

# SENATE BILL REPORT

## SB 5467

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As of February 3, 2014

**Title:** An act relating to conforming vehicle owner list furnishment requirements with federal law.

**Brief Description:** Conforming vehicle owner list furnishment requirements with federal law.

**Sponsors:** Senators King, Eide, Litzow and Harper.

**Brief History:**

**Committee Activity:** Transportation: 2/12/13.

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### SENATE COMMITTEE ON TRANSPORTATION

**Staff:** Kim Johnson (786-7472)

**Background:** The Driver Privacy Protection Act (DPPA), enacted by Congress in 1994, regulates state governments' release of personal information contained in an individual's motor vehicle record. DPPA defines personal information as information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address – but not zip code, telephone number, and medical or disability information. There are 14 specified allowable uses of personal information by different entities listed in the DPPA.

Regarding the disclosure of lists of registered motored vehicle owners, current Washington State law is more restrictive than DPPA in that there are less permissible uses and entities identified. The Department of Licensing (DOL) may furnish lists of registered and legal owners of motor vehicles to the following entities for the specified purposes: (1) motor vehicle manufacturers, for safety recalls; (2) U.S. and Canadian governmental agencies, for use in enforcement of vehicle or traffic laws; (3) commercial parking companies, to notify owners of outstanding parking violations; (4) DOL agents, to provide certain information to motor vehicle dealers; (5) businesses making loans for the purchase of motor vehicles, to assist in determining whether to provide financing; and (6) the operator of a toll facility, to identify toll violators.

The following activities related to obtaining or the use of information contained in a vehicle record constitute a gross misdemeanor: unauthorized disclosure of information from a vehicle record; use of false representation to obtain information from a vehicle record; the

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use of information for a purpose other than what is stated in the request for information or disclosure agreement; or, the sale or other distribution of any vehicle owner name or address to another person not disclosed in the request or disclosure agreement.

**Summary of Bill:** The purpose for which DOL may provide a list of registered motor vehicle owners to the manufacturer of motor vehicles or their agents is broadened to include matters of motor vehicle or driver safety, theft, emissions, product alterations or advisories, performance monitoring of vehicles and dealers, and removal of nonowner records from original owner records to carry out the purposes of several federal motor vehicle related laws.

DOL may also furnish lists of registered owners of motor vehicles to the following entities for the specified purposes:

- vehicle manufacturers, colleges or universities, government agencies, or legitimate businesses or their agents for use in research activities and in producing statistical reports, as long as the personal information is not published, redisclosed, or used to contact individuals;
- a legitimate business or its agents for use in the normal course of business to verify the accuracy of personal information submitted by the individual to the business; and if such information is not correct, then to obtain the correct information, but only for the purposes of preventing fraud by pursuing legal remedies against, or recovering on a debt or security interest from the individual;
- an insurer or insurance support organization for use in connection with claims investigation, antifraud, rating, or underwriting activities; and
- local government entities for use in providing notice to owners of towed and impounded vehicles.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

Testimony From 2013 Regular Session.

PRO: R.L. Polk has had a long relationship with DOL. In order to maintain the services that we provide to universities and manufacturers we worked with you to obtain a budget proviso last year and are now requesting that you amend the statute to address this use permanently. In regard to why the bill contains more than just the authorization we specifically need, we thought that state laws might get interpreted narrowly again regarding other recipients and purposes and wanted to align state law with permissible releases of information under the DPPA. Experian Automotive acts as an agent on behalf of vehicle manufacturers. The federal law is much more comprehensive and detailed about the kinds of information that may be released. We worked to lift verbatim from the federal law and drop it into state statute. Experian Automotive receives motor vehicle records from all states in the nation. Regarding safety recalls, Experian and R.L. Polk are really the only two providers of vehicle owner information to vehicle manufacturers in safety recall situations. We also provide

statistical products, where we strip personal information from the records, that are very useful. The DPPA prohibits use of this information for direct marketing. Experian and R.L. Polk have not been part of any disciplinary actions related to misuse of this information.

CON: We believe any legislation on this topic must strike a balance between privacy interests and business interests in obtaining this data. This bill does not strike that balance. We have experience in this area in the Consumer Protection Unit at the AG's office. We opened five investigations and found some of the gaps in state and federal law. We are not pointing a finger at R.L. Polk or Experian; rather, it was further down the stream when data was redisclosed. The legal remedies are very limited. DOL can deny access to the primary recipient, but there is no other disincentive that would allow us to go after someone who disclosed this data. We have no authority to enforce as a 3rd party in a privacy breach. Section 3 expands who can have access to the database to verify accuracy of information, which includes a very broad group of people. The DPPA does not require states to release this information. It is a floor, and state law may be more restrictive or protective of this information. This bill dramatically expands the scope of who can have access to this information. This bill is too broad. Dealers are very concerned about the release of some of this information. The challenge for the dealers is that we are scored on our customer satisfaction. If customers believe that dealers are selling or disclosing their information it can negatively impact dealers' ability to keep their franchise. DOL and the Attorney General are already having a very difficult time policing the current version of the law; it does not need to be broadened to the extent provided under this bill. We have been in discussions with the sponsors of this bill and some folks in the House to provide a much more narrow bill with enforcement mechanisms and would ask that you hold this bill and wait for the House version.

**Persons Testifying:**

Persons Testifying From 2013 Regular Session.

PRO: Cliff Webster, Sean Wheatley, Experian Automotive; Michael Groesch, R.L. Polk & Company.

CON: Mary Lobdell, WA Attorney General; Scott Hazlegrove, WA State Auto Dealers Assn.