

2021 Regular Session

HOUSE BILL NO. 381

BY REPRESENTATIVE MOORE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MOTOR VEHICLES: Provides relative to motor vehicle accident reports

1 AN ACT

2 To amend and reenact R.S. 32:398, relative to motor vehicle accident reports; to modify
3 references to accident reports and reporting requirements; to provide relative to
4 electronic forms for crash reports; to provide relative to ownership of data and crash
5 reports; to remove a provision that authorizes the Orleans Parish police department
6 to charge a fee for copies of accident reports; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:398 is hereby amended and reenacted to read as follows:

9 §398. ~~Accident~~ Crash reports; when and to whom made; information aid; fees for
10 copies; fees for ~~accident~~ crash photographs and videos

11 A. The driver of a vehicle involved in ~~an accident~~ a crash resulting in injury
12 to or death of any person or property damage in excess of five hundred dollars shall:

13 (1) Immediately, ~~by the quickest means of communication,~~ give notice of the
14 ~~accident~~ crash to the local police department if the ~~accident~~ crash occurs within an
15 incorporated city or town or, if the ~~accident~~ crash occurs outside of an incorporated
16 city or town, to the nearest sheriff's office or state police station.

17 (2) Give his name, address, and the registration number of the vehicle he was
18 driving and, upon request and if available, exhibit his license or permit to drive to
19 any person injured in ~~such accident~~ the crash or to the driver or occupant of or person
20 attending any vehicle or other property damaged in the ~~accident~~ crash.

1 (3) Give such information and, upon request, exhibit such license or permit
2 to any police officer at the scene of the ~~accident~~ crash or who is investigating the
3 ~~accident~~ crash.

4 (4) If the ~~accident~~ crash occurs in a geographical area under order of
5 evacuation by a competent authority or is under a declared state of emergency, the
6 driver shall comply with the provisions of Paragraphs (1) and (2) of this Subsection
7 within seventy-two hours after the occurrence of the ~~accident~~ crash.

8 ~~B. The driver of any vehicle involved in an accident resulting in injury to or~~
9 ~~death of any person or total property damage to an apparent extent of one hundred~~
10 ~~dollars or more shall, within twenty-four hours after the accident, forward a written~~
11 ~~report of the accident to the Department of Public Safety and Corrections. Any~~
12 ~~person who violates the provisions of this Subsection may be imprisoned for not~~
13 ~~more than sixty days or fined not more than one hundred dollars, or both.~~

14 ~~C. The Department of Public Safety and Corrections may require the driver~~
15 ~~of a vehicle involved in an accident, which is required to be reported by this Section,~~
16 ~~to provide a supplemental report when the original report is insufficient in the~~
17 ~~opinion of the department and may require witnesses of an accident to render reports.~~

18 ~~D.~~ B. It shall be the duty of the state police or the sheriff's office to
19 investigate all ~~accidents~~ crashes required to be reported by this Section when the
20 ~~accident~~ crash occurs outside the corporate limits of a city or town, and it shall be the
21 duty of the police department of each city or town to investigate all ~~accidents~~ crashes
22 required to be reported by this Section when the ~~accidents~~ crashes occur within the
23 corporate limits of the city or town. Every law enforcement officer who investigates
24 ~~an accident~~ a crash, as required by this Subsection, shall instruct the driver of each
25 vehicle involved in the ~~accident~~ crash to report the following to all parties suffering
26 injury or property damage as an apparent result of the ~~accident~~ crash:

27 (1) The name and address of the owner and the driver of the vehicle.

28 (2) The license number of the vehicle.

1 (3) The name of the liability carrier for the vehicle, the name, address, and
2 telephone number of the insurance agent who procured the liability policy providing
3 coverage for the vehicle.

