

Bill No. HB 7035, 1st Eng.

Barcode 445550

CHAMBER ACTION

Senate

House

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. C/2R
. 05/05/2006 11:49:23
. Floor: 2/AD/3R
. 05/04/2006 01:16 PM
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Senator Garcia moved the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 316.066, Florida Statutes, is amended to read:

 316.066 Written reports of crashes.--

(1) The driver of a vehicle which is in any manner involved in a crash resulting in bodily injury to or death of any person or damage to any vehicle or other property in an apparent amount of at least \$500 shall, within 10 days after the crash, forward a written report of such crash to the department or traffic records center. However, when the investigating officer has made a written report of the crash pursuant to subsection ~~paragraph~~ (3)(a), no written report need be forwarded to the department or traffic records center by the driver.

(2) The receiving entity may require any driver of a vehicle involved in a crash of which a written report must be

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1 made as provided in this section to file supplemental written
2 reports whenever the original report is insufficient in the
3 opinion of the department and may require witnesses of crashes
4 to render reports to the department.

5 (3)(a) Every law enforcement officer who in the
6 regular course of duty investigates a motor vehicle crash:

7 1. Which crash resulted in death or personal injury
8 shall, within 10 days after completing the investigation,
9 forward a written report of the crash to the department or
10 traffic records center.

11 2. Which crash involved a violation of s. 316.061(1)
12 or s. 316.193 shall, within 10 days after completing the
13 investigation, forward a written report of the crash to the
14 department or traffic records center.

15 3. In which crash a vehicle was rendered inoperative
16 to a degree which required a wrecker to remove it from traffic
17 may, within 10 days after completing the investigation,
18 forward a written report of the crash to the department or
19 traffic records center if such action is appropriate, in the
20 officer's discretion.

21 (b) ~~However,~~ In every case in which a crash report is
22 required by this section and a written report to a law
23 enforcement officer is not prepared, the law enforcement
24 officer shall provide each party involved in the crash a
25 short-form report, prescribed by the state, to be completed by
26 the party. The short-form report must include, ~~but is not~~
27 ~~limited to:~~

- 28 1. The date, time, and location of the crash;
- 29 2. A description of the vehicles involved;
- 30 3. The names and addresses of the parties involved;
- 31 4. The names and addresses of witnesses;

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1 5. The name, badge number, and law enforcement agency
2 of the officer investigating the crash; and

3 6. The names of the insurance companies for the
4 respective parties involved in the crash.

5 (c) Each party to the crash shall provide the law
6 enforcement officer with proof of insurance to be included in
7 the crash report. If a law enforcement officer submits a
8 report on the accident, proof of insurance must be provided to
9 the officer by each party involved in the crash. Any party who
10 fails to provide the required information is guilty of an
11 infraction for a nonmoving violation, punishable as provided
12 in chapter 318 unless the officer determines that due to
13 injuries or other special circumstances such insurance
14 information cannot be provided immediately. If the person
15 provides the law enforcement agency, within 24 hours after the
16 crash, proof of insurance that was valid at the time of the
17 crash, the law enforcement agency may void the citation.

18 ~~(4)(a)(b)~~ One or more counties may enter into an
19 agreement with the appropriate state agency to be certified by
20 the agency to have a traffic records center for the purpose of
21 tabulating and analyzing countywide traffic crash reports. The
22 agreement must include: certification by the agency that the
23 center has adequate auditing and monitoring mechanisms in
24 place to ensure the quality and accuracy of the data; the time
25 period in which the traffic records center must report crash
26 data to the agency; and the medium in which the traffic
27 records must be submitted to the agency.

28 (b) In the case of a county or multicounty area that
29 has a certified central traffic records center, a law
30 enforcement agency or driver must submit to the center within
31 the time limit prescribed in this section a written report of

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1 the crash. A driver who is required to file a crash report
2 must be notified of the proper place to submit the completed
3 report.

4 (c) Fees for copies of public records provided by a
5 certified traffic records center shall be charged and
6 collected as follows:

- 7 For a crash report.....\$2 per copy.
- 8 For a homicide report.....\$25 per copy.
- 9 For a uniform traffic citation.....\$0.50 per copy.

