

1 AN ACT relating to vehicle accident reports.

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

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

4 (1) ***As used in this section:***

5 ***(a) "Department" means*** the~~[Justice and Public Safety Cabinet,]~~ Department of
6 Kentucky State Police; ***and***

7 ***(b) "Law enforcement agency" means any unit of government listed in KRS***
8 ***15.380 that employs a certified peace officer.***

9 ***(2) The department***~~[,]~~ shall be responsible for maintaining a reporting system for all
10 vehicle accidents which occur within the Commonwealth.~~[Such]~~ Accident reports
11 shall be utilized for~~[such]~~ purposes as will improve the traffic safety program in the
12 Commonwealth involving the collection, processing, storing, and dissemination of
13 ***accident***~~[such]~~ data and the establishment of procedures by administrative
14 regulations to ensure that uniform definitions, classifications, and other federal
15 requirements are in compliance.

16 ***(3)***~~[*(2)*]~~ Any person operating a vehicle on the highways of this state who is involved
17 in an accident resulting in fatal or nonfatal personal injury to any person or damage
18 to the vehicle rendering the vehicle inoperable shall be required to immediately
19 notify a law enforcement officer having jurisdiction. In the event the operator fails
20 to notify or is incapable of notifying a law enforcement officer having jurisdiction,
21 ***this***~~[such]~~ responsibility shall rest with the owner of the vehicle or any occupant of
22 the vehicle at the time of the accident. A law enforcement officer having
23 jurisdiction shall investigate the accident and file a written report of the accident
24 with his or her law enforcement agency.

25 ***(4)***~~[*(3)*]~~ ***(a)*** Every law enforcement agency whose officers investigate a vehicle
26 accident of which a report must be made as required in this chapter shall file a
27 report of the accident with the department~~[of Kentucky State Police]~~ within

1 ten (10) days after investigation of the accident upon forms supplied by the
2 department.

3 **(b) A law enforcement agency may retain a copy of the reports that the agency**
4 **is required to submit to the department under paragraph (a) of this**
5 **subsection. Reports retained by a law enforcement agency under this**
6 **subsection shall not be considered open records under KRS 61.870 to**
7 **61.884 and shall remain confidential, except as provided in this section.**
8 **Nothing in this subsection is intended to impose greater limitations on**
9 **disclosure of vehicle accident reports on law enforcement agencies than**
10 **those imposed on the department by this section.**

11 ~~(5)(4)~~ Any person operating a vehicle on the highways of this state who is involved
12 in an accident resulting in any property damage exceeding five hundred dollars
13 (\$500) in which an investigation is not conducted by a law enforcement officer
14 shall file a written report of the accident with the department ~~of Kentucky State~~
15 ~~Police~~ within ten (10) days of occurrence of the accident upon forms provided by
16 the department.

17 ~~(6)(5)~~ (a) All accident reports filed with the department ~~of Kentucky State Police~~
18 in compliance with subsection ~~(5)(4)~~ of this section shall not be considered
19 open records under KRS 61.870 to 61.884 and shall remain confidential,
20 except that the department may:

- 21 1. Disclose the identity of a person involved in an accident when his or her
22 identity is not otherwise known or when he or she denies his or her
23 presence at an accident; and
- 24 2. Make the reports available:
 - 25 a. To the persons named in paragraph (c) of this subsection; and
 - 26 b. In accordance with subsection ~~(9)(8)~~ of this section.

27 (b) All other accident reports required by this section, and the information

1 contained in the reports, shall be confidential and exempt from public
2 disclosure under KRS 61.870 to 61.884, except when:

- 3 1. Produced pursuant to a properly executed subpoena or court order; or
- 4 2. Disclosed as provided in this section.

5 (c) Accident reports shall be made available to:

- 6 1. The parties to the accident;
- 7 2. The parents or guardians of a minor who is party to the accident;
- 8 3. Insurers or their written designee for insurance business purposes of any
9 party who is the subject of the report;
- 10 4. The attorneys of the parties to the accident;
- 11 5. Any party to litigation who files with the department a request for the
12 report and includes a copy of the first page of a District or Circuit Court
13 clerk-stamped complaint naming all parties; ~~and~~
- 14 6. The Department of Workplace Standards in the Education and Labor
15 Cabinet if the accident report is pertinent to an occupational safety and
16 health investigation; and
- 17 7. A law enforcement agency, subject to the limitations in subsections
18 (4)(b) and (7) of this section.

19 ~~(Z)(6)~~ (a) Except as provided for in paragraph (b) of this subsection, the
20 department or a law enforcement agency shall not release accident reports for
21 a commercial purpose.

