



February 14, 2011

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## SENATE BILL No. 84

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DIGEST OF SB 84 (Updated February 10, 2011 11:59 am - DI 110)

**Citations Affected:** IC 9-13; IC 9-26.

**Synopsis:** Confidentiality of motor vehicle accident reports. Provides that, with certain exceptions, a motor vehicle accident report is confidential for 30 days after the date of the accident. Provides that a person who obtains or attempts to obtain an accident report or draft accident report in violation of the law commits a Class A infraction.

**Effective:** July 1, 2011.

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**Leising, Steele, Waterman**

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January 5, 2011, read first time and referred to Committee on Insurance and Financial Institutions.  
February 14, 2011, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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SB 84—LS 6431/DI 87+



February 14, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

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## SENATE BILL No. 84



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 9-13-2-92, AS AMENDED BY P.L.94-2006,  
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2011]: Sec. 92. (a) "Law enforcement officer", except as  
 4 provided in subsection (b), includes the following:  
 5 (1) A state police officer.  
 6 (2) A city, town, or county police officer.  
 7 (3) A sheriff.  
 8 (4) A county coroner.  
 9 (5) A conservation officer.  
 10 (6) An individual assigned as a motor carrier inspector under  
 11 IC 10-11-2-26(a).  
 12 (7) A member of a consolidated law enforcement department  
 13 established under IC 36-3-1-5.1.  
 14 (8) An excise police officer of the alcohol and tobacco  
 15 commission.  
 16 (b) "Law enforcement officer", for purposes of IC 9-30-5, IC 9-30-6,  
 17 IC 9-30-7, IC 9-30-8, ~~and~~ IC 9-30-9, **and IC 9-26-3.5** has the meaning

SB 84—LS 6431/DI 87+



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set forth in IC 35-41-1.

SECTION 2. IC 9-26-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. A report filed by a law enforcement officer under section 2 of this chapter is ~~not~~ a confidential record for thirty (30) days after the date of the accident and ~~shall~~ may not be made available for inspection and copying under ~~IC 5-14-3~~ during this period except as set forth in IC 9-26-3.5.

SECTION 3. IC 9-26-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

**Chapter 3.5. Access to Accident Reports**

**Sec. 1. As used in this chapter, "accident report" means a written report prepared by a law enforcement officer regarding the investigation of a motor vehicle accident. The term does not include a draft of an accident report.**

**Sec. 2. As used in this chapter, "agency" means a state or local government agency that receives a copy of an accident report.**

**Sec. 3. (a) Except as provided in section 4 of this chapter:**

- (1) an accident report; and**
- (2) a draft of an accident report;**

**are confidential for thirty (30) days after the date of the motor vehicle accident to which the accident report or draft relates and may not be made available for inspection or copying during this period.**

**(b) More than thirty (30) days after the date of a motor vehicle accident, the accident report concerning the accident and any draft of the accident report are not confidential records and may be made available for inspection and copying under IC 5-14-3.**

**Sec. 4. (a) An accident report may be inspected or copied within thirty (30) days after the date of the accident to which the accident report relates by the following:**

**(1) A person who satisfies the requirements in section 5 of this chapter and certifies under the penalties for perjury that the person is any of the following:**

- (A) A party involved in the accident.**
- (B) A legal representative of a party involved in the accident.**
- (C) A licensed insurance producer of a party involved in the accident or an employee or agent of the producer.**
- (D) An insurance carrier, or an agent of the insurance carrier, of a person involved in the accident to which the person has submitted a claim arising from the accident, or**

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a person under contract with the insurance carrier to provide claims or underwriting information.

(E) An attorney who is:

- (i) employed by or under contract with the state, a city, or a county; and
- (ii) inspecting or copying the accident report solely for the business purposes of the state, city, or county.

(F) A member of a news gathering organization, solely for the purpose of publishing or broadcasting the news. However, this clause does not apply to a publication or product that:

- (i) is intended primarily for members of a particular profession or occupational group;
- (ii) has as its primary purpose the distribution of advertising; or
- (iii) has as its primary purpose the publication of names and other personal identifying information concerning parties to motor vehicle accidents.

(G) A nonprofit victim advocacy group whose primary purpose includes providing victims with support services at no cost and for no remuneration or monetary consideration. This clause does not include:

- (i) attorneys or law firms;
  - (ii) medical providers;
  - (iii) telemarketing firms or individuals providing telemarketing services; or
  - (iv) persons who are acting on behalf of or as an agent of any of the persons listed in items (i) through (iii);
- requesting access to an accident report for the purpose of soliciting accident victims.

(2) Any local, state, or federal agency that is authorized by law to have access to accident reports.