10

11 The fees collected for copies of the public records provided
12 by a certified traffic records center shall be used to fund
13 the center or otherwise as designated by the county or
14 counties participating in the center.

15 (5)(a)(c) Crash reports that ~~required by this section~~
16 ~~which~~ reveal the identity, home or employment telephone number
17 or home or employment address of, or other personal
18 information concerning the parties involved in the crash and
19 that ~~which~~ are held ~~received or prepared~~ by any agency that
20 regularly receives or prepares information from or concerning
21 the parties to motor vehicle crashes are confidential and
22 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
23 Constitution for a period of 60 days after the date the report
24 is filed.

25 (b) Crash ~~However, such~~ reports held by an agency
26 under paragraph (a) may be made immediately available to the
27 parties involved in the crash, their legal representatives,
28 their licensed insurance agents, their insurers or insurers to
29 which they have applied for coverage, persons under contract
30 with such insurers to provide claims or underwriting
31 information, prosecutorial authorities, victim services

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1 | programs, radio and television stations licensed by the
 2 | Federal Communications Commission, newspapers qualified to
 3 | publish legal notices under ss. 50.011 and 50.031, and free
 4 | newspapers of general circulation, published once a week or
 5 | more often, available and of interest to the public generally
 6 | for the dissemination of news. For the purposes of this
 7 | section, the following products or publications are not
 8 | newspapers as referred to in this section: those intended
 9 | primarily for members of a particular profession or
 10 | occupational group; those with the primary purpose of
 11 | distributing advertising; and those with the primary purpose
 12 | of publishing names and other personal identifying information
 13 | concerning parties to motor vehicle crashes.

14 | (c) Any local, state, or federal agency, ~~victim~~
 15 | ~~services program, agent, or employee~~ that is authorized to
 16 | have access to crash ~~such~~ reports by any provision of law
 17 | shall be granted such access in the furtherance of the
 18 | agency's statutory duties ~~notwithstanding the provisions of~~
 19 | ~~this paragraph. Any local, state, or federal agency, agent, or~~
 20 | ~~employee receiving such crash reports shall maintain the~~
 21 | ~~confidential and exempt status of those reports and shall not~~
 22 | ~~disclose such crash reports to any person or entity.~~

23 | (d) As a condition precedent to accessing a crash
 24 | report within 60 days after the date the report is filed, a
 25 | person must present a valid driver's license or other
 26 | photographic identification, proof of status, or
 27 | identification that demonstrates his or her qualifications to
 28 | access that information, and file a written sworn statement
 29 | with the state or local agency in possession of the
 30 | information stating that information from a crash report made
 31 | confidential and exempt by this section will not be used for

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1 any commercial solicitation of accident victims, or knowingly
 2 disclosed to any third party for the purpose of such
 3 solicitation, during the period of time that the information
 4 remains confidential and exempt. In lieu of requiring the
 5 written sworn statement, an agency may provide crash reports
 6 by electronic means to third-party vendors under contract with
 7 one or more insurers, but only when such contract states that
 8 information from a crash report made confidential and exempt
 9 by this section will not be used for any commercial
 10 solicitation of accident victims by the vendors, or knowingly
 11 disclosed by the vendors to any third party for the purpose of
 12 such solicitation, during the period of time that the
 13 information remains confidential and exempt, and only when a
 14 copy of such contract is furnished to the agency as proof of
 15 the vendor's claimed status.

16 (e) This subsection does not prevent the dissemination
 17 or publication of news to the general public by any legitimate
 18 media entitled to access confidential and exempt information
 19 pursuant to this section. ~~A law enforcement officer as defined~~
 20 ~~in s. 943.10(1) may enforce this subsection. This exemption is~~
 21 ~~subject to the Open Government Sunset Review Act of 1995 in~~
 22 ~~accordance with s. 119.15, and shall stand repealed on October~~
 23 ~~2, 2006, unless reviewed and saved from repeal through~~
 24 ~~reenactment by the Legislature.~~

25 (6)(a)(d) Any driver failing to file the written
 26 report required under subsection (1) or subsection (2) commits
 27 a noncriminal traffic infraction, punishable as a nonmoving
 28 violation as provided in chapter 318.

