

# Roadsoft Crash Data Disclaimer

## RESTRICTED USE WARNING

You are being provided information of which disclosure is restricted by federal law. Your access is conditioned upon your agreement to comply with the requirements of federal and state laws. MDOT provides access to this information with the understanding that it will be used strictly for scientific research purposes and/or for governmental purposes by governmental units. MDOT authorizes no other use of this privileged information. MDOT does not waive any privilege based on this limited release of information.

It is the intent of federal laws that this information not be disclosed, discovered, or admitted into evidence for use in lawsuits for damages at locations addressed by this information. Privileged information includes information compiled or collected for the purpose of identifying, evaluating, or planning safety enhancement projects and construction projects, in addition to information contained in computerized safety record keeping systems which correlate traffic crash data with highway features.

### FEDERAL LAW

Federal law at 23 USC 409 provides:

Reports, surveys, schedules, lists, or data compiled or collected for the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or railway-highway crossings ... or for the purpose of developing any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location mentioned or addressed...

Federal law at 23 USC 402(k)(1) provides:

Notwithstanding any other provision of law, if a report, list, schedule, or survey is prepared by or for a State of political subdivision thereof under this subsection ["a comprehensive computerized safety record-keeping system designed to correlate data regarding traffic accidents, drivers, motor vehicles, and roadways"]. Such report, list, schedule, or survey shall not be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report, list, schedule, or survey.

### MICHIGAN VEHICLE CODE

Section 257.208a provides in part:

Records maintained under this act, other than those declared to be confidential by law or which are restricted by law from disclosure to the public, shall be available to the public in accordance with procedures prescribed in this act, the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, or other applicable laws.

Section 257.208c provides in part:

- (1) Except as provided in this section and in section 232, personal information in a record maintained under this act shall not be disclosed, unless the person requesting the information furnishes proof of identity satisfactory to the secretary of state and certifies that the personal information requested will be used for a permissible purpose identified in this section or in section 232. However, highly restricted personal information shall be used and disclosed only as expressly permitted in section 307 or as otherwise expressly provided by law.
- (2) Personal information in a record maintained under this act shall be disclosed by the secretary of state if required to carry out the purposes of federal law or federal regulations.

- (3) Personal information in a record maintained under this act may be disclosed by the secretary of state as follows:
- (a) For use by a federal, state, or local governmental agency, including a court or law enforcement agency, in carrying out the agency's functions, or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions.
  - (b) For use in connection with matters of motor vehicle and driver safety or auto theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles; motor vehicle market research activities, including survey research; and the removal of non-owner records from the original records of motor vehicle manufacturers.
  - (c) For use in the normal course of business by a legitimate business, including the agents, employees, and contractors of the business, but only to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors, and if the information as so submitted is no longer correct, to obtain the correct information, for the sole purpose of preventing fraud by pursuing legal remedies against, or recovering on a debt against, the individual.
  - (d) For use in connection with a civil, criminal, administrative, or arbitration proceeding in a federal, state, or local court or governmental agency or before a self-regulatory body, including use for service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body.
  - (e) For use in legitimate research activities and in preparing statistical reports for commercial, scholarly, or academic purposes by a bona fide research organization, if the personal information is not published, redisclosed, or used to contact individuals.
  - (f) 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 investigating activity, antifraud activity, rating, or underwriting.
  - (g) For use in providing notice to the owner of an abandoned, towed, or impounded vehicle or for use by the custodian of a vehicle that is considered an abandoned vehicle as defined in sections 252a, 252b, and 252d.
  - (h) For use either by a private detective or private investigator licensed under the professional investigator licensure act, 1965 PA 285, MCL 338.821 to 338.851, or by a private security guard agency or alarm system contractor licensed under the private security business and security alarm act, 1968 PA 330, MCL 338.1051 to 338.1083, only for a purpose permitted under this section.
  - (i) For use by an employer, or the employer's agent or insurer, to obtain or verify information relating either to the holder of a commercial driver license that is required under federal law or to the holder of a chauffeur's license that is required under chapter 3.
  - (j) For use by a car rental business, or its employees, agents, contractors, or service firms, for the purpose of making rental decisions.
  - (k) For use in connection with the operation of private toll transportation facilities.
  - (l) For use by a news medium in the preparation and dissemination of a report related in part or in whole to the operation of a motor vehicle or public safety. "News medium" includes a newspaper, a magazine or periodical published at regular intervals, a news service, a broadcast network, a television station, a radio station, a cablecaster, or an entity employed by any of the foregoing.

(m) For any use by an individual requesting information pertaining to himself or herself or requesting in writing that the secretary of state provide information pertaining to himself or herself to the individual's designee. A request for disclosure to a designee, however, may be submitted only by the individual.

- (4) Medical and disability information in a record maintained under this act may be used and disclosed for purposes of subsection (3)(a), (d), or (m).

257.208d provides in part:

(1) An authorized recipient of personal information disclosed under section 208c may resell or redisclose the information only for a use permitted under section 208c.

(2) An authorized recipient of personal information disclosed under section 208c who resells or rediscloses the information shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted use for which it was obtained.

257.232 provides in part:

(1) Upon request, the secretary of state may furnish a list of information from the records of the department maintained under this act to a federal, state, or local governmental agency for use in carrying out the agency's functions, or to a private person or entity acting on behalf of a governmental agency for use in carrying out the agency's functions. The secretary of state may charge the requesting agency a preparation fee to cover the cost of preparing and furnishing a list provided under this subsection if the cost of preparation exceeds \$25.00, and use the revenues received from the service to defray necessary expenses. If the secretary of state sells a list of information under this subsection to a member of the state legislature, the secretary of state shall charge the same fee as the fee for the sale of information under subsection (2) unless the list of information is requested by the member of the legislature to carry out a legislative function. The secretary of state may require the requesting agency to furnish 1 or more blank computer tapes, cartridges, or other electronic media and may require the agency to execute a written memorandum of agreement as a condition of obtaining a list of information under this subsection.

