

1 **ACCIDENT REPORT ACCESS AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael K. McKell**

5 House Sponsor: Nelson T. Abbott

7 **LONG TITLE**

8 **General Description:**

9 This bill prohibits a person from using an accident report for purposes of marketing
10 services to a person involved in the accident in question.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ prohibits a person from obtaining an accident report if the person is not described in
- 14 statute;
- 15 ▶ prohibits a person from using information in an accident report for marketing
- 16 purposes; and
- 17 ▶ makes technical changes.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 None

22 **Utah Code Sections Affected:**

23 AMENDS:

24 **41-6a-404**, as last amended by Laws of Utah 2021, Chapters 211, 216

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

27 Section 1. Section **41-6a-404** is amended to read:



28 **41-6a-404. Accident reports -- When confidential -- Insurance policy information**
29 **-- Use as evidence -- Penalty for false information.**

30 (1) As used in this section:

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

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

34 (ii) witness statements;

35 (iii) photographs and videotapes;

36 (iv) diagrams; and

37 (v) field notes.

38 (b) "Agent" means:

39 (i) a person's attorney that has been formally engaged;

40 (ii) a person's insurer;

41 (iii) a general acute hospital, as defined in Section 26-21-2, that:

42 (A) has an emergency room; and

43 (B) is providing or has provided emergency services to the person in relation to the
44 accident; or

45 (iv) any other individual or entity with signed permission from the person to receive
46 the person's accident report.

47 (2) (a) Except as provided in Subsections (3) and (7), all accident reports required in
48 this part to be filed with the department:

49 (i) are without prejudice to the reporting individual;

50 (ii) are protected and for the confidential use of the department or other state, local, or
51 federal agencies having use for the records for official governmental statistical, investigative,
52 and accident prevention purposes; and

53 (iii) may be disclosed only in a statistical form that protects the privacy of any person
54 involved in the accident.

55 (b) An investigating peace officer shall include in an accident report an indication as to
56 whether the accident occurred on a highway designated as a livestock highway in accordance
57 with Section 72-3-112 if the accident resulted in the injury or death of livestock.

58 (3) (a) Subject to the provisions of this section, the department or the responsible law

59 enforcement agency employing the peace officer that investigated the accident shall disclose an
60 accident report to:

- 61 (i) a person involved in the accident, excluding a witness to the accident;
- 62 (ii) a person suffering loss or injury in the accident;
- 63 (iii) an agent, parent, or legal guardian of a person described in Subsections (3)(a)(i)

64 and (ii);

65 (iv) subject to Subsection (3)(d), a member of the press or broadcast news media;

66 (v) a state, local, or federal agency that uses the records for official governmental,

67 investigative, or accident prevention purposes;

68 (vi) law enforcement personnel when acting in their official governmental capacity;

69 and

70 (vii) a licensed private investigator who:

71 (A) represents an individual described in Subsections (3)(a)(i) through (iii); and

72 (B) demonstrates that the representation of the individual described in Subsections

73 (3)(a)(i) through (iii) is directly related to the accident that is the subject of the accident report.

74 (b) The responsible law enforcement agency employing the peace officer that

75 investigated the accident:

76 (i) shall in compliance with Subsection (3)(a):

77 (A) disclose an accident report; or

78 (B) upon written request disclose an accident report and its accompanying data within

79 10 business days from receipt of a written request for disclosure; or

80 (ii) may withhold an accident report, and any of its accompanying data if disclosure

81 would jeopardize an ongoing criminal investigation or criminal prosecution.

82 (c) In accordance with Subsection (3)(a), the department or the responsible law

83 enforcement agency employing the investigating peace officer shall disclose whether any

84 person or vehicle involved in an accident reported under this section was covered by a vehicle

85 insurance policy, and the name of the insurer.

86 (d) Information provided to a member of the press or broadcast news media under

87 Subsection (3)(a)(iv) may only include:

88 (i) the name, age, sex, and city of residence of each person involved in the accident;

89 (ii) the make and model year of each vehicle involved in the accident;

90 (iii) whether or not each person involved in the accident was covered by a vehicle
91 insurance policy;

92 (iv) the location of the accident; and

93 (v) a description of the accident that excludes personal identifying information not
94 listed in Subsection (3)(d)(i).

95 (e) The department shall disclose to any requesting person the following vehicle
96 accident history information, excluding personal identifying information, in bulk electronic
97 form:

98 (i) any vehicle identifying information that is electronically available, including the
99 make, model year, and vehicle identification number of each vehicle involved in an accident;

100 (ii) the date of the accident; and

101 (iii) any electronically available data which describes the accident, including a
102 description of any physical damage to the vehicle.

103 (f) The department may establish a fee under Section [63J-1-504](#) based on the fair
104 market value of the information for providing bulk vehicle accident history information under
105 Subsection (3)(e).

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

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

111 (ii) If the report has been made, the certificate furnished by the department shall show:

112 (A) the date, time, and location of the accident;

113 (B) the names and addresses of the drivers;

114 (C) the owners of the vehicles involved; and

115 (D) the investigating peace officers.

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

118 (5) A person who gives information in reports as required in this part knowing or
119 having reason to believe that the information is false is guilty of a class A misdemeanor.

120 (6) The department and the responsible law enforcement agency employing the

121 investigating peace officer may charge a reasonable fee determined by the department under
 122 Section 63J-1-504 for the cost incurred in disclosing an accident report or an accident report
 123 and any of its accompanying data under Subsections (3)(a) and (b).

124 (7) (a) The Office of State Debt Collection, the Division of Risk Management, and the
 125 Department of Transportation may, in the performance of the regular duties of each respective
 126 division or department, disclose an accident report to:

- 127 (i) a person involved in the accident, excluding a witness to the accident;
- 128 (ii) an owner of a vehicle involved in the accident;
- 129 (iii) an agent, parent, or legal guardian of a person described in Subsection (7)(a)(i) or
 130 (ii); or
- 131 (iv) an insurer that provides motor vehicle insurance to a person described in
 132 Subsection (7)(a)(i) or (iii).

133 (b) A disclosure under Subsection (7)(a) does not change the classification of the
 134 record as a protected record under Section 63G-2-305.

135 (8) (a) A person may not ~~§~~ **knowingly** ~~§~~ obtain an accident report described ~~§~~ in
 135a1 this part ~~§~~ if the
 135a person is not
 136 described in Subsection (3).

137 (b) A person may not ~~§~~ **knowingly** ~~§~~ use information in an accident report to market
 137a services,
 138 including marketing for legal representation.

139 (c) A person who violates this Subsection (8) is guilty of a class A misdemeanor.