

South Dakota Driver Licensing Privacy Policy

Privacy notice

South Dakota has an "Open Records Law" (SDCL ch. 1-27). This means the public has the right to access appropriate records and information collected by state government, including the Driver Licensing Program records. The law recognizes the need to balance individual privacy with the public's right to access personal information from government records. Both state and federal law identify specific records and data that are confidential or that may be disclosed only for limited purposes.

Privacy is of utmost concern. The Driver Licensing Program is committed to protecting personal information to the fullest extent possible by law. The Driver Licensing Program only collects information necessary to deliver Driver Licensing services in accordance with state and federal law.

Collection of personal information

Driver license/Identification Card applicants must provide documentation to provide evidence of identity, date of birth, social security number or nonwork authorized status, address of principal residence, and lawful status. The Driver Licensing Program is required by state and federal law to make a copy of the documentation and retain the copy for ten years. All documents retained are considered confidential.

The Driver Licensing Program collects personal information from various sources to administer the program. For instance, the Driver Licensing Program captures personal information from the completed driver license application including full legal name, date of birth, social security number, sex, and current mailing address and residential address of the applicant. When a driver license is issued, the Driver Licensing Program captures information defined as personal under the Federal Driver Privacy Protection Act (DPPA), which is protected, and additional information, such as date of birth, which is not protected under DPPA. If a person wants to be listed as a potential organ donor, the donor information is not protected under DPPA. The additional data collected is necessary to accurately record and retain complete and uniform customer records. Other sources used to collect personal data include traffic citation conviction information; court actions including judgments, and other Driver Licensing Program-related licensing actions. The South Dakota Driver Licensing Program will not use or disclose personal information except as expressly authorized by state and federal law.

Social security number

State and federal law requires the Driver Licensing Program to collect Social Security Numbers when issuing a driver license. The Social Security Number is kept private and is not shared unless required by law. In rare instances, a court may order the Driver Licensing Program to provide the Social Security Number for a court proceeding. Additionally, the federal government is authorized access to Social Security Numbers under commercial driver license (CDL) guidelines.

Data protection

The Driver Licensing Program safeguards personal information and the integrity of its computer operating systems. Security measures are integrated into procedures for data collection, during system design and implementation, and day-to-day practices.

Personal information is protected from dissemination, tampering, theft and unauthorized disclosure.

Available information

Accidents, most conviction data, and the status of operating privileges are considered open records and not protected by state or federal law as personal identifiable data.

Personal identifiable information defined

DPPA defines personal identifiers as:

- Name;
- Address (not 5 digit zip code);
- Driver license number;
- Social security number;
- Telephone number;
- Photograph; and
- Medical and disability information.

To obtain a driving record, which contains personal identifiable information, the entity or person requesting the information must comply with the DPPA and complete a driver record/motor vehicle report request indicating what authorizes the data release.

Federal Driver Privacy Protection Act criteria

The Federal Driver Privacy Protection Act (DPPA) requires the Driver Licensing Program to disclose personal information for the following uses relating to:

- Motor vehicle or driver safety and theft;
- Motor vehicle emissions;
- Motor vehicle product alterations, recalls or advisories;
- Performance monitoring of motor vehicles and dealers by motor vehicle manufacturers;
- The Automobile Information Disclosure Act;
- The Anti Car Theft Act of 1992; and
- The Clean Air Act

The DPPA permits disclosure of personal information for use:

- By federal, state or local courts and law enforcement;
- In connection with driver safety, theft, emission, product alterations, recalls, etc.;
- In the normal course of business to verify accuracy of data, to prevent fraud by pursuing legal remedies against or recovering a debt or security against a person;
- In connection with any civil, criminal, or administrative court agency;
- In research activities and for use in producing statistical reports so long as the personal information is not published, re-disclosed, or used to contact individuals;
- In providing notice to owners of towed or impounded vehicles;
- By employers for CDL information;

- If the requester has written permission of the person;
- Specifically authorized under state law, if such use is related to the operation of a motor vehicle or public safety;
- By an insurer or insurance support organization or self insured entity or its agency, employees or contractors for claims, anti-fraud, rating and underwriting.

Access to photograph and other personal information

The DPPA protects photographs, but does allow law enforcement agencies or other authorized agencies to obtain them for legitimate investigatory purposes. In some cases, the Driver Licensing Program may use or disclose personal information to authorized state and federal agencies, including other state driver licensing programs, law enforcement agencies, and courts for purposes related to civil/criminal court proceedings and other authorized uses.

