

By the Committees on Governmental Oversight and Accountability;
and Transportation; and 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 agencies to which a public
4 records exemption for certain motor vehicle crash
5 reports applies; revising entities to whom crash
6 reports may be made immediately available; revising
7 the types of crash reports that may be made
8 immediately available to certain radio and television
9 stations and newspapers; providing that crash reports
10 may be made available to certain third parties subject
11 to a certain restriction; revising conditions for
12 accessing crash reports; specifying the availability
13 of crash reports after a certain period; deleting a
14 restriction on certain crash report information by
15 certain newspapers; providing a public records
16 exemption for certain electronic crash data; providing
17 for future legislative review and repeal of the
18 exemptions; revising applicability of a criminal
19 penalty; providing a private cause of action against a
20 person who violates certain restrictions relating to
21 personal information; specifying damages, attorney
22 fees, costs, and other relief a court may award;
23 providing construction; amending s. 316.650, F.S.;
24 defining the term "driver information"; providing an
25 exemption from public records requirements for driver
26 information contained in a uniform traffic citation;
27 providing retroactive applicability; authorizing the
28 release of driver information under certain
29 circumstances; providing for future legislative review

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30 and repeal of the exemption; providing statements of
31 public necessity; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

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

37 316.066 Written reports of crashes.—

38 (2) (a) Crash reports that reveal the identity, home or
39 employment telephone number or home or employment address of, or
40 other personal information concerning the parties involved in
41 the crash and that are held by an any agency, as defined in s.
42 119.011, that regularly receives or prepares information from or
43 concerning the parties to motor vehicle crashes are confidential
44 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
45 Constitution for a period of 60 days after the date the report
46 is filed.

47 (b) Crash reports held by an agency under paragraph (a) may
48 be made immediately available to the parties involved in the
49 crash, their legal representatives, their licensed insurance
50 agents, their insurers or insurers to which they have applied
51 for coverage, persons under contract with such insurers to
52 provide claims or underwriting information, victim services
53 programs, and any federal, state, or local governmental agency
54 or any private person or entity acting on behalf of a federal,
55 state, or local governmental agency in carrying out its
56 functions, but not for redistribution to any person or entity
57 not listed in this subsection. Crash reports held by an agency
58 under paragraph (a) which do not contain the home or employment

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59 street addresses, driver license or identification card numbers,
60 dates of birth, and home and employment telephone numbers of the
61 parties involved in the crash shall be made immediately
62 available to radio and television stations licensed by the
63 Federal Communications Commission and newspapers qualified to
64 publish legal notices under ss. 50.011 and 50.031. A crash
65 report may also be made available to any third party acting on
66 behalf of a person or entity authorized under this section to
67 access the crash report, except that the third party may
68 disclose the crash report only to the person or entity
69 authorized to access the crash report under this section on
70 whose behalf the third party has sought the report. This section
71 shall not prevent an agency, pursuant to a memorandum of
72 understanding, from providing data derived from crash reports to
73 a third party solely for the purpose of identifying vehicles
74 involved in crashes if such data does not reveal the identity,
75 home or employment telephone number or home or employment
76 address, or other personal information of the parties involved
77 ~~in the crash prosecutorial authorities, law enforcement~~
78 ~~agencies, the Department of Transportation, county traffic~~
79 ~~operations, victim services programs, radio and television~~
80 ~~stations licensed by the Federal Communications Commission,~~
81 ~~newspapers qualified to publish legal notices under ss. 50.011~~
82 ~~and 50.031, and, in accordance with paragraph (f), free~~
83 ~~newspapers of general circulation, published once a week or more~~
84 ~~often, of which at least 7,500 copies are distributed by mail or~~
85 ~~by carrier as verified by a postal statement or by a notarized~~
86 ~~printer's statement of press run, which are intended to be~~
87 ~~generally distributed and circulated, and which contain news of~~

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88 ~~general interest with at least 10 pages per publication,~~
89 ~~available and of interest to the public generally for the~~
90 ~~dissemination of news. For the purposes of this section, the~~
91 ~~following products or publications are not newspapers as~~
92 ~~referred to in this section: those intended primarily for~~
93 ~~members of a particular profession or occupational group; those~~
94 ~~with the primary purpose of distributing advertising; and those~~
95 ~~with the primary purpose of publishing names and other personal~~
96 ~~identifying information concerning parties to motor vehicle~~
97 ~~crashes.~~

98 (c) Any local, state, or federal agency that is authorized
99 to have access to crash reports by any provision of law shall be
100 granted such access in the furtherance of the agency's statutory
101 duties.