29 (b) Any employee of a state or local agency in
 30 possession of information made confidential and exempt by this
 31 section who knowingly discloses such confidential and exempt

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1 information to a person not entitled to access such
 2 information under this section is guilty of a felony of the
 3 third degree, punishable as provided in s. 775.082, s.
 4 775.083, or s. 775.084.

5 ~~(c)(e)~~ Any person, knowing that he or she is not
 6 entitled to obtain information made confidential and exempt by
 7 this section, who obtains or attempts to obtain such
 8 information is guilty of a felony of the third degree,
 9 punishable as provided in s. 775.082, s. 775.083, or s.
 10 775.084.

11 ~~(d)(f)~~ Any person who knowingly uses confidential and
 12 exempt information in violation of a filed written sworn
 13 statement or contractual agreement required by this section
 14 commits a felony of the third degree, punishable as provided
 15 in s. 775.082, s. 775.083, or s. 775.084.

16 ~~(7)(4)~~ Except as specified in this subsection, each
 17 crash report made by a person involved in a crash and any
 18 statement made by such person to a law enforcement officer for
 19 the purpose of completing a crash report required by this
 20 section shall be without prejudice to the individual so
 21 reporting. No such report or statement shall be used as
 22 evidence in any trial, civil or criminal. However, subject to
 23 the applicable rules of evidence, a law enforcement officer at
 24 a criminal trial may testify as to any statement made to the
 25 officer by the person involved in the crash if that person's
 26 privilege against self-incrimination is not violated. The
 27 results of breath, urine, and blood tests administered as
 28 provided in s. 316.1932 or s. 316.1933 are not confidential
 29 and shall be admissible into evidence in accordance with the
 30 provisions of s. 316.1934(2). Crash reports made by persons
 31 involved in crashes shall not be used for commercial

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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 (8) A law enforcement officer, as defined in s.
6 943.10(1), may enforce this section.

7 ~~(5) For purposes of this section, a written report~~
8 ~~includes a report generated by a law enforcement agency~~
9 ~~through the use of a computer.~~

10 ~~(6) Any driver failing to file the written report~~
11 ~~required under subsection (1) or subsection (2) commits a~~
12 ~~noncriminal traffic infraction, punishable as a nonmoving~~
13 ~~violation as provided in chapter 318.~~

14 Section 2. Paragraph (a) of subsection (1) of section
15 324.051, Florida Statutes, is amended to read:

16 324.051 Reports of crashes; suspensions of licenses
17 and registrations.--

18 (1)(a) Every law enforcement officer who, in the
19 regular course of duty either at the time of and at the scene
20 of the crash or thereafter by interviewing participants or
21 witnesses, investigates a motor vehicle crash which he or she
22 is required to report pursuant to s. 316.066(3)~~(a)~~ shall
23 forward a written report of the crash to the department within
24 10 days of completing the investigation. However, when the
25 investigation of a crash will take more than 10 days to
26 complete, a preliminary copy of the crash report shall be
27 forwarded to the department within 10 days of the occurrence
28 of the crash, to be followed by a final report within 10 days
29 after completion of the investigation. The report shall be on
30 a form and contain information consistent with the
31 requirements of s. 316.068.

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1 Section 3. Paragraph (c) of subsection (3) of section
2 921.0022, Florida Statutes, is amended to read:

3 921.0022 Criminal Punishment Code; offense severity
4 ranking chart.--

5 (3) OFFENSE SEVERITY RANKING CHART

6 Florida Felony Description
7 Statute Degree

8 (c) LEVEL 3

9 119.10(2)(b) 3rd Unlawful use of confidential
10 information from police reports.

11 316.066(6)(b)-(d)

12 ~~(3)(d)-(f)~~ 3rd Unlawfully obtaining or using
13 confidential crash reports.

14 316.193(2)(b) 3rd Felony DUI, 3rd conviction.

