



The Washington Report

The Newsletter of the National Association of Police Organizations
Representing America's Finest

August 9, 2013

NAPO WASHINGTON REPORT FLASH

Driver's Privacy Protection Act

Today, NAPO sent letters to all of the members of the House and Senate Judiciary Committees, as well as all Florida Senators and Congressmen to urge them to consider NAPO's proposal to modify the recent amendment to the Driver's Privacy Protection Act (DPPA), which negatively impacts the law enforcement community. (A sample letter is attached at the end of this report for your review).

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

NAPO urged each of the contacted members of Congress to consider our proposed language modifications to the amendment, which include adding a clause that explains that penalties will be applied only if persons access information with the specific intent to secure an economic benefit. Also, NAPO proposes removing the \$2,500 penalty for a violation of this act, as well as adding a statement that explains there must be repeated disregard of this law for action to be taken. If the language is not modified, law enforcement officers will be subject to large fines, and even the loss of their licenses for *de minimus* actions.

NAPO will continue to aggressively lobby members of Congress to gain support for our proposed language changes to the DPPA amendment.

NAPO's Response to Rolling Stone Cover

As noted in last week's Washington Report, NAPO has contacted all of the companies that included advertisements in the August 2013 issue of Rolling Stone magazine to inform them of NAPO's strong opposition to the magazine's portrayal of the surviving terrorist responsible for the Boston bombing. We have called for the companies to stop placing advertisements in the magazine until Rolling Stone's editor publically recants the decision to glorify a terrorist. The contacted companies include:

- Texas Pete
- Coca-Cola
- Converse

- Anheuser-Busch
- Procter & Gamble
- McDonald's
- R.J. Reynolds Tobacco Company
- Kraft Foods
- Mars Company
- Netflix
- Walmart
- Callard & Bowser

NAPO has received positive feedback from the companies we have contacted. We will keep our members updated as we receive definitive responses from Rolling Stone's advertisers.

If you have any questions about the DPPA or NAPO's response to Rolling Stone's editor, please contact Melissa Nee at: mnee@napo.org.

Please monitor NAPO's website www.napo.org, and Facebook page: National Association of Police Organizations, and follow us on Twitter at NAPOpolice for breaking news and updates.

NATIONAL ASSOCIATION OF POLICE ORGANIZATIONS, INC.

Representing America's Finest

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

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

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



EXECUTIVE OFFICERS

THOMAS J. NEE

President

*Boston Police
Patrolmen's Association*

MICHAEL MCHALE

Executive Vice President

*Florida Police Benevolent
Association*

CHRIS COLLINS

Recording Secretary

*Las Vegas Police
Protective Association*

SEAN M. SMOOT

Treasurer

*Police Benevolent & Protective
Association of Illinois*

KEITH DUNN

Sergeant-at-Arms

*New Jersey State Policemen's
Benevolent Association*

JOHN A. FLYNN

Executive Secretary

*Patrolmen's Benevolent
Association of New York City*

NATIONAL HEADQUARTERS

WILLIAM J. JOHNSON

Executive Director

August 8, 2013

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

Dear Chairman Leahy:

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

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

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

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

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

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

Sincerely,

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

William J. Johnson
Executive Director

Attachment

PROPOSED AMENDMENT TO DRIVERS PRIVACY PROTECTION ACT
18 USC Sec. 2724
ADDED LANGUAGE IS IN **BOLD AND UNDERLINED**
DELETED LANGUAGE IS ~~DOUBLE STRUCKTHROUGH~~

-CITE-

18 USC Sec. 2724
(112-90)

01/03/2012

-EXPCITE-

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

-HEAD-

Sec. 2724. Civil action

-STATUTE-

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

(b) Remedies. - The court may award -

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

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

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

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

-SOURCE-

(Added Pub. L. 103-322, title XXX, Sec. 30002(a), Sept. 13, 1994, 108 Stat. 2101.)

-End-

-CITE-

18 USC Sec. 2725
(112-90)

01/03/2012

-EXPCITE-

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

-HEAD-

Sec. 2725. Definitions

-STATUTE-

In this chapter -

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

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

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

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

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

-SOURCE-

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

-REFTEXT-

REFERENCES IN TEXT

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

-MISC1-

AMENDMENTS

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

-FOOTNOTE-

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

-End-