

By the Committee on Banking and Insurance; and Senator Sanderson

311-1620-01

1 A bill to be entitled
2 An act relating to public records; amending s.
3 316.066, F.S.; providing an exemption from
4 public-records requirements for motor vehicle
5 crash reports that reveal specified
6 information; providing that such reports may be
7 made available to certain parties; providing
8 for future review and repeal; providing
9 penalties for the unlawful disclosure of
10 confidential information and for unlawfully
11 obtaining or attempting to obtain confidential
12 information; providing findings of public
13 necessity; providing an effective date.

15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Paragraph (c) of subsection (3) of section
18 316.066, Florida Statutes, is amended, and paragraphs (d) and
19 (e) are added to that subsection, to read:

20 316.066 Written reports of crashes.--

21 (3)

22 (c) Crash reports required by this section which
23 reveal the identity, home or employment telephone number or
24 home or employment address of, or other personal information
25 concerning the parties involved in the crash and which are
26 received or prepared by any agency that regularly receives or
27 prepares information from or concerning the parties to motor
28 vehicle crashes are confidential and exempt from s. 119.07(1)
29 and s. 24(a), Art. I of the State Constitution for a period of
30 60 days after the date the report is filed. However, such
31 reports may be made immediately available to the parties

1 involved in the crash, their legal representatives, their
2 licensed insurance agents, their insurers or insurers to which
3 they have applied for coverage, persons under contract with
4 such insurers to provide claims or underwriting information,
5 prosecutorial authorities, radio and television stations
6 licensed by the Federal Communications Commission, newspapers
7 qualified to publish legal notices under ss. 50.011 and
8 50.031, and free newspapers of general circulation, published
9 once a week or more often, available and of interest to the
10 public generally for the dissemination of news. For the
11 purposes of this section, the following products or
12 publications are not newspapers as referred to in this
13 section: those intended primarily for members of a particular
14 profession or occupational group; those with the primary
15 purpose of distributing advertising; and those with the
16 primary purpose of publishing names and other personally
17 identifying information concerning parties to motor vehicle
18 crashes. Any state or federal agency that is authorized to
19 have access to such reports by any provision of law shall be
20 granted such access in the furtherance of the agency's
21 statutory duties notwithstanding the provisions of this
22 paragraph. Any person attempting to access crash reports
23 within 60 days after the date the report is filed must present
24 legitimate credentials or identification that demonstrates his
25 or her qualifications to access that information. This
26 exemption is subject to the Open Government Sunset Review Act
27 of 1995 in accordance with s. 119.15, and shall stand repealed
28 on October 1, 2006, unless reviewed and saved from repeal
29 ~~through reenactment by the Legislature. Crash reports made by~~
30 ~~law enforcement officers shall not be used for commercial~~
31 ~~solicitation purposes; however, the use of a crash report for~~

1 ~~purposes of publication in a newspaper or other news~~
2 ~~periodical or a radio or television broadcast shall not be~~
3 ~~construed as "commercial purpose."~~

4 (d) Any employee of a state or local agency in
5 possession of information made confidential by this section
6 who knowingly discloses such confidential information to a
7 person not entitled to access such information under this
8 section is guilty of a felony of the third degree, punishable
9 as provided in s. 775.082, s. 775.083, or s. 775.084.

10 (e) Any person who knowingly obtains or attempts to
11 obtain information made confidential by this section who is
12 not entitled to access such information under this section is
13 guilty of a felony of the third degree, punishable as provided
14 in s. 775.082, s. 775.083, or s. 775.084.

15 Section 2. The Legislature finds that there is a
16 public necessity that portions of crash reports which are
17 mandated to be provided by law and which reveal personal
18 information concerning parties to motor vehicle crashes be
19 withheld from public inspection or disclosure to protect the
20 privacy of persons that have been the subject of a motor
21 vehicle crash. Further, the exemption is necessary to protect
22 the public from unscrupulous individuals who promote the
23 filing of fraudulent insurance claims by obtaining such
24 information immediately after a crash and exploiting the
25 individual at a time of emotional distress. Crash reports made
26 by law enforcement officers should not be used for commercial
27 solicitation purposes; however, the use of a crash report for
28 purposes of publication in a newspaper or other news
29 periodical or a radio or television broadcast may not be
30 construed as a "commercial purpose." Motor vehicle insurance
31 fraud is estimated to add as much as \$246 to the average motor

1 vehicle insurance policy premium. In the past 5 years, the
2 Department of Insurance has received nearly 5,000 referrals of
3 personal injury protection (PIP) insurance fraud and has made
4 more than 500 arrests, resulting in an 80-percent conviction
5 rate. Motor vehicle insurance fraud is fueled by early access
6 to crash reports, which provides the opportunity for the
7 filing of fraudulent insurance claims.

8 Section 3. This act shall take effect upon becoming a
9 law.

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 SB 1466

14 Provides for crash reports to be exempt from the public
15 records requirements for a period of 60 days after the date
the crash report is filed.

16 Provides that crash reports may be made immediately available
17 to the licensed insurance agents of the parties involved in
the crash, their insurers or insurers to which such parties
18 have applied for insurance coverage, persons under contract
with such insurers to provide claims or underwriting
information, and prosecutorial authorities.

19 Provides that newspapers qualified to publish legal notices be
20 allowed access to crash reports and removes the provision
21 which allowed crash reports be available to professional
journalists.

22 Increases the penalties for certain persons who disclose
23 confidential information contained in crash reports and for
persons who obtain the confidential information who are not
24 entitled access to such information.