

**MOTOR VEHICLE ACCIDENTS - ACCESS TO
POLICE REPORTS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: LaVar Christensen

This act modifies the Motor Vehicles Code by amending accident report disclosure provisions. This act requires the responsible law enforcement agency employing the investigating officer to disclose the accident report and upon written request any accompanying data within ten days of the receipt of a written request, unless the disclosure interferes with an ongoing criminal investigation or criminal prosecution. This act allows the Department of Public Safety and the responsible law enforcement agency employing the investigating peace officer to charge a reasonable fee for the cost incurred in disclosing an accident report or any of its accompanying data.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-6-40, as last amended by Chapter 85, Laws of Utah 2001

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **41-6-40** is amended to read:

41-6-40. Accident reports -- When confidential -- Insurance policy information --

Use as evidence -- Penalty for false information.

(1) As used in this section[;]:

(a) "Agent" means a person's:

[~~(a)~~] (i) attorney;

[~~(b)~~] (ii) insurer; or

[~~(c)~~] (iii) any other individual or entity with signed permission from the person to

receive the person's accident report.

(b) "Accompanying data" means all materials gathered by the investigating peace officer in an accident investigation including:

(i) the identity of witnesses and, if known, contact information;

- (ii) witness statements;
- (iii) photographs and videotapes;
- (iv) diagrams; and
- (v) field notes.

(2) Except as provided in Subsection (3), all accident reports required in this article to be filed with the department:

- (a) are without prejudice to the reporting individual;
- (b) are protected and for the confidential use of the department or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and
- (c) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(3) (a) ~~[The]~~ Subject to the provisions of this section, the department or the responsible law enforcement agency employing the peace officer that investigated the accident shall disclose an accident report ~~[and its accompanying data]~~ to:

- (i) a person involved in the accident, excluding a witness to the accident;
- (ii) a person suffering loss or injury in the accident;
- (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i) and (ii);
- (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;
- (v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;
- (vi) law enforcement personnel when acting in their official governmental capacity; and
- (vii) a licensed private investigator.

(b) The responsible law enforcement agency employing the peace officer that investigated the accident:

- (i) shall in compliance with Subsection (3)(a):
 - (A) disclose an accident report; or

(B) upon written request disclose an accident report and its accompanying data within ten business days from receipt of a written request for disclosure; or

(ii) may withhold an accident report, and any of its accompanying data if disclosure would jeopardize an ongoing criminal investigation or criminal prosecution.

~~[(b)]~~ (c) In accordance with Subsection (3)(a), the department or the responsible law enforcement agency employing the investigating peace officer shall disclose whether any person or vehicle involved in an accident reported under this section was covered by a vehicle insurance policy, and the name of the insurer.

~~[(e)]~~ (d) Information provided to a member of the press or broadcast news media under Subsection (3)(a)(iv) may only include:

- (i) the name, age, sex, and city of residence of each person involved in the accident;
- (ii) the make and model year of each vehicle involved in the accident;
- (iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;
- (iv) the location of the accident; and
- (v) a description of the accident that excludes personal identifying information not listed in Subsection (3)~~[(e)]~~(d)(i).

(4) (a) Except as provided in Subsection (4)(b), accident reports filed under this section may not be used as evidence in any civil or criminal trial arising out of an accident.

(b) (i) Upon demand of any party to the trial or upon demand of any court, the department shall furnish a certificate showing that a specified accident report has or has not been made to the department in compliance with law.

(ii) If the report has been made, the certificate furnished by the department shall show the date, time, and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved, and the investigating officers.

(iii) The reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (5).

(5) A person who gives information in reports as required in this chapter knowing or

having reason to believe that the information is false is guilty of a class A misdemeanor.

(6) The department and the responsible law enforcement agency employing the investigating peace officer may charge a reasonable fee determined by the department under Section 63-38-3.2 for the cost incurred in disclosing an accident report or an accident report and any of its accompanying data under Subsections (3)(a) and (b).