

CHAPTER 143**(HB 215)**

AN ACT relating to vehicle accident reports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.
- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his *or her* law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall not be considered open records under KRS 61.872 to 61.884 and shall remain confidential except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection (9) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (8) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and insurers or their written designee for insurance business purposes of any party who is the subject of the report, or to the attorneys of the parties.
- (6) Except as provided for in this subsection, the department shall not release accident reports for a commercial purpose. The department may, as a matter of public safety, contract with an outside entity and release vehicle damage data extracted from accident reports to such an entity if the data is used solely for the purpose of providing the public a means of determining a vehicle's accident history. The department may further contract with a third party to provide electronic access to reports for persons and entities who are entitled to such reports under subsections (5) and (9) of this section.
- (7) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to set out a fee schedule for accident reports made available pursuant to subsections (5), (8), and (9) of this section. These fees shall be in addition to those charged to the public for records produced under KRS Chapter 61.
- (8)
 - (a) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report.
 - (b) *A newspaper or periodical shall be considered a news-gathering organization if it:*

1. *Is published at least fifty (50) of fifty-two (52) weeks during a calendar year;*
 2. *Contains at least twenty-five percent (25%) news content in each issue or no more than seventy-five percent (75%) advertising content in any issue in the calendar year; and*
 3. *Contains news of general interest to its readers that can include news stories, editorials, sports, weddings, births, and death notices.*
- (c) A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.
- (d) *For the purposes of this section, the meaning of "news-gathering organizations" does not include any product or publication:*
1. *Which is intended primarily for members of a particular profession or occupational group; or*
 2. *With the primary purpose of distributing advertising or of publishing names and other personal identifying information concerning parties to motor vehicle accidents which may be used to solicit for services covered under Subtitle 39 of KRS Chapter 304.*
- (e) *A request under this section shall be completed using a form promulgated by the department through administrative regulations in accordance with KRS Chapter 13A. The form under this paragraph shall include:*
1. *The name and address of the requestor and the news-gathering organization the requestor represents;*
 2. *A statement that the requestor is a news-gathering organization under this subsection;*
 3. *A statement that the request is in compliance with the criteria contained in this section; and*
 4. *A declaration of the requestor as to the accuracy and truthfulness of the information provided in the request.*
- (9) The report shall be made available without subpoena to any party to litigation who files with the department a request for the report and includes a copy of the first page of a District or Circuit Court clerk-stamped complaint naming all parties.
- (10) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

Signed by Governor March 27, 2017.