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123rd General Assembly

(As Passed by the House)

Reps. Clancy, Krupinski, Bender, O'Brien, Perry, Wilson, Metelsky, Hartnett, Kilbane, Roman, Distel, Boyd, Evans, Vesper, Gooding, Pringle, James, Ogg, Callender, Winkler, Cates, Ferderber, Stevens

BILL SUMMARY

- In the case of most *individual* requests for the release of personal information about a person that the Bureau of Motor Vehicles (BMV) obtained in connection with a motor vehicle record or a request for such information that will be used in bulk distribution for surveys, marketing, or solicitations, prohibits the disclosure of that information unless the person has given express written consent to such disclosure.
- Establishes criteria governing the disclosure of *sensitive* personal information about an individual that the BMV obtained in connection with a motor vehicle record.
- Makes changes in several provisions of the commercial driver's license (CDL) law, including the definition of "tank vehicle" and the use of the *actual* gross weight of a vehicle or combination of vehicles in lieu of a gross vehicle *weight rating*.
- Permits arrangements between this state and another country for reciprocal recognition of driver's licenses issued by this state and that country.
- Makes changes in certain provisions relating to the issuance of driver's and commercial driver's licenses and certain motor vehicle equipment provisions.
- Increases the towing and storage fees that must be paid when a motor vehicle is removed from a private tow-away zone and certain other locations.
- Makes changes in the definition of "recreational vehicle."

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CONTENT AND OPERATION

Disclosure of personal information of the Bureau of Motor Vehicles

Current law

Effective September 13, 1997, except under certain specified conditions, current law prohibits the Registrar or any contractor or employee of the Bureau of Motor Vehicles (BMV) from knowingly disclosing or making available any personal information about an individual obtained in connection with a motor vehicle record. These provisions generally comply with federal requirements. One exception to the general prohibition against disclosure *requires* the disclosure of such information for use in matters pertaining to federal automobile-related laws, involving the following matters: (1) motor vehicle or driver safety and theft,

(2) motor vehicle emissions, (3) motor vehicle product alterations, recalls, or advisories, (4) performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and (5) the removal of non-owner records from the original owner records of motor vehicle manufacturers (R.C. 4501.27(B)(1)).

Additional exceptions *permit* the disclosure of personal information in connection with other specified governmental, legal, insurance, and certain business purposes (R.C. 4501.27(B)(2)(a) through (k) and (o)).

Information also may be disclosed for the bulk distribution of surveys, marketing, or solicitation if the Bureau takes steps to ensure the following:

--that individuals have the opportunity to "opt out" by prohibiting disclosure of information about themselves for uses of this nature (and are told by the Bureau of the potential for disclosure so they can opt out whenever they conduct business in person regarding motor vehicle titling or registration or drivers' licenses);

--that the surveys, marketing, or solicitations will not be directed at an individual who has requested in a timely fashion not to receive them (R.C. 4501.27(B)(2)(m)).

Finally, the current law permits disclosure of personal information under two other situations involving consent of the individuals involved. First, the Bureau may disclose personal information about individuals to anyone for any purpose if the Bureau has provided clear notice (on the forms used in licensing drivers, motor vehicle titling, and registration of vehicles) that personal information collected by the Bureau on those forms might be disclosed to any person and has provided an opportunity for any individual who completes any forms to "opt out" by prohibiting disclosure of their personal information (R.C. 4501.27(B)(2)(l)). Second, the Bureau may disclose personal information about any individual to anyone who demonstrates that he or she has obtained the written consent of the individual to whom the information pertains (R.C. 4501.27(B)(2)(n)).

Mandated release--limit on sensitive personal information

The bill limits the information currently *required* to be released in connection with the federal automobile-related acts to information *other* than "sensitive personal information." The bill also generally limits the *permissive* disclosure provisions of current law (R.C. 4501.27(B)(2)) to information *other* than sensitive personal information. Sensitive personal information is defined as an individual's photograph or digital image, social security number, or medical or disability information.

