding arising out of a motor vehicle accident.

25 **SECTION 15.** 343.24 (2m) of the statutes is amended to read:

1 343.24 (2m) If Subject to s. 85.05, if the department, in maintaining a
2 computerized operating record system, makes copies of its operating record file data
3 base, or a portion thereof, on computer tape or other electronic media, copies of the
4 tape or media may be furnished to any person on request. The Subject to s. 85.05,
5 the department may also furnish to any person upon request records on computer
6 tape or other electronic media that contain information from files of uniform traffic
7 citations or motor vehicle accidents and which were produced for or developed by the
8 department for purposes related to maintenance of the operating record file data
9 base. The department shall charge a fee of \$3 for each file of vehicle operators'
10 records contained in the tape or media. The department shall charge a fee of not more
11 than \$3 for each file of uniform traffic citations or motor vehicle accidents contained
12 in the tape or media. Nothing in this subsection requires the department to produce
13 records of particular files or data in a particular format except as those records or
14 data are made by the department for its purposes.

15 **SECTION 16.** 343.24 (4) (g) of the statutes is created to read:

16 343.24 (4) (g) 1. Except as provided in subd. 2., this subsection and sub. (2) do
17 not apply after the effective date of this subdivision [revisor inserts date].

18 2. Subdivision 1. does not apply on or after the first day of the first month
19 beginning after the revisor of statutes publishes the notice as required under s. 13.93
20 (2) (k).

21 **SECTION 17.** 343.24 (5) of the statutes is created to read:

22 343.24 (5) (a) Except as provided in par. (b), this section does not apply after
23 the effective date of this paragraph [revisor inserts date].

1 (b) Paragraph (a) does not apply on or after the first day of the first month
2 beginning after the revisor of statutes publishes the notice required under s. 13.93
3 (2) (k).

4 **SECTION 18.** 343.51 (1m) of the statutes is renumbered 343.51 (1m) (a) 1.

5 **SECTION 19.** 343.51 (1m) (a) 2. and (b) of the statutes are created to read:

6 343.51 **(1m)** (a) 2. The form for application for a special identification card
7 under sub. (1), or another form provided by the department with such application
8 form, shall include the information required under s. 85.05 (5).

9 (b) 1. Paragraph (a) 1. does not apply after the effective date of this subdivision
10 [revisor inserts date].

11 2. Subdivision 1. and par. (a) 2. do not apply on or after the first day of the first
12 month beginning after the revisor of statutes publishes the notice required under s.
13 13.93 (2) (k).

14 **SECTION 20. Initial applicability.**

15 (1) The treatment of sections 85.05 and 341.17 (5) (a) 2. and (6) of the statutes
16 first applies to information requested on the effective date of this subsection.

17 **SECTION 21. Effective date.**

18 (1) This act takes effect on September 1, 1997, or on the first day of the 4th
19 month beginning after publication, whichever is earlier.

20 (END)