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HOUSE BILL 195

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Larry A. Larrañaga

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING AND ENACTING SECTIONS OF
THE MOTOR VEHICLE CODE TO CLARIFY ACCIDENT REPORT
CONFIDENTIALITY; MAKING SOLICITATION OF ACCIDENT REPORTS OR
CLIENTS A CRIME; PROVIDING PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 66-7-213 NMSA 1978 (being Laws 1978,
Chapter 35, Section 402, as amended) is amended to read:

"66-7-213. ACCIDENT REPORTS CONFIDENTIAL--EXCEPTIONS--
PENALTIES.--

A. All accident reports made by persons involved in
accidents or by persons in charge of garages shall be without
prejudice to the individual so reporting and shall be for the
confidential use of the [~~state highway and~~] department of
transportation [~~department~~] or other state agencies having use

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1 for the records for accident prevention purposes or for the
2 administration of the laws of this state relating to the
3 deposits of security and proof of financial responsibility by
4 persons driving or the owners of motor vehicles, except that
5 the [~~state highway and~~] department of transportation
6 [~~department~~] may disclose:

7 (1) the identity of a person involved in an
8 accident when [~~his~~] the person's identity is not otherwise
9 known or when the person denies [~~his~~] the person's presence at
10 the accident; or

11 (2) the fact that the owner or operator of a
12 motor vehicle involved in the accident is or is not insured and
13 if [~~he~~] the owner or operator is insured, the name and address
14 of [~~his~~] the owner's or operator's insurance carrier.

15 B. Except as otherwise provided in this section, no
16 accident report shall be used as evidence in any trial, civil
17 or criminal, arising out of an accident.

18 C. The [~~state highway and~~] department of
19 transportation [~~department~~] shall furnish upon demand of any
20 person who has or claims to have made a report or upon demand
21 of any court a certificate showing that a specified accident
22 report has or has not been made to the [~~state highway and~~]
23 department of transportation [~~department~~] solely to prove a
24 compliance or a failure to comply with the requirement that a
25 report be made to the [~~state highway and~~] department of

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1 transportation [~~department~~].

2 D. A certified copy of the investigating officer's
3 accident report may be introduced into evidence in any
4 arbitration or civil action involving the insurer's liability
5 under a motor vehicle or automobile liability policy containing
6 uninsured motorist coverage as required by Section 66-5-301
7 NMSA 1978 to prove that the owner or operator of the other
8 motor vehicle involved in the accident is either insured or
9 uninsured. The investigating agency shall furnish a certified
10 copy of the investigating officer's accident report to either
11 party to the arbitration or civil action or to the court on
12 request. The certified copy of the investigating officer's
13 report is prima facie evidence that the owner or operator of
14 the other motor vehicle is either insured or uninsured.

15 E. For a period of sixty days after the date the
16 report is filed, no public employee shall allow any person,
17 including a practitioner, an attorney, health care service
18 provider or their agents, to examine or obtain a copy of any
19 accident report or related investigative report or supplemental
20 report when the employee knows or should reasonably know that
21 the request for access to the report is for commercial
22 solicitation purposes. For purposes of this section, a request
23 to examine or obtain a copy of a report is for commercial
24 solicitation purposes if made at a time when there is no
25 relationship between the person requesting the report and any

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1 party to the accident and there is no apparent reason for the
2 person to request the report other than for purposes of
3 soliciting a business or commercial relationship. A violation
4 of this provision is a misdemeanor and is punishable pursuant
5 to the provisions of Section 66-7-8 NMSA 1978.

6 F. Motor vehicle accident reports may be made
7 immediately available to the parties involved in a crash, the
8 parties' legal representatives, the parties' licensed insurance
9 agents, the parties' insurers or insurers to which the parties
10 have applied for coverage, persons under contract with such
11 insurers to provide claims or underwriting information,
12 prosecutorial authorities, state-approved victim services
13 programs, radio and television stations licensed by the federal
14 communications commission, newspapers qualified to publish
15 legal notices under applicable state law published at least
16 once a week that are available to the public for the
17 dissemination of news. For the purposes of this section, the
18 following products or publications that are not newspapers, as
19 referred to in this subsection, include those products or
20 publications:

- 21 (1) intended primarily for members of a
22 particular profession or occupational group;
23 (2) with the primary purpose of distributing
24 advertising; and
25 (3) with the primary purpose of publishing

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1 names and other personal identifying information concerning
2 parties to motor vehicle crashes.

3 G. In addition to any other requirements, a person
4 requesting to inspect or copy a motor vehicle accident or crash
5 report, related investigative report or supplemental report
6 within sixty days of the accident shall:

7 (1) produce for inspection and copying a
8 government-issued photo identification; and

9 (2) provide a written, signed sworn statement
10 that:

11 (a) identifies the requested reports and
12 the requester's relationship to the parties;

13 (b) includes the printed name of the
14 requester;

15 (c) verifies that the requester is not
16 prohibited from obtaining the report; and

17 (d) affirms that information from the
18 reports will not be used for any commercial solicitation
19 purpose of accident victims, or knowingly disclose to any third
20 party for the purpose of such solicitation, during the sixty-
21 day time period pursuant to this section.

22 H. In lieu of requiring the written, signed sworn
23 statement, any law enforcement, state or local agency may
24 provide reports by electronic means to third-party vendors
25 under contract with one or more insurers, but only when such

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1 contract states that information from a report made
2 confidential will not be used for any commercial solicitation
3 purpose of accident victims by the vendors, or knowingly
4 disclose by the vendors to any third party for the purpose of
5 such solicitation, during the sixty-day time period following
6 filing of the report, and only when a copy of the contract is
7 furnished to the agency as proof of the vendor's claimed
8 status.

9 I. For each request to inspect or copy a motor
10 vehicle accident report or related investigative report or
11 supplemental report made within sixty days of the accident, the
12 law enforcement, state or local agency shall maintain for one
13 year a copy of the requester's photo identification and
14 statement."

15 SECTION 2. A new section of Chapter 66, Article 8 NMSA
16 1978 is enacted to read:

17 "[NEW MATERIAL] PROHIBITION OF SOLICITATION--PENALTIES.--

18 A. No person, for a period of sixty days after the
19 date the report is filed, shall request any law enforcement,
20 state or local agency to permit examination or to furnish a
21 copy of any motor vehicle accident report or related
22 investigative report or supplemental report for commercial
23 solicitation purposes. For purposes of this subsection, a
24 request to examine or obtain a copy of a report is for
25 commercial solicitation purposes if made at a time when there

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1 is no relationship between the person or the person's principal
2 requesting the report and any party to the accident and there
3 is no apparent reason for the person to request the report
4 other than for purposes of soliciting a business or commercial
5 relationship. A violation of this provision is a misdemeanor
6 and is punishable pursuant to the provisions of Section 66-7-8
7 NMSA 1978.

8 B. It is unlawful for a person:

9 (1) whether directly or through a paid
10 intermediary or volunteer, to solicit for financial gain a
11 client, patient or customer within sixty days of a motor
12 vehicle accident for the purpose of seeking benefits under a
13 contract of insurance or to assert a claim against an insured,
14 a governmental entity or an insurer on behalf of a person
15 arising out of the accident; or

16 (2) to compensate or give anything of value to
17 a person to recommend or secure his employment by a client,
18 patient or customer if the intent is to obtain benefits under a
19 contract of insurance or to assert a claim against an insured
20 or an insurer for providing services to the client, patient or
21 customer.

22 C. A violation of Subsection B of this section is a
23 fourth degree felony and is punishable pursuant to the
24 provisions of Section 31-18-15 NMSA 1978."