

Hall of the House of Representatives

88th General Assembly - Regular Session, 2011

Amendment Form

Subtitle of House Bill No. 2211

CONCERNING THE USE OF A MOTOR VEHICLE ACCIDENT REPORT FOR
COMMERCIAL PURPOSES; TO REGULATE THE RELEASE OF MOTOR VEHICLE
ACCIDENT REPORTS.

Amendment No. 1 to House Bill No. 2211

Amend House Bill No. 2211 as originally introduced:

Delete everything after the enactment clause and substitute the following:

"SECTION 1. Arkansas Code § 27-53-208 is amended to read as follows:
27-53-208. Use of accident and supplemental reports.

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

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

(A) Another motor vehicle;

(B) A pedestrian;

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

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

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

(ii) Relative of the person; or

(iii) Professional, business, or commercial relation
of the person.

(B) "Commercial solicitation" does not include:

(i) Use of public media; or

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

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

(A) Licensed as a practitioner; or

(B) Provide relief or a healing benefit from injury or
pain caused by a motor vehicle accident;

(4) "Direct contact" means:



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

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

(5)(A) "Motor vehicle accident report" means the report of a motor vehicle accident required under § 27-53-206, a supplemental report to a motor vehicle accident report, or other report regarding a motor vehicle accident that occurred within the State of Arkansas on a form prescribed or used by the Department of Arkansas State Police, the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department, or a police department or sheriff's department within the State of Arkansas.

(B) "Motor vehicle accident report" does not include the report required by § 27-19-501;

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

(A) Is a practitioner; or

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

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

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

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

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

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

(B) "Runner" does not include:

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

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

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

(2) The Department of Arkansas State Police may disclose the identity of a person involved in an accident when the identity is not otherwise known or when the person denies his or her presence at the accident. ~~They~~ The Department of Arkansas State Police may disclose to ~~any a~~

person involved in the accident or to ~~their~~ his or her attorney or agent the name and address of ~~any and all~~ occupants and passengers in ~~any of~~ the vehicles involved in the accident as may be shown by the reports.

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

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

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

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

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

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

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

(4) This prohibition does not apply if:

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

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

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

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

The Amendment was read _____

By: Representative D. Altes
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Chief Clerk