

Act No. 102  
Public Acts of 1997  
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STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1997

Introduced by Senator Bouchard

# ENROLLED SENATE BILL No. 534

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 80104, 80129, 80130, 80301, 80310, 80315, 81101, 81113, 81114, 81120, 82101, 82113, and 82156 (MCL 324.80104, 324.80129, 324.80130, 324.80301, 324.80310, 324.80315, 324.81101, 324.81113, 324.81114, 324.81120, 324.82101, 324.82113, and 324.82156), as added by 1995 PA 58, and by adding sections 80130a, 80130b, 80130c, 80130d, 80315a, 80315b, 80315c, 80319a, 81114a, 81114b, 81114c, 82156a, 82156b, 82156c, and 82160.

*The People of the State of Michigan enact:*

Sec. 80104. As used in this part:

- (a) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.
- (b) "Passenger" means a person carried on board a vessel other than any of the following:
- (i) The owner or his or her representative.
  - (ii) The operator.
- (c) "Peace officer" means any of the following:
- (i) A sheriff.
  - (ii) A sheriff's deputy.
  - (iii) A deputy who is authorized by a sheriff to enforce this part and who has satisfactorily completed at least 40 hours of law enforcement training, including training specific to this part.
  - (iv) A village or township marshal.
  - (v) An officer of the police department of any municipality.
  - (vi) An officer of the Michigan state police.
  - (vii) The director and conservation officers employed by the department.
- (d) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number, but does not include information on watercraft operation and equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally-related information.
- (e) "Personal watercraft" means a vessel that meets all of the following requirements:

(j) Uses a motor-driven propeller or an internal combustion engine powering a water jet pump as its primary source of propulsion.

(ii) Is designed without an open load carrying area that would retain water.

(iii) Is designed to be operated by 1 or more persons positioned on, rather than within, the confines of the hull.

(f) "Political subdivision" means any county, metropolitan authority, municipality, or combination of those entities in this state. Whenever a body of water is located in more than 1 political subdivision, all of the subdivisions shall act individually in order to comply with this part, except that if the problem is confined to a specific area of the body of water, only the political subdivision in which the problem waters lie shall act.

(g) "Port" means left, and reference is to the port side of a vessel or to the left side of the vessel.

(h) "Probate court or family division disposition" means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIA of 1939 PA 288, MCL 712a.1 to 712a.32.

(i) "Prosecuting attorney", except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a political subdivision of government.

(j) "Regatta", "boat race", "marine parade", "tournament", or "exhibition" means an organized water event of limited duration that is conducted according to a prearranged schedule.

(k) "Slow—no wake speed" means a very slow speed whereby the wake or wash created by the vessel would be minimal.

(l) "Starboard" means right, and reference is to the starboard side of a vessel or to the right side of the vessel.

(m) "State aid" means payment made by the state to a county for the conduct of a marine safety program.

(n) "Undocumented vessel" means a vessel that does not have, and is not required to have, a valid marine document issued by the United States coast guard or federal agency successor to the United States coast guard.

(o) "Uniform inspection decal" means an adhesive-backed sticker created by the department pursuant to section 80166 that is color-coded to indicate the year that it expires and is attached to a vessel in the manner prescribed for decals in section 80122 when a peace officer inspects and determines that the vessel complies with this part.

(p) "Use" means operate, navigate, or employ.

(q) "Vessel" means every description of watercraft used or capable of being used as a means of transportation on water.

(r) "Waters of this state" means any waters within the territorial limits of this state, and includes those waters of the Great Lakes that are under the jurisdiction of this state.

Sec. 80129. Records maintained under this part, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this part and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 80130. (1) The secretary of state may provide a commercial lookup service of records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state may use the fee revenues received from the service for necessary expenses.

(2) In order to provide an individual, historical boating record, the secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(3) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(4) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

Sec. 80130a. (1) The examination, inspection, or sale of personal information by the secretary of state or any officer, employee, agent, or contractor of the secretary of state maintained under this part shall be limited as provided in this section.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information

and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this act may be disclosed to any person by the secretary of state as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of watercraft and operator safety or watercraft theft; watercraft emissions; watercraft product alterations, recalls, or advisories; performance monitoring of watercraft; watercraft research activities including survey research; and the removal of nonowner records from the original records of watercraft manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court, administrative agency, or self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded watercraft.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(j) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

Sec. 80130b. (1) An authorized recipient of personal information may resell or redisclose the information for any use permitted under section 80130a. An authorized recipient of an individual record or records under section 81114a may resell or redisclose personal information for any purpose.

