

**September 26-29, 2024 | Sheraton Boston Hotel**



09/28/2024

**Privacy/Driving Records 2024**

1:15 PM - 2:15 PM

Kathy Cormier

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# Privacy and Driving Records 2024



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MAIA's Member Relation Advocate

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## Federal Driver Privacy Protection Act (FDPPA)

### **Federal Driver Privacy Protection Act (FDPPA)**

The Federal Driver Privacy Protection Act (FDPPA), imposes restrictions on the disclosure of “personal information” contained in motor vehicle records. DPPA, which went into effect in 1997, limits to whom and for what purpose personal information can be disclosed.



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

Definition of Personal Information. Under the DPPA, personal information is broadly defined and includes:

- Name
- Address
- Driver License Number
- Social Security Number
- Photo Image
- Medical Information



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

Permitted Users include 14 different groups. Agents fall under number 6 of the 14:

- 6. For use by an insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting.**



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### Penalties for Violations

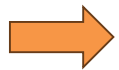
- Under the federal law, a state may be subject to a civil penalty of up to \$5,000 per day, for each day of substantial noncompliance.
- A person who knowingly obtain, discloses or uses personal information for purposes not permitted under DPPA, may be liable to individuals that the information relates. The court may award the greater of actual damages or \$2,500 punitive damages upon proof of willful or reckless disregard of the law, the attorney's fees and costs.



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)



#### Personal Information DOES NOT include:

- Vehicular accidents
- Driving violations (including citation information)
- Driver's status
- Vehicle-specific information (which does not identify an individual)
- Company or business information (which does not identify an individual)



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### The Agent's Role

Agents access to driver records is limited to:

- C. 123, § 2721 (b),(6) – for use by an insurer or insurance support organization or by a self-insured entity, or its agents, employees, or contractor, in connection with claims investigation activities, antifraud activities, rating or underwriting; or
- C. 123, § 2721 (b), (9) – for use by an employer or its agent or insurer to obtain or verify information to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2710 et. Seq)



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### The Agent's Role

The use of personal information by anyone (including insurance agents) for any other purpose would be governed by:

- C. 123, § 2727, (c) – Resale or Redisclosure – **Any authorized recipient** (except a recipient under subsection (b)(11)) **that resells or rediscloses personal information** covered by this title **must keep for a period of 5 years records identifying each person or entity that received information and the permitted purpose for which the information will be used and must make such records available to the motor vehicle department upon request.**



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### The Agent's Role

Redisclosure of personal information by an insurance agent would still require that the requestor be a permitted user and would impose the additional requirement of retaining records for a 5-year period upon the agent.



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### Definitions (FDPPA § 2727)

- **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.
- **Person** means an individual, organization or entity, but does not include a state or agency thereof;



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### Definitions (FDPPA § 2727)

- **Personal Information** means information that:
  - a. Identifies an individual, including an individual's photograph,
  - b. Social security number,
  - c. Driver identification number,
  - d. Name,
  - e. Address (but not the 5-digit zip code),
  - f. Telephone number, and
  - g. Medical or disability information



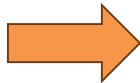
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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### Definitions (FDPPA § 2727)

- **Personal Information** means information that:



#### **h. But does not include:**

- Vehicular accidents
- Driving Violations, and
- Driver Status



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## Federal Driver Privacy Protection Act (FDPPA)

### Federal Driver Privacy Protection Act (FDPPA)

#### Definitions (FDPPA § 2727)

- **Highly restricted personal information** means an:
  - a. Individual's photograph or image,
  - b. Social security number,
  - c. Medical or disability information;
- **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



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- The Driving Record Request Form and the Request for Personal Information RMV Records have both been revised due to the Work and Family Mobility Act requirements. A photocopy of the license/ID of the license holder/requestor/authorized recipient is required with both forms.



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- **Driving Record Request Form**
- The revised Driving Record Request Form (DCU100) has a date “0923” in the lower right corner and is available online.
- **Request for Personal Information RMV Records**
- The revised Request for Personal Information RMV Records (DCU140) has a date of “0923” in the lower right corner and is available online.



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- **Who can Request a Driving Record**
- All of the following can request a driving record:
  1. The data subject (license holder) using the *Driving Record Request Form*.
  2. An authorized recipient with authorization from the data subject using the *Driving Record Request Form*.
  3. A 3<sup>rd</sup>. Party DPPA requester using the **Request for Personal Information RMV Records**.



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- **How can you Request a Driving Record?**
- **Online: myRMV**
  - **Data subjects** may request their own driving record (either Unattested or True & Attested) by logging into their profile via myRMV.
- **Contact Center**
  - **Data subject** can request their own True & Attested driving record by calling the Contact Center. The driving record may **ONLY** be sent to the address on file.



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- **How can you Request a Driving Record?**
- **By Mail**
  - Driving records can be processed via mail. All mailed requests must be accompanied by proper identification documentation. The documentation will vary depending on who is making the request:
    - **Data subjects** will need to submit a completed *Driving Record Request Form*, the applicable fee, and a photocopy of their license/ID



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## Driving Records

- Revised Driving Records and DPPA Forms
- **How can you Request a Driving Record?**
- **By Mail**
  - **Authorized recipients** will need to submit a completed *Driving Record Request Form* signed by the license holder and the certification signed by the authorized recipient, the applicable fee, and a photocopy of both the license holder's and the authorized recipient's license/ID.
  - **DPPA requestors** will need to submit a completed *Request for Personal Information RMV Records form* with the certification signed by the requestor, the applicable fee, and a photocopy of the requestor's license/ID.



