

## **BILL ANALYSIS**

C.S.H.B. 1634  
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Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Motorists involved in motor vehicle accidents are often solicited by individuals and entities seeking to provide services to the accident victim for the individual or entity's own financial gain. This solicitation may be unwanted on the part of the person involved in the accident, yet is permitted by current law authorizing an individual to obtain motor vehicle accident reports that contain certain contact information of the motorists involved in the accident.

C.S.H.B. 1634 establishes that, except as otherwise provided by the bill's provisions, a motor vehicle accident report or information in a report is confidential and privileged during the 30-day period immediately after the date of the accident. The bill requires a motor vehicle accident report or the information in the report to immediately be made available on request to certain persons, notwithstanding that provision. The bill authorizes those specified persons to access accident information during the 30-day period only if that person files a sworn statement that the information will not be used in connection with a commercial solicitation of a person involved in the accident. The bill creates offenses for violation of these provisions.

### **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.

### **ANALYSIS**

C.S.H.B. 1634 amends the Transportation Code to add provisions to the law governing the release of information relating to motor vehicle accidents and make that law applicable only to information that is held by an agency that receives information from or receives information that relates to a person involved in a motor vehicle accident or prepares information relating to a person involved in a motor vehicle accident, rather than information that is held by the Texas Department of Transportation or another governmental entity and reported under state law. The bill removes provisions from that law establishing that information relating to accidents is privileged and for the confidential use of the department and a public agency for accident prevention purposes and adds new provisions relating to confidentiality of an accident report. The bill makes conforming changes in that law relating to the release of information and the fee for a copy of an accident report or accident information. The bill specifies that 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 following the date of the accident as shown on the accident report except as provided below. The bill requires a motor vehicle accident report or the information in a report held by the agency to immediately be made available on request to 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; a person designated in writing as the representative of a person directly involved in the accident, the licensed insurance agent of a person directly involved, 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; an attorney representing the state in anticipation of, in the course of preparing for, or in the course of criminal litigation; 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; the court, in response to a subpoena issued by the court in connection with a pending judicial proceeding that involves the motor vehicle accident; a radio or television station that holds a license issued by the Federal Communications Commission and requests the report or the information as part of an investigation of the accident; 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 and that requests the report or the information as part of an investigation of the accident; an agency of Texas or another state, of a political subdivision of Texas or another state, or of the United States that is authorized by law to have access to the accident report or information in the report in connection with the agency's statutory duties; or a private investigator, as defined by law, who holds a license issued under state law and requests the report or the information as part of an investigation into the cause of or responsibility for a fire, libel, loss, accident, damage, or injury to a person or property, or for the purpose of securing evidence for use before a court, board, officer, or investigating committee. The bill provides that a publication is not considered to be a newspaper if the publication is intended primarily for members of a particular profession or occupational group or has as its primary purpose the distribution of advertising or the publication of the names and other personal identifying information of persons involved in motor vehicle accidents. The bill establishes that nothing in the bill's provisions 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 an accident report or information in the report under the bill's provisions.

C.S.H.B. 1634 authorizes only a person immediately granted access to an accident report to access a motor vehicle accident report or information in the report during the 30-day period immediately after the date the report is filed and only if the person 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 report or the information; and files a written statement, attested to before an officer authorized to administer oaths, in which the person 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 certifies that during that period the report or information will not be used in connection with a commercial solicitation of a person involved in the accident, or knowingly disclosed to a third person for the purpose of making a commercial solicitation of a person involved in the accident. The bill authorizes, as an alternative to the requirements described above, an agency that holds a motor vehicle accident report that is confidential and privileged to 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 the contract and the vendor expressly recognize that during the 30-day period the report or information is confidential and privileged; and the vendor provides the agency with a copy of the contract and certifies that during that 30-day period the report or information will not be used in connection with a commercial solicitation of a person involved in the accident, or knowingly disclosed to a third person for the purpose of making a commercial solicitation.

C.S.H.B. 1634 makes it a Class C misdemeanor offense for a person who is an employee of a governmental agency with authorized access to an accident report and possesses a report or information in a report that is confidential and privileged to intentionally disclose the accident report or the information to a person who is not entitled to have access to the report or the information.

C.S.H.B. 1634 makes it an offense for a person who knows that he or she is not entitled to have access to an accident report or information in a report that is confidential and privileged to access or attempt to access the accident report or the information. The bill makes it an offense to

knowingly use an accident report or information in a report that is confidential and privileged in a manner that violates a written statement filed to access the report or information. The bill establishes that such offenses are Class B misdemeanors if the person convicted has not previously been convicted of an offense under these provisions; Class A misdemeanors if the person convicted has previously been convicted of one offense under these provisions; state jail felonies if the person convicted has previously been convicted of two offenses under these provisions; or third degree felonies if the person convicted has been convicted of three or more offenses under these provisions.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 1634 adds provisions not in the original to specify that, for a radio or television station, newspaper, or private investigator to be immediately granted access to an accident report under the provisions of the bill, that station, newspaper, or investigator must, additionally, request the report or information as part of an investigation. The substitute differs from the original by clarifying that only a person authorized to be immediately granted access to an accident report as provided in the substitute may access that report or information during the 30-day period immediately after the date the report is filed only if the person takes certain actions, whereas the original authorizes a person to access the report during the 30-day period only if the person took the specified actions.

C.S.H.B. 1634 differs from the original by providing that an employee of a governmental agency with authorized access to an accident report and in possession of a report or information that is confidential and privileged commits an offense if that employee intentionally discloses the report or information to a person not entitled to have access to that report or information, whereas the original provides that the employee commits an offense if the employee knowingly discloses the report or information to such a person. The substitute removes a provision from the original establishing that such a violation constitutes official misconduct. The substitute makes that offense a Class C misdemeanor, rather than a Class B misdemeanor as in the original.