(2) Any authorized recipient who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

Sec. 80130c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 80130a(3) as well as for

surveys, marketing, and solicitations. The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) Before selling and furnishing any list of information under subsection (2) for surveys, marketing, and solicitations, the secretary of state shall implement methods and procedures that accomplish all of the following:

(a) 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 shall 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 on forms, notices in electronic media, and other types of notice. Each printed sign shall be not less than 8-1/2 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, the information printed on the forms shall be similar to the information printed on branch office signs. The secretary of state shall review the public information campaign on an annual basis in order to update notice content and furnish notice by more effective means.

(b) 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.

(c) Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part, 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.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for surveys, marketing, and solicitations shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on watercraft operation or sanctions to a nongovernmental agency, including an individual.

Sec. 80130d. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 80130a or 80130c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than \$1,500.00 or more than \$7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than \$5,000.00 or more than \$15,000.00, or both.

Sec. 80301. As used in this part:

(a) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(b) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number.

(c) "Watercraft" means a contrivance used or designed for navigation on water, including a vessel, boat, motor vessel, steam vessel, vessel operated by machinery either permanently or temporarily affixed, scow, tugboat, or any marine equipment that is capable of carrying passengers, except a ferry.

Sec. 80310. (1) The secretary of state shall prescribe a uniform method of numbering certificates of title, and shall maintain in his or her office indexes for the certificates of title.

(2) The secretary of state may destroy a certificate of title or supporting evidence of a certificate of title covering a watercraft which was on file for 10 years after the date of its filing.

(3) The secretary of state shall furnish information on a title without charge to authorized law enforcement and conservation officers when engaged in official duties.

Sec. 80315. (1) Records maintained under this part, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this part, and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of watercraft title records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state may use fee revenues received from the service for necessary expenses.

(3) The secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(4) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity, unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(5) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

Sec. 80315a. (1) Except as provided in this section and section 80315c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity considered satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 80315c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this part may be disclosed as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of watercraft and operator safety or watercraft theft; watercraft emissions; watercraft product alterations, recalls; or advisories; performance monitoring of watercraft; watercraft research activities, including survey research; and the removal of nonowner records from the original records of watercraft manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court, administrative agency, or self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded watercraft.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by a watercraft rental business or its employees, agents, contractors, or service firms for the purpose of making rental decisions.

(j) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(k) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

Sec. 80315b. (1) An authorized recipient of personal information under section 80315a may resell or redisclose the information for any use permitted under section 80315a.

(2) Any authorized recipient who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

Sec. 80315c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 80315a(3) as well as for surveys, marketing, and solicitations. The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) Before selling and furnishing any list of information under subsection (2) for surveys, marketing, and solicitations, the secretary of state shall implement methods and procedures that accomplish all of the following:

(a) 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 shall 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 on forms, notices in electronic media, and other types of notice. Each printed sign shall be not less than 8-1/2 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, the information printed on the forms shall be similar to the information printed on branch office signs. The secretary of state shall review the public information campaign on an annual basis in order to update notice content and furnish notice by more effective means.

(b) 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.

(c) Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part, 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.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for surveys, marketing, and solicitations shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

Sec. 80319a. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 80315a or 80315c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than \$1,500.00 or more than \$7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than \$5,000.00 or more than \$15,000.00, or both.

Sec. 81101. As used in this part:

(a) "ATV" means a 3- or 4-wheeled vehicle designed for off-road use that has low-pressure tires, has a seat designed to be straddled by the rider, and is powered by a 50cc to 500cc gasoline engine or an engine of comparable size using other fuels.

(b) "Code" means the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(c) "Dealer" means a person engaged in the sale, lease, or rental of an ORV as a regular business or, for purposes of selling licenses under section 81116, any other person authorized by the department to sell licenses or permits, or both, under this act.

(d) "Designated" means posted open for ORV use with appropriate signs by the department.

