

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Waters, Brown, and Negron offered the
12 following:

14 **Amendment (with title amendment)**

15 Remove from the bill: Everything after the enacting clause
16
17 and insert in lieu thereof:

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

21 316.066 Written reports of crashes.--

22 (3)

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

Amendment No. 1 (for drafter's use only)

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

Amendment No. 1 (for drafter's use only)

1 ~~solicitation purposes; however, the use of a crash report for~~
2 ~~purposes of publication in a newspaper or other news~~
3 ~~periodical or a radio or television broadcast shall not be~~
4 ~~construed as "commercial purpose."~~

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

11 (e) Any person, knowing that he or she is not entitled
12 to obtain information made confidential by this section, who
13 obtains or attempts to obtain such information is guilty of a
14 felony of the third degree, punishable as provided in s.
15 775.082, s. 775.083, or s. 775.084.

16 Section 2. The Legislature finds that there is a
17 public necessity that portions of crash reports which are
18 mandated to be provided by law and which reveal personal
19 information concerning parties to motor vehicle crashes be
20 held confidential and exempt for 60 days after the date the
21 report is filed to protect the privacy of persons that have
22 been the subject of a motor vehicle crash. Further, the
23 exemption is necessary to protect the public from unscrupulous
24 individuals who promote the filing of fraudulent insurance
25 claims by obtaining such information immediately after a crash
26 and exploiting the individual at a time of emotional distress.
27 The Second Interim Report of the Fifteenth Statewide Grand
28 Jury on insurance fraud related to personal injury protection
29 noted a "strong correlation between illegal solicitation and
30 the commission of a variety of frauds." The grand jury found
31 "the wholesale availability of these reports is a major

Amendment No. 1 (for drafter's use only)

1 contributing factor to this illegal activity and likely the
2 single biggest factor contributing to the high level of
3 illegal solicitation." Virtually anyone involved in a car
4 accident in the state is fair game for "runners" who collect
5 crash reports in bulk from law enforcement officials and then
6 provide the information to solicit crash victims and defraud
7 insurers. Continuing to make this information available, in
8 the words of the grand jury, "can be emotionally, physically,
9 and ultimately financially destructive." Motor vehicle
10 insurance fraud is estimated to add as much as \$246 to the
11 average motor vehicle insurance policy premium. In the past 5
12 years, the Department of Insurance has received nearly 5,000
13 referrals of personal injury protection (PIP) insurance fraud
14 and has made more than 500 arrests, resulting in an 80-percent
15 conviction rate. Motor vehicle insurance fraud is fueled by
16 early access to crash reports, which provides the opportunity
17 for the filing of fraudulent insurance claims. Crash reports
18 made by law enforcement officers should not be used for
19 commercial solicitation purposes; however, the use of a crash
20 report for purposes of publication in a newspaper or other
21 news periodical or a radio or television broadcast may not be
22 construed as a "commercial purpose." The Legislature also
23 finds that crash reports should be made available to certain
24 parties, such as those persons involved in the motor vehicle
25 crash and their legal representatives, their insurers or
26 insurers to which they have applied for coverage, their
27 licensed insurance agents, persons under contract with such
28 insurers to provide claims or underwriting information, and
29 representatives of law enforcement and other regulatory
30 agencies, and prosecutorial authorities within 60 days after
31 the crash report is filed.

Amendment No. 1 (for drafter's use only)

1 Section 3. This act shall take effect upon becoming a
2 law.

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5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 On page 1,

8 remove from the title of the bill: The entire title

9

10 and insert in lieu thereof:

11

 A bill to be entitled

12

 An act relating to public records; amending s.

13

 316.066, F.S.; providing an exemption from

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 public-records requirements for motor vehicle

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 crash reports that reveal specified

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 information; providing that such reports may be

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 made available to certain parties; providing

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 for future review and repeal; providing

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 penalties for the unlawful disclosure of

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 confidential information and for unlawfully

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 obtaining or attempting to obtain confidential

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 information; providing findings of public

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 necessity; providing an effective date.

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