Optional release of sensitive personal information

The bill expressly permits the release of sensitive personal information where the individual whose sensitive information is requested completes a form giving express consent to the disclosure. It also expressly allows (but does not require) release of sensitive personal information without the consent of the individual in situations involving any of the following:

(1) State, local, and federal government agencies (including courts, law enforcement agencies, and private persons acting on behalf of government agencies) carrying out their functions;

(2) Civil, criminal, administrative, or arbitral proceedings in any state, local, or federal court or agency;

(3) Insurers, insurance support organizations, and self-insured entities while investigating claims, preventing fraud, or engaging in rating and underwriting activities;

(4) Employers and their agents and insurers in verifying information relating to the holder of a commercial driver's license or permit (R.C. 4501.27(B)(3)).

Special limits on release of social security numbers and digitalized photos

The bill specifies that the current statutes absolutely prohibiting the release of social security numbers to anyone other than a government agency (R.C. 4501.15, not in the bill) and prohibiting the release of digitalized photos except to state, federal, and local law enforcement agencies (R.C. 4507.53, not in the bill) take precedence over the bill's provision regarding release of sensitive personal information, meaning that a person cannot consent to the release of his social security number or digital photo simply by filling out a form agreeing to the disclosure and that this information may not be released to any insurer or employer needing to check the validity of a commercial driver's license.

"Opt in" as opposed to "opt out"

The bill also prohibits the Bureau from releasing any personal information (whether or not it is "sensitive") for bulk distribution for surveys, marketing, or solicitations or *for any other purpose* (not otherwise specified in the bill) unless the individual whose personal information is requested completes a form giving express consent to disclosure (as opposed to completing a form prohibiting the disclosure) (R.C. 4501.27(B)(2)(m) and (o)).

Church buses

A church bus that is used exclusively to transport members of a congregation to church functions or to transport children and supervisors to camping functions sponsored by a nonprofit, tax-exempt, charitable or philanthropic organization may be registered for a fee of \$10. The registration application currently must be accompanied by both of the following:

(1) An affidavit prescribed by the Registrar, signed by either the senior religious leader of the church or by the head of the church's governing body, stating that the bus is to be used exclusively for the permitted purposes (R.C. 4503.07(A)).

(2) A certificate from the Highway Patrol stating that the bus involved is safe for operation in accordance with applicable standards prescribed by the Patrol (R.C. 4503.07(B)).

The bill requires a church bus to obtain the certificate from the Highway Patrol only if the bus meets either of the following criteria:

(1) It originally was designed by the manufacturer to transport 16 or more passengers, including the driver (R.C. 4503.07(B)(1));

(2) It has a gross vehicle weight rating of 10,001 pounds or more (R.C. 4503.07(B)(2)).

Changes relating to the commercial driver's license (CDL) law

"Convictions" requiring the disqualification of a person from operating a commercial motor vehicle

Current law requires the Registrar of Motor Vehicles to disqualify any person from operating a commercial motor vehicle if the person is convicted of any of a number of offenses. For example, if a CDL holder is convicted of committing a second serious traffic violation involving the operation of a commercial motor vehicle arising from separate incidents in a three-year period, the person is disqualified from operating a commercial motor vehicle for 60 days (R.C. 4506.16(B)(5)).¹

¹ A commercial vehicle is one that meets one of a number of qualifications for weight or number of passengers specified in law. A separate CDL is required for operating these vehicles.

Under current law, a "conviction" means findings of violations of law or noncompliance with law by a court or an authorized administrative tribunal. The bill adds similar findings by an authorized administrative "agency or officer" to the definition of "conviction."

Currently, evidence of "convictions" may include a computer record obtained through a state agency of a state "other than Ohio" having statutory jurisdiction over commercial drivers or their records. The bill adds *Ohio* state agencies to those that may generate a computer record as evidence of conviction.

Use of actual gross weight in lieu of gross vehicle weight rating

Current law partially distinguishes commercial vehicles by their "gross vehicle weight rating." For example, a commercial vehicle includes any single vehicle with a combined gross vehicle weight rating of 26,001 pounds or more. Under the CDL law, the gross vehicle weight rating is essentially defined as the weight specified by the manufacturer as the "maximum loaded" weight of a single or combination vehicle. The bill permits the *actual gross weight* of a vehicle or combination of vehicles (that is, the actual weight loaded at the time) to be used when no gross vehicle weight rating has been specified by the manufacturer, or if the gross vehicle weight rating specified by the manufacturer is not determinable. (R.C. 4506.011.)