102 (d) As a condition precedent to accessing a crash report
103 ~~within 60 days after the date the report is filed,~~ a person must
104 present a valid driver license or other photographic
105 identification, proof of status, or identification that
106 demonstrates his or her qualifications to access that
107 information and file a written sworn statement with the state or
108 local agency in possession of the information stating that
109 information from a crash report made confidential and exempt by
110 this section will not be used for any commercial solicitation of
111 accident victims, or knowingly disclosed to any third party for
112 the purpose of such solicitation, ~~during the period of time that~~
113 ~~the information remains confidential and exempt.~~ Such written
114 sworn statement must be completed and sworn to by the requesting
115 party for each individual crash report that is being requested
116 ~~within 60 days after the report is filed.~~ In lieu of requiring

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117 the written sworn statement, an agency may provide crash reports
118 by electronic means pursuant to a memorandum of understanding to
119 third-party vendors under contract with one or more insurers,
120 but only when such contract states that information from a crash
121 report made confidential and exempt by this section will not be
122 used for any commercial solicitation of accident victims by the
123 vendors, or knowingly disclosed by the vendors to any third
124 party for the purpose of such solicitation, ~~during the period of~~
125 ~~time that the information remains confidential and exempt,~~ and
126 only when a copy of such contract is furnished to the agency as
127 proof of the vendor's claimed status.

128 (e) This subsection does not prevent the dissemination or
129 publication of news to the general public by any legitimate
130 media entitled to access confidential and exempt information
131 pursuant to this section.

132 (f) Crash reports held by an agency under paragraph (a) may
133 be made available 60 days after the date the report is filed to
134 any person or entity eligible to access crash reports under
135 paragraph (b) or in accordance with any of the permissible uses
136 listed in 18 U.S.C. s. 2721(b) and pursuant to the resale and
137 redisclosure requirements in 18 U.S.C. s. 2721(c).

138 (g) If crash reports are created by or submitted to an
139 agency electronically as data elements within a computerized
140 database or if personal information from a crash report is
141 entered into a computerized database, such crash data held by an
142 agency is confidential and exempt from s. 119.07(1) and s.
143 24(a), Art. I of the State Constitution. Sixty days after the
144 date the crash report is filed, an agency may provide crash data
145 derived from the crash report which includes personal

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146 information to entities eligible to access the crash report
147 under paragraphs (b), or in accordance with any of the
148 permissible uses listed in 18 U.S.C. s. 2721(b) and pursuant to
149 the resale and redisclosure requirements in 18 U.S.C. s.
150 2721(c). Such data shall be provided pursuant to a memorandum of
151 understanding.

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

172 (3) (a) Any driver failing to file the written report
173 required under subsection (1) commits a noncriminal traffic
174 infraction, punishable as a nonmoving violation as provided in

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175 chapter 318.

176 (b) Any employee of a state or local agency in possession
177 of information made confidential and exempt by this section who
178 knowingly discloses such confidential and exempt information to
179 a person not entitled to access such information under this
180 section commits a felony of the third degree, punishable as
181 provided in s. 775.082, s. 775.083, or s. 775.084.

182 (c) Any person, knowing that he or she is not entitled to
183 obtain information made confidential and exempt by this section,
184 who obtains or attempts to obtain such information commits a
185 felony of the third degree, punishable as provided in s.
186 775.082, s. 775.083, or s. 775.084.

187 (d) Any person who knowingly uses confidential and exempt
188 information in violation of a filed written sworn statement,
189 memorandum of understanding, or contractual agreement required
190 by this section commits a felony of the third degree, punishable
191 as provided in s. 775.082, s. 775.083, or s. 775.084.

192 (e) In addition to penalties outlined in paragraphs (c) and
193 (d), a person who obtains a crash report or crash data and who
194 knowingly discloses or knowingly uses personal information
195 revealed in the report for a purpose not permitted under 18
196 U.S.C. s. 2721(b) is liable to the individual to whom the
197 information pertains, who may bring a civil action in any court
198 of competent jurisdiction. The court may award:

199 1. Actual damages, but not less than liquidated damages in
200 the amount of \$2,500.

201 2. Punitive damages upon proof of willful or reckless
202 disregard of the law.

203 3. Reasonable attorney fees and other litigation costs

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204 reasonably incurred.

205 4. Such other preliminary and equitable relief as the court
206 determines to be appropriate.

207
208 This paragraph does not apply to radio and television stations
209 licensed by the Federal Communications Commission and newspapers
210 qualified to publish legal notices under ss. 50.011 and 50.031.

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

213 316.650 Traffic citations.—

214 (11) (a) As used in this subsection, the term "driver
215 information" means a driver's date of birth, driver license or
216 identification card number, address excluding the five-digit zip
217 code, telephone number, motor vehicle license plate number, and
218 trailer tag number. The term does not include the driver's name.

