

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 1301

By: Snyder

AS INTRODUCED

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 40-102, which relates to traffic accidents and accident reports; providing an exemption from public records requirements for accident reports that reveal certain information; providing exemptions to certain parties; providing penalties for the unlawful disclosure of confidential information and obtaining confidential information; and providing an 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 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 on the standard accident report form supplied by the Department. Such reports shall be forwarded forthwith by the Police Department or other agency to the Department of Public Safety. Reports of accidents that occur after the effective date of this act that reveal the identity, home or employment telephone number or address or other personal information concerning the parties involved in the crash will be confidential for a period of sixty (60) days after the date the report is filed. However, such reports may be made immediately available to the parties involved in the accident, their legal representatives, their licensed insurance agents, their

insurers or insurers to which they have applied for coverage, persons under contract with the insurers to provide claims or underwriting information, prosecutorial authorities, legal newspapers as defined in Section 106 of Title 25 of the Oklahoma Statutes or a radio or television broadcaster.

2. Any person, knowing that he or she is not entitled to obtain information made confidential by this section, who obtains such information is guilty of a misdemeanor. The penalty for the first offense shall be a fine of Five Hundred Dollars (\$500.00). Second and subsequent offenses will result in thirty (30) days in the county jail.

B. 1. No public employee or officer shall allow a person to examine or reproduce an accident 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 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 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 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 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 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 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~~7~~, 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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