(e) "Forest road" means a hard surfaced road, gravel or dirt road, or other route capable of travel by a 2-wheel drive 4-wheel conventional vehicle designed for highway use, except an interstate, state, or county highway.

(f) "Forest trail" means a designated path or way capable of travel only by a vehicle less than 50 inches in width.

(g) "Handicapper" means a person who has 1 or more of the following physical characteristics:

(i) Blindness.

(ii) Inability to ambulate more than 200 feet without having to stop and rest during any time of the year.

(iii) Loss of use of 1 or both legs or feet.

(iv) Inability to ambulate without the prolonged use of a wheelchair, walker, crutches, braces, or other device required to aid mobility.

(v) A lung disease from which the person's expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.

(vi) A cardiovascular disease from which the person measures between 3 and 4 on the New York heart classification scale, or from which a marked limitation of physical activity causes fatigue, palpitation, dyspnea, or anginal pain.

(vii) Other diagnosed disease or disorder including, but not limited to, severe arthritis or a neurological or orthopedic impairment that creates a severe mobility limitation.

(h) "Highway" means the entire width between the boundary lines of a way publicly maintained when any part of the way is open to the use of the public for purposes of vehicular travel.

(i) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(j) "Late model ORV" means an ORV manufactured in the current model year or the 5 model years immediately preceding the current model year.

(k) "Manufacturer" means a person, partnership, corporation, or association engaged in the production and manufacture of ORVs as a regular business.

(l) "Operate" means to ride in or on, and be in actual physical control of, the operation of an ORV.

(m) "Operator" means a person who operates or is in actual physical control of the operation of an ORV.

(n) "ORV" or "vehicle" means a motor driven off-road recreation vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland, or other natural terrain. ORV or vehicle includes, but is not limited to, a multitrack or multiwheel drive vehicle, an ATV, a motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious machine, a ground effect air cushion vehicle, or other means of

transportation deriving motive power from a source other than muscle or wind. ORV or vehicle does not include a registered snowmobile, a farm vehicle being used for farming, a vehicle used for military, fire, emergency, or law enforcement purposes, a vehicle owned and operated by a utility company or an oil or gas company when performing maintenance on its facilities or on property over which it has an easement, a construction or logging vehicle used in performance of its common function, or a registered aircraft.

(o) "Owner" means any of the following:

(i) A vendee or lessee of an ORV which is the subject of an agreement for the conditional sale or lease of the ORV, with the right of purchase upon performance of the conditions stated in the agreement, and with an immediate right of possession vested in the conditional vendee or lessee.

(ii) A person renting an ORV, or having the exclusive use of an ORV, for more than 30 days.

(iii) A person who holds legal ownership of an ORV.

(p) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number, but does not include information on ORV operation or equipment-related violations or civil infractions, operator or vehicle registration status, accidents, or other behaviorally-related information.

(q) "Public agency" means the department or a local or federal unit of government.

(r) "Roadway" means that portion of a highway improved, designated, or ordinarily used for vehicular travel. If a highway includes 2 or more separate roadways, the term roadway refers to a roadway separately, but not to all roadways collectively.

(s) "Route" means a forest road or other road that is designated for purposes of this part by the department.

(t) "Safety education fund" means the safety education fund created under section 81118.

(u) "Safety chief instructor" means a person who has been certified by a nationally recognized ATV and ORV organization to certify instructors and to do on-sight evaluations of instructors.

(v) "Trail improvement fund" means the ORV trail improvement fund created pursuant to section 81117.

(w) "Visual supervision" means the direct observation of the operator with the unaided or normally corrected eye, where the observer is able to come to the immediate aid of the operator.

Sec. 81113. (1) If an ORV certificate of title or duplicate certificate of title is lost or mutilated or becomes illegible, the person entitled to possession of the certificate, or the legal representative or successor in interest to the titleholder of record, may make application to the department of state for a duplicate ORV certificate of title. Upon receipt of the application, the fee prescribed in section 81110, and information satisfactory to the department of state to establish entitlement to the duplicate, the department of state may issue a duplicate ORV certificate of title to the applicant.

(2) Every duplicate ORV certificate of title shall contain the legend: "This is a duplicate certificate of title and may be subject to the rights of a person under the original certificate.".