4 ~~E.(1) Every law enforcement officer who investigates an accident shall initial~~
5 ~~the accident report form to show that the officer has complied with the provisions of~~
6 ~~Subsection D of this Section, and shall indicate on the accident report form whether~~
7 ~~the investigation is made at the scene of the accident or by subsequent investigation~~
8 ~~and interviews.~~

9 ~~(2) C.~~ Within forty-eight hours after completing the investigation, the
10 investigating law enforcement ~~officer~~ agency shall forward a ~~written copy of the~~
11 ~~crash report of the accident to the Department of Public Safety and Corrections or~~
12 ~~data contained in the report to the Department of Transportation and Development.~~
13 However, if the ~~accident~~ crash occurred within the corporate limits of a city or town,
14 the ~~enforcement office~~ investigating law enforcement agency shall forward a ~~written~~
15 ~~copy of the crash report of the accident~~ to the police department of the city or town
16 and a duplicate report to the Department of ~~Public Safety and Corrections~~
17 Transportation and Development within forty-eight hours after completing the
18 investigation.

19 ~~F. D.~~(1) The state police, any local police department, or any sheriff's office
20 shall provide copies of crash reports ~~to any interested person upon request~~ and may
21 charge a fee, not to exceed the sum of five dollars per report that does not exceed two
22 pages, and not to exceed twenty dollars, inclusive of all service fees and other
23 charges, per report that exceeds two pages.

24 (2) If the state police establishes a lesser charge for electronic copies of crash
25 reports, then a local police department or sheriff's office shall charge the amount
26 established by state police for any electronic copies of crash reports provided
27 pursuant to this Subsection.

28 (3) All data and reports shall be owned by the law enforcement agency who
29 created the report, and all collective data shall be owned by the state of Louisiana.

1 Third party vendors under contract with a state or local agency shall not be
2 prohibited from selling individual crash reports on behalf of the agency. However,
3 third party vendors, including contracted agents of law enforcement entities, shall not
4 sell any aggregated or compiled data owned either by the state of Louisiana or a local
5 law enforcement entity, unless specifically authorized by the state of Louisiana.

6 G. E. The state police, any local police department, or any sheriff's office
7 shall provide copies of photographs of ~~accidents~~ crashes or other photographs
8 required of the investigating agency, video ~~tapes~~ recordings, audio ~~tapes~~ recordings,
9 and any extraordinary-sized documents, or documents stored on electronic media,
10 to any interested person upon request and may charge a reasonable fee for such
11 copies.

12 H. F. Every person holding the office of coroner in this state, or, in the event
13 of a vacancy in the office, the person performing the duties of coroner, shall report
14 to the Department of ~~Public Safety and Corrections~~ Transportation and Development
15 ~~and to the Louisiana Highway Safety Commission~~ the death of any person as a result
16 of a ~~collision~~ crash involving a motor vehicle, and the circumstances of the ~~collision~~
17 crash within sixty days following ~~such~~ the death. ~~Such reports shall be made on~~
18 ~~forms supplied or approved by the department as provided for in Subsection I of this~~
19 ~~Section.~~

20 I. G. The Department of Public Safety and Corrections shall prepare and,
21 upon request, shall supply to ~~police, coroners, sheriffs, and other suitable agencies~~
22 ~~or individuals, forms for accident reports, calling for sufficient detailed information~~
23 ~~to disclose, with reference to a highway accident, the cause, conditions then existing,~~
24 ~~and the persons and vehicles involved. All accident reports required by this Section~~
25 ~~shall be made on forms supplied or approved by the Department of Public Safety and~~
26 ~~Corrections. Each accident report form supplied or approved by the department shall~~
27 ~~contain directions to the investigating officer to instruct the parties to the accidents~~
28 ~~to exchange information as required in Subsection D of this Section and shall contain~~
29 ~~a place for the investigating officer to initial the report to indicate that he has given~~

1 ~~those instructions~~ the office of state police, a municipal police department, the
 2 sheriff's office, and any other authorized agency or individual, with electronic forms
 3 of crash reports that provide sufficient detailed information to disclose, with
 4 reference to a highway crash, the cause, conditions then existing, and the persons and
 5 vehicles involved. All crash reports required pursuant to this Section shall be
 6 provided on electronic forms approved by the Department of Public Safety and
 7 Corrections. The Department of Public Safety and Corrections shall establish the
 8 format required for crash reports.

