

SUBJECT: Access to motor vehicle records and accident reports

COMMITTEE: Public Safety — favorable, without amendment

VOTE: 8 ayes — B. Turner, Keel, Berman, Carter, Driver, Hupp, P. King, Najera
0 nays
1 absent — Gutierrez

SENATE VOTE: On final passage, April 8 — 30-0

WITNESSES: For — Gregory Jones, Texas Trial Lawyers
Against — None

BACKGROUND: Motor vehicle operator or driver's licenses or permits, motor vehicle title or registration, and personal identification documents issued by the state or a local, authorized agency generally are excluded from open records requirements. This information can be released to specific individuals under certain circumstances according to the Motor Vehicle Records Disclosure Act (Transportation Code, Chapter 730).

DIGEST: SB 1035 would make information on motor vehicle accidents held by a government entity available to the public and subject to open records requirements. Confidential motor vehicle records, as defined by the bill, no longer would include accident reports. However, such information could not be disclosed to anyone unless the person affirmed on an appropriate form that the information would not be used for direct solicitation of business or employment for pecuniary gain. The form would have to be approved by Texas Department of Public Safety (DPS).

A copy of the information would be provided upon written request on a form adopted by DPS. The bill would authorize a fee of \$4 or the cost of the preparation of the copy, whichever was greater. If no information existed, the bill would authorize a certificate to be issued for \$4 stating that no information was available on file. This bill would expand the definition of

“agency” in the Motor Vehicle Records Disclosure Act to include local government entities.

It would be a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000, to use personal information on motor vehicle records or accident reports for resale for bulk distribution for surveys, marketing, or solicitations. It would be a Class B misdemeanor offense, punishable by up to 180 days in jail and /or a maximum fine of \$2000, to obtain or employ or engage another to obtain motor vehicle accident information from a governmental entity and to use that for direct solicitation of business or employment for pecuniary gain.

The bill would repeal Chapter 731 of the Transportation Code on disclosure of personal information from motor vehicle records.

This bill would take effect September 1, 1999 and would not effect civil action brought before that date.

**SUPPORTERS
SAY:**

SB 1035 would revise last session’s SB 1069 by Moncrief, which sought to restrict access to information on motor vehicle accident reports. The intent of that bill was to protect the public by cutting off access to private information about individuals in all motor vehicle records kept by government agencies. However, that bill went too far by requiring persons desiring access to traffic accident records to know the name of at least one person involved and either the date or the location of the accident. News media organizations challenged the bill on First Amendment grounds, and a state district court in Austin issued an injunction against its enforcement.

SB 1035 would make motor vehicle accident information held by a government agency a public record and would allow access to anyone, so long as the information was not used for profit or to solicit business. By creating misdemeanor offenses for misusing personal information from motor vehicle records, SB 1035 actually would ensure greater protection against disclosure or misuse for the kind of private information contained in registration and title documents or operator or driver’s license records. This would inhibit only those, such as some chiropractors, doctors, lawyers, and insurance companies, who seek government records on traffic accidents in order to solicit business.

SB 1035 would require anyone accessing motor vehicle accident reports from any governmental source to sign a form stating that the information would not be used for solicitation or pecuniary gain. The violation of this would be a Class B misdemeanor punishable by up to 180 days in jail and/or a maximum fine of \$2,000. This punishment effectively would deter “ambulance chasers” from using accident reports illegally and help to end the harassment of those involved in accidents. This bill also would stop creation and sale of mailing lists of names and addresses taken from motor vehicle records. Internet services that posted accident report information could not charge for the information.

**OPPONENTS
SAY:**

This bill would make it easier to obtain accident report records. Although the bill is aimed at solving the problem of chiropractors and lawyers attempting to profit from an accident victim’s misfortune, SB 1035 still would make it easier to get a person’s name, address, and any other information that may be in an accident report. Those who obtain the information would not necessarily use it in a legal manner just because they sign a paper promising not to do so, and enforcement would be difficult.

It should not be easier to get an individual’s personal information from an accident report. California uses its accident reports solely for safety purposes. In that state, the reports are not available to the public, press, or solicitors. Opening up accident records at both the state and local government levels potentially could make it easier to steal another’s identity, ruin someone else’s credit, stalk a victim, and broadcast personal information in the media.

The repeal of Chapter 731 of the Transportation Code would go too far because it would remove protections against providing personal information from accident reports on the Internet. Personal information from an accident report could go out over the Internet as long as the person who used it did not make a profit. The only reassurance the public would have would be a form that says the recipient promised not to use personal information for profit.

NOTES:

SB 1069 by Moncrief and HB 399 by Goodman, enacted during the 1997 session, both sought to limit access to motor vehicle records. HB 399 was vetoed by the governor as an overly broad restriction on public access to information. SB 1069 became effective on September 1, 1997, but was temporarily enjoined by the 200th Judicial District Court in Travis County (*Texas Daily Newspaper Association and Texas Press Association v.*

Honorable Dan Morales, 97-08930). The temporary injunction alleged that SB 1069 was unconstitutional under the First Amendment because it denied access to public records.