
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

Bill No: AB 398 **Hearing Date:** June 8, 2021
Author: Fong
Version: May 26, 2021
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Department of Motor Vehicles: records*

HISTORY

Source: Author

Prior Legislation: AB 2671 (Fong) not heard Assembly Trans 2020

Support: Howard Jarvis Taxpayers Association (HJTA)

Opposition: None known

Assembly Floor Vote: 77 - 0

PURPOSE

Limits Department of Motor Vehicle's (DMV) ability to recover costs for document requests to the actual cost of providing such documents.

Under existing law 23 classes of persons, primarily in law enforcement fields, plus the spouses and children of those persons, that may request that their home addresses be held confidential by DMV. The home addresses of these persons may only be disclosed to a court; a law enforcement agency; the State Board of Equalization (BOE); an attorney in a civil or criminal action who demonstrates to a court the need for the home address, if the disclosure is made pursuant to a subpoena; and any governmental agency legally required to be furnished the information. (Vehicle Code §§ 1808.4 and 1808.6 - began in 1977.)

Existing law states that all residence addresses in any record of the Department of Motor Vehicles (DMV) are confidential and shall not be disclosed to any person, except a court, law enforcement agency, or other governmental agency, or as authorized in section 1808.22 of the Vehicle Code. (Vehicle Code §§ 1808.21 - added in 1989.)

Existing law states that any person may seek suppression of any DMV registration or driver's license record if he or she can show that he or she is the subject of stalking or a threat of death or great bodily injury. The suppression will be for a period of one year renewable for two more one year periods. (Vehicle Code § 1808.21(d).)

Existing law provides that the willful, unauthorized disclosure of this information as it relates to specified law enforcement (peace officers, employees of city police departments, and county sheriffs' offices and their families) that results in the bodily injury to the individual or individuals whose specified information was confidential, is a felony. (Vehicle Code §§ 1808.4.)

Existing law provides that no person or agent shall directly or indirectly obtain information from DMV files using false representations or distribute restricted or confidential information to any person or use the information for a reason not authorized or specified in a requester code application. Any person who violates this section, in addition to any other penalty provided in this code, is liable for civil penalties up to one hundred thousand dollars (\$100,000) and shall have its requester code privileges suspended for a period of up to five years, or revoked. The regulatory agencies having jurisdiction over any licensed person receiving information pursuant to this chapter shall implement procedures to review the procedures of any licensee which receives information to ensure compliance with the limitations on the use of information as part of the agency's regular oversight of the licensees. The agency shall report noncompliance to the department. (Vehicle Code § 1808.46)

Existing law, except as otherwise provided, allows for DMV to allow the inspection of information regarding the registration of a vehicle and allows for DMV to charge for the service. (Vehicle Code § 1810)

This bill clarifies that the cost charged to the requester shall not exceed the actual cost to DMV.

Existing law requires specified verification information from a person making a request for registration information but does not require that verification if the person has been given a requester code from DMV. (Vehicle Code § 1810)

This bill clarifies that the verification information is not required if an organization has been given a requester code from DMV.

COMMENTS

1. Need for This Bill

According to the author:

Under current law, when an individual (or authorized third party) requests personal information (e.g. driving or vehicle registration records) from the DMV, the department has the authority charge a cost that exceeds the actual cost of the service. DMVs across California set their own rate for these requests and transactions. This bill would provide uniformity and prevent the DMV from profiting off personal information that is required for several essential DMV transactions, including obtaining a driver's license.

2. Background of DMV Confidentiality

Vehicle Code section 1808.4 was added by statute in 1977 to provide confidentiality of home addresses to specified public employees and their families.

In 1989, after the murder of actress Rebecca Schaeffer, Vehicle Code section 1808.21 was added to make all residence addresses contained within the Department of Motor Vehicle files confidential. Vehicle Code section 1808.21(a) states the following:

The residence address in any record of the department is confidential and cannot be disclosed to any person except a court, law enforcement agency, or other governmental agency, or as authorized in Section 1808.22 or 1808.23.

This section was further amended in 1994 to allow individuals under specific circumstances to request that their entire records be suppressed. Any individual who is the subject of stalking or who is experiencing a threat of death or great bodily injury to his or her person may request their entire record to be suppressed under this section.

Upon suppression of a record, each request for information about that record has to be authorized by the subject of the record or verified as legitimate by other investigative means by the DMV before the information is released.

A record is suppressed for a one-year period. At the end of the one year period, the suppression is continued for a period determined by the department and if the person submits verification acceptable to the department that he or she continues to have reasonable cause to believe that he or she is the subject of stalking or that there exists a threat of death or great bodily injury to his or her person.

DMV has long maintained that all residence addresses are suppressed and only persons authorized by statute can access this information.

Under sections 1808.4 and 1808.6 the home addresses of specific individuals are suppressed and can only be accessed through the Confidential Records Unit of the Department of Motor Vehicles while under section 1808.21, the residence address portion of all individuals' records are suppressed but can be accessed by a court, law enforcement agency, or other governmental agency or other authorized persons.

3. Authorized release of information

On November 25, 2019, Vice News ran a story entitled "The California DMV is Making \$50 million a Year Selling Drivers' Personal Information." The article states that "In a public record acts request, Motherboard asked the California DMV for the total dollar amounts paid by commercial requesters of data for the past six years. The responsive document shows the total revenue in fiscal year 2013-14 as \$41.6 million before steadily climbing to \$52.1 million in fiscal year 2017-18."

The Vice News article is accurate in terms of the amount of money received, but misleading. DMV does not sell personal information except for legitimate business purposes explicitly authorized by the Legislature. The transactions the article talks about are fees DMV charges for legitimate business inquiries that the Legislature permits. Insurance companies are permitted to request data from DMV when collisions occur and they need to find out the address of the other driver, or to get driving records for the purposes of determining insurance rates. DMV charges them for accessing the records as a means of recovering their costs for retrieving the data. Prospective employers pay a fee to access accident records as required for certain transportation-related jobs. Vehicle manufacturers are allowed to request addresses for the purposes of sending

out a safety recall. Otherwise, Vehicle Code 1808.21 prohibits DMV from sharing personal addresses.

As a result of the Vice News Story, DMV created a webpage detailing what limited circumstances DMV records can be requested. <https://www.dmv.ca.gov/portal/driver-education-and-safety/educational-materials/fast-facts/how-your-information-is-shared-ffdmv-17/>.

This bill clarifies that the fees charged for these authorized information requests cannot exceed the actual costs to DMV.

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