(3) The secretary of state shall maintain 1 or more indexes pertaining to ORV certificates of title. Upon receiving an application for an ORV certificate of title, the secretary of state may check the information in the application and accompanying documents against the indexes of titled, registered, stolen, and recovered ORVs and against other records maintained by the secretary of state.

Sec. 81114. (1) Records maintained under this part, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this part, and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of ORV operation, title, and registration records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state may use the revenues received from the service for necessary expenses.

(3) The secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(4) The secretary of state may purge a record of an ORV certificate of title and any record pertaining to it 7 years after the title was issued or the record was made or received.

(5) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity, unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(6) A certified copy of an order, record, or paper maintained under this part is admissible in evidence in the same manner as the original and is prima facie proof of the facts stated in the original.

Sec. 81114a. (1) Except as provided in this section and in section 81114c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity considered satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 81114c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this part may be disclosed as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of ORV and operator safety or ORV theft; ORV emissions; ORV product alterations, recalls, or advisories; performance monitoring of ORVs; ORV research activities, including survey research; and the removal of nonowner records from the original records of ORV manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court, administrative agency, or self-regulatory body.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded ORV.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by an ORV rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.

(j) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(k) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

Sec. 81114b. (1) An authorized recipient of personal information under section 81114a may resell or redisclose the information for any use permitted under section 81114a.

(2) Any authorized recipient of personal information disclosed under section 81114a who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

Sec. 81114c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 81114a(3) as well as for surveys, marketing, and solicitations. The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) Before selling and furnishing any list of information under subsection (2) for surveys, marketing, and solicitations, the secretary of state shall implement methods and procedures that accomplish all of the following:

(a) 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 shall 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 on forms, notices in electronic media, and other types of notice. Each printed sign shall be not less than 8-1/2 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, the information printed on the forms shall be similar to the information printed on branch office signs. The secretary of state shall review the public information campaign on an annual basis in order to update notice content and furnish notice by more effective means.

(b) 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.

(c) Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part, 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.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for surveys, marketing, and solicitations shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on ORV operation or sanctions to a nongovernmental agency, including an individual.

Sec. 81120. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 81114a or 81114c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than \$1,500.00 or more than \$7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than \$5,000.00 or more than \$15,000.00, or both.

Sec. 82101. As used in this part:

(a) "Conviction" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt or probate court disposition on a violation of this part, regardless of whether the penalty is rebated or suspended.

(b) "Dealer" means any person engaged in the sale, lease, or rental of snowmobiles as a regular business.

(c) "Former section 15a" means section 15a of former 1968 PA 74, as constituted prior to May 1, 1994.

(d) "Highly restricted personal information" means an individual's photograph or image, social security number, digitized signature, and medical and disability information.

(e) "Highway or street" means the entire width between the boundary lines of every way publicly maintained if any part thereof is open to the use of the public for purposes of vehicular travel.

(f) "Law of another state" means a law or ordinance enacted by another state or by a local unit of government in another state.

(g) "Long-term incapacitating injury" means an injury that causes a person to be in a comatose, quadriplegic, hemiplegic, or paraplegic state, which state is likely to continue for 1 year or more.

(h) "Operate" means to ride in or on and be in actual physical control of the operation of a snowmobile.

(i) "Operator" means any person who operates or is in actual physical control of a snowmobile.

(j) "Owner" means any of the following:

(i) A person who holds the legal title to a snowmobile.

(ii) A vendee or lessee of a snowmobile that is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.

(iii) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.

(k) "Personal information" means information that identifies an individual, including an individual's driver identification number, name, address not including zip code, and telephone number, but does not include information on snowmobile operation or equipment-related violations or civil infractions, operator or snowmobile registration status, accidents, or other behaviorally-related information.

(l) "Probate court or family division disposition" means the entry of a probate court order of disposition or family division order of disposition for a child found to be within the provisions of chapter XIIA of 1939 PA 288, MCL 712a.1 to 712a.32.

(m) "Prosecuting attorney", except as the context requires otherwise, means the attorney general, the prosecuting attorney of a county, or the attorney representing a local unit of government.

(n) "Right-of-way" means that portion of a highway or street less the roadway and any shoulder.

(o) "Roadway" means that portion of a highway or street improved, designated, or ordinarily used for vehicular travel. If a highway or street includes 2 or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.

