

By Senator Harrell

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 316.066, F.S.; revising an exemption from public
4 records requirements for written reports of motor
5 vehicle crashes; revising the agencies holding records
6 to which the exemption applies; removing a time limit
7 for the exemption; providing retroactive
8 applicability; revising entities to which records may
9 be made available; requiring certain entities to enter
10 into a memorandum of understanding; revising
11 conditions precedent to accessing a crash report;
12 exempting certain computerized crash report data held
13 by an agency from public records requirements;
14 providing retroactive applicability; providing
15 construction; providing for future legislative review
16 and repeal of the exemptions; revising applicability
17 of penalties; amending s. 316.650, F.S.; defining the
18 term "driver information"; providing an exemption from
19 public records requirements for driver information
20 contained in a uniform traffic citation; providing
21 retroactive applicability; authorizing the release of
22 driver information under certain circumstances;
23 providing for future legislative review and repeal of
24 the exemption; revising a prohibition against the use
25 of driver information for commercial solicitation
26 purposes; providing statements of public necessity;
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsections (2) and (3) of section 316.066, Florida Statutes, are amended to read:

316.066 Written reports of crashes.—

(2) (a) Crash reports that reveal the identity of, home or employment telephone number or home or employment address of, or other personal information concerning the parties involved in the crash and that are held by an any agency as defined in s. 119.011 ~~that regularly receives or prepares information from or concerning the parties to motor vehicle crashes~~ are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such crash reports held by an agency before, on, or after the effective date of the exemption ~~for a period of 60 days after the date the report is filed.~~

(b) Crash reports held by an agency under paragraph (a) may be made ~~immediately~~ available to the parties involved in the crash, their legal representatives, their licensed insurance agents, their insurers or insurers to which they have applied for coverage, persons under contract with such insurers to provide claims or underwriting information, prosecutorial authorities, law enforcement agencies, the Department of Transportation, the Department of Health, county and municipal traffic operations, victim services programs, and any private person or entity acting on behalf of a federal, state, or local governmental agency in carrying out its functions ~~radio and television stations licensed by the Federal Communications Commission, newspapers qualified to publish legal notices under ss. 50.011 and 50.031, and, in accordance with paragraph (f),~~

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59 ~~free newspapers of general circulation, published once a week or~~
60 ~~more often, of which at least 7,500 copies are distributed by~~
61 ~~mail or by carrier as verified by a postal statement or by a~~
62 ~~notarized printer's statement of press run, which are intended~~
63 ~~to be generally distributed and circulated, and which contain~~
64 ~~news of general interest with at least 10 pages per publication,~~
65 ~~available and of interest to the public generally for the~~
66 ~~dissemination of news. For the purposes of this section, the~~
67 ~~following products or publications are not newspapers as~~
68 ~~referred to in this section: those intended primarily for~~
69 ~~members of a particular profession or occupational group; those~~
70 ~~with the primary purpose of distributing advertising; and those~~
71 ~~with the primary purpose of publishing names and other personal~~
72 ~~identifying information concerning parties to motor vehicle~~
73 ~~crashes.~~

74 (c) A federal, state, or Any local governmental, state, or
75 federal agency, or any private person or entity acting on behalf
76 of a federal, state, or local governmental agency in carrying
77 out its functions, which that is authorized to have access to
78 crash reports by any provision of law shall be granted such
79 access in the furtherance of the agency's statutory duties
80 pursuant to a memorandum of understanding approved by the agency
81 holding the crash reports which requires that personal
82 information contained in the crash reports remain confidential
83 and exempt.

84 (d) As a condition precedent to accessing a crash report
85 within 60 days after the date the report is filed, a person must
86 submit to the agency that holds the crash report, in a format
87 prescribed by the agency, present a valid driver license or

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88 ~~other photographic identification, proof of status, or~~
89 ~~identification that demonstrates his or her qualifications to~~
90 ~~access that information and file a written sworn statement~~
91 attesting to the person's identity, authority to access the
92 crash report under paragraph (b), and agreement to keep the with
93 ~~the state or local agency in possession of the information~~
94 ~~stating that information from a crash report made confidential~~
95 and refrain from using the crash report exempt by this section
96 ~~will not be used for any commercial solicitation of accident~~
97 ~~victims, or knowingly disclosing the crash report disclosed to~~
98 ~~any third party for the purpose of such solicitation, or~~
99 knowingly disclosing the crash report to any third party that is
100 not authorized by this section to access such personal
101 information during the period of time that the information
102 ~~remains confidential and exempt. Such written sworn statement~~
103 ~~must be completed and sworn to by the requesting party for each~~
104 ~~individual crash report that is being requested within 60 days~~
105 ~~after the report is filed. In lieu of requiring the written~~
106 ~~sworn statement, an agency may provide crash reports by~~
107 ~~electronic means pursuant to a memorandum of understanding that~~
108 requires third party vendors under contract with one or more
109 ~~insurers, but only when such contract states that personal~~
110 information contained in from a crash report remain made
111 confidential and exempt and prohibits such personal information
112 from being by this section will not be used for any commercial
113 ~~solicitation of accident victims by the vendors, or knowingly~~
114 ~~disclosed by the vendors to any third party who is not~~
115 authorized by this section to access such personal information
116 ~~for the purpose of such solicitation, during the period of time~~

