



House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

REGULATE SALE OF PERSONAL INFORMATION BY SECRETARY OF STATE

House Bills 5229 - 5231
Sponsor: Rep. Wayne Kuipers
Committee: Transportation

Complete to 1-31-00

A SUMMARY OF HOUSE BILLS 5229 - 5231 AS INTRODUCED 1-25-00

The bills would prohibit the Office of the Secretary of State from selling or disclosing to private parties the personal information that is contained in its records, unless the sale or disclosure were specifically authorized under state or federal law. The bills are tie-barred to each other so that none could be enacted into law unless the others also were enacted.

House Bill 5229 would amend the Michigan Vehicle Code (MCL 257.208d and 257.232) to specify that an authorized recipient of personal information could not sell or disclose the information unless the sale or disclosure were specifically authorized under the vehicle code or other state or federal law. The bill also would prohibit the secretary of state from selling or disclosing, to a private person or entity, personal information from the records of the department unless the sale or disclosure were specifically authorized by the vehicle code or by other state or federal law.

Generally and under current law, the secretary of state may contract for the sale of lists, in bulk, of driver and motor vehicle records and other records maintained under the code, if the purchaser of the records executes a written purchase contract. The secretary of state must fix a market-based price for the sale of such lists or other records maintained in bulk, which may include personal information, and the proceeds from each sale must be credited to the secretary of state's commercial look-up account, or be used to defray the costs of providing the service. Under the bill, the secretary of state could not continue to contract for the sale of lists.

More specifically, House Bill 5229 would eliminate the provisions of existing law that allow the secretary of state to contract for the sale of lists that must be sold at a market-based price, and the proceeds from which are deposited in the secretary of state's commercial look-up account. House Bill 5229 also would eliminate the provision of existing law that require the secretary of state to do all of the following before selling and furnishing the information for surveys, marketing, and solicitations:

- Furnish individuals with a conspicuous opportunity to be informed of their right to prohibit the disclosure of personal information about them for purposes of surveys, marketing, and solicitations through an ongoing public information campaign which must include the use of printed signs in branch offices, and notices included with application and renewal forms (to the extent that the secretary of state continues to use paper forms for these purposes), and may include periodic

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press releases, public service announcements, advertisements, pamphlets, notices in electronic media, and other types of notice. Each printed sign must be not less than 8½ inches wide by 11 inches high and contain a caption in not less than 46-point type. If the secretary of state furnishes notice on forms, that information must be similar to the information printed on branch office signs. The act also requires that the secretary of state review the public information campaign on an annual basis in order to update notice contents and furnish notice by more effective means.

-Provide individuals with a conspicuous opportunity, through a telephonic, automated, or other efficient system, to notify the secretary of state of their desire to prohibit the disclosure of personal information about them, for purposes of surveys, marketing, and solicitations. The secretary of state may contract with another public or private person or agency to implement this subdivision.

-Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under the act, and that surveys, marketing, and solicitations will not be directed at those individuals who in a timely fashion have notified the secretary of state that surveys, marketing, and solicitations should not be directed at them.

Finally, House Bill 5229 would eliminate the provision that authorizes the secretary of state to insert any safeguard considered reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract, to ensure that the information provided or sold would be used only for a permissible use, and that the rights of individuals and of the department would be protected.

House Bill 5230 would amend Public Act 222 of 1972 (MCL 28.297 and 28.300), which provides for an official state personal identification card, to prohibit the secretary of state from selling or disclosing to a private person or entity personal information from the records of the department, unless the sale or disclosure were specifically authorized by the act, or by other state or federal law.

Under current law, the secretary of state is prohibited from providing an entire computerized central file or other file of records maintained under the act to a nongovernmental person or entity, unless the purchaser pays the prescribed fee for each individual record contained within the computerized list. House Bill 5230 would continue this prohibition, unless disclosure of the records to a nongovernmental person or entity were specifically authorized by state or federal law, and the person or entity paid the prescribed fee for each individual record contained within the computerized file.