(p) "Shoulder" means that portion of a highway or street on either side of the roadway that is normally snowplowed for the safety and convenience of vehicular traffic.

(q) "Snowmobile" means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt tread, or any combination of these or other similar means of contact with the surface upon which it is operated, but is not a vehicle that must be registered under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(r) "Zone 1" means all of the Upper Peninsula.

(s) "Zone 2" means all of that part of the Lower Peninsula north of a line beginning at and drawn from a point on the Michigan-Wisconsin boundary line due west of the westerly terminus of river road in Muskegon county; thence due east to the westerly terminus of river road; thence north and east along the center line of the river road to its intersection with highway M-120; thence northeasterly and easterly along the center line of highway M-120 to the junction of highway M-20; thence easterly along the center line of M-20 to its junction with US-10 at the Midland-Bay county line; thence easterly along the center line of the "business route" of highway US-10 to the intersection of Garfield road in Bay county; thence north along the center line of Garfield road to the intersection of the Pinconning road; thence east along the center line of Pinconning road to the intersection of the Seven Mile road; thence north along the center of the Seven Mile road to the Bay-Arenac county line; thence north along the center line of the Lincoln School road (county road 25) in Arenac county to the intersection of highway M-61; thence east along the center line of highway M-61 to the junction of highway US-23; thence northerly and easterly along the center line of highway US-23 to the center line of the Au Gres river; thence southerly along the center line of the river to its junction with Saginaw Bay of Lake Huron; thence north 78° east to the international boundary line between the United States and the Dominion of Canada.

(t) "Zone 3" means all of that part of the Lower Peninsula south of the line described in subdivision (s).

Sec. 82113. (1) The owner of a snowmobile having been issued a certificate of registration for the snowmobile shall attach in a permanent manner to each side of the forward half of the snowmobile the registration decal assigned to that snowmobile.

(2) Not earlier than 90 days before the expiration date of a certificate, a registration decal or other device may be issued indicating that the certificate of registration is in full force and effect.

(3) A certificate of registration shall expire pursuant to section 82105.

(4) The department of state may award a certificate of number directly or may authorize a person to act as its agent for the awarding of a certificate of number.

Sec. 82156. (1) Records maintained under this part, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public pursuant to procedures prescribed in this part, and in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The secretary of state may provide a commercial lookup service of snowmobile operation, title, and registration records maintained under this part. For each individual record looked up, the secretary of state shall charge a fee specified annually by the legislature, or if none, a market-based price established by the secretary of state. The secretary of state shall process a commercial lookup request only if the request is in a form or format prescribed by the secretary of state. The secretary of state may use the revenues received from the service for necessary expenses.

(3) In order to provide an individual, historical snowmobiling record, the secretary of state shall create and maintain a computerized central file that includes the information contained on application forms received under this part and the name of each person who is convicted of an offense, who fails to comply with an order or judgment issued, or against whom an order is entered under this part or former 1968 PA 74. The computerized central file shall be interfaced with the law enforcement information network as provided in the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(4) The secretary of state shall not provide an entire computerized central or other file of records maintained under this part to a nongovernmental person or entity, unless the purchaser pays the prescribed fee or price for each individual record contained within the computerized file.

(5) A certified copy of an order, record, or paper maintained in this record is admissible in evidence in like manner as the original and is prima facie proof of the facts stated in the original.

Sec. 82156a. (1) Except as provided in this section and in section 82156c, personal information in a record maintained under this part shall not be disclosed, unless the person requesting the information furnishes proof of identity deemed satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 82156c. Notwithstanding this section, highly restricted personal information shall be used and disclosed only as expressly permitted by law.

(2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of a specified federal law. As used in this section, "specified federal law" means the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1231 to 1232 and 1233, the former motor vehicle information and cost savings act, Public Law 92-513, the former national traffic and motor vehicle safety act of 1966, Public Law 89-563, the anti-car theft act of 1992, Public Law 102-519, 106 Stat. 3384, the clean air act, chapter 360, 69 Stat. 322, 42 U.S.C. 7401 to 7431, 7470 to 7479, 7491 to 7492, 7501 to 7509a, 7511 to 7515, 7521 to 7525, 7541 to 7545, 7547 to 7550, 7552 to 7554, 7571 to 7574, 7581 to 7590, 7601 to 7612, 7614 to 7617, 7619 to 7622, 7624 to 7627, 7641 to 7642, 7651 to 7651o, 7661 to 7661f, and 7671 to 7671q, and all federal regulations promulgated to implement these federal laws.