(2) The secretary of state may contract for the sale of lists of driver and motor vehicle records and other records maintained under this act in bulk, in addition to those lists distributed at cost or at no cost under this section for purposes permitted by and described in section 208c(3). The secretary of state shall require each purchaser of records in bulk to execute a written purchase contract. The secretary of state shall fix a market-based price for the sale of such lists or other records maintained in bulk, which may include personal information. The proceeds from each sale made under this subsection on and after October 1, 2005 through October 1, 2015 shall be credited to the transportation administration collection fund created in section 810b.

(3) The secretary of state or any other state agency shall not sell or furnish any list of information under subsection (2) for the purpose of surveys, marketing, or solicitations. The secretary of state shall ensure that personal information disclosed in bulk will be used, rented, or sold solely for uses permitted under this act.

(4) The secretary of state may insert any safeguard the secretary considers reasonable or necessary, including a bond requirement, in a memorandum of agreement or purchase contract executed under this section, to ensure that the information provided or sold is used only for a permissible purpose and that the rights of individuals and of the department are protected.

(5) An authorized recipient of personal information disclosed under this section who resells or rediscloses the information for any of the purposes permitted by and described in section 208c(3) shall do both of the following:

(a) Make and keep for a period of not less than 5 years records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(b) Allow a representative of the secretary of state, upon request, to inspect and copy records identifying each person who received personal information from the authorized recipient and the permitted purpose for which it was obtained.

(6) The secretary of state shall not disclose a list based on driving behavior or sanctions to a nongovernmental agency, including an individual.

Section 257.503 provides:

(1) For 30 days after the date a motor vehicle accident report is filed with a law enforcement agency, a person may only access the report if the person or organization files a statement indicating that from the time the person or organization is granted access to the report until 30 days after the date the report is filed, the person or organization acknowledges that the person or organization is prohibited from doing either of the following:

(a) Using the report for any direct solicitation of an individual, vehicle owner, or property owner listed in the report.

(b) Disclosing any personal information contained in the report to a third party for commercial solicitation of an individual, vehicle owner, or property owner listed in the report.

(2) A person that knowingly violates this section is guilty of a crime punishable as follows:

(a) For a first violation, a misdemeanor punishable by a fine of not more than \$30,000.00.

(b) For a second or subsequent violation, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$60,000.00, or both.

(3) As used in this section:

(a) "Direct solicitation" means "direct solicitation to provide a service" as that term is defined in section 410b of the Michigan penal code, 1931 PA 328, MCL 750.410b.

(b) "Law enforcement agency" means any of the following:

(i) The department of state police.

(ii) The county sheriff's office.

(iii) The police department of a local unit of government.

(c) "Local unit of government" means a state university or college or a county, city, village, or township.

(d) "Motor vehicle accident" means an occurrence involving a motor vehicle that results in damage to property or injury to an individual.

(e) "Personal information" means information that identifies an individual, including the individual's name, address, driver license number, social security number, and telephone number.

(f) "Report" means a report completed by an officer of a law enforcement agency that indicates that a motor vehicle accident occurred.

Section 257.622 provides:

The driver of a motor vehicle involved in an accident that injures or kills any person, or that damages property to an apparent extent totaling \$1,000.00 or more, shall immediately report that accident at the nearest or most convenient police station, or to the nearest or most convenient police officer. The officer receiving the report, or his or her commanding officer, shall immediately forward each report to the director of the department of state police on forms prescribed by the director of the department of state police. The forms shall be completed in full by the investigating officer. The director of the department of state police shall analyze each report relative to the cause of the reported accident and shall prepare information compiled from reports filed under this section for public use. A copy of the report under this section and copies of reports required under section 621 shall be retained for at least 3 years at the local police department, sheriff's department, or local state police post making the report. *[Amended, Act 66 of 2003]*

Section 275.624 provides in part:

(1) A report required by this chapter *[that is, form UD-10]* shall not be made available for use in a court action, but a report shall be for the purpose of furnishing information regarding the number and cause of accidents.

(2) The office of highway safety planning may authorize scientific studies and research for the reduction of death, injury, and property losses. All information, records of interviews, written reports, statements, notes, memoranda, or other data collected...shall be used solely for the purpose of medical or scientific research and shall not disclose the name or identity of a person...The information, records, reports, statements, notes, memoranda, or other data shall not be admissible as evidence in a court or before any tribunal, board, agency, or person. A person participating in an authorized study or research project shall not disclose, directly or indirectly, the information so obtained except in strict conformity with the research project.

(3) A person who discloses information in violation of subsection (2) is guilty of a misdemeanor, punishable by a fine of not less than \$50.00.

## FREEDOM OF INFORMATION ACT

The Freedom of Information Act (FOIA) ([MCL 15.231 et. seq.](#)) regulates and sets requirements for the disclosure of public records by public bodies within the state of Michigan. A public record is a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. In general, all records except those cited as exceptions are covered by FOIA.

Section 15.231

(1) This act shall be known and may be cited as the "freedom of information act".

(2) It is the public policy of this state that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with this act. The people shall be informed so that they may fully participate in the democratic process.

Section 15.246

This act shall take effect 90 days after being signed by the governor.