

BILL ANALYSIS

C.S.H.B. 2828
By: Taylor
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

People involved in motor vehicle accidents are often solicited by people seeking to provide services to the accident victim for financial gain. This solicitation, which may be unwanted on the part of the person involved in the accident, is allowed due to current law authorizing an individual to obtain motor vehicle accident reports that contain certain contact information for the person involved in the accident.

As proposed, C.S.H.B. 2828 prohibits access to motor vehicle accident reports during the 30-day period immediately after the date of the accident as shown on the accident report. This bill provides exceptions for the people involved in the accident and other people with certain interests in the information, and provides that the report is to become available to a person who provides certain information regarding the accident after the 30-day period.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 550.065, Transportation Code, as follows:

Sec. 550.065. RELEASE OF CERTAIN INFORMATION RELATING TO ACCIDENTS. (a) Provides that this section only applies to information held by an agency that receives information from or that relates to a person involved in a motor vehicle accident, or that prepares information relating to said person, rather than an agency that receives information from the Department of Public Safety (DPS) or another governmental entity reported under Chapter 550 (Accidents and Accident Reports) or Section 601.004 (Accident Report), Transportation Code.

(b) Provides that a motor vehicle accident report (report) or information within the report that reveals certain personal information relating to a person involved in a motor vehicle accident (related information) is confidential and privileged during the 30-day period after the date of the accident as shown on the accident report.

(c) Sets forth certain persons or entities to whom the agency is required to release the report or information, upon request.

(d) Provides that a publication is not considered to be a newspaper which is authorized to request the report or information under Subsection (c) if the publication is intended primarily for members of a particular profession or occupation group, or has a primary purpose of distributing advertising, or for the publishing of names and other personal information of persons involved in motor vehicle accidents.

(e) Authorizes a person, except otherwise provided by this section, to access a report or related information during the 30-day period if the person presents a valid driver's license or other photo identification, presents evidence to show the person's status or qualification to have access to the report or related information,

or if the person files a written statement, attested to before an officer authorized to administer oaths, in which the person recognizes the confidentiality and privileged nature of the report during the 30-day period, and certifies that the report will not be used in connection with a commercial solicitation of a person involved in the accident, or to knowingly disclose the report or related information to a third person for the purpose of such a solicitation.

(f) Authorizes an agency, as an alternative to requiring compliance with Subsection (e), to provide a copy of the report or related information by electronic means to a third-party vendor under a contract with one or more insurers if the contract and the vendor expressly recognize the confidentiality and privileged nature of the report during the 30-day period, and certifies that the report will not be used in connection with a commercial solicitation of a person involved in the accident or to knowingly disclose the report or related information to a third person for the purpose of such a solicitation.

(g) Provides that nothing in this section is intended to prevent the dissemination or publication of news to the general public by a radio station, television station, or newspaper entitled to have access to a report or related information under this section.

(h) Provides that a person commits an offense if the person is an employee of a governmental agency who possesses a report or related information that is confidential and privileged under this section and knowingly discloses that report or related information to a person who is not entitled to have access to that report or related information.

(i) Provides that a person commits an offense if the person knows that the person is not entitled to have access to a report or related information that is confidential and privileged under this section and accesses or attempts to access that report or related information.

(j) Provides that a person commits an offense if the person knowingly uses a report or related information that is confidential and privileged under this section in a manner that violates the person's written statement filed under Subsection (e)(2).

(k) A violation of Subsection (h) constitutes official misconduct. An offense under that Subsection is a Class B misdemeanor.

(l) Provides that an offense under Subsection (i) or (j) is a third degree felony.

(m) Requires the agency, after the expiration of the 30-day period, to release the report or related information to a person or entity described by Subsection (b), or a person who provides the agency with two or more certain pieces of data related to the accident on written request and payment of any required fee. Deletes existing text authorizing certain entities to access the report or related information. Makes conforming changes.

(n) Provides that the fee for a copy of the report or related information is the lesser of either \$6 or the actual cost of the preparation of the copy. Authorizes the agency, rather than DPS or a governmental entity, to certify the report or information. Authorizes the agency to issue a certification that no report or related information is on file for a fee of \$6. Makes a conforming change.

SECTION 2. Effective date: September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

C.S.H.B. 2828 80(R)

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2828 differs from H.B. 2828 as filed by striking the word "regularly" from Sec. 550.065 (a), amending Sec. 550.065 (b) to clarify that a motor vehicle accident report or other related information regarding a motor vehicle accident report is confidential and privileged during the 30-day period immediately after the date of the accident as shown on the accident report, adding certain persons eligible to receive a motor vehicle accident report held by the agency under Subsection (c), specifying that a person commits an offense if the person is an employee of a governmental agency described by Subsection (c) under Subsection (h), amending what constitutes an offense under Subsections (k) and (l), and striking the words "Subject to" with "after the expiration" from Subsection (m).