(3) Personal information in a record maintained under this part may be disclosed as follows:

(a) For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a government agency in carrying out its functions.

(b) For use in connection with matters of snowmobile and operator safety or ORV theft; snowmobile emissions; snowmobile product alterations, recalls, or advisories; performance monitoring of snowmobiles; snowmobile research activities, including survey research; and the removal of nonowner records from the original records of snowmobile manufacturers.

(c) For use in the normal course of business by a business or its agents, employees, or contractors to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud, by pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(d) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any court or government agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of any court.

(e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, so long as the personal information is not published, redisclosed, or used to contact individuals.

(f) For use by any insurer, self-insurer, or insurance support organization, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(g) For use in providing notice to the owner of an abandoned, towed, or impounded snowmobile.

(h) For use by any licensed private security guard agency or alarm system contractor licensed under the private security guard act of 1968, 1968 PA 330, MCL 338.1051 to 338.1085, or a private detective or private investigator licensed under the private detective license act of 1965, 1965 PA 285, MCL 338.821 to 338.851, for any purpose permitted under this section.

(i) For use by an ORV rental business or its employees, agents, contractors, or service firms for the purpose of making rental decisions.

(j) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(k) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

Sec. 82156b. (1) An authorized recipient of personal information disclosed under section 82156a may resell or redisclose the information for any use permitted under section 82156a.

(2) Any authorized recipient, except a recipient of an individual record or records under subsection (4)(b), who resells or rediscloses personal information shall be required by the secretary of state to maintain for a period of not less than 5 years records as to the information obtained and the permitted use for which it was obtained, and to make such records available for inspection by the secretary of state, upon request.

Sec. 82156c. (1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this part to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. Unless otherwise prohibited by law, the secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media, and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of records maintained under this part in bulk, in addition to those lists distributed at cost or at no cost under this section, for purposes defined in section 82156a(3) as well as for surveys, marketing, and solicitations. The secretary of state shall require each purchaser of information in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of lists of bulk information, which may include personal information. The proceeds from each sale shall be used by the secretary of state to defray the costs of list preparation and for other necessary or related expenses.

(3) Before selling and furnishing any list of information under subsection (2) for surveys, marketing, and solicitations, the secretary of state shall implement methods and procedures that accomplish all of the following:

(a) 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 shall 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 on forms, notices in electronic media, and other types of notice. Each printed sign shall be not less than 8-1/2 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, the information printed on the forms shall be similar to the information printed on branch office signs. The secretary of state shall review the public information campaign on an annual basis in order to update notice content and furnish notice by more effective means.

(b) 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.

(c) Ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this part, 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.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information furnished or sold is used only for a permissible use and that the rights of individuals and of the secretary of state are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for surveys, marketing, and solicitations shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on snowmobile operation or sanctions to a nongovernmental agency, including an individual.

(7) The secretary of state, on a continuing basis, shall inform individuals of their right to prohibit the disclosure of personal information pertaining to them for purposes of surveys, marketing, and solicitations through the use of a telephone or other automated or efficient system, the use of inserts within individual mailings, and by placing appropriate signs within branch offices.

Sec. 82160. (1) A person who makes a false representation or false certification to obtain personal information under this part, or who uses personal information for a purpose other than a permissible purpose identified in section 82156a or 82156c, is guilty of a felony.

(2) A person who is convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not less than 2 years or more than 7 years, or by a fine of not less than \$1,500.00 or more than \$7,000.00, or both.

(3) A person who is convicted of a third or subsequent violation of this section is guilty of a felony punishable by imprisonment for not less than 5 years or more than 15 years, or by a fine of not less than \$5,000.00 or more than \$15,000.00, or both.

Enacting section 1. This amendatory act takes effect July 1, 1997.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

(a) Senate Bill No. 319.

(b) House Bill No. 4700.

(c) House Bill No. 4701.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved .....

.....  
Governor.