



1997 ASSEMBLY BILL 338

May 6, 1997 - Introduced by Representative BRANDEMUEHL, cosponsored by Senator PLACHE, by request of Department of Transportation. Referred to Committee on Highways and Transportation.

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

Analysis by the Legislative Reference Bureau

Under current law, any person registering or titling a motor vehicle or applying for a driver's license, identification card, or special identification card that confers special parking privileges to the physically disabled, may elect to have the department of transportation (DOT) keep his or her personal identifiers confidential. "Personal identifier" means a name, street address, post-office box number or 9-digit extended zip code. DOT may not disclose such a person's personal identifier to any requester who has requested the personal identifiers of 10 or more persons. However, DOT may disclose personal identifiers to law enforcement agencies, insurers, motor vehicle manufacturers and their agents and other persons requesting the information to perform a legally authorized function, even over an individual's request to keep his or her personal identifiers confidential. These requesters must keep the information confidential except as necessary to perform the authorized function for which the personal identifier was requested. A person who willfully requests, obtains or discloses a personal identifier in violation of these prohibitions may be required to forfeit not more than \$500.

ASSEMBLY BILL 338

This bill prohibits DOT from disclosing personally identifiable information obtained from an application for motor vehicle registration or titling, a driver's license, identification card or special identification card to all but persons specifically authorized to receive the information. "Personally identifiable information" means information that can be associated with a particular individual through one or more identifiers or other information or circumstances. Persons specifically authorized to receive personally identifiable information include state and federal agencies, law enforcement agencies, manufacturers of motor vehicles for purposes of servicing the vehicle, any legitimate business in the normal course of its business, researchers, insurers and any person who has obtained the signed written consent of the person to whom the personally identifiable information relates. The bill specifies which requesters who have received personally identifiable information may resell or redisclose the information to another.

The bill also requires public officers and agencies that receive compiled motor vehicle registration lists from DOT to keep those lists confidential and closed to public inspection.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 85.05 of the statutes is created to read:

2 **85.05 Prohibition on release and use of personally identifiable**
3 **information. (1) DEFINITIONS.** In this section:

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

6 (b) "Personally identifiable information" has the meaning given in s. 19.62 (5).

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

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

ASSEMBLY BILL 338

1 **(3) PERMISSIBLE USES.** (a) The department may disclose personally identifiable
2 information only as follows:

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

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

12 3. For use in the normal course of business by a legitimate business, as defined
13 by the department by rule, or the agents or contractors of the business, but only:

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

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

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

ASSEMBLY BILL 338**SECTION 1**

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

4 6. For use by any insurer, as defined in s. 600.03 (27), or insurance support
5 organization, as defined by the department by rule, or by the agent or contractor of
6 an insurer or insurance support organization, in connection with claims
7 investigation activities, antifraud activities, rating or underwriting.

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

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

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

15 10. For any other use in response to requests for department records.

16 11. For bulk distribution for surveys, marketing or solicitations, but only if the
17 personally identifiable information will be used, rented or sold solely for bulk
18 distribution for surveys, marketing or solicitations.

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

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

23 **(4) RESALE OR REDISCLOSURE.** (a) Except as provided in par. (b) or (c), a recipient
24 of personally identifiable information may resell or redisclose the information only

ASSEMBLY BILL 338

1 for a use permitted under sub. (3) (a). This paragraph does not apply to personally
2 identifiable information disclosed under sub. (3) (a) 10. or 11.

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

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

7 (d) A person who resells or rediscloses personally identifiable information
8 obtained under this section must keep, for a period of 5 years, records identifying
9 each person to whom the information is resold or redisclosed and the permitted
10 purpose for which the information will be used and must make such records available
11 to the department upon request.

12 **(5) DEPARTMENT FORMS.** The department shall provide, in a clear and
13 conspicuous manner, on all forms used by the department to obtain personally
14 identifiable information, a statement that personally identifiable information
15 obtained by the department may be disclosed to any person or business under sub.
16 (3) (a) 10. or 11., an opportunity to prohibit such disclosure and a place for a person
17 who has made a designation under this subsection to reverse the designation. This
18 subsection applies only to forms related to motor vehicles.

19 **(6) WAIVER PROCEDURES.** The department may promulgate rules under which
20 the department, upon receiving a request for personally identifiable information for
21 a use that is not described in sub. (3) (a), may mail a copy of the request to the person
22 about whom the requested information relates, informing that person of the request
23 together with a statement to the effect that the information will not be disclosed to
24 the requester unless the person consents to the disclosure in writing.

ASSEMBLY BILL 338**SECTION 1**

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

5 **(8)** The department shall charge the following fees for conducting searches of
6 vehicle operators' records:

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

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

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

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

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

17 **SECTION 2.** 341.08 (1m) of the statutes is repealed and recreated to read:

18 341.08 **(1m)** The forms for application for original registration and for renewal
19 of registration under sub. (1) shall include the information required under s. 85.05
20 (5).

21 **SECTION 3.** 341.17 (5) of the statutes is amended to read:

22 341.17 **(5)** ~~Except as provided in sub. (9) (e), public~~ Public officers and agencies
23 receiving free copies of registration lists under sub. (4) shall keep such lists current
24 and may not open the lists to public inspection.

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

