

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 1301

By: Snyder of the Senate

and

Phillips of the House

COMMITTEE SUBSTITUTE

(motor vehicles - accident reports - disclosure of
confidential information -

effective date)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 2001, Section 40-102, is amended to read as follows:

Section 40-102. A. 1. Every law enforcement officer who, in the regular course of duty, investigates or receives a report of a traffic ~~accident~~ collision resulting in injury to or death of a person or total property damage to an apparent extent of Five Hundred Dollars (\$500.00) or more shall prepare a written report of the ~~accident~~ collision on the standard ~~accident~~ collision report form supplied by the Department. Such reports shall be forwarded forthwith by the ~~Police Department or other~~ law enforcement agency preparing the report to the Department of Public Safety.

2. Reports of collisions that occur beginning November 1, 2002, shall be kept confidential for a period of sixty (60) days after the date the report is filed with the Department, provided, such reports shall be made available immediately after filing upon request to any:

- a. party involved in the collision,
- b. legal representatives of a party involved in the collision,
- c. licensed insurance agents of a party involved in the collision,
- d. insurer of a party involved in the collision,
- e. insurer to which a party has applied for coverage,
- f. person under contract with an insurer, as described in subparagraph b, c, or d of this paragraph, to provide claims or underwriting information,
- g. prosecutorial authority,
- h. legal newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes, or
- i. radio or television broadcaster.

3. Any person who knowingly violates this section and obtains information made confidential by this section is guilty of a misdemeanor and shall be fined no more than Five Hundred Dollars (\$500.00). Second and subsequent offenses shall carry a penalty of imprisonment in the county jail for not more than thirty (30) days.

B. 1. No public employee or officer shall allow a person to examine or reproduce ~~an accident~~ a collision report or any related investigation report if examination or reproduction of the report is sought for the purpose of making a commercial solicitation. Any person requesting ~~an accident~~ a collision report may be required to state, in writing, under penalty of perjury, that the report will not be examined, reproduced, or otherwise used for commercial solicitation purposes. It shall be unlawful and constitute a misdemeanor for any person to obtain or use information from ~~an accident~~ a collision report or a copy thereof for the purpose of making a commercial solicitation.

2. As used in this subsection:

a. "commercial solicitation" means any attempt to use, or offer for use, information contained in ~~an accident~~ a collision report to solicit any person named in the report, or a relative of such person, or to solicit a professional, business, or commercial relationship.

"Commercial solicitation" does not include publication in a legal newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast of information by news media for news purposes, or obtaining information for the purpose of verification or settlement of claims by insurance companies, and

b. ~~"accident~~ "collision report" means any report regarding a motor vehicle ~~accident~~ or collision which has been submitted by an individual or investigating officer on a form prescribed or used by the Department of Public Safety or local police department.

3. Publication in a legal newspaper, as defined in Section 106 of Title 25 of the Oklahoma Statutes, or broadcast by news media for news purposes shall not constitute a resale or use of data for trade or commercial solicitation purposes. Because publication by a legal newspaper, broadcast by news media for news purposes, or obtaining information of verification or settlement of claims by insurance companies is not a resale or use of data for commercial purposes, an affidavit shall not be required as a condition for allowing a member of a legal newspaper or broadcast news media, or allowing an agent, or business serving as an agent, to insurance companies, to examine or obtain a copy of ~~an accident~~ a collision report. Any agent or business obtaining information for verification or settlement of claims involving persons named in a report shall secure an affidavit annually from each client stating the information provided to the client shall not be used for commercial solicitation purposes under penalty of law.

4. The Department of ~~Public Safety~~ and local police departments shall include the following or a similar notice upon any copy of ~~an~~ accident a collision report furnished to others: "Warning - State Law. Use of contents for commercial solicitation is unlawful."

C. 1. In addition to any other penalties or remedies provided by law:

- a. a violation of this section by a health care professional or health care provider shall be grounds for disciplinary action by the state agency licensing, certifying or registering such professional or provider, and
- b. the state agency licensing, certifying or registering such professional or provider may institute an action to enjoin violation or potential violation of this section.

2. As used in this subsection:

- a. "health care professional" means any person who offers or provides health care services under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes~~71~~ and
- b. "health care provider" means any hospital or related institution who offers or provides health care services under a license issued pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma Statutes.

SECTION 2. This act shall become effective November 1, 2002.

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