

SUBJECT: Disclosure of accident reports

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 8 ayes — Oakley, Bailey, Allen, Carter, Driver, Luna, Madden,
McCoulskey

0 nays

1 absent — Edwards

WITNESSES: For — John M. Richards, The State Bar of Texas; Gregory Jones, Tarrant
County Trial Lawyers Association; Sam Cox, Austin Police Department,
Texas Municipal Police Association

Against — John Henry, Texas Media

On — James G. Templeton, Texas Department of Public Safety

BACKGROUND: In 1993 the Legislature enacted HB 272 by Goodman et al. that prohibited
the Department of Public Safety (DPS) or other law enforcement agencies
from disclosing information relating to a traffic accident report until 180
days after the accident, except at the request of certain specified persons.
Reports can be released within the 180 days to:

- local, state and national government agencies that use the reports for accident prevention,
- the law enforcement agency of the officer who produced the report;
- a court in which a case involving someone involved in the accident is pending;
- a driver, passenger or other person involved in the accident or their authorized representative;
- the guardian or conservator of a person involved in the accident;
- the parent of a minor involved in an accident;
- the insurance company of a driver, passenger or other person involved in an accident;
- a representative of a person killed in an accident;

- an owner of property that was damaged in the accident in the accident or the owner's insurance company;
- a person who could be subject to civil liability as a result of the accident;
- the news media (as defined in the code);
- the employer or prospective employer of a driver in the accident;
- the insurance company or prospective insurance company of a driver in the accident; and
- an attorney representing a person that would be eligible to receive a copy of the accident report.

DPS motor vehicle accident reports are public records after the 180 days.

DIGEST:

HB 391 would allow accident reports to be released at any time only to local, state and national government agencies that use the reports for accident prevention; the law enforcement agency of the officer who produced the report; a court in which a case involving someone involved in the accident is pending and a person who provides the DPS with at least two of the following pieces of information: the accident date, the name of any person involved and the specific accident location.

HB 391 would take effect September 1, 1995.

**SUPPORTERS
SAY:**

HB 391 would fine-tune the 1993 accident report law that was ruled unconstitutional by a federal district court but still discourage ambulance-chasing organizations from abusing the privilege of acquiring traffic accident reports. The court ruled the law unconstitutional because it denied equal protection and therefore equal access to persons wanting accident reports. HB 391 would fix that concern by allowing anyone who can identify the report to obtain a copy.

It has become a common practice for private companies to collect accident reports and compile lists of victims. DPS reports that some firms request hundreds of accident reports per week. Lists of accident victims are then sold to lawyers, chiropractors and doctors who in turn contact victims to solicit their business. Sometimes even the families of persons killed in accidents have been hit with the solicitation letters.

By restricting access to reports to only those who know at least two pieces of information — the name of any person involved, the accident date or the location — HB 391 would help prevent profit-hungry legal and medical firms from harassing people that have been involved in auto accidents. Persons with a legitimate interest in the report would know the required information. Traffic statistics and aggregate accident reports are easily accessible to the media and others.

**OPPONENTS
SAY:**

HB 391 would restrict access to accident reports and cut the public off information it has a right and a need to have. HB 391 would unwisely restrict public access to information because some persons are inconvenienced with solicitation letters. The news media and others often learn of dangerous intersections and traffic hazards by looking through accident reports.

HB 391 could also result in accident victims being kept in the dark about their rights in the civil legal system to remedies for damages if someone acts negligently. Insurance companies could push for quick settlements before victims even know their rights. Courts have ruled that professional solicitation is protected speech and cannot be significantly infringed upon by the state.

NOTES:

The companion bill, SB 1707 by Ratliff, is scheduled for a hearing in Senate State Affairs today.