9 J. ~~H.(1)~~ The Department of ~~Public Safety and Corrections~~ Transportation and
 10 Development shall receive ~~accident~~ crash data derived from the crash reports
 11 required to be made by this Section and may tabulate and analyze ~~such reports~~ the
 12 data and publish annually, or at more frequent intervals, statistical information based
 13 thereon as to the number, cause, and location of highway ~~accidents~~ crashes.

14 (2) Based upon its findings after analysis, the ~~department~~ Department of
 15 Transportation and Development may conduct further necessary detailed research
 16 to determine more fully the cause and control of highway ~~accidents~~ crashes. It may
 17 further conduct experimental field tests within areas in the state ~~from time to time~~
 18 occasionally to prove the practicality of various ideas advanced in traffic control and
 19 accident ~~crash~~ prevention.

20 ~~K.(1)(a)~~ I.(1) The reports required by this Section, and the information
 21 contained in the reports, shall be confidential, shall be exempt from the provisions
 22 of R.S. 44:1 et seq., and shall be made available only: to the parties to the ~~accident~~
 23 crash, parents or guardians of a minor who is a party to the ~~accident~~ crash, and
 24 insurers, or an insurance support organization under contract to provide claims and
 25 underwriting, of any party which is the subject of the report; to the succession
 26 representatives of those parties; or ~~to~~ the attorneys of the parties or succession
 27 representatives; or to a news-gathering organization that requests documents related
 28 to the ~~accident~~ a specific crash. Upon request, ~~accident~~ crash reports shall be made
 29 available to the above-enumerated persons within seven working days following the

1 completion of the ~~accident~~ crash investigation. ~~For the purposes of this Subsection:~~

2 ~~"news-gathering organization" means any of the following:~~

3 (a) For the purposes of this Subsection, "insurance support organization"
4 means any of the following:

5 (i) Any person who regularly engages, in whole or in part, in the practice of
6 assembling or collecting information about natural persons for the primary purpose
7 of providing the information to an insurance institution or agent for insurance
8 transactions, including the furnishing of consumer reports or investigative consumer
9 reports to an insurance institution or agent for use in connection with an insurance
10 transaction.

11 (ii) The collection of personal information from insurance institutions,
12 agents, or other insurance support organizations for the purpose of detecting or
13 preventing fraud, material misrepresentation, or material nondisclosure in connection
14 with insurance underwriting or insurance claim activity.

15 (iii) Agents, governmental institutions, insurance institutions, medical-care
16 institutions, and medical professionals shall not be considered "insurance support
17 organizations".

18 (b) For purposes of this Subsection, "news-gathering organization" means
19 any of the following:

20 (i) A newspaper; or news publication, printed or electronic, of current news
21 and intelligence of varied, broad, and general public interest, having been published
22 for a minimum of one year and that can provide documentation of membership in a
23 statewide or national press association, as represented by an employee ~~thereof~~ who
24 can provide documentation of his employment with the newspaper, wire service, or
25 news publication.

26 (ii) A radio broadcast station, television broadcast station, cable television
27 operator, or wire service as represented by an employee ~~thereof~~ who can provide
28 documentation of his employment.

1 ~~(b) In Orleans Parish, the local police department may charge a reasonable~~
2 ~~fee, not to exceed the sum of twenty dollars, to provide copies of accident reports.~~
3 ~~State departments and agencies shall not be required to pay such fee.~~

4 ~~(2) All persons and their agents are prohibited from screening accident~~
5 ~~reports if the person or his agent does not represent any of the persons involved in~~
6 ~~a particular accident, the report for which could reasonably be expected to be~~
7 ~~available. However, this limitation shall not prevent any person from requesting~~
8 ~~particular reports regardless of whether the person represents any party in the~~
9 ~~accident.~~

10 ~~(3)~~ (2) The information in the reports may be tabulated and included in the
11 statistical information published under the provisions of Subsection ~~¶~~ H of this
12 Section.