15 316.1935(2) 3rd Fleeing or attempting to elude
16 law enforcement officer in patrol
17 vehicle with siren and lights
18 activated.

19 319.30(4) 3rd Possession by junkyard of motor
20 vehicle with identification
21 number plate removed.

22 319.33(1)(a) 3rd Alter or forge any certificate of
23 title to a motor vehicle or
24 mobile home.

25 319.33(1)(c) 3rd Procure or pass title on stolen
26 vehicle.

27 319.33(4) 3rd With intent to defraud, possess,
28 sell, etc., a blank, forged, or
29 unlawfully obtained title or
30 registration.

31 327.35(2)(b) 3rd Felony BUI.

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1	328.05(2)	3rd	Possess, sell, or counterfeit
2			fictitious, stolen, or fraudulent
3			titles or bills of sale of
4			vessels.
5	328.07(4)	3rd	Manufacture, exchange, or possess
6			vessel with counterfeit or wrong
7			ID number.
8	370.12(1)(e)5.	3rd	Taking, disturbing, mutilating,
9			destroying, causing to be
10			destroyed, transferring, selling,
11			offering to sell, molesting, or
12			harassing marine turtles, marine
13			turtle eggs, or marine turtle
14			nests in violation of the Marine
15			Turtle Protection Act.
16	370.12(1)(e)6.	3rd	Soliciting to commit or
17			conspiring to commit a violation
18			of the Marine Turtle Protection
19			Act.
20	376.302(5)	3rd	Fraud related to reimbursement
21			for cleanup expenses under the
22			Inland Protection Trust Fund.
23	400.903(3)	3rd	Operating a clinic without a
24			license or filing false license
25			application or other required
26			information.
27	440.105(3)(b)	3rd	Receipt of fee or consideration
28			without approval by judge of
29			compensation claims.
30	440.1051(3)	3rd	False report of workers'
31			compensation fraud or retaliation

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1			for making such a report.
2	501.001(2)(b)	2nd	Tampers with a consumer product
3			or the container using materially
4			false/misleading information.
5	624.401(4)(a)	3rd	Transacting insurance without a
6			certificate of authority.
7	624.401(4)(b)1.	3rd	Transacting insurance without a
8			certificate of authority; premium
9			collected less than \$20,000.
10	626.902(1)(a) & (b)	3rd	Representing an unauthorized
11			insurer.
12	697.08	3rd	Equity skimming.
13	790.15(3)	3rd	Person directs another to
14			discharge firearm from a vehicle.
15	796.05(1)	3rd	Live on earnings of a prostitute.
16	806.10(1)	3rd	Maliciously injure, destroy, or
17			interfere with vehicles or
18			equipment used in firefighting.
19	806.10(2)	3rd	Interferes with or assaults
20			firefighter in performance of
21			duty.
22	810.09(2)(c)	3rd	Trespass on property other than
23			structure or conveyance armed
24			with firearm or dangerous weapon.
25	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
26			less than \$10,000.
27	812.0145(2)(c)	3rd	Theft from person 65 years of age
28			or older; \$300 or more but less
29			than \$10,000.
30	815.04(4)(b)	2nd	Computer offense devised to
31			defraud or obtain property.

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1	817.034(4)(a)3.	3rd	Engages in scheme to defraud
2			(Florida Communications Fraud
3			Act), property valued at less
4			than \$20,000.
5	817.233	3rd	Burning to defraud insurer.
6	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons
7			involved in motor vehicle
8			accidents.
9	817.234(11)(a)	3rd	Insurance fraud; property value
10			less than \$20,000.
11	817.236	3rd	Filing a false motor vehicle
12			insurance application.
13	817.2361	3rd	Creating, marketing, or
14			presenting a false or fraudulent
15			motor vehicle insurance card.
16	817.413(2)	3rd	Sale of used goods as new.
17	817.505(4)	3rd	Patient brokering.
18	828.12(2)	3rd	Tortures any animal with intent
19			to inflict intense pain, serious
20			physical injury, or death.
21	831.28(2)(a)	3rd	Counterfeiting a payment
22			instrument with intent to defraud
23			or possessing a counterfeit
24			payment instrument.
25	831.29	2nd	Possession of instruments for
26			counterfeiting drivers' licenses
27			or identification cards.
28	838.021(3)(b)	3rd	Threatens unlawful harm to public
29			servant.
30	843.19	3rd	Injure, disable, or kill police
31			dog or horse.