219 (b)1. Driver information contained in a uniform traffic
220 citation held by an agency is exempt from s. 119.07(1) and s.
221 24(a), Art. I of the State Constitution. This paragraph applies
222 to driver information held by an agency before, on, or after the
223 effective date of the exemption.

224 2. An agency may release driver information in accordance
225 with any of the permissible uses listed in 18 U.S.C. s. 2721(b)
226 in the same manner applicable to the release of personal
227 information contained in a motor vehicle record pursuant to s.
228 119.0712(2)(b) and pursuant to the resale and redisclosure
229 requirements in 18 U.S.C. s. 2721(c).

230 3. This paragraph is subject to the Open Government Sunset
231 Review Act in accordance with s. 119.15 and shall stand repealed
232 on October 2, 2027, unless reviewed and saved from repeal

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233 through reenactment by the Legislature.

234 (c) Driver information contained in a uniform traffic
235 citation, including which includes but is not limited to, the
236 accused person's name and address, shall not be used for
237 commercial solicitation purposes. However, the use of such
238 driver information contained in a uniform traffic citation shall
239 not be considered a commercial purpose when used for publication
240 in a newspaper or other news periodical, when used for broadcast
241 by radio or television, or when used to inform a person of the
242 availability of driver safety training.

243 Section 3. (1) The Legislature finds that it is a public
244 necessity that crash reports that reveal personal information
245 concerning parties, passengers, and witnesses to a crash for a
246 period of 60 days after the date the crash report is filed with
247 an agency; such personal information revealed in crash reports
248 held by an agency following the 60-day period; and computerized
249 crash report data held by an agency be confidential and exempt
250 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
251 the State Constitution. Crash reports reveal significant
252 personal information, not only about parties involved in a
253 crash, but also about passengers and other witnesses to the
254 crash. Pervasive use of the Internet and related technologies
255 abet those with malicious purposes in exploiting the use of
256 personal information revealed in crash reports, such as a
257 party's, passenger's, or witness's date of birth, driver license
258 number, and address, creating ever-expanding threats to privacy
259 and security never envisioned in generations past. Moreover,
260 ever-increasing use of information technology for the
261 preparation, submission, and management of crash reports has led

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262 agencies to hold vast repositories of computerized crash report
263 data, which includes such personal information. Personal
264 information, when held by the Department of Highway Safety and
265 Motor Vehicles in driver license and motor vehicle records, is
266 confidential pursuant to the federal Driver's Privacy Protection
267 Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2),
268 Florida Statutes. These restrictions on disclosure of personal
269 information, however, have not applied to personal information
270 revealed in crash reports. When personal information revealed in
271 crash reports or computerized crash report data is made
272 available to the public, because it comprises much of the same
273 personal information contained in driver license and motor
274 vehicle records, the protections afforded by the federal
275 Driver's Privacy Protection Act of 1994 are significantly
276 undermined, eroding the privacy and safety of drivers.
277 Therefore, the Legislature finds that it is a public necessity
278 to make confidential and exempt from public records requirements
279 crash reports that reveal personal information concerning
280 parties, passengers, and witnesses to a crash for a period of 60
281 days after the date the crash report is filed with an agency;
282 such personal information revealed in crash reports held by an
283 agency following the 60-day period; and computerized crash
284 report data held by an agency.

285 (2) The Legislature finds that it is a public necessity
286 that driver information contained in a uniform traffic citation
287 held by an agency be exempt from s. 119.07(1), Florida Statutes,
288 and s. 24(a), Article I of the State Constitution. Uniform
289 traffic citations reveal significant personal information about
290 drivers issued a citation. Pervasive use of the Internet and

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291 related technologies abet those with malicious purposes in
292 exploiting the use of personal information contained in traffic
293 citations, such as a driver's date of birth, driver license
294 number, and address, creating ever-expanding threats to privacy
295 and security never envisioned in generations past. Driver
296 information, when held by the Department of Highway Safety and
297 Motor Vehicles in driver license and motor vehicle records, is
298 confidential pursuant to the federal Driver's Privacy Protection
299 Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2),
300 Florida Statutes. These restrictions on disclosure of personal
301 information, however, have not applied to driver information
302 contained in uniform traffic citations. When driver information
303 contained in uniform traffic citations is made available to the
304 public, because it comprises much of the same personal
305 information contained in driver license and motor vehicle
306 records, the protections afforded by the federal Driver's
307 Privacy Protection Act of 1994 are significantly undermined,
308 eroding the privacy and safety of drivers. Therefore, the
309 Legislature finds that it is a public necessity to make exempt
310 from public records requirements driver information contained in
311 uniform traffic citations.

312 Section 4. This act shall take effect March 1, 2023.