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117 ~~that the information remains confidential and exempt, and only~~
118 ~~when a copy of such contract is furnished to the agency as proof~~
119 ~~of the vendor's claimed status.~~

120 (e) This subsection does not prohibit an agency from
121 providing summary reports of crashes to radio and television
122 stations, newspapers, and other news media, which reports may
123 disclose information about crashes, including, but not limited
124 to, the time, date, and location of a crash; the name, age,
125 gender, race, and ethnicity of any driver involved in the crash;
126 a general description of any vehicle involved in the crash,
127 including the vehicle's color, make, model, body style, and
128 year; the names of the law enforcement agencies and officers
129 responding to the scene or investigating the crash; the
130 circumstances of the crash; and whether any arrests were made or
131 traffic citations were issued ~~prevent the dissemination or~~
132 ~~publication of news to the general public by any legitimate~~
133 ~~media entitled to access confidential and exempt information~~
134 ~~pursuant to this section.~~

135 (f) If crash reports are created by or submitted to an
136 agency electronically as data elements within a computerized
137 database, or if personal information from a crash report is
138 entered into a computerized database, such crash report data
139 held by an agency is confidential and exempt from s. 119.07(1)
140 and s. 24(a), Art. I of the State Constitution. This exemption
141 applies to such crash report data held by an agency before, on,
142 or after the effective date of the exemption. This paragraph
143 does not prevent an agency from disclosing:

144 1. A crash report pursuant to paragraphs (b)-(d) which is
145 rendered as an individual report in its original format, whether

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146 printed as a paper document or provided in electronic format
147 such as Portable Document Format or Tagged Image File Format.

148 2. Extracts of crash report data if all personal
149 information is omitted from the extracts.

150 ~~(g) Free newspapers of general circulation published once a~~
151 ~~week or more often, of which at least 7,500 copies are~~
152 ~~distributed by mail or by carrier as verified by a postal~~
153 ~~statement or by a notarized printer's statement of press run,~~
154 ~~which are intended to be generally distributed and circulated,~~
155 ~~which contain news of general interest with at least 10 pages~~
156 ~~per publication, available and of interest to the public~~
157 ~~generally for the dissemination of news, and which request 10 or~~
158 ~~more crash reports within a 24-hour period before 60 days have~~
159 ~~elapsed after the report is filed may not have access to the~~
160 ~~home, cellular, employment, or other telephone number or the~~
161 ~~home or employment address of any of the parties involved in the~~
162 ~~crash. This subsection paragraph is subject to the Open~~
163 ~~Government Sunset Review Act in accordance with s. 119.15 and~~
164 ~~shall stand repealed on October 2, 2027 2019, unless reviewed~~
165 ~~and saved from repeal through reenactment by the Legislature.~~

166 (3) (a) A ~~Any~~ driver failing to file the written report
167 required under subsection (1) commits a noncriminal traffic
168 infraction, punishable as a nonmoving violation as provided in
169 chapter 318.

170 (b) An ~~Any~~ employee of an ~~a state or local~~ agency, as
171 defined in s. 119.011, in possession of information made
172 confidential and exempt by this section who knowingly discloses
173 such confidential and exempt information to a person not
174 entitled to access such information under this section commits a

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175 felony of the third degree, punishable as provided in s.
176 775.082, s. 775.083, or s. 775.084.

177 (c) A Any person who, knowing that he or she is not
178 entitled to obtain information made confidential and exempt by
179 this section, ~~who~~ obtains or attempts to obtain such information
180 commits a felony of the third degree, punishable as provided in
181 s. 775.082, s. 775.083, or s. 775.084.

182 (d) A Any person who knowingly uses confidential and exempt
183 information in violation of a filed ~~written~~ sworn statement,
184 memorandum of understanding, or contractual agreement required
185 by this section commits a felony of the third degree, punishable
186 as provided in s. 775.082, s. 775.083, or s. 775.084.

