



148404

LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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, home or
employment telephone number or home or employment address of, or
other personal information concerning the parties involved in



148404

11 the crash and that are held by an any agency, as defined in s.
12 119.011, that regularly receives or prepares information from or
13 concerning the parties to motor vehicle crashes are confidential
14 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
15 Constitution for a period of 60 days after the date the report
16 is filed.

17 (b) Crash reports held by an agency under paragraph (a) may
18 be made immediately available to the parties involved in the
19 crash, their legal representatives, their licensed insurance
20 agents, their insurers or insurers to which they have applied
21 for coverage, persons under contract with such insurers to
22 provide claims or underwriting information, victim services
23 programs, and any federal, state, or local governmental agency
24 or any private person or entity acting on behalf of a federal,
25 state, or local governmental agency in carrying out its
26 functions, but not for redistribution to any person or entity
27 not listed in this subsection. Crash reports held by an agency
28 under paragraph (a) which do not contain the home or employment
29 street addresses, driver license or identification card numbers,
30 dates of birth, and home and employment telephone numbers of the
31 parties involved in the crash shall be made immediately
32 available to radio and television stations licensed by the
33 Federal Communications Commission and newspapers qualified to
34 publish legal notices under ss. 50.011 and 50.031. A crash
35 report may also be made available to any third party acting on
36 behalf of a person or entity authorized under this section to
37 access the crash report, except that the third party may
38 disclose the crash report only to the person or entity
39 authorized to access the crash report under this section on



148404

40 whose behalf the third party has sought the report. This section
41 shall not prevent an agency, pursuant to a memorandum of
42 understanding, from providing data derived from crash reports to
43 a third party solely for the purpose of identifying vehicles
44 involved in crashes if such data does not reveal the identity,
45 home or employment telephone number or home or employment
46 address, or other personal information of the parties involved
47 in the crash prosecutorial authorities, law enforcement
48 agencies, the Department of Transportation, county traffic
49 operations, victim services programs, radio and television
50 stations licensed by the Federal Communications Commission,
51 newspapers qualified to publish legal notices under ss. 50.011
52 and 50.031, and, in accordance with paragraph (f), free
53 newspapers of general circulation, published once a week or more
54 often, of which at least 7,500 copies are distributed by mail or
55 by carrier as verified by a postal statement or by a notarized
56 printer's statement of press run, which are intended to be
57 generally distributed and circulated, and which contain news of
58 general interest with at least 10 pages per publication,
59 available and of interest to the public generally for the
60 dissemination of news. For the purposes of this section, the
61 following products or publications are not newspapers as
62 referred to in this section: those intended primarily for
63 members of a particular profession or occupational group; those
64 with the primary purpose of distributing advertising; and those
65 with the primary purpose of publishing names and other personal
66 identifying information concerning parties to motor vehicle
67 crashes.

68 (c) Any local, state, or federal agency that is authorized



148404

69 to have access to crash reports by any provision of law shall be
70 granted such access in the furtherance of the agency's statutory
71 duties.

72 (d) As a condition precedent to accessing a crash report
73 ~~within 60 days after the date the report is filed~~, a person must
74 present a valid driver license or other photographic
75 identification, proof of status, or identification that
76 demonstrates his or her qualifications to access that
77 information and file a written sworn statement with the state or
78 local agency in possession of the information stating that
79 information from a crash report made confidential and exempt by
80 this section will not be used for any commercial solicitation of
81 accident victims, or knowingly disclosed to any third party for
82 the purpose of such solicitation, ~~during the period of time that~~
83 ~~the information remains confidential and exempt~~. Such written
84 sworn statement must be completed and sworn to by the requesting
85 party for each individual crash report that is being requested
86 ~~within 60 days after the report is filed~~. In lieu of requiring
87 the written sworn statement, an agency may provide crash reports
88 by electronic means pursuant to a memorandum of understanding to
89 third-party vendors under contract with one or more insurers,
90 but only when such contract states that information from a crash
91 report made confidential and exempt by this section will not be
92 used for any commercial solicitation of accident victims by the
93 vendors, or knowingly disclosed by the vendors to any third
94 party for the purpose of such solicitation, ~~during the period of~~
95 ~~time that the information remains confidential and exempt~~, and
96 only when a copy of such contract is furnished to the agency as
97 proof of the vendor's claimed status.



148404

98 (e) This subsection does not prevent the dissemination or
99 publication of news to the general public by any legitimate
100 media entitled to access confidential and exempt information
101 pursuant to this section.

