

By: Smith of Tarrant

H.B. No. 1634

Substitute the following for H.B. No. 1634:

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C.S.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 (c) Notwithstanding Subsection (b), a motor vehicle

1 accident report or the information in a motor vehicle accident
2 report held by the agency shall immediately be made available on
3 request to:

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

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

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

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

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

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

27 (7) a newspaper that is qualified to publish legal

1 notices or is a free newspaper of general circulation and that is
2 published at least once a week and available and of interest to the
3 general public in connection with the dissemination of news and
4 requests the report or the information as part of an investigation
5 of the accident;

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

11 (9) a private investigator, as defined by Section
12 1702.002, Occupations Code, who holds a license issued under
13 Chapter 1702 of that code and requests the report or the information
14 as part of an investigation into the cause of or responsibility for
15 a fire, libel, loss, accident, damage, or injury to a person or
16 property, or for the purpose of securing evidence for use before a
17 court, board, officer, or investigating committee.

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

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

22 (2) has as its primary purpose:

23 (A) the distribution of advertising; or

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

27 (e) Except as otherwise provided by this section, only a

1 person authorized by Subsection (c) may access a motor vehicle
2 accident report or information in a motor vehicle accident report
3 during the 30-day period immediately after the date the report is
4 filed and only if the person:

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

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

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

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

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

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

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

27 (1) the contract and the vendor expressly recognize

1 that during the 30-day period immediately after the date the
2 accident report was filed with the agency the report or information
3 in the report is confidential and privileged under this section;
4 and

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

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

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

13 (g) Nothing in this section is intended to prevent the
14 dissemination or publication of news to the general public by a
15 radio station, television station, or newspaper entitled to have
16 access to a motor vehicle accident report or information in an
17 accident report under this section.

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

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

23 (2) intentionally discloses the accident report or the
24 information to a person who is not entitled to have access to the
25 report or the information.

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

27 (1) knows that the person is not entitled under this

1 section to have access to a motor vehicle accident report or
2 information in an accident report that is confidential and
3 privileged under this section; and

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

6 (j) A person commits an offense if the person knowingly uses
7 a motor vehicle accident report or information in the accident
8 report that is confidential and privileged under this section in a
9 manner that violates the person's written statement filed under
10 Subsection (e)(2).

11 (k) An offense under Subsection (h) is a Class C
12 misdemeanor.

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

14 (1) a Class B misdemeanor if the person convicted
15 under this section has not previously been convicted of an offense
16 under this section;

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

20 (3) a state jail felony if the person convicted under
21 this section has previously been convicted of two offenses under
22 this section; or

23 (4) a felony of the third degree if the person
24 convicted under this section has been convicted of three or more
25 offenses under this section.

26 (m) After the expiration of the 30-day limitation provided
27 by this section, and on ~~Except as provided by Subsection (c), the~~

1 ~~information is privileged and for the confidential use of:~~

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

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

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

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

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

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

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

20 (A) the date of the accident;

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

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

25 (n) ~~[(d)]~~ The fee for a copy of a motor vehicle accident
26 ~~[the]~~ report or motor vehicle accident information is \$6 or the
27 actual cost of the preparation of the copy, whichever is less. The

1 copy may be certified by the agency that holds the accident report
2 [~~department~~] or the information [~~governmental entity~~] for an
3 additional fee of \$2. The agency [~~department or the governmental~~
4 ~~entity~~] may issue a certification that no report or information is
5 on file for a fee of \$6.

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