187 Section 2. Subsection (11) of section 316.650, Florida
188 Statutes, is amended to read:

189 316.650 Traffic citations.—

190 (11) (a) As used in this subsection, the term "driver
191 information" means a driver's date of birth, driver license
192 number, address excluding the five-digit zip code, telephone
193 number, motor vehicle license plate number, and trailer tag
194 number. The term does not include the driver's name.

195 (b)1. Driver information contained in a uniform traffic
196 citation held by an agency is exempt from s. 119.07(1) and s.
197 24(a), Art. I of the State Constitution. This paragraph applies
198 to driver information held by an agency before, on, or after the
199 effective date of the exemption.

200 2. An agency may release driver information in accordance
201 with any of the permissible uses listed in 18 U.S.C. s. 2721(b)
202 in the same manner applicable to the release of personal
203 information contained in a motor vehicle record pursuant to s.

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204 119.0712(2)(b).

205 3. This paragraph is subject to the Open Government Sunset
206 Review Act in accordance with s. 119.15 and shall stand repealed
207 on October 2, 2027, unless reviewed and saved from repeal
208 through reenactment by the Legislature.

209 (c) Driver information contained in a uniform traffic
210 citation ~~may, which includes but is not limited to, the accused~~
211 ~~person's name and address, shall not be used for commercial~~
212 solicitation purposes. However, the use of such driver
213 information contained in a uniform traffic citation shall not be
214 considered a commercial purpose when used for publication in a
215 newspaper or other news periodical, when used for broadcast by
216 radio or television, or when used to inform a person of the
217 availability of driver safety training.

218 Section 3. (1) The Legislature finds that it is a public
219 necessity that crash reports that reveal personal information
220 concerning parties involved in a crash and the computerized
221 crash report data be confidential and exempt from s. 119.07(1),
222 Florida Statutes, and s. 24(a), Article I of the State
223 Constitution. Crash reports reveal significant personal
224 information, not only about drivers involved in a crash but also
225 about motor vehicle owners, motor vehicle passengers, and other
226 witnesses and about owners of nonvehicle property damaged in a
227 crash. Pervasive use of the Internet and related technologies
228 abet those with malicious purposes in exploiting the use of
229 personal information, such as a motorist's date of birth, driver
230 license number, and address, creating ever-expanding threats to
231 motorist privacy and security never envisioned in generations
232 past. Moreover, ever-increasing use of information technology

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233 for the preparation, submission, and management of crash reports
234 has led agencies to hold vast repositories of computerized crash
235 report data, which includes such personal information. Motorist
236 personal information, when held by the Department of Highway
237 Safety and Motor Vehicles in motor vehicle records, is
238 confidential pursuant to the federal Driver's Privacy Protection
239 Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2),
240 Florida Statutes. These restrictions on disclosure of motorist
241 personal information, however, have not applied to personal
242 information contained in crash reports. When crash reports and
243 computerized crash report data are made available to the public,
244 because they comprise much of the same personal information
245 contained in motor vehicle records, the protections afforded by
246 the federal Driver's Privacy Protection Act of 1994 are
247 significantly undermined, eroding the privacy and safety of
248 motorists. Therefore, the Legislature finds that it is a public
249 necessity to make confidential and exempt from public records
250 requirements crash reports that reveal personal information and
251 computerized crash report data.

252 (2) The Legislature finds that it is a public necessity
253 that driver information contained in a uniform traffic citation
254 held by an agency be exempt from s. 119.07(1), Florida Statutes,
255 and s. 24(a), Article I of the State Constitution. Uniform
256 traffic citations reveal significant personal information about
257 drivers issued a citation. Pervasive use of the Internet and
258 related technologies abet those with malicious purposes in
259 exploiting the use of personal information, such as a motorist's
260 date of birth, driver license number, and address, creating
261 ever-expanding threats to motorist privacy and security never

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262 envisioned in generations past. Motorist personal information,
263 when held by the Department of Highway Safety and Motor Vehicles
264 in motor vehicle records, is confidential pursuant to the
265 federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss.
266 2721 et seq., and s. 119.0712(2), Florida Statutes. These
267 restrictions on disclosure of motorist personal information,
268 however, have not applied to driver information contained in
269 uniform traffic citations. When driver information contained in
270 uniform traffic citations is made available to the public,
271 because it comprises much of the same personal information
272 contained in motor vehicle records, the protections afforded by
273 the federal Driver's Privacy Protection Act of 1994 are
274 significantly undermined, eroding the privacy and safety of
275 motorists. Therefore, the Legislature finds that it is a public
276 necessity to make exempt from public records requirements driver
277 information contained in uniform traffic citations.

278 Section 4. This act shall take effect July 1, 2022.