

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

Representing America's Finest

317 South Patrick Street. ~ Alexandria, Virginia ~ 22314-3501

(703) 549-0775 ~ (800) 322-NAPO ~ Fax: (703) 684-0515

www.napo.org ~ Email: info@napo.org



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WILLIAM J. JOHNSON
Executive Director

August 8, 2013

The Honorable Patrick Leahy
Chairman
Senate Judiciary Committee
437 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Leahy:

On behalf of the National Association of Police Organizations (NAPO), representing 241,000 rank-and-file officers from across the United States, I am writing to inform you that a recent amendment to the Driver's Privacy Protection Act (DPPA) includes language that negatively impacts the law enforcement community. The following includes a brief summary of this issue, as well as NAPO's proposed resolution, which we urge you to consider.

The DPPA (Public Law 103-322) was originally enacted in 1994 to protect the privacy of personal information assembled by the State Department of Motor Vehicles (DMV). The DPPA prohibits the release or use by any DMV, (or any officer, employee, or contractor), of personal information about an individual obtained by the department in connection with a motor vehicle record.

The latest amendment to the DPPA requires state motor vehicle departments to receive permission from individuals before their personal motor vehicle record may be sold or released. The recent amendment authorizes a private right of action for knowing violations, and a court may award damages in the amount of \$2,500 for each time a record was accessed, as well as attorney fees and other litigation costs. Law enforcement officers are subject to these stringent punishments, even if they did not review files with criminal intent.

The DPPA Amendment must be modified to include language that will not preclude law enforcement officials from carrying out their daily duties. NAPO's language proposals are attached, and include adding a clause that explains penalties will be applied only if persons access information with the specific intent to secure an economic benefit. Also, NAPO proposes removing the \$2,500 penalty for a violation of this act, as well as adding a statement that explains there must be repeated disregard for this law for action to be taken.

If the language is not modified, law enforcement officers are subject to large fines, and even the loss of their licenses, for *de minimus* actions.

We very much appreciate your consideration, and hope to get the opportunity to speak with you and your staff about this issue in the near future. If NAPO can provide any additional information, please feel free to contact me at: (703) 549-0775.

Sincerely,

A handwritten signature in black ink, appearing to read 'William J. Johnson', followed by a long horizontal line extending to the right.

William J. Johnson
Executive Director

Attachment

PROPOSED AMENDMENT TO DRIVERS PRIVACY PROTECTION ACT

18 USC Sec. 2724

ADDED LANGUAGE IS IN **BOLD AND UNDERLINED**

DELETED LANGUAGE IS ~~DOUBLE STRUCKTHROUGH~~

-CITE-

18 USC Sec. 2724
(112-90)

01/03/2012

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 123 - PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL
INFORMATION FROM STATE MOTOR VEHICLE RECORDS

-HEAD-

Sec. 2724. Civil action

-STATUTE-

(a) Cause of Action. - A person who knowingly obtains, discloses or uses personal information, **with the specific intent to secure an economic benefit thereby,** from a motor vehicle record, for a purpose not permitted under this chapter shall be liable to the individual to whom the information pertains, who may bring a civil action in a United States district court.

(b) Remedies. - The court may award -

~~(1) actual damages, but not less than liquidated damages in the amount of \$2,500 ;~~

(2) punitive damages upon proof of **repeated** willful or reckless disregard of the law;

(3) reasonable attorneys' fees and other litigation costs reasonably incurred; and

(4) such other preliminary and equitable relief as the court determines to be appropriate.

-SOURCE-

(Added Pub. L. 103-322, title XXX, Sec. 300002(a), Sept. 13, 1994, 108 Stat. 2101.)

-End-

-CITE-

18 USC Sec. 2725
(112-90)

01/03/2012

-EXPCITE-

TITLE 18 - CRIMES AND CRIMINAL PROCEDURE
PART I - CRIMES
CHAPTER 123 - PROHIBITION ON RELEASE AND USE OF CERTAIN PERSONAL
INFORMATION FROM STATE MOTOR VEHICLE RECORDS

-HEAD-

Sec. 2725. Definitions

-STATUTE-

In this chapter -

(1) "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

(2) "person" means an individual, organization or entity, but does not include a State or agency thereof;

(3) "personal information" means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.(!1)

(4) "highly restricted personal information" means an individual's photograph or image, social security number, medical or disability information; and

(5) "express consent" means consent in writing, including consent conveyed electronically that bears an electronic signature as defined in section 106(5) of Public Law 106-229.

-SOURCE-

(Added Pub. L. 103-322, title XXX, Sec. 300002(a), Sept. 13, 1994, 108 Stat. 2102; amended Pub. L. 106-346, Sec. 101(a) [title III, Sec. 309(b)], Oct. 23, 2000, 114 Stat. 1356, 1356A-24.)

-REFTEXT-

REFERENCES IN TEXT

Section 106(5) of Public Law 106-229, referred to in par. (5), is classified to section 7006(5) of Title 15, Commerce and Trade.

-MISC1-

AMENDMENTS

2000 - Pars. (4), (5). Pub. L. 106-346 added pars. (4) and (5).

-FOOTNOTE-

(!1) So in original. The period probably should be a semicolon.

-End-