Persons authorized to conduct testing and to issue forms related to CDL examinations

Current law requires the Highway Patrol to "supervise and conduct the testing" of CDL applicants, although the law also provides for required "skills" tests (involving actual operation of the applicable type of commercial vehicle) to be conducted by other parties under rules of the Director of Public Safety (R.C. 4506.09). Applicants must schedule appointments with the Highway Patrol to take examinations. Current law also permits the Registrar to authorize the Highway Patrol to issue a form indicating which examinations an applicant has taken and passed for a CDL (R.C. 4506.13). The bill permits the Registrar to authorize "any other employee of the Department of Public Safety" to supervise and conduct the testing of CDL applicants and also to issue these forms. The bill does not make any changes in the provisions for applicants to *make appointments* for the tests with the Highway Patrol.

Other definitions

Definition of "tank vehicle." For purposes of the CDL law, "tank vehicle" currently means "any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily

attached to the vehicle or its chassis, but does not include any portable tank having a rated capacity of less than one thousand gallons." (R.C. 4506.01(Y).)

The bill modifies this definition so that "tank vehicle" means

any commercial motor vehicle that is designed to transport any liquid and has a maximum capacity greater than one hundred nineteen gallons or is designed to transport gaseous materials and has a water capacity greater than one thousand pounds within a tank that is either permanently or temporarily attached to the vehicle or its chassis. "Tank vehicle" does not include either of the following:

- (1) Any portable tank having a rated capacity of less than one thousand gallons (R.C. 4506.01(Y)(1));
- (2) Tanks used exclusively as a fuel tank for the motor vehicle to which it is attached (R.C. 4506.01(Y)(2)).

New definition of "portable tank." For purposes of the CDL law, the bill defines "portable tank" to mean "a liquid or gaseous packaging designed primarily to be loaded on or temporarily attached to a vehicle and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means." (R.C. 4506.01(CC).)

Waiver of driver's license examinations

The Registrar of Motor Vehicles is required to examine every applicant for a temporary instruction permit, driver's license, or motorcycle operator's endorsement (R.C. 4507.10(A)). Except for the vision screening requirement, the Registrar may waive the examination of any person applying for the renewal of a driver's license or motorcycle operator's endorsement, provided that the applicant presents either an unexpired license or endorsement or a license or endorsement that has expired not more than six months prior to the date of application (R.C. 4507.10(B)).

Except for vision screening, the bill also permits the Registrar to waive the examination of any person applying for a driver's license if the person presents and surrenders a valid license issued by another state and the license is unexpired or expired not more than six months. (R.C. 4507.10(B).)

Reciprocal agreements between Ohio and other countries

The bill permits the Registrar of Motor Vehicles to enter into a reciprocal arrangement with another country for reciprocal recognition of driver's licenses if both of the following conditions are satisfied:

(1) The country grants the same or similar exemptions relating to driver's licenses to persons holding valid driver's licenses issued by this state (R.C. 4507.101(A)(1));

(2) The country charges only reasonable fees for driver's license applications, as determined by the Registrar's sole discretion, and the fees are charged impartially to all applicants (R.C. 4507.101(A)(2)).

The Registrar is prohibited from entering into a reciprocal arrangement, and must cancel any such arrangement previously entered into, if the country does not comply with the above two provisions (R.C. 4507.101(B)).

Except for the current provision that requires vision screening of driver's license applicants, the Registrar may waive the examination of any person applying for a driver's license if the person presents a valid, unexpired license issued by a country with which the Registrar has a reciprocal arrangement (R.C. 4507.101(C)).

The bill permits the Registrar to prescribe the conditions upon which a driver's license may be issued or retained under these provisions. However, the Registrar cannot prohibit an applicant from retaining the foreign license after the Registrar or deputy registrar issuing the Ohio license views and authenticates the foreign license (R.C. 4507.101(D)).

