

By: Smith of Tarrant, Leibowitz

H.B. No. 1634

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the release of a motor vehicle accident report or
3 certain information in a motor vehicle accident report; providing
4 penalties.

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

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

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

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

14 (2) prepares information relating to a person involved
15 in a motor vehicle accident [reported under this chapter or Section
16 601.004].

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

24 (b-1) Vehicle specific, nonpersonally identifiable

1 information is exempted from exclusion and may be released
2 immediately if the person requesting the information provides the
3 agency with a written statement averring that the information and
4 any information subsequently requested by the person from the
5 agency will not be used in connection with a commercial
6 solicitation of a person involved in an accident or knowingly
7 disclosed to a third person for the purpose of making a commercial
8 solicitation of a person involved in an accident.

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

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

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

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

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

1 information;

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

5 (6) a radio or television station that holds a license
6 issued by the Federal Communications Commission and requests the
7 report or the information as part of an investigation of the
8 accident;

9 (7) a newspaper that is qualified to publish legal
10 notices or is a free newspaper of general circulation and that is
11 published at least once a week and available and of interest to the
12 general public in connection with the dissemination of news and
13 requests the report or the information as part of an investigation
14 of the accident;

15 (8) an agency of this or another state, of a political
16 subdivision of this or another state, or of the United States that
17 is authorized by law to have access to the motor vehicle accident
18 report or information in the accident report in connection with the
19 agency's statutory duties; or

20 (9) a private investigator, as defined by Section
21 1702.002, Occupations Code, who holds a license issued under
22 Chapter 1702 of that code and requests the report or the information
23 as part of an investigation into the cause of or responsibility for
24 a fire, libel, loss, accident, damage, or injury to a person or
25 property, or for the purpose of securing evidence for use before a
26 court, board, officer, or investigating committee.

27 (d) A publication is not considered to be a newspaper under

1 Subsection (c) if the publication:

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

4 (2) has as its primary purpose:

5 (A) the distribution of advertising; or

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

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

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

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

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

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

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

27 (ii) knowingly disclosed to a third person

1 for the purpose of making a commercial solicitation of a person
2 involved in the accident.

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

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

14 (2) the vendor provides the agency with a copy of the
15 contract or a letter of authorization from the insurer authorizing
16 obtaining the report for insurance purposes only that certifies
17 that during that 30-day period the report or information in the
18 report will not be:

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

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

24 (g) Nothing in this section is intended to prevent the
25 dissemination or publication of news to the general public by a
26 radio station, television station, or newspaper entitled to have
27 access to a motor vehicle accident report or information in an

1 accident report under this section.

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

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

7 (2) intentionally discloses the accident report or the
8 information to a person who is not entitled to have access to the
9 report or the information.

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

11 (1) knows that the person is not entitled under this
12 section to have access to a motor vehicle accident report or
13 information in an accident report that is confidential and
14 privileged under this section; and

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

17 (j) A person commits an offense if the person knowingly uses
18 a motor vehicle accident report or information in the accident
19 report that is confidential and privileged under this section in a
20 manner that violates the person's written statement filed under
21 Subsection (e)(2).

22 (k) An offense under Subsection (h) is a Class C
23 misdemeanor.

24 (l) An offense under Subsection (i) or (j) is:

25 (1) a Class B misdemeanor if the person convicted
26 under this section has not previously been convicted of an offense
27 under this section;

1 (2) a Class A misdemeanor if the person convicted
2 under this section has previously been convicted of one offense
3 under this section;

4 (3) a state jail felony if the person convicted under
5 this section has previously been convicted of two offenses under
6 this section; or

7 (4) a felony of the third degree if the person
8 convicted under this section has been convicted of three or more
9 offenses under this section.

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

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

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

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

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

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

27 ~~[(3) the court in which a case involving a person~~

1 ~~involved in the accident is pending if the report is subpoenaed; or~~
2 [~~(4)~~] a person who provides the agency [~~department or~~
3 ~~governmental entity~~] with two or more of the following:

- 4 (A) the date of the accident;
5 (B) the specific address or the highway or street
6 where the accident occurred; or
7 (C) the name of any person involved in the
8 accident.

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

17 SECTION 2. This Act takes effect September 1, 2009.