

# STATE OF NEW YORK

9116

## IN ASSEMBLY

January 21, 2020

Introduced by M. of A. LiPETRI -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to allowing the commissioner of motor vehicles to share immigration status information with agencies that enforce immigration law

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 8, 9, 10, 11 and 12 of section 201 of the  
2 vehicle and traffic law, as added by chapter 37 of the laws of 2019, are  
3 amended to read as follows:

4 8. Any portion of any record retained by the commissioner in relation  
5 to a non-commercial driver's license or learner's permit application or  
6 renewal application that contains the photo image or identifies the  
7 social security number, telephone number, place of birth, country of  
8 origin, place of employment, school or educational institution attended,  
9 source of income, status as a recipient of public benefits, the customer  
10 identification number associated with a public utilities account,  
11 medical information or disability information of the holder of, or  
12 applicant for, such license or permit is not a public record and shall  
13 not be disclosed in response to any request for records except: (a) to  
14 the person who is the subject of such records; or (b) where expressly  
15 required pursuant to chapter three hundred three of part A of subtitle  
16 vi of title forty-nine of the United States code; or (c) where necessary  
17 to comply with a lawful court order, judicial warrant signed by a judge  
18 [~~appointed pursuant to article III of the United States constitution~~],  
19 or subpoena for individual records issued pursuant to the criminal  
20 procedure law or the civil practice law and rules.

21 9. The commissioner shall not disclose or otherwise make accessible  
22 original documents or copies of documents collected from non-commercial  
23 driver's license or learner's permit applicants or renewal applicants to  
24 prove identity, age, or fitness except: (a) to the person who is the  
25 subject of such documents; or (b) where expressly required pursuant to  
26 chapter three hundred three of part A of subtitle vi of title forty-nine  
27 of the United States code; or (c) unless necessary to comply with a

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 lawful court order, judicial warrant signed by a judge [~~appointed pursuant to article III of the United States constitution~~], or subpoena for  
2 individual records properly issued pursuant to the criminal procedure  
3 law or the civil practice law and rules.

4  
5 10. The commissioner shall not disclose or otherwise make accessible  
6 any portion of any record that identifies whether the type of driver's  
7 license or learner's permit that a person holds either meets federal  
8 standards for identification or does not meet federal standards for  
9 identification except: (a) to the person who is the subject of such  
10 record; or (b) where expressly required pursuant to chapter three  
11 hundred three of part A of subtitle vi of title forty-nine of the United  
12 States code; or (c) unless necessary to comply with a lawful court  
13 order, judicial warrant signed by a judge [~~appointed pursuant to article~~  
14 ~~III of the United States constitution~~], or subpoena for individual  
15 records properly issued pursuant to the criminal procedure law or the  
16 civil practice law and rules.

17 11. For the purposes of this section, whenever a lawful court order,  
18 judicial warrant, or subpoena for individual records properly issued  
19 pursuant to the criminal procedure law or the civil practice law and  
20 rules is presented to the commissioner, only those records, documents,  
21 or information specifically sought by such court order, warrant, or  
22 subpoena may be disclosed.

23 [~~12. (a) Except as required for the commissioner to issue or renew a~~  
24 ~~driver's license or learner's permit that meets federal standards for~~  
25 ~~identification, the commissioner, and any agent or employee of the~~  
26 ~~commissioner, shall not disclose or make accessible in any manner~~  
27 ~~records or information that he or she maintains, to any agency that~~  
28 ~~primarily enforces immigration law or to any employee or agent of such~~  
29 ~~agency, unless the commissioner is presented with a lawful court order~~  
30 ~~or judicial warrant signed by a judge appointed pursuant to article III~~  
31 ~~of the United States constitution. Upon receiving a request for such~~  
32 ~~records or information from an agency that primarily enforces immi-~~  
33 ~~gration law, the commissioner shall, no later than three days after such~~  
34 ~~request, notify the individual about whom such information was~~  
35 ~~requested, informing such individual of the request and the identity of~~  
36 ~~the agency that made such request.~~

37 (b) ~~The commissioner shall require any person or entity that receives~~  
38 ~~or has access to records or information from the department to certify~~  
39 ~~to the commissioner, before such receipt or access, that such person or~~  
40 ~~entity shall not (i) use such records or information for civil immi-~~  
41 ~~gration purposes or (ii) disclose such records or information to any~~  
42 ~~agency that primarily enforces immigration law or to any employee or~~  
43 ~~agent of any such agency unless such disclosure is pursuant to a cooper-~~  
44 ~~ative arrangement between city, state and federal agencies which~~  
45 ~~arrangement does not enforce immigration law and which disclosure is~~  
46 ~~limited to the specific records or information being sought pursuant to~~  
47 ~~such arrangement. In addition to any records required to be kept pursu-~~  
48 ~~ant to subdivision (c) of section 2721 of title 18 of the United States~~  
49 ~~code, any person or entity certifying pursuant to this paragraph shall~~  
50 ~~keep for a period of five years records of all uses and identifying each~~  
51 ~~person or entity that primarily enforces immigration law that received~~  
52 ~~department records or information from such certifying person or entity.~~  
53 ~~Such records shall be maintained in a manner and form prescribed by the~~  
54 ~~commissioner and shall be available for inspection by the commissioner~~  
55 ~~or his or her designee upon his or her request.~~

1 ~~(c) For purposes of this subdivision, the term "agency that primarily~~  
2 ~~enforces immigration law" shall include, but not be limited to, United~~  
3 ~~States immigration and customs enforcement and United States customs and~~  
4 ~~border protection, and any successor agencies having similar duties.]~~

5 § 2. This act shall take effect immediately.