Persons authorized to issue examiner's driving permits

The Registrar of Motor Vehicles is required to conduct all necessary examinations of applicants for temporary instruction permits, (noncommercial) drivers' licenses, and motorcycle operators' endorsements. The examination includes a test of the applicant's knowledge of motor vehicle laws, a test of the applicant's physical fitness to drive, and a test of the applicant's ability to understand highway traffic control devices. Except for vision screening, which is performed by deputy registrars, the Registrar must designate the Highway Patrol or any other law enforcement body to supervise and conduct examinations for temporary instruction permits, drivers' licenses, and motorcycle operators' endorsements.

In addition, the Registrar may authorize the Highway Patrol or other designated law enforcement body to issue an examiner's driving permit to an applicant who has passed the required examination, authorizing that applicant to operate a motor vehicle while the Registrar is completing an investigation relative to that applicant's qualifications to receive a temporary instruction permit, driver's license, or motorcycle operator's endorsement. (R.C. 4507.11.)

The bill requires the Registrar to designate not only the Highway Patrol or any law enforcement body but also any other employee of the Department of Public Safety (DPS) to supervise and conduct examinations for temporary instruction permits, drivers' licenses, and motorcycle operators' endorsements. The bill also permits the Registrar to authorize any designated DPS employee to issue an examiner's driving permit to an applicant who has passed the required examination, authorizing that applicant to operate a motor vehicle while the Registrar is completing an investigation.

Color of school buses

Current law requires school buses to be painted National School Bus Chrome Number Two. The bill requires school buses to be painted National School Bus Yellow. (R.C. 4511.77.)

Motor vehicle stop lights

Under current law, nearly all motor vehicles must be equipped with at least one stop light mounted on the rear of the vehicle. Stop lights must be actuated upon application of the service brake, and may be incorporated with other rear lights. When actuated, stop lights must emit a red light visible from a distance of 500 feet to the rear. These provisions do not apply to historical motor vehicles. (R.C. 4513.071.)

The bill generally requires every motor vehicle to be equipped with two or more stop lights and also applies this requirement to trailers, semitrailers, and pole trailers. The exceptions are passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles; these motor vehicles must be equipped with at least one stop light. The bill specifically applies the stop light provisions to historical motor vehicles unless such vehicles were not originally manufactured with stop lights. (See **COMMENT.**)

Brake equipment on certain trailers and semitrailers

Current law contains provisions governing brake equipment on vehicles. For example, every trailer or semitrailer, except a pole trailer, of a *gross weight* of 2,000 pounds or more, manufactured or assembled on or after January 1, 1942,

must be equipped with brakes "adequate to control the movement of and to stop and to hold the trailer or semitrailer." The brakes must be designed so that the driver of the towing motor vehicle can apply them from the cab, and in case of a breakaway of the towed vehicle, its brakes must be automatically applied. (R.C. 4513.20(D).)

The bill applies these same braking requirements to every manufactured home or travel trailer with an *empty weight* of 2,000 pounds or more, manufactured or assembled on or after January 1, 2001 (R.C. 4513.20(D)(2)).

Motor vehicle directional signals

Current law provides that if a motor vehicle has been manufactured or assembled on or after January 1, 1954, no person may sell it and it cannot be registered unless the motor vehicle is equipped with electrical or mechanical directional signals. These provisions do not apply to motorcycles or motor-driven cycles.

"Directional signals" are defined as electrical or mechanical signal devices capable of clearly indicating an intention to turn either to the right or to the left, and they must be visible from both the front and rear. All mechanical signal devices must be self-illuminating devices when in use at night or during times of reduced visibility. (R.C. 4513.261.)

The bill replaces the current prohibition against "selling" or "registering" a vehicle without directional signals with a prohibition against *operating* any such motor vehicle manufactured or assembled on or after January 1, 1954 (R.C. 4513.261(A)(1)). The bill also applies this prohibition to any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968 (R.C. 4513.261(A)(2)).