(3) Any local, state, or federal law enforcement agency (as defined in IC 27-2-19-3) or a person under contract with the law enforcement agency to obtain, evaluate, or supply accident reports.

(4) A parent, guardian, or custodian of a child if one (1) or more of the following applies:

- (A) The child resides with a party involved in the accident.
- (B) A party involved in the accident participates in parenting time with the child under a court order.
- (C) A party involved in the accident transports the child in

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connection with a court order.

(b) A news gathering organization that inspects or copies an accident report within thirty (30) days after the date of the accident under subsection (a)(1)(F) shall not use or distribute the report, or knowingly allow its use or distribution, for a purpose other than the news gathering organization's publication or broadcasting of information in the report.

Sec. 5. A person described in section 4(1) of this chapter may access an accident report within thirty (30) days after the date of the accident only if the person provides all of the following:

- (1) A valid driver's license or other government issued photographic identification.
- (2) Proof of status or identification that demonstrates the person's qualifications to access the information.
- (3) Except as provided in section 6 of this chapter, a written sworn statement stating that information from the accident report will not be:
  - (A) used for any commercial solicitation of accident victims; or
  - (B) knowingly disclosed to any third party for the purpose of commercial solicitation of accident victims;

for thirty (30) days after the completion date of the report.

Sec. 6. An agency may provide accident reports by electronic means to a third party vendor under contract with one (1) or more insurers without requiring a written sworn statement under section 5(3) of this chapter, but only if:

- (1) the contract states that information from an accident report will not be:
  - (A) used for any commercial solicitation of accident victims by the vendors; or
  - (B) knowingly disclosed by the vendor to any third party for the purpose of commercial solicitation of accident victims;

within thirty (30) days after the date of the accident; and

- (2) a copy of the contract is furnished to the agency as proof of the vendor's claimed status.

Sec. 7. A person who discloses an accident report in violation of this chapter is subject to the penalties set forth in IC 5-14-3-10.

Sec. 8. A person who:

- (1) knows that the person is not entitled to an accident report or draft accident report during the period that the report or draft report is confidential under this chapter; and

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1           **(2) obtains or attempts to obtain the accident report or draft**  
2           **report;**  
3           **commits a Class A infraction.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 84, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 5, delete "ninety (90)" and insert "**thirty (30)**".

Page 2, line 21, delete "ninety (90)" and insert "**thirty (30)**".

Page 2, line 25, delete "ninety (90)" and insert "**thirty (30)**".

Page 2, line 30, delete "ninety (90)" and insert "**thirty (30)**".

Page 2, line 38, delete "agent" and insert "**producer**".

Page 2, line 39, delete "." and insert "**or an employee or agent of the producer.**".

Page 2, line 40, after "carrier" insert ", **or an agent of the insurance carrier,**".

Page 3, line 1, delete "insurer" and insert "**insurance carrier**".

Page 3, line 2, delete "A prosecuting attorney." and insert "**An attorney who is:**

**(i) employed by or under contract with the state, a city, or a county; and**

**(ii) inspecting or copying the accident report solely for the business purposes of the state, city, or county."**

Page 3, line 5, after "clause" insert "**does**".

Page 3, between lines 13 and 14, begin a new line double block indented and insert:

**"(G) A nonprofit victim advocacy group whose primary purpose includes providing victims with support services at no cost and for no remuneration or monetary consideration. This clause does not include:**

**(i) attorneys or law firms;**

**(ii) medical providers;**

**(iii) telemarketing firms or individuals providing telemarketing services; or**

**(iv) persons who are acting on behalf of or as an agent of any of the persons listed in items (i) through (iii);**

**requesting access to an accident report for the purpose of soliciting accident victims."**

Page 3, between lines 15 and 16, begin a new line single block indented and insert:

**"(3) Any local, state, or federal law enforcement agency (as defined in IC 27-2-19-3) or a person under contract with the law enforcement agency to obtain, evaluate, or supply**

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accident reports.

(4) A parent, guardian, or custodian of a child if one (1) or more of the following applies:

(A) The child resides with a party involved in the accident.

(B) A party involved in the accident participates in parenting time with the child under a court order.

(C) A party involved in the accident transports the child in connection with a court order."

Page 3, line 17, delete "ninety (90)" and insert "**thirty (30)**".

Page 3, line 23, delete "ninety (90)" and insert "**thirty (30)**".

Page 3, line 36, delete "ninety (90)" and insert "**thirty (30)**".

Page 4, line 6, delete "ninety (90)" and insert "**thirty (30)**".

Page 4, line 17, delete "misdemeanor." and insert "**infraction.**".

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 84 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 5, Nays 3.

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