102 (f) Crash reports held by an agency under paragraph (a) may
103 be made available 60 days after the date the report is filed to
104 any person or entity eligible to access crash reports under
105 paragraph (b) or in accordance with any of the permissible uses
106 listed in 18 U.S.C. s. 2721(b) and pursuant to the resale and
107 redisclosure requirements in 18 U.S.C. s. 2721(c) Free
108 ~~newspapers of general circulation published once a week or more~~
109 ~~often, of which at least 7,500 copies are distributed by mail or~~
110 ~~by carrier as verified by a postal statement or by a notarized~~
111 ~~printer's statement of press run, which are intended to be~~
112 ~~generally distributed and circulated, which contain news of~~
113 ~~general interest with at least 10 pages per publication,~~
114 ~~available and of interest to the public generally for the~~
115 ~~dissemination of news, and which request 10 or more crash~~
116 ~~reports within a 24-hour period before 60 days have elapsed~~
117 ~~after the report is filed may not have access to the home,~~
118 ~~cellular, employment, or other telephone number or the home or~~
119 ~~employment address of any of the parties involved in the crash.~~
120 ~~This paragraph is subject to the Open Government Sunset Review~~
121 ~~Act in accordance with s. 119.15 and shall stand repealed on~~
122 ~~October 2, 2019, unless reviewed and saved from repeal through~~
123 ~~reenactment by the Legislature.~~

124 (g) If crash reports are created by or submitted to an
125 agency electronically as data elements within a computerized
126 database or if personal information from a crash report is



148404

127 entered into a computerized database, such crash data held by an
128 agency is confidential and exempt from s. 119.07(1) and s.
129 24(a), Art. I of the State Constitution. Sixty days after the
130 date the crash report is filed, an agency may provide crash data
131 derived from the crash report which includes personal
132 information to entities eligible to access the crash report
133 under paragraphs (b), or in accordance with any of the
134 permissible uses listed in 18 U.S.C. s. 2721(b) and pursuant to
135 the resale and redisclosure requirements in 18 U.S.C. s.
136 2721(c). Such data shall be provided pursuant to a memorandum of
137 understanding.

138 (h) This subsection is subject to the Open Government
139 Sunset Review Act in accordance with s. 119.15 and shall stand
140 repealed on October 2, 2027, unless reviewed and saved from
141 repeal through reenactment by the Legislature.

142 (3) (a) Any driver failing to file the written report
143 required under subsection (1) commits a noncriminal traffic
144 infraction, punishable as a nonmoving violation as provided in
145 chapter 318.

146 (b) Any employee of a state or local agency in possession
147 of information made confidential and exempt by this section who
148 knowingly discloses such confidential and exempt information to
149 a person not entitled to access such information under this
150 section commits a felony of the third degree, punishable as
151 provided in s. 775.082, s. 775.083, or s. 775.084.

152 (c) Any person, knowing that he or she is not entitled to
153 obtain information made confidential and exempt by this section,
154 who obtains or attempts to obtain such information commits a
155 felony of the third degree, punishable as provided in s.



148404

156 775.082, s. 775.083, or s. 775.084.

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

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

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

171 2. Punitive damages upon proof of willful or reckless
172 disregard of the law.

173 3. Reasonable attorney fees and other litigation costs
174 reasonably incurred.

175 4. Such other preliminary and equitable relief as the court
176 determines to be appropriate.

177
178 This paragraph does not apply to radio and television stations
179 licensed by the Federal Communications Commission and newspapers
180 qualified to publish legal notices under ss. 50.011 and 50.031.

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

183 316.650 Traffic citations.—

184 (11) (a) As used in this subsection, the term "driver



148404

185 information" means a driver's date of birth, driver license or
186 identification card number, address excluding the five-digit zip
187 code, telephone number, motor vehicle license plate number, and
188 trailer tag number. The term does not include the driver's name.

189 (b)1. Driver information contained in a uniform traffic
190 citation held by an agency is exempt from s. 119.07(1) and s.
191 24(a), Art. I of the State Constitution. This paragraph applies
192 to driver information held by an agency before, on, or after the
193 effective date of the exemption.

194 2. An agency may release driver information in accordance
195 with any of the permissible uses listed in 18 U.S.C. s. 2721(b)
196 in the same manner applicable to the release of personal
197 information contained in a motor vehicle record pursuant to s.
198 119.0712(2)(b) and pursuant to the resale and redisclosure
199 requirements in 18 U.S.C. s. 2721(c).

