

Timberjag Bill - See Sect. 11

CHAPTER 293--S.F.No. 1770

An act relating to data practices; clarifying application of government data practices act to parties contracting with a government entity; establishing a data security account; authorizing fees for bulk vehicle records requests; requiring the legislative commission on data practices to study the use of motor vehicle and driver's license records; requiring a study of certain health care issues; amending Minnesota Statutes 2012, sections 3.9741, by adding a subdivision; 13.05, subdivision 11; 168.327, subdivision 1, by adding subdivisions; 168.346, subdivision 1; 171.12, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 13.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2012, section 3.9741, is amended by adding a subdivision to read:

Subd. 5. State data security; account, appropriation. (a) The data security account is created in the special revenue fund. Receipts credited to the account are appropriated to the legislative auditor for the purpose of oversight relating to security of data stored and transmitted by state systems. * (The preceding text beginning "Receipts credited" was indicated as vetoed by the governor.)

(b) Subject to available funds appropriated under paragraph (a), the legislative auditor shall:

(1) review and audit the audit reports of subscribers and requesters submitted under section 168.327, subdivision 6, including producing findings and opinions;

(2) in collaboration with the commissioner and affected subscribers and requesters, recommend corrective action plans to remediate any deficiencies identified under clause (1); and

(3) review and audit driver records subscription services and bulk data practices of the Department of Public Safety, including identifying any deficiencies and making recommendations to the commissioner.

(c) The legislative auditor shall submit any reports, findings, and recommendations under this subdivision to the legislative commission on data practices.

Sec. 2. Minnesota Statutes 2012, section 13.05, subdivision 11, is amended to read:

Subd. 11. **Privatization.** (a) If a government entity enters into a contract with a private person to perform any of its functions, the government entity shall include in the contract terms that make it clear that all of the data created, collected, received, stored, used, maintained, or disseminated by the private person in performing those functions is subject to the requirements of this chapter and that the private person must comply with those requirements as if it were a government entity. All contracts entered into by a government entity must include a notice that the requirements of this subdivision apply to the contract. Failure to include the notice in the contract does not invalidate the application of this subdivision. The remedies in section 13.08 apply to the private person under this subdivision.

(b) This subdivision does not create a duty on the part of the private person to provide access to public data to the public if the public data are available from the government entity, except as required by the terms of the contract.

Sec. 3. [13.387] HEALTH CARE CONTRACT DATA.

The provisions of section 13.05, subdivision 11, apply to health plan companies, managed care organizations, county-based purchasing plans, third-party administrators, providers, or other vendors, or their parent or subsidiary, contracting with a government entity for health care related services. This section is effective June 30, 2015.

Sec. 4. Minnesota Statutes 2012, section 168.327, subdivision 1, is amended to read:

Subdivision 1. **Records and fees.** (a) Upon request by any person authorized in this section, the commissioner shall furnish a certified copy of any driver's license record, instruction permit record, Minnesota identification card record, vehicle registration record, vehicle title record, or accident record.

(b) Except as provided in subdivisions 4 and 5, and other than accident records governed under section 169.09, subdivision 13, the requester shall pay a fee of \$10 for each certified record specified in paragraph (a) or a fee of \$9 for each record that is not certified.

(c) Except as provided in subdivisions 4 and 5, in addition to the record fee in paragraph (b), the fee for a copy of the history of any vehicle title not in electronic format is \$1 for each page of the historical record.

(d) Fees collected under paragraph (b) for driver's license, instruction permit, and Minnesota identification card records must be paid into the state treasury with 50 cents of each fee credited to the general fund. The remainder of the fees collected must be credited to the driver services operating account in the special revenue fund under section 299A.705.

(e) Fees collected under paragraphs (b) and (c) for vehicle registration or title records must be paid into the state treasury with 50 cents of each fee credited to the general fund. The remainder of the fees collected must be credited to the vehicle services operating account in the special revenue fund specified in section 299A.705.

(f) Except as provided in subdivisions 4 and 5, the commissioner shall permit a person to inquire into a record by the person's own electronic means for a fee of \$4.50 for each inquiry, except that no fee may be charged when the requester is the subject of the data.

(1) Of the \$4.50 fee, \$2.70 must be deposited in the general fund.

(2) For driver's license, instruction permit, or Minnesota identification card records, the remainder must be deposited in the driver services operating account in the special revenue fund under section 299A.705.

(3) For vehicle title or registration records, the remainder must be deposited in the vehicle services operating account in the special revenue fund under section 299A.705.

(g) Fees and the deposit of the fees for accident records and reports are governed by section 169.09, subdivision 13.

Sec. 5. Minnesota Statutes 2012, section 168.327, is amended by adding a subdivision to read:

Subd. 4. **Driver records subscription service.** (a) The commissioner may implement a driver records subscription service to provide information concerning access to driver license, instruction permit, and identification card records, including regular notice of records that have changed, to subscribers who:

(1) pay applicable fees; and

(2) are approved by the commissioner in accordance with sections 168.346 and 171.12, and United States Code, title 18, section 2721.

(b) If a driver records subscription service is implemented, the commissioner shall establish a fee that does not exceed \$3,680 per month for a subscription to the service. Fees collected under this paragraph must be credited to the driver services operating account in the special revenue fund under section 299A.705, and are appropriated to the commissioner for the purposes in paragraph (a) and this paragraph.