Wheel protectors

Current law prohibits any person from operating any commercial car, trailer, or semitrailer that is used for the transportation of property and has a gross weight with load that exceeds three tons unless the vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of the vehicle or combination of vehicles. The purpose of the protectors or flaps is to prevent, as far as practicable, the wheels from throwing dirt, water, or other materials on the windshields of following vehicles. They must have a ground clearance of not more than one-fifth of the distance from the center of the rearmost axle to the center of the flaps, whether loaded or unloaded, and must be at least as wide as the tires they are protecting. No such flaps are required if the vehicle is

designed and constructed so that the protection requirements are accomplished by means of fenders, body construction, or other means of enclosure.

The bill requires such protectors or flaps to have a ground clearance of not more than one-third of the distance from the center of the rearmost axle to the center of the flaps, whether loaded or unloaded, rather than one-fifth that distance as prescribed in current law. (R.C. 5577.11.)

Definition of "recreational vehicle"

For purposes of the motor vehicle law, a "recreational vehicle" is defined as "a vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreational, and vacation uses." The law specifies five classes of recreational vehicles: travel trailers, motor homes, truck campers, fifth wheel trailers, and park trailers. (R.C. 4501.01(Q).)

The bill redefines a "recreational vehicle" to mean a vehicular portable structure that meets all of the following conditions:

- (1) It is designed for the sole purpose of recreational travel.
- (2) It is not used for the purpose of engaging in business for profit.
- (3) It is not used for the purpose of engaging in intrastate commerce.
- (4) It is not used for the purpose of commerce as defined in the federal commercial driver's license law.
- (5) It is not regulated by the Public Utilities Commission under Revised Code chapters governing certain motor carriers.
- (6) It is classed as either a travel trailer, motor home, truck camper, fifth wheel trailer, or park trailer.

Definition of "motor home"

One type of recreational vehicle is a motor home. A "motor home" is defined in the motor vehicle law as "a self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping." (R.C. 4501.01(Q)(2).) The bill adds to this definition a provision that a "motor home" cannot have a fifth wheel.

Definition of "commercial car"

The motor vehicle law defines a commercial car as "any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor." (R.C. 4501.01(J).) The bill expands this definition for commercial cars to include commercial "trucks."

Increase in certain towing charges

Current law permits the sheriff of a county or chief of police of a municipal corporation, township, or township police district, upon complaint, to order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at either of the following locations:

- (1) On private residential or agricultural property for at least four hours without the permission of the person having control of the property;
- (2) At a repair garage or place of storage for a period longer than that agreed upon.

Current law also permits the owner of private property to create a private tow-away zone on that property. It must be designated by a sign that declares the existence of the tow-away zone and contains information concerning towing and storage charges. In the case of a motor vehicle improperly parked in a private tow-away zone, the owner of the private property or his authorized agent may cause the removal of the motor vehicle from the private tow-away zone.

If a motor vehicle is removed from any of the above locations, the motor vehicle owner is liable for payment of a towing charge of up to \$70, and a storage charge not exceeding \$8 per 24-hour period. If the towed vehicle has a laden gross vehicle weight in excess of 15,000 pounds and is a truck, bus, tractor-trailer combination, or tractor-semitrailer combination, the maximum towing charge is \$100, and the maximum storage charge is \$12 per 24-hour period. In order for these charges to apply to a vehicle that is removed from a private tow-away zone, all these charges must appear on the sign that creates the private tow-away zone. (R.C. 4513.60.)

The bill increases these towing and storage charges. Under the bill, the owner of such a towed motor vehicle is liable for payment of a towing charge of up to \$90, and a storage charge in an amount not exceeding \$12 per 24-hour period. If the towed vehicle has a manufacturer's gross vehicle weight rating in excess of 10,000 pounds and is a truck, bus, tractor-trailer combination, or tractor-semitrailer combination, the towing charge is a maximum of \$150, and the maximum storage charge is \$20 per 24-hour period.

COMMENT

For purposes of the bill, "historical motor vehicle" means any motor vehicle that is more than 25 years old and that is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but in no event is used for general transportation.

HISTORY

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