13 ~~(4)~~ (3) Nothing in this Section shall prohibit the sale of ~~police accident~~
14 ~~reports or other~~ driving record information to consumers of on-line driving records
15 under written contract for purchase of records with the Department of Public Safety
16 and Corrections.

17 ~~(5)~~ (4) The information in the reports may be used by the office of motor
18 vehicles for the purpose of maintaining operating records.

19 ~~E. J.~~ J. Whenever any person is involved in ~~an accident~~ a crash resulting in
20 injury to or death of any person, or property damage in excess of five hundred dollars
21 and the law enforcement officer investigating the ~~accident~~ crash has reason to believe
22 that there exists a medical condition which constitutes cause for revocation or
23 suspension of a license under the provisions of R.S. 32:414(E), notification of such
24 medical condition shall be made to the medical/conviction unit of the ~~office of motor~~
25 ~~vehicles of the~~ Department of Public Safety and Corrections, office of motor
26 vehicles, provided that the law enforcement officer first consults with his superior
27 officer as to his specific observations and ~~such~~ his superior officer concurs with the
28 issuing officer's belief.

1 ~~M. K.~~(1) All police, state or local, shall immediately contact the Department
 2 of Transportation and ~~Development~~ Development's district office or the local
 3 roadway owner when called to the scene of ~~an accident~~ a crash where that
 4 department's or local roadway owner's property has been damaged ~~in an amount~~
 5 ~~which is estimated to exceed five hundred dollars.~~

6 (2) ~~All~~ Upon completion of the investigation, all police, state or local, shall
 7 make available, at no cost to the Department of Transportation and Development or
 8 the local roadway owner, forward copies of ~~accident~~ crash reports ~~which that~~
 9 indicate damage to property of the Department of Transportation and Development
 10 or the local roadway owner. in an amount which is estimated to exceed five hundred
 11 ~~dollars to the department's headquarters maintenance division within six days of the~~
 12 ~~date of the accident without cost to the department.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 381 Reengrossed

2021 Regular Session

Moore

Abstract: Modifies provisions relative to motor vehicle accident reports.

Proposed law changes references in present law from accident reports to crash reports.

Present law requires the driver of any vehicle involved in an accident resulting in injury or death of any person or total property damage to an apparent extent of \$100 or more forward a written report to the Dept. of Public Safety and Corrections (DPS&C) within 24 hours of the accident. Present law authorizes imprisonment for not more than 60 days or a fine of not more than \$100, or both, for any person who violates the provisions of present law. Present law authorizes a driver involved in an accident to submit a supplemental report if the original report is deemed insufficient and may require witness reports.

Proposed law removes present law.

Present law requires every law enforcement officer who investigates an accident initial the accident report form to show compliance with present law and requires the officer indicate on the report whether the investigation was made at the scene of the accident or by subsequent investigation and interview.

Proposed law removes present law.

Present law requires the investigating law enforcement officer forward a written report of the accident to the DPS&C within 48 hours after completing the investigation. Present law provides if the accident occurred within the corporate limits of a city or a town, the

investigating officer is required to forward a written copy of the report to the police department of the city or town and duplicate a report for the DPS&C within 48 hours.

Proposed law modifies present law by requiring the investigating law enforcement agency forward a copy of the crash report to the Dept. of Transportation and Development (DOTD) within 48 hours after completing the investigation. Proposed law further specifies that if the crash occurred within the corporate limits of a city or a town, the investigating agency is required to forward a copy of the crash report to the police department of the city or town and duplicate a report for the DOTD within 48 hours.

Present law authorizes any interested person to obtain a copy of a crash report from state police, any local police department, or any sheriff's office upon request.

Proposed law removes present law.

Proposed law specifies that all data and reports are owned by the law enforcement agency who created the report and all collective data is owned by the state of La. Authorizes third party vendors contracted with a state or local agency to sell individual crash reports on behalf of the agency. Prohibits third party vendors and contracted agents of law enforcement entities from selling any aggregated or compiled data owned by the state of La. or a local law enforcement entity, unless specifically authorized by the state of La.