Data retention

Driver convictions for major traffic violations in a commercial motor vehicle, such as operating while intoxicated and violations involving great bodily harm, remain on the record for up to 55 years. Convictions for driving while placed out of service remain on the record for 15 years from the conviction date or for as long as the resulting withdrawal of CDL privileges, whichever is longer. Serious convictions in a commercial motor vehicle, such as violations of railroad grade crossings and failure to stop at a stop sign, remain on the record for four years or until any resulting withdrawal of CDL privileges is over. Most other commercial convictions remain on the record for 3 years. All commercial withdrawal actions remain on the record for the length of the underlying conviction and for a minimum of 3 years from the eligibility or reinstatement date, whichever is later. All non-commercial convictions and accidents remain on the record for ten years or until all license withdrawals associated with the corresponding conviction are closed. SR22 and SR26 filings are maintained for ten years. Documentation supporting a driver license withdrawal are retained until 20 years after the case is closed. Statute of limitations on uncollectible restitution cases (judgment suspensions) is 20 years pursuant to SDCL ch. 32-35. To assure complete records, out of state convictions are added to driver records in the same manner as South Dakota convictions. The driver violation descriptions are the same, regardless of where the violation occurred in the United States.

Driving record information is maintained by the Driver Licensing Program and is made available to the public. The Driver Licensing Program shall furnish to any person upon request a certified abstract of the operating record for the last three years. The abstract shall include enumeration of any motor vehicle accidents in which the person has been involved and reference to any convictions of the person for a violation of the motor vehicle laws as reported to the department. The department shall collect five dollars for each abstract. Any governmental entity or subdivision is exempt from this fee.

Since the driving record contains personal information, requestors must comply with the provisions of the DPPA. No conviction for speeding in a non-commercial vehicle which is ten miles per hour or less over the posted speed limit and no non-commercial speeding conviction received from another state is included on the driving record. No accident may be entered on the driving record of a law enforcement officer, firefighter, or emergency medical technician if the accident resulted from the response to a call of duty. No accident may be entered on the

driving record of an operator of emergency snow removal equipment if the accident resulted from the operator's response to an emergency call of duty as an operator of emergency snow removal equipment and the operator was lawfully engaged in the performance of official duties in support of an emergency call of duty by a law enforcement officer, firefighter, or emergency medical technician and was driving official snow removal equipment

Penalties for inappropriate data disclosure

Authorized persons or entities obtaining information from the driver licensing program's records can share that data for specific reasons, but must retain a five-year history of when and to whom personal data was provided. The DPPA prohibits the Driver Licensing Program from disclosing personal information about any individual obtained in connection with a driver's record without a properly completed DPPA form. The DPPA includes federal criminal penalties for misuse of data obtained from driver licensing records. Those federal penalties apply equally to state governments, state officials and all authorized recipients of the driver licensing information. In addition, all driver licensing employees responsible for handling and protecting information maintained by the Driver Licensing Program are required to read, sign and, adhere to a confidentiality statement on an annual basis. The statement includes the following information:

- A Department employee may only access information when necessary to accomplish the Department's mission and objectives. Information is not to be accessed or used for personal reasons.
- A Department employee may only disclose information from Department files or databases to individuals who have been authorized to receive it through appropriate Department procedures.
- A Department employee may not enter false or incomplete data or delete existing valid data in any database or file or take an unauthorized action that would cause the interruption or denial of services, or the destruction or alteration of data or software.
- A Department employee must take reasonable precautions to maintain the secrecy of any password used to access information.
- A Department employee must take reasonable precautions to protect equipment from unauthorized access.

Disciplinary action in accordance with state and federal laws and regulations and civil/criminal prosecution is taken when an employee violates the provisions of the confidentiality statement.

Data integrity/correction

The Driver Licensing Program strives for accurate and complete data. This helps to reduce fraud and enhance system integrity.

The Driver Licensing Program must have written documentation verifying an error was made before it can correct a record. If the information was reported to the Driver Licensing Program through a court action, the reporting court must be contacted for resolution. For example, if a traffic conviction includes incorrect information, contact the court to provide new information to the Driver Licensing Program. The Driver Licensing record can be corrected only if the court provides

documentation to change it. Additional questions on the Driver Licensing Program record information and access can be directed to: DPSLicensingInfo@state.sd.us.

Most data the Driver Licensing Program collects and retains is required by state and federal law, including the DPPA. These laws control the release of the data. The DPPA is enforced by the U.S. Department of Justice, which may seek civil and criminal penalties for improperly obtaining, disclosing, or using personal information from a motor vehicle record for a purpose not permitted by the DPPA. This includes civil penalties for driver licensing agencies having a policy or practice in substantial noncompliance with the DPPA.

If you want to file a complaint or pursue legal action because of unauthorized use or release of your personal Driver Licensing Program information in violation of the DPPA, please contact: U.S. Attorney's Office for the District of South Dakota at 605.330.4400.

Questions

Questions regarding this policy should be addressed to:

- South Dakota Department of Public Safety, Driver Licensing Program, 118 West Capitol Avenue, Pierre, SD 57501.