(c) If a driver records subscription service is implemented, the commissioner shall establish a fee that does not exceed \$0.01 per driver record requested. Of the fees collected under this paragraph, 40 percent must be credited to the driver services operating account in the special revenue fund under section 299A.705 and is appropriated to the commissioner for the purposes in this subdivision, and 60 percent must be credited to the data security account in the special revenue fund under section 3.9741, subdivision 5.

Sec. 6. Minnesota Statutes 2012, section 168.327, is amended by adding a subdivision to read:

Subd. 5. **Bulk vehicle records requests.** (a) "Bulk vehicle records" in this section is a total of 1,000 or more vehicle title records and vehicle registration records.

(b) The commissioner shall establish a fee that does not exceed \$0.01 per record for a request of bulk vehicle records.

(c) Of the fees collected, 40 percent must be credited to the vehicle services operating account in the special revenue fund under section 299A.705 and is appropriated to the commissioner for the purposes in this subdivision, and 60 percent must be credited to the data security account in the special revenue fund under section 3.9741, subdivision 5.

Sec. 7. Minnesota Statutes 2012, section 168.327, is amended by adding a subdivision to read:

Subd. 6. **Review and audit of purchases of bulk driver and motor vehicle records.** Each subscriber and each requester of bulk vehicle records shall engage an independent professional organization to audit its uses of bulk data and its information technology security procedures, including the methods and practices employed in the processing and use of driver and vehicle services data. Within 30 days of the date of the audit report, each subscriber and requester must submit each report to the legislative auditor and the commissioner.

Sec. 8. Minnesota Statutes 2012, section 168.346, subdivision 1, is amended to read:

Subdivision 1. **Vehicle registration data; federal compliance.** (a) Data on an individual provided to register a vehicle shall be treated as provided by United States Code, title 18, section 2721, as in effect on May 23, 2005, and shall be disclosed as required or permitted by that section. The commissioner shall disclose the data in bulk form to an authorized recipient upon request for any of the permissible uses described in United States Code, title 18, section 2721.

(b) The registered owner of a vehicle who is an individual may consent in writing to the commissioner to disclose the individual's personal information exempted by United States Code, title 18, section 2721, to any person who makes a written request for the personal information. If the registered owner is an individual and so authorizes disclosure, the commissioner shall implement the request.

(c) If authorized by the registered owner as indicated in paragraph (b), the registered owner's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes including surveys, marketing, or solicitation.

Sec. 9. Minnesota Statutes 2012, section 171.12, subdivision 7, is amended to read:

Subd. 7. **Privacy of data.** (a) Data on individuals provided to obtain a driver's license or Minnesota identification card shall be treated as provided by United States Code, title 18, section 2721, as in effect on May 23, 2005, and shall be disclosed as required or permitted by that section. The commissioner shall disclose the data in bulk form upon request to an authorized recipient under United States Code, title 18, section 2721.

(b) An applicant for a driver's license or a Minnesota identification card may consent, in writing, to the commissioner to disclose the applicant's personal information exempted by United States Code, title 18, section 2721, to any person who makes a request for the personal information. If the applicant so authorizes disclosures, the commissioner shall implement the request and the information may be used.

(c) If authorized by an applicant for a driver's license or a Minnesota identification card, as indicated in paragraph (b), the applicant's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes, including surveys, marketing, or solicitation.

(d) An applicant for a driver's license, instruction permit, or Minnesota identification card may request that the applicant's residence address be classified as "private data on individuals," as defined in section 13.02, subdivision 12. The commissioner shall grant the classification on receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the service for process mailing address in place of the residence address in all documents and notices pertaining to the driver's license, instruction permit, or Minnesota identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518A.26, subdivision 18.

Sec. 10. **REVIEW OF ISSUES RELATED TO THE USE OF STATE MOTOR VEHICLE AND DRIVER'S LICENSE RECORDS.**

(a) The legislative commission on data practices shall study issues relating to disclosure of motor vehicle registration and driver's license data in bulk form. The study and analysis must include:

(1) any violations of the federal law or breaches of security by purchasers of bulk data since passage of this act;

(2) program audit requirements and practices, and the results of reviews and audits of bulk purchasers of data presented by the legislative auditor;

(3) revenues received from the sale of bulk data and the costs associated with providing the data, including options for fees and charges to provide access to the data;

(4) any options for continued bulk transfer of data, including quality and timing, and alternatives to bulk transfer that will facilitate the disclosure of data for purposes that are required under federal law while ensuring data privacy and security; and

(5) the operation of the subscription service established under Minnesota Statutes, section 168.327, subdivision 4.

As used in this section "the federal law" means United States Code, title 18, sections 2721 to 2725.

(b) In conducting the review required by this section, the commission shall invite the input and participation of a cross-section of private and governmental entities that obtain and use motor vehicle registration and driver's license data pursuant to Minnesota Statutes, sections 168.346 and 171.12, and consumer advocates and data privacy experts.

Sec. 11. **HEALTH CARE STUDY.**

The commissioner of human services, in consultation with interested stakeholders and other state agencies, shall study public policy issues related to application of Minnesota Statutes, section 13.05, subdivision 11, to the entities listed in section 3 and the economic impact on the health care market. The commissioner shall submit a report to the chairs and ranking minority members of the committees of the legislature with jurisdiction over health and human services policy and finance and data practices by December 21, 2014.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 and 4 to 10 are effective January 1, 2015. Sections 2 and 11 are effective the day following final enactment.

Presented to the governor May 17, 2014

Signed by the governor May 28, 2014, 4:24 p.m.