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

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

213 Section 3. (1) The Legislature finds that it is a public



148404

214 necessity that crash reports that reveal personal information
215 concerning parties, passengers, and witnesses to a crash for a
216 period of 60 days after the date the crash report is filed with
217 an agency; such personal information revealed in crash reports
218 held by an agency following the 60-day period; and computerized
219 crash report data held by an agency be confidential and exempt
220 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
221 the State Constitution. Crash reports reveal significant
222 personal information, not only about parties involved in a
223 crash, but also about passengers and other witnesses to the
224 crash. Pervasive use of the Internet and related technologies
225 abet those with malicious purposes in exploiting the use of
226 personal information revealed in crash reports, such as a
227 party's, passenger's, or witness's date of birth, driver license
228 number, and address, creating ever-expanding threats to privacy
229 and security never envisioned in generations past. Moreover,
230 ever-increasing use of information technology for the
231 preparation, submission, and management of crash reports has led
232 agencies to hold vast repositories of computerized crash report
233 data, which includes such personal information. Personal
234 information, when held by the Department of Highway Safety and
235 Motor Vehicles in driver license and motor vehicle records, is
236 confidential pursuant to the federal Driver's Privacy Protection
237 Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2),
238 Florida Statutes. These restrictions on disclosure of personal
239 information, however, have not applied to personal information
240 revealed in crash reports. When personal information revealed in
241 crash reports or computerized crash report data is made
242 available to the public, because it comprises much of the same



148404

243 personal information contained in driver license and motor
244 vehicle records, the protections afforded by the federal
245 Driver's Privacy Protection Act of 1994 are significantly
246 undermined, eroding the privacy and safety of drivers.
247 Therefore, the Legislature finds that it is a public necessity
248 to make confidential and exempt from public records requirements
249 crash reports that reveal personal information concerning
250 parties, passengers, and witnesses to a crash for a period of 60
251 days after the date the crash report is filed with an agency;
252 such personal information revealed in crash reports held by an
253 agency following the 60-day period; and computerized crash
254 report data held by an agency.

255 (2) The Legislature finds that it is a public necessity
256 that driver information contained in a uniform traffic citation
257 held by an agency be exempt from s. 119.07(1), Florida Statutes,
258 and s. 24(a), Article I of the State Constitution. Uniform
259 traffic citations reveal significant personal information about
260 drivers issued a citation. Pervasive use of the Internet and
261 related technologies abet those with malicious purposes in
262 exploiting the use of personal information contained in traffic
263 citations, such as a driver's date of birth, driver license
264 number, and address, creating ever-expanding threats to privacy
265 and security never envisioned in generations past. Driver
266 information, when held by the Department of Highway Safety and
267 Motor Vehicles in driver license and motor vehicle records, is
268 confidential pursuant to the federal Driver's Privacy Protection
269 Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2),
270 Florida Statutes. These restrictions on disclosure of personal
271 information, however, have not applied to driver information



148404

272 contained in uniform traffic citations. When driver information
273 contained in uniform traffic citations is made available to the
274 public, because it comprises much of the same personal
275 information contained in driver license and motor vehicle
276 records, the protections afforded by the federal Driver's
277 Privacy Protection Act of 1994 are significantly undermined,
278 eroding the privacy and safety of drivers. Therefore, the
279 Legislature finds that it is a public necessity to make exempt
280 from public records requirements driver information contained in
281 uniform traffic citations.

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

283

284 ===== T I T L E A M E N D M E N T =====

285 And the title is amended as follows:

286 Delete everything before the enacting clause
287 and insert:

288 A bill to be entitled
289 An act relating to public records; amending s.
290 316.066, F.S.; revising agencies to which a public
291 records exemption for certain motor vehicle crash
292 reports applies; revising entities to whom crash
293 reports may be made immediately available; revising
294 the types of crash reports that may be made
295 immediately available to certain radio and television
296 stations and newspapers; providing that crash reports
297 may be made available to certain third parties subject
298 to a certain restriction; revising conditions for
299 accessing crash reports; specifying the availability
300 of crash reports after a certain period; deleting a



148404

301 restriction on certain crash report information by
302 certain newspapers; providing a public records
303 exemption for certain electronic crash data; providing
304 for future legislative review and repeal of the
305 exemptions; revising applicability of a criminal
306 penalty; providing a private cause of action against a
307 person who violates certain restrictions relating to
308 personal information; specifying damages, attorney
309 fees, costs, and other relief a court may award;
310 providing construction; amending s. 316.650, F.S.;
311 defining the term "driver information"; providing an
312 exemption from public records requirements for driver
313 information contained in a uniform traffic citation;
314 providing retroactive applicability; authorizing the
315 release of driver information under certain
316 circumstances; providing for future legislative review
317 and repeal of the exemption; providing statements of
318 public necessity; providing an effective date.