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1	860.15(3)	3rd	Overcharging for repairs and
2			parts.
3	870.01(2)	3rd	Riot; inciting or encouraging.
4	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
5			cannabis (or other s.
6			893.03(1)(c), (2)(c)1., (2)(c)2.,
7			(2)(c)3., (2)(c)5., (2)(c)6.,
8			(2)(c)7., (2)(c)8., (2)(c)9.,
9			(3), or (4) drugs).
10	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
11			893.03(1)(c), (2)(c)1., (2)(c)2.,
12			(2)(c)3., (2)(c)5., (2)(c)6.,
13			(2)(c)7., (2)(c)8., (2)(c)9.,
14			(3), or (4) drugs within 1,000
15			feet of university.
16	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s.
17			893.03(1)(c), (2)(c)1., (2)(c)2.,
18			(2)(c)3., (2)(c)5., (2)(c)6.,
19			(2)(c)7., (2)(c)8., (2)(c)9.,
20			(3), or (4) drugs within 1,000
21			feet of public housing facility.
22	893.13(6)(a)	3rd	Possession of any controlled
23			substance other than felony
24			possession of cannabis.
25	893.13(7)(a)8.	3rd	Withhold information from
26			practitioner regarding previous
27			receipt of or prescription for a
28			controlled substance.
29	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
30			controlled substance by fraud,
31			forgery, misrepresentation, etc.

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1	893.13(7)(a)10.	3rd	Affix false or forged label to
2			package of controlled substance.
3	893.13(7)(a)11.	3rd	Furnish false or fraudulent
4			material information on any
5			document or record required by
6			chapter 893.
7	893.13(8)(a)1.	3rd	Knowingly assist a patient, other
8			person, or owner of an animal in
9			obtaining a controlled substance
10			through deceptive, untrue, or
11			fraudulent representations in or
12			related to the practitioner's
13			practice.
14	893.13(8)(a)2.	3rd	Employ a trick or scheme in the
15			practitioner's practice to assist
16			a patient, other person, or owner
17			of an animal in obtaining a
18			controlled substance.
19	893.13(8)(a)3.	3rd	Knowingly write a prescription
20			for a controlled substance for a
21			fictitious person.
22	893.13(8)(a)4.	3rd	Write a prescription for a
23			controlled substance for a
24			patient, other person, or an
25			animal if the sole purpose of
26			writing the prescription is a
27			monetary benefit for the
28			practitioner.
29	918.13(1)(a)	3rd	Alter, destroy, or conceal
30			investigation evidence.
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- 1 944.47(1)(a)1.-2. 3rd Introduce contraband to
- 2 correctional facility.
- 3 944.47(1)(c) 2nd Possess contraband while upon the
- 4 grounds of a correctional
- 5 institution.
- 6 985.3141 3rd Escapes from a juvenile facility
- 7 (secure detention or residential
- 8 commitment facility).

9 Section 4. This act shall take effect October 1, 2006.

10

11

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

13 And the title is amended as follows:

14 Delete everything before the enacting clause

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16 and insert:

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A bill to be entitled

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An act relating to a review under the Open

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Government Sunset Review Act regarding motor

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vehicle crash reports; amending s. 316.066,

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F.S., which provides an exemption from public

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records requirements for required motor vehicle

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crash reports that reveal the identity, home or

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employment telephone number, or home or

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employment address of, or other personal

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information concerning, parties involved in a

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motor vehicle crash and that are held by any

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agency that regularly receives or prepares

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information from or concerning the parties to

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motor vehicle crashes; reorganizing provisions,

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making editorial and conforming changes, and

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1 removing superfluous language; removing the
2 scheduled repeal of the exemption under the
3 Open Government Sunset Review Act; amending ss.
4 324.051 and 921.0022, F.S.; conforming
5 cross-references; providing an effective date.
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