

By: Carona S.B. No. 1208
(In the Senate - Filed March 6, 2007; March 14, 2007, read first time and referred to Committee on Transportation and Homeland Security; April 20, 2007, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 20, 2007, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1208 By: Carona

A BILL TO BE ENTITLED
AN ACT

relating to the release of a motor vehicle accident report or certain information in a motor vehicle accident report; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 550.065, Transportation Code, is amended to read as follows:

Sec. 550.065. RELEASE OF CERTAIN INFORMATION RELATING TO ACCIDENTS. (a) This section applies only to information that is held by an agency that:

(1) receives information from or receives information that relates to a person involved in [the department or another governmental entity and relates to] a motor vehicle accident; or

(2) prepares information relating to a person involved in a motor vehicle accident [reported under this chapter or Section 601.004].

(b) Except as provided by this section, a motor vehicle accident report or information in a motor vehicle accident report that reveals personal information relating to a person involved in a motor vehicle accident, including the person's name, home or employment address, and home or employment telephone number, is confidential and privileged during the 30-day period immediately after the date of the accident as shown on the accident report.

(c) Notwithstanding Subsection (b), a motor vehicle accident report or the information in a motor vehicle accident report held by the agency shall immediately be made available on request to:

(1) a person involved in the motor vehicle accident or a person who is the owner of or a currently recorded lienholder on a vehicle involved in the accident;

(2) a person designated in writing by a person described by Subdivision (1) as the person's representative, the licensed insurance agent of a person described by Subdivision (1), or an insurer that provides coverage for a person involved in the accident or another person under contract with the insurer to provide claim or underwriting information;

(3) an attorney representing the state in anticipation of, in the course of preparing for, or in the course of criminal litigation;

(4) the law enforcement agency that employs a peace officer who investigated the accident and filed the accident report or the information in the report with the agency that holds the information;

(5) the court, in response to a subpoena issued by the court in connection with a pending judicial proceeding that involves the motor vehicle accident;

(6) a radio or television station that holds a license issued by the Federal Communications Commission;

(7) a newspaper that is qualified to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

(8) an agency of this or another state, of a political subdivision of this or another state, or of the United States that is authorized by law to have access to the motor vehicle accident

report or information in the accident report in connection with the agency's statutory duties; or

(9) a private investigator, as defined by Section 1702.002, Occupations Code, who holds a license issued under Chapter 1702 of that code.

(d) A publication is not considered to be a newspaper under Subsection (c) if the publication:

(1) is intended primarily for members of a particular profession or occupational group; or

(2) has as its primary purpose:

(A) the distribution of advertising; or

(B) the publication of the names and other personal identifying information of persons involved in motor vehicle accidents.

(e) Except as otherwise provided by this section, a person may access a motor vehicle accident report or information in a motor vehicle accident report during the 30-day period immediately after the date the report is filed only if the person:

(1) presents a valid driver's license or other form of identification that bears the person's photograph and evidence to show the person's status or qualification to have access to the accident report or the information; and

(2) files a written statement, attested to before an officer authorized to administer oaths, in which the person:

(A) recognizes that during the 30-day period immediately after the date the report was filed, the report or the information is confidential and privileged; and

(B) certifies that during that period the report or information will not be:

(i) used in connection with a commercial solicitation of a person involved in the accident; or

(ii) knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident.

(f) As an alternative to requiring compliance with Subsection (e), an agency that holds a motor vehicle accident report that is confidential and privileged may provide a copy of the accident report or the information in the report by electronic means to a third-party vendor under a contract with one or more insurers, but only if:

(1) the contract and the vendor expressly recognize that during the 30-day period immediately after the date the accident report was filed with the agency the report or information in the report is confidential and privileged under this section; and

(2) the vendor provides the agency with a copy of the contract and certifies that during that 30-day period the report or information in the report will not be:

(A) used in connection with a commercial solicitation of a person involved in the accident; or

(B) knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident.

(g) 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 motor vehicle accident report or information in an accident report under this section.

(h) A person commits an offense if the person:

(1) is an employee of a governmental agency described by Subsection (c) and possesses a motor vehicle accident report or information in an accident report that is confidential and privileged under this section; and

(2) knowingly discloses the accident report or the information to a person who is not entitled to have access to the report or the information.

(i) A person commits an offense if the person:

(1) knows that the person is not entitled under this section to have access to a motor vehicle accident report or

information in an accident report that is confidential and privileged under this section; and

(2) accesses or attempts to access the accident report or the information.

(j) A person commits an offense if the person knowingly uses a motor vehicle accident report or information in the accident report 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) An offense under Subsection (i) or (j) is a felony of the third degree.

(m) After the expiration of the 30-day limitation provided by this section, and on ~~[Subsection (c), the information is privileged and for the confidential use of:~~

~~[(1) the department; and~~

~~[(2) an agency of the United States, this state, or a local government of this state that has use for the information for accident prevention purposes.~~

~~[(c) On]~~ written request and payment of any required fee, the agency that holds a motor vehicle accident report or information in a motor vehicle accident report ~~[department or the governmental entity]~~ shall release the accident report or the information to:

(1) a person or ~~[an]~~ entity described by Subsection (c) ~~[(b)]~~; or

(2) ~~[the law enforcement agency that employs the peace officer who investigated the accident and sent the information to the department;~~

~~[(3) the court in which a case involving a person involved in the accident is pending if the report is subpoenaed; or~~

~~[(4)] a person who provides the agency [department or governmental entity] with two or more of the following:~~

(A) the date of the accident;

(B) the specific address or the highway or street where the accident occurred; or

(C) the name of any person involved in the accident.

(n) ~~[(d)]~~ The fee for a copy of a motor vehicle accident ~~[the]~~ report or motor vehicle accident information is \$6 or the actual cost of the preparation of the copy, whichever is less. The copy may be certified by the agency that holds the accident report ~~[department]~~ or the information ~~[governmental entity]~~ for an additional fee of \$2. The agency ~~[department or the governmental entity]~~ may issue a certification that no report or information is on file for a fee of \$6.

SECTION 2. This Act takes effect September 1, 2007.

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