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## Driving Records

- Revised Driving Records and DPPA Forms
- **How can you Request a Driving Record?**
- **In-Person**
- Service Centers may process data subject and "authorized recipient" driving record requests.
  - **Data subjects** will need to provide a completed *Driving Record Request Form*, the applicable fee, and the clerk will verify that the requestor is the data subject. If there is any doubt that the requestor is the data subject, the clerk must request to see their license/ID.
  - **Authorized recipients** will need to provide a completed *Driving Record Request Form* signed by the license holder and the certification signed by the authorized recipient, the applicable fee, and a photocopy of both the license holder's and the authorized recipient's license/ID.



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- **How can you Request a Driving Record?**
- **Court Records** may process all driving record requests, regardless of the requestor. The documentation will vary depending on who is making the request:
  - **Data subject** will need to provide a completed Driving Record Request Form, the applicable fee, and the clerk will verify that the requestor is the data subject. If there is any doubt that the requestor is the data subject, the clerk must request to see their license/ID.



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- **How can you Request a Driving Record?**
- **Court Records** may process all driving record requests, regardless of the requestor. The documentation will vary depending on who is making the request:
  - **Authorized recipients** will need to provide a completed Driving Record Request Form signed by the license holder and the certification signed by the authorized recipient, the applicable fee, and a photocopy of both the license holder's and the authorized recipient's license/ID.
  - **DPPA requestors** will need to submit a completed Request for Personal Information RMV Records form with the certification signed by the requestor, the applicable fee, and a photocopy of the requestor's license/ID.



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## Driving Records

- **Revised Driving Records and DPPA Forms**
- **How can you Request a Driving Record?**
- **Online Driving Records**
- Effective immediately, the “Request a Driving Record” online transaction is available again. It had been temporarily disabled.
- The online transaction was changed to allow customers to request only their own driving records. The option to request somebody else’s driving record has been removed, as this can no longer be done online. Customers who want to request a driving record for themselves must log into their profile first and then request the driving record option.



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- The Driver Verification System (DVS) is a program that improves public safety in Massachusetts. DVS give your commercial clients the ability to track license statuses of their drivers and receive email notification from the RMV if there is a change in their license status at any time while the business is enrolled in DVS.



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- Effective August 12, 2023, you may use the eService Portal Driver Verification System (DVS) program **to check the driving record of a potential new driver for your business** in addition to existing employees.
- This is great news as this takes you, the agent, out of the loop to look at driving records for potential new hires!



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- **New Certification Language in the eService Portal**
- New language was added to the summary screen when adding a new subscribed driver.
- This language ensures that access to individual driving records and data is provided only to permissible users for permissible uses as required under the DPPA, 18.U.S. Code s. 2721.



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**

- The new language is:

*–By clicking submit below, and accessing the required RMV data, **you certify that this driver is your employee or a candidate for employment at your business and that you obtained their written consent to access their driving record and license status.** The driver/employee or candidate understands that you will be able to access their driving history and/or receive notification of any change to their license status.*



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**

- What is DVS?

- DVS has two functions:

1. The ability to track driver's license status of your current and/or future drivers/employees and receive email notification from the RMV if there is a change in the license status at any time while they are enrolled/subscribed in DVS. The DVS program will return the following data:



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- What is DVS?
- The DVS program will provide the following information for any driver enrolled:
  - License class held (CDL, Passenger, Motorcycle)
  - License status and Expiration Date
  - Organ Donor
  - Restrictions and Endorsements
  - 7D School Bus Certificate Expiration Date
  - CDL Self Certification Type & Expiration Date



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- What is DVS?
  2. Allows you to request Driving Record of any current or future employee/driver enrolled in the program. The Driving Record is an Unattested Driving Record includes all surchargeable accidents, criminal and civil driving offenses for which a person was found either guiltily or responsible, plus discretionary, and administrative license suspension actions.



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- **What to know about the DVS Program?**
- Before you enroll any driver/employee you must obtain their written consent to access their driving record and/or license status.
- You are required to provide the license number, date of birth, and last and first name for each driver that is being enrolled in the DVS program.
- You are also required to delete any driver that is no longer in your employment or has not been hired.



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- **Who can participate in the DVS Program?**
- DVS is available to RMV permitted users as stated in Section 1 of the Agreement for Access to Records and Data Maintained by the Registry of Motor Vehicles.



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- When the customer received a DVS notification via email you are required to log into your DVS account to view the driver(s) that has had a status change. DVS also allows you to obtain driving records for any driver enrolled in the DVS program.



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## Driver Verification System (DVS) Program

- **The Driver Verification System (DVS) Program**
- The DVS Program also allows you to request and Unattested Public Driving Record. The Public Driving Record includes all surchargeable accidents, criminal and civil driving offenses for which a person was found either guilty or responsible, plus discretionary and administrative license suspension actions.
- The DVS program is FREE, however, the Unattested Public Driving Records are \$8 and will be billed to the business account each month.



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- Thanks for attending!! Remember, I'm just a phone call or email away:
- Kathy S. Cormier, CPPL  
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800-742-6363 (Toll Free)  
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