Present law requires the coroner or the person performing the duties of the coroner report the death of any person as a result of a collision involving a motor vehicle, and the circumstances of the collision within 60 days following the death, to the DPS&C and the La. Hwy. Safety Commission.

Proposed law modifies present law by requiring the coroner or the person performing the duties of the coroner forward the report to the DOTD.

Present law requires the DPS&C prepare and, upon request, supply to police, coroners, sheriffs, and other suitable agencies or individuals, forms for accident reports, requiring specificity to disclose, with reference to a highway accident, the cause, conditions then existing, and persons and vehicles involved. Additionally, requires all accident reports be made on forms approved by the DPS&C, and contain the investigating officer's initials and directions to instruct the parties to exchange required information.

Proposed law modifies present law to require the DPS&C prepare and, upon request, supply the office of state police, a municipal police department, the sheriff's office, and any other suitable agency or individual, with electronic forms for crash reports. Requires all crash reports be provided on electronic forms approved by the DPS&C. Further requires the DPS&C establish the format required for all crash reports.

Present law requires the DPS&C receive accident reports and authorizes the department to tabulate and analyze the reports for annual publishing.

Proposed law modifies present law by changing the department to receive, tabulate, and analyze the crash reports from the DPS&C to the DOTD.

Present law authorizes the local police department in Orleans Parish to charge a reasonable fee, not to exceed \$20, to provide copies of accident reports and provides a fee exemption for state departments.

Proposed law removes present law.

Present law prohibits all persons and their agents from screening accident reports if the person or his agent does not represent any of the persons involved in a particular accident

but specifies that the limitation must not prevent any person from requesting particular reports regardless of whether the person represents any party in the accident.

Proposed law deletes present law.

Present law authorizes the sale of police accident reports or other driving record information to consumers of on-line driving records under written contract for purchase of records with the DPS&C.

Proposed law removes the sale of police accident reports from present law and authorizes the sale of driving record information to consumers of on-line driving records under written contract for the purchase of records with the DPS&C.

Present law requires all police, state or local, to immediately contact the DOTD district office when called to the scene of an accident where that department's property has been damaged in an amount which is estimated to exceed \$500.

Proposed law modifies present law by also requiring the local roadway owner be called to the scene of an accident where that department's or local roadway owner's property has been damaged.

Present law requires all police, state or local, forward copies, at no cost to the department, of the accident report which indicates damage to property of the department to the department's headquarters' maintenance division within six days of the accident.

Proposed law requires all police, state or local, make available, at no cost to the department, copies of the crash report that indicates damage to property of the department or the local roadway owner upon completion of the investigation.

Present law requires the information contained in reports be confidential and made available only to parties to the report, the parties' insurers, and parents or guardians.

Proposed law modifies present law by also making the report available to an insurance support organization under contract to provide claims and underwriting. Defines "insurance support organization" as any person who regularly engages in the practice of collecting information about a natural person for the purpose of providing the information to an insurance company or preventing fraud in connection with insurance underwriting or claim activity.

(Amends R.S. 32:398)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Remove a provision that would have prohibited a third party from selling or distributing any data contained in the crash reports.
2. Authorize a third party vendor under contract with a state or local agency to sell individual crash reports on behalf of the agency. Prohibit third party vendors from selling or distributing any aggregated or compiled data owned by the state of Louisiana.

The House Floor Amendments to the engrossed bill:

1. Add a provision that information contained in crash reports be made available to an insurance support organization under contract to provide claims and underwriting.
2. Define "insurance support organization" as any person who regularly engages in the practice of collecting information about a natural person for the purpose of providing the information to an insurance company or preventing fraud in connection with insurance underwriting or claim activity.
3. Remove the provision that prohibits third party vendors from selling or distributing any aggregated or compiled data owned by the state of La.
4. Clarify that contracted agents of law enforcement entities, in addition to third party vendors, cannot sell any aggregated or compiled data owned by the state of La. or a local law enforcement entity, unless specifically authorized by the state of La.
5. Make technical changes.