

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1030

5 By: Representative D. Altes
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE USE OF A MOTOR VEHICLE ACCIDENT
9 REPORT FOR COMMERCIAL PURPOSES; TO REGULATE THE
10 RELEASE OF MOTOR VEHICLE ACCIDENT REPORTS; AND FOR
11 OTHER PURPOSES.
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Subtitle

14 CONCERNING THE USE OF A MOTOR VEHICLE
15 ACCIDENT REPORT FOR COMMERCIAL PURPOSES;
16 TO REGULATE THE RELEASE OF MOTOR VEHICLE
17 ACCIDENT REPORTS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 27-53-208 is amended to read as follows:
24 27-53-208. Use of accident and supplemental reports.

25 (a)~~(1)~~ As used in this section:

26 (1) "Accident" or "motor vehicle accident" means contact between
27 a motor vehicle and one (1) or more of the following:

28 (A) Another motor vehicle;

29 (B) A pedestrian; or

30 (C) An item, object, or animal, whether on a public road,
31 street, or highway or on private property;

32 (2)(A) "Commercial solicitation" means an attempt to use or
33 offer for use information contained in a motor vehicle accident report to
34 solicit a:

35 (i) Person named in the motor vehicle accident
36 report;



1 (ii) Relative of the person; or
 2 (iii) Professional, business, or commercial relation
 3 of the person.

4 (B) “Commercial solicitation” does not include:

5 (i) Use of public media; or

6 (ii) Obtaining information to verify or settle
 7 claims by insurance companies or attorneys retained by a party to the
 8 accident;

9 (3) “Customer” means a person who, within sixty (60) days of a
 10 motor vehicle accident, seeks services or products from a person that holds
 11 himself or herself out as:

12 (A) A licensed practitioner; or

13 (B) One who provides relief or a healing benefit from
 14 injury or pain caused by a motor vehicle accident;

15 (4) “Direct contact” means:

16 (A) Contact by telephone, in person, or through other
 17 means of live contact with the injured person for commercial solicitation; or

18 (B) Contact through use of deceit or misrepresentation to
 19 induce an injured person to receive medical treatment, including without
 20 limitation representing that an appointment with a doctor, chiropractor, or
 21 other medical provider has been arranged by a provider of automobile or
 22 health insurance;

23 (5)(A) “Motor vehicle accident report” means the report of a
 24 motor vehicle accident required under § 27-53-202, a supplemental report to a
 25 motor vehicle accident report, or other report regarding a motor vehicle
 26 accident that occurred within the State of Arkansas on a form prescribed or
 27 used by the Department of Arkansas State Police, the Arkansas Highway Police
 28 Division of the Arkansas State Highway and Transportation Department, or a
 29 police department or sheriff’s department within the State of Arkansas.

30 (B) “Motor vehicle accident report” does not include the
 31 report required by § 27-19-501;

32 (5) “Patient” means a person who, within sixty (60) days of a
 33 motor vehicle accident, seeks care or treatment from a person who:

34 (A) Is a practitioner; or

35 (B) Holds himself or herself out as being licensed as a
 36 practitioner;

1 (6) "Practitioner" means a person licensed as a medical doctor,
 2 osteopathic doctor, doctor of chiropractic, dentist, nurse, physical
 3 therapist, massage therapist, dietitian, lay midwife, occupational therapist,
 4 optometrist, pharmacist, physician's assistant, psychologist, disease
 5 intervention specialist, speech language pathologist, audiologist,
 6 acupuncturist, perfusionist, orthotist, pedorthist, or otherwise licensed by
 7 or holding himself or herself out to practice a profession required to be
 8 licensed in § 17-80 101 -- § 17-107-101;

9 (7) "Public media" means telephone directories, professional
 10 directories, newspapers and other periodicals, radio and television,
 11 billboards, and mailed communications not involving direct contact with a
 12 person; and

13 (8)(A) "Runner" means a person who receives a pecuniary benefit
 14 from a practitioner to solicit, procure, or attempt to procure a patient or
 15 customer at the direction or request of a practitioner whose purpose is:

16 (i) To obtain benefits under a contract of
 17 insurance; or

18 (ii) To assert a claim against an insured or an
 19 insurer for providing services to the patient or customer.

20 (B) "Runner" does not include:

21 (i) A practitioner who uses public media to obtain
 22 patients or customers; or

23 (ii) A health, mental health, or substance abuse
 24 information service that provides information on request and without charge.

25 (b)(1) All required accident reports and supplemental reports shall be
 26 without prejudice to the individual so reporting and shall be for the use of
 27 the Department of Arkansas State Police.

28 ~~The Department of Arkansas State Police~~ department may
 29 disclose the identity of a person involved in an accident when the identity
 30 is not otherwise known or when the person denies his or her presence at the
 31 accident. ~~They~~ The department may disclose to ~~any~~ a person involved in the
 32 accident or to ~~their~~ his or her attorney or agent the name and address of ~~any~~
 33 ~~and all~~ occupants and passengers in ~~any~~ of the vehicles involved in the
 34 accident as may be shown by the reports.

35 ~~(b)(1)(c)(1) No report shall~~ A report shall not be used as evidence in
 36 ~~any~~ a civil or criminal trial arising out of an accident.

1 (2) ~~The Department of Arkansas State Police~~ department shall
2 furnish the report ~~upon the~~ on demand of ~~any a~~ a person who has made or claims
3 to have made the report or, ~~upon~~ on demand of ~~any a~~ a court, a certificate
4 showing that a specified accident report has or has not been made to the
5 ~~Department of Arkansas State Police~~ department solely to prove a compliance
6 or a failure to comply with the requirement that the report be made to the
7 ~~Department of Arkansas State Police~~ department.

8 (d)(1) It is unlawful for a practitioner:

9 (A) To solicit a patient or customer within sixty (60)
10 days of a motor vehicle accident using a motor vehicle accident report for
11 the purpose of commercial solicitation; or

12 (B) To compensate or give anything of value to a person
13 acting as a runner or organization to recommend or secure employment by a
14 patient or customer if a practitioner's intent is to obtain benefits under a
15 contract of insurance or to assert a claim against an insured or an insurer
16 for providing services to the patient or customer within sixty (60) days of a
17 motor vehicle accident.

18 (2) It is unlawful for a practitioner, runner, or a person
19 acting on his or her behalf, to solicit a patient or customer within sixty
20 (60) days of a motor vehicle accident to induce or cause the patient or
21 customer to seek benefits under a contract of insurance, to seek medical
22 treatment, or to assert a claim against an insured, a governmental entity, or
23 an insurer on behalf of an injured person.

24 (3) It is unlawful for a person or for a firm, corporation,
25 partnership, or association to act as a runner for a practitioner on a motor
26 vehicle accident within sixty (60) days of the motor vehicle accident.

27 (4) This prohibition does not apply if:

28 (A) An injured person involved in the motor vehicle
29 collision has an ongoing relationship with the doctor, chiropractor, or other
30 practitioner making contact;

31 (B) An injured person has requested information from or
32 treatment by the doctor, chiropractor, or other practitioner; or

33 (C) The person or entity communicating with the injured
34 person provides health or automobile liability insurance or similar coverage
35 for the injured person.

36 (e) A violation of this section is a Class A misdemeanor.