

1 **SENATE FLOOR VERSION**

2 February 25, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 289

6 By: Paxton of the Senate

7 and

8 Frix of the House

9 An Act relating to motor vehicles; amending 47 O.S.
10 2011, Section 40-102, which relates to traffic
11 collision reports; modifying definitions; and
12 providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 47 O.S. 2011, Section 40-102, is
15 amended to read as follows:

16 Section 40-102. A. 1. Every law enforcement officer who, in
17 the regular course of duty, investigates or receives a report of a
18 traffic collision resulting in injury to or death of a person or
19 total property damage to an apparent extent of Five Hundred Dollars
20 (\$500.00) or more shall prepare a written report of the collision on
21 the standard collision report form supplied by the Department of
22 Public Safety. The reports shall be forwarded within thirty (30)
23 days of the collision or, if the collision results in the death of
24 any person, then within twenty (20) days of the death of the person,

1 whichever time period is lesser, by the law enforcement agency
2 preparing the report to the Department of Public Safety.

3 2. Reports of collisions shall be kept confidential for a
4 period of sixty (60) days after the date of the collision; provided,
5 the reports shall be made available as soon as practicable upon
6 request to any:

- 7 a. party involved in the collision,
- 8 b. legal representatives of a party involved in the
9 collision,
- 10 c. state, county or city law enforcement agency,
- 11 d. the Department of Transportation or any county or city
12 transportation or road and highway maintenance agency,
- 13 e. licensed insurance agents of a party involved in the
14 collision,
- 15 f. insurer of a party involved in the collision,
- 16 g. insurer to which a party has applied for coverage,
- 17 h. person under contract with an insurer, as described in
18 subparagraph e, f or g of this paragraph, to provide
19 claims or underwriting information,
- 20 i. prosecutorial authority,
- 21 j. newspaper as defined in Section 106 of Title 25 of the
22 Oklahoma Statutes,
- 23 k. radio or television broadcaster,

24

1 1. licensed private investigators employed by a party
2 involved in the collision, or

3 m. provider of health services to a party involved in the
4 collision.

5 3. Any person who knowingly violates this section and obtains
6 or provides information made confidential by this section is guilty
7 of a misdemeanor and shall be fined no more than Two Thousand Five
8 Hundred Dollars (\$2,500.00). Second and subsequent offenses shall
9 carry a penalty of imprisonment in the county jail for not more than
10 thirty (30) days.

11 B. 1. No public employee or officer shall allow a person to
12 examine or reproduce a collision report or any related investigation
13 report if examination or reproduction of the report is sought for
14 the purpose of making a commercial solicitation. Any person
15 requesting a collision report may be required to state, in writing,
16 under penalty of perjury, that the report will not be examined,
17 reproduced or otherwise used for commercial solicitation purposes.
18 It shall be unlawful and constitute a misdemeanor for any person to
19 obtain or use information from a collision report or a copy thereof
20 for the purpose of making a commercial solicitation.

21 2. As used in this subsection:

22 a. "commercial solicitation" means any attempt to use, or
23 offer for use, personal information contained in a
24 collision report to solicit any person named in the

1 report, or a relative of the person, or to solicit a
2 professional, business, or commercial relationship
3 that is not pursuant to a request under paragraph 2 of
4 subsection A of this section. "Commercial
5 solicitation" does not include publication in a
6 newspaper, as defined in Section 106 of Title 25 of
7 the Oklahoma Statutes, or broadcast of information by
8 news media for news purposes, or obtaining information
9 for the purpose of verification or settlement of
10 claims by insurance companies, and

11 b. "collision report" means any report regarding a motor
12 vehicle collision which has been submitted by an
13 individual or investigating officer on a form
14 prescribed or used by the Department of Public Safety
15 or local police department.

16 3. Publication in a newspaper, as defined in Section 106 of
17 Title 25 of the Oklahoma Statutes, or broadcast by news media for
18 news purposes shall not constitute a resale or use of data for trade
19 or commercial solicitation purposes. Because publication by a
20 newspaper, broadcast by news media for news purposes, or obtaining
21 information for verification or settlement of claims by insurance
22 companies is not a resale or use of data for commercial solicitation
23 purposes, an affidavit shall not be required as a condition for
24 allowing a member of a newspaper or broadcast news media, or

1 allowing an agent, or business serving as an agent, to insurance
2 companies, to examine or obtain a copy of a collision report. Any
3 agent or business obtaining information for verification or
4 settlement of claims involving persons named in a report shall
5 secure an affidavit annually from each client stating the
6 information provided to the client shall not be used for commercial
7 solicitation purposes under penalty of law.

8 4. The Department and local police departments shall include
9 the following or a similar notice upon any copy of a collision
10 report furnished to others: "Warning - State Law. Use of contents
11 for commercial solicitation is unlawful."

12 C. As used in this section:

13 1. "Newspaper" means a legal newspaper as defined in Section
14 106 of Title 25 of the Oklahoma Statutes, provided that the primary
15 purpose of the newspaper is not the publication of personally
16 identifying information concerning parties involved in the traffic
17 collision; ~~and~~

18 2. "Provider of health services" means any person that provides
19 health care services to the injured person under a license,
20 certification or registration issued pursuant to Title 59 of the
21 Oklahoma Statutes, or any hospital or related institution that
22 offers or provides health care services under a license issued
23 pursuant to Section 1-702 et seq. of Title 63 of the Oklahoma
24 Statutes; and

1 3. "Personal information", as defined in Section 162 of Title
2 24 of the Oklahoma Statutes, means the first name or first initial
3 and last name in combination with and linked to any one or more of
4 the following data elements that relate to a resident of this state,
5 when the data elements are neither encrypted nor redacted:

6 a. social security number,

7 b. driver license number or state identification card
8 number issued in lieu of a driver license, or

9 c. financial account number or credit or debit card
10 number in combination with any required security code,
11 access code or password that would permit access to
12 the financial accounts of a resident.

13 Personal information does not include information that is
14 lawfully obtained from publicly available information or from
15 federal, state or local government records lawfully made available
16 to the general public.

17 SECTION 2. This act shall become effective November 1, 2019.

18 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
19 February 25, 2019 - DO PASS AS AMENDED