

ENROLLED SENATE
BILL NO. 883

By: Cain of the Senate

and

Winchester and Adkins of
the House

An Act relating to motor vehicles; amending 47 O.S. 2001, Section 40-102, as amended by Section 1, Chapter 444, O.S.L. 2002 (47 O.S. Supp. 2003, Section 40-102), which relates to traffic collisions resulting in injury or death or property damage exceeding certain amount; authorizing certain reports to be made available to certain health care providers; removing certain penalties against certain health care professionals and providers; deleting obsolete language; adding definitions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 47 O.S. 2001, Section 40-102, as amended by Section 1, Chapter 444, O.S.L. 2002 (47 O.S. Supp. 2003, 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 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 collision on the standard collision report form supplied by the Department of Public Safety. Such reports shall be forwarded forthwith by the law enforcement agency preparing the report to the Department of Public Safety.

2. Reports of collisions that occur on or after 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. state, county or city law enforcement agency,

- d. the Department of Transportation or any county or city transportation or road and highway maintenance agency,
- e. licensed insurance agents of a party involved in the collision,
- f. insurer of a party involved in the collision,
- g. insurer to which a party has applied for coverage,
- h. person under contract with an insurer, as described in subparagraph e, f or g of this paragraph, to provide claims or underwriting information,
- i. prosecutorial authority,
- j. newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes,
- k. radio or television broadcaster, ~~or~~
- l. licensed private investigators employed by ~~parties to a party involved in the collision, or~~
- m. provider of health services to a party involved in the collision.

3. Any person who knowingly violates this section and obtains or provides information made confidential by this section is guilty of a misdemeanor and shall be fined no more than Two Thousand Five Hundred Dollars (\$2,500.00). 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 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 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 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 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 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. "collision report" means any report regarding a motor vehicle 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 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 newspaper, broadcast by news media for news purposes, or obtaining information for 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 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 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 and local police departments shall include the following or a similar notice upon any copy of 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, 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~~

~~D.~~ As used in this section, ~~"newspaper"~~:

1. "Newspaper" means a legal newspaper as defined in Section 106 of Title 25 of the Oklahoma Statutes, provided that the primary purpose of the newspaper is not the publication of personally identifying information concerning parties involved in the traffic collision; and

2. "Provider of health services" means any person that provides health care services to the injured person under a license, certification or registration issued pursuant to Title 59 of the Oklahoma Statutes, or any hospital or related institution that 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 July 1, 2004.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 24th day of February, 2004.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of March, 2004.

Presiding Officer of the House
of Representatives