More specifically, House Bill 5230 would eliminate the provisions of existing law that allow the secretary of state to contract for the sale of lists of bulk information, which may include personal information, that must be sold at a market-based price, and the proceeds from which must be used by the secretary of state to defray the costs of list preparation and for other necessary related expenses.

Like House Bill 5229, House Bill 5230 also would eliminate the provisions of existing law that require the secretary of state to do all of the following before selling and furnishing the information for surveys, marketing, and solicitations:

- Furnish individuals with a conspicuous opportunity to be informed of their right to prohibit the disclosure of personal information about them for purposes of surveys, marketing, and solicitations through an ongoing public information campaign which must include the use of printed signs in branch offices, and notices included with application and renewal forms (to the extent that the secretary of state continues to use paper forms for these purposes), and may include periodic press releases, public service announcements, advertisements, pamphlets, notices in electronic media, and other types of notice. Each printed sign must be not less than 8½ inches wide by 11 inches high and contain a caption in not less than 46-point type. If the secretary of state furnishes notice on forms, that information must be similar to the information printed on branch office signs. The act also requires that the secretary of state review the public information campaign on an annual basis in order to update notice contents and furnish notice by more effective means.

-Provide individuals with a conspicuous opportunity, through a telephonic, automated, or other efficient system, to notify the secretary of state of their desire to prohibit the disclosure of personal information about them, for purposes of surveys, marketing, and solicitations. The secretary of state may contract with another public or private person or agency to implement this subdivision.

-Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under the act, and that surveys, marketing, and solicitations will not be directed at those individuals who in a timely fashion have notified the secretary of state that surveys, marketing, and solicitations should not be directed at them.

Finally, House Bill 5230 would eliminate the provision that authorizes the secretary of state to insert any safeguard considered reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract, to ensure that the information provided or sold would be used only for a permissible use, and that the rights of individuals and of the department would be protected.

House Bill 5231 would amend the Natural Resources and Environmental Protection Act (MCL 324.8013c et. al) to prohibit the secretary of state from selling or disclosing to a private person or entity personal information from the records of the department unless the sale or disclosure were specifically authorized by the act, or by other state or federal law. Further, the bill specifies that an authorized recipient of personal information disclosed under the act could not sell or disclose the information unless the sale or disclosure were specifically authorized by the act or other state or federal law. The bill also would eliminate the provision of the Natural Resources and Environmental Protection Act (NREPA) that refers to an authorized recipient of personal information who may, under certain conditions, resell or redisclose the information for surveys, marketing, and solicitations.

Like House Bills 5229 and 5230, House Bill 5231 also would eliminate from the NREPA the provisions that require the secretary of state to do all of the following before selling and furnishing the information for surveys, marketing, and solicitations:

- Furnish individuals with a conspicuous opportunity to be informed of their right to prohibit the disclosure of personal information about them for purposes of surveys, marketing, and solicitations through an ongoing public information campaign which must include the use of printed signs in branch offices, and notices included with application and renewal forms (to the extent that the secretary of state continues to use paper forms for these purposes), and may include periodic press releases, public service announcements, advertisements, pamphlets, notices in electronic media, and other types of notice. Each printed sign must be not less than 8½ inches wide by 11 inches high and contain a caption in not less than 46-point type. If the secretary of state furnishes notice on forms, that information must be similar to the information printed on branch office signs. The act also requires that the secretary of state review the public information campaign on an annual basis in order to update notice contents and furnish notice by more effective means.

-Provide individuals with a conspicuous opportunity, through a telephonic, automated, or other efficient system, to notify the secretary of state of their desire to prohibit the disclosure of personal information about them, for purposes of surveys, marketing, and solicitations. The secretary of state may contract with another public or private person or agency to implement this subdivision.

-Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under the act, and that surveys, marketing, and solicitations will not be directed at those individuals who in a timely fashion have notified the secretary of state that surveys, marketing, and solicitations should not be directed at them.

Finally, House Bill 5230 would eliminate the provision that authorizes the secretary of state to insert any safeguard considered reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract, to ensure that the information provided or sold would be used only for a permissible use, and that the rights of individuals and of the department would be protected.

Analyst: J. Hunault

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.