

1 State of Arkansas  
2 88th General Assembly  
3 Regular Session, 2011  
4

As Engrossed: H3/11/11

# A Bill

HOUSE BILL 2211

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.  
12  
13

### 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.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

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;*

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) Licensed as a practitioner; or

13 (B) Provide relief or a healing benefit from injury or  
14 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 § 27-53-206, 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 et seq. to 17-107-101 et seq.;

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           (2) The Department of Arkansas State Police may disclose the  
 29 identity of a person involved in an accident when the identity is not  
 30 otherwise known or when the person denies his or her presence at the  
 31 accident. ~~The~~ The Department of Arkansas State Police may disclose to ~~any a~~  
 32 person involved in the accident or to their his or her attorney or agent the  
 33 name and address of ~~any and all~~ occupants and passengers in ~~any of~~ the  
 34 vehicles involved in the 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 shall furnish the*  
2 *report ~~upon~~ on the demand of ~~any~~ a person who has made or claims to have made*  
3 *the report or, ~~upon~~ on demand of ~~any~~ a court, a certificate showing that a*  
4 *specified accident report has or has not been made to the Department of*  
5 *Arkansas State Police solely to prove a compliance or a failure to comply*  
6 *with the requirement that the report be made to the Department of Arkansas*  
7 *State Police.*

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 their behalf, to solicit a patient or customer within sixty (60)*  
20 *days of a motor vehicle accident to induce or cause the patient or customer*  
21 *to seek benefits under a contract of insurance, to seek medical treatment, or*  
22 *to assert a claim against an insured, a governmental entity, or an insurer on*  
23 *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 within*  
26 *sixty (60) days of a 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*  
35 *coverage, for the injured person.*

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

*/s/D. Altes*