

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 108

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO GOVERNMENTAL CONDUCT; PROHIBITING DISCLOSURE OF SENSITIVE PERSONAL INFORMATION BY STATE AGENCY EMPLOYEES; PROVIDING EXCEPTIONS; PROHIBITING DISCLOSURE OF MOTOR VEHICLE RECORDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Governmental Conduct Act is enacted to read:

"[NEW MATERIAL] SENSITIVE PERSONAL INFORMATION--  
EXCEPTIONS.--

A. A state agency employee shall not disclose sensitive personal information acquired by virtue of the employee's position with a state agency to anyone outside the state agency except when such disclosure is:

- (1) necessary to carry out a function of the

underscored material = new  
~~[bracketed material] = delete~~

1 state agency;

2 (2) necessary to comply with an order of a  
3 court of this state or of the United States;

4 (3) required by a subpoena;

5 (4) required by the Inspection of Public  
6 Records Act;

7 (5) permitted by Section 66-2-7.1 NMSA 1978;

8 (6) required by federal law;

9 (7) made to or by a court in the course of a  
10 judicial proceeding or made in a court record;

11 (8) made to a state contractor that needs the  
12 sensitive personal information to perform its obligations under  
13 the contract and has agreed in writing to be bound by the same  
14 restrictions on disclosure that are imposed on state employees  
15 by this section;

16 (9) made pursuant to the Whistleblower  
17 Protection Act; or

18 (10) made with the written consent of the  
19 person whose information would be disclosed.

20 B. As used in this section, "sensitive personal  
21 information" means a person's:

22 (1) status as a recipient of public assistance  
23 or as a crime victim;

24 (2) sexual orientation, gender identity,  
25 physical or mental disability, immigration status, national

.216370.2

underscored material = new  
[bracketed material] = delete

1 origin or religion; and

2 (3) social security number or individual tax  
3 identification number."

4 SECTION 2. Section 66-2-7.1 NMSA 1978 (being Laws 1995,  
5 Chapter 135, Section 4, as amended by Laws 2007, Chapter 323,  
6 Section 31 and by Laws 2007, Chapter 324, Section 1) is amended  
7 to read:

8 "66-2-7.1. MOTOR VEHICLE-RELATED RECORDS--CONFIDENTIAL.--

9 A. It is unlawful for any department or bureau  
10 employee or contractor or for any former department or bureau  
11 employee or contractor to disclose to any person other than  
12 another employee of the department or bureau any personal  
13 information about an individual obtained by the department or  
14 bureau in connection with a driver's license or permit, the  
15 titling or registration of a vehicle, the administration of the  
16 Ignition Interlock Licensing Act and the interlock device fund  
17 or an identification card issued by the department pursuant to  
18 the Motor Vehicle Code except:

19 (1) to the individual or the individual's  
20 authorized representative;

21 [~~(2) for use by any governmental agency,~~  
22 ~~including any court, in carrying out its functions or by any~~  
23 ~~private person acting on behalf of the government;~~

24 [~~(3) for use in connection with matters of~~  
25 ~~motor vehicle and driver safety or theft; motor vehicle~~

.216370.2

underscored material = new  
[bracketed material] = delete

1 ~~emissions; performance monitoring of motor vehicles, motor~~  
2 ~~vehicle parts and dealers; motor vehicle market research~~  
3 ~~activities, including survey research]~~

4 (2) to a law enforcement agency when the  
5 personal information is shown to be needed to pursue a criminal  
6 investigation;

7 (3) to a governmental agency other than a law  
8 enforcement agency when the personal information is shown to be  
9 needed by the agency in carrying out its functions;

10 (4) to a court in response to a subpoena;

11 (5) to a motor vehicle manufacturer in  
12 connection with motor vehicle production alterations, recalls  
13 or advisories [~~and~~] or removal of non-owner records from  
14 original owner records; [~~of motor vehicle manufacturers;~~

15 ~~(4) for use in]~~ (6) to a college or  
16 university for research activities [~~and for use in]~~ or for  
17 producing statistical reports, so long as the personal  
18 information is not published, redisclosed or used to contact  
19 individuals;

20 [~~(5) for use by any insurer or insurance~~  
21 ~~support organization or by a self-insured entity or its agents,~~  
22 ~~employees or contractors]~~

23 (7) to an insurer in connection with claims  
24 investigation activities, antifraud activities, rating or  
25 underwriting;

.216370.2

underscoring material = new  
[bracketed material] = delete

1                    [~~(6)~~] (8) to a towing company for providing  
2 notice to owners of towed or impounded vehicles;

3                    [~~(7) for use by an employer or its agent or~~  
4 ~~insurer]~~

5                    (9) to an employer for use in obtaining or  
6 verifying information relating to [~~a holder of a~~] an employee's  
7 commercial driver's license;

8                    [~~(8) for use by~~] (10) to any requester if the  
9 requester demonstrates that it has obtained the written consent  
10 of the individual to whom the information pertains;

11                    [~~(9) for use by~~] (11) to an insured state-  
12 chartered or federally chartered credit union; an insured state  
13 or national bank; an insured state or federal savings and loan  
14 association; or an insured savings bank, but only:

15                    (a) to verify the accuracy of personal  
16 information submitted by an individual to the credit union,  
17 bank, savings and loan association or savings bank; and

18                    (b) if the information as submitted is  
19 not correct or is no longer correct, to obtain the correct  
20 information, but only for the purpose of preventing fraud by  
21 pursuing legal remedies against or recovering on a debt or  
22 security interest from the individual;

23                    [~~(10) for providing organ donor information]~~

24                    (12) to a person eligible to receive an  
25 anatomical gift as provided in the Jonathan Spradling Revised

.216370.2

underscored material = new  
[bracketed material] = delete

1 Uniform Anatomical Gift Act or Section 66-5-10 NMSA 1978; or  
2 [~~(11)~~ for providing the names and addresses of  
3 all lienholders and owners of record of abandoned vehicles to  
4 storage facilities or wrecker yards]

5 (13) to a person upon whose property or in  
6 whose possession is found an abandoned vehicle for the purpose  
7 of providing notice as required in Section 66-3-121 NMSA 1978.

8 B. A request to the department to disclose personal  
9 information about an individual of the kind described in  
10 Subsection A of this section shall be submitted in writing to  
11 the secretary or the secretary's designee and shall state with  
12 particularity the reasons that the information is needed by the  
13 person making the request. The secretary or the secretary's  
14 designee shall make a determination in writing whether the  
15 information shall be disclosed. No personal information shall  
16 be disclosed by a department employee or contractor in the  
17 absence of such a written determination by the secretary or the  
18 secretary's designee.

19 ~~[B-]~~ C. Any person who violates the provisions of  
20 this section is guilty of a misdemeanor and upon conviction  
21 shall be sentenced in accordance with the provisions of Section  
22 31-19-1 NMSA 1978.

23 D. As used in this section:

24 (1) "governmental agency" means any agency of  
25 a city, county, state or territory of the United States or of

.216370.2

1 the District of Columbia and any agency of the federal  
2 government; and

3 (2) "law enforcement agency" means any police  
4 department of a city, county, state or territory of the United  
5 States or of the District of Columbia and any agency of the  
6 federal government whose duties include the enforcement of  
7 federal criminal laws."

8 SECTION 3. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2020.

10 - 7 -

underscored material = new  
[bracketed material] = delete