22 (b) Notwithstanding any other provision of this section, the department or a law
23 enforcement agency may, as a matter of public safety, contract with an
24 outside entity and release unredacted vehicle damage data extracted from
25 accident reports to the entity if the data is used solely for the purpose of
26 providing the public a means of determining a vehicle's accident history. The
27 department or a law enforcement agency may further contract with a third

1 party to provide electronic access to reports for persons and entities who are
2 entitled to the reports under subsection ~~(6)~~~~(5)~~ of this section.

3 ~~(8)~~~~(7)~~ The department shall promulgate administrative regulations in accordance
4 with KRS Chapter 13A to set out a fee schedule for accident reports made available
5 pursuant to subsections ~~(6)~~~~(5)~~ and ~~(9)~~~~(8)~~ of this section. These fees shall be in
6 addition to those charged to the public for records produced under KRS Chapter 61.

7 ~~(9)~~~~(8)~~ (a) The report shall be made available to a news-gathering organization,
8 solely for the purpose of publishing or broadcasting the news. The news-
9 gathering organization shall not use or distribute the report, or knowingly
10 allow its use or distribution, for a commercial purpose other than the news-
11 gathering organization's publication or broadcasting of the information in the
12 report.

13 (b) For the purposes of this subsection:

14 1. "News-gathering organization" includes:

15 a. A newspaper or periodical if it:

16 i. Is published at least fifty (50) of fifty-two (52) weeks during
17 a calendar year;

18 ii. Contains at least twenty-five percent (25%) news content in
19 each issue or no more than seventy-five percent (75%)
20 advertising content in any issue in the calendar year; and

21 iii. Contains news of general interest to its readers that can
22 include news stories, editorials, sports, weddings, births, and
23 death notices;

24 b. A television or radio station with a valid broadcast license issued
25 by the Federal Communications Commission;

26 c. A news organization that broadcasts over a multichannel video
27 programming service as defined in KRS 136.602;

- 1 d. A website~~[Web site]~~ published by or affiliated with any entity
2 described in subdivision a., b., or c. of this subparagraph;
- 3 e. An online-only newspaper or magazine that publishes news or
4 opinion of interest to a general audience and is not affiliated with
5 any entity described in subparagraph 2. of this paragraph; and
- 6 f. Any other entity that publishes news content by any means to the
7 general public or to members of a particular profession or
8 occupational group; and
- 9 2. "News-gathering organization" does not include any product or
10 publication with the primary purpose of distributing advertising or of
11 publishing names and other personal identifying information concerning
12 parties to motor vehicle accidents which may be used to solicit for
13 services covered under Subtitle 39 of KRS Chapter 304.
- 14 (c) A news-gathering organization shall not be held to have used or knowingly
15 allowed the use of the report for a commercial purpose merely because of its
16 publication or broadcast.
- 17 (d) A request under this subsection shall be completed using a form promulgated
18 by the department through administrative regulations in accordance with KRS
19 Chapter 13A. The form under this paragraph shall include:
- 20 1. The name and address of the requestor and the news-gathering
21 organization the requestor represents;
- 22 2. A statement that the requestor is a news-gathering organization under
23 this subsection and identifying the specific subdivision of paragraph
24 (b)1. of this subsection under which the requester qualifies;
- 25 3. A statement that the request is in compliance with the criteria contained
26 in this section; and
- 27 4. A declaration of the requestor as to the accuracy and truthfulness of the

1 information provided in the request.

2 (e) 1. The department shall redact all personal information from a report prior
3 to making it available to a news-gathering organization as defined under
4 paragraph (b)1.f. of this subsection.

5 2. Reports may be provided to news-gathering organizations as defined
6 under paragraph (b)1.a. to e. of this subsection without redaction.

7 3. For the purposes of this paragraph, "personal information" means:

8 a. The address, driver's license number, phone number, date of birth,
9 and any other contact information contained in the report for each
10 person listed on the report; and

11 b. The vehicle identification number (VIN)~~numbers (VINs)~~ for
12 each vehicle listed on the report.

13 ~~(10)~~~~(9)~~ The motor vehicle insurers of any train engineer or other train crew member
14 involved in an accident on a railroad while functioning in their professional
15 capacity shall be prohibited from obtaining a copy of any accident report filed on
16 the accident under this section without written consent from the individual the
17 company insures. Insurance companies issuing motor vehicle policies in the
18 Commonwealth shall be prohibited from raising a policyholder's rates solely
19 because the policyholder, in his or her professional capacity, is a train engineer or
20 other train crew member involved in an accident on a railroad.

21 ~~(11)~~~~(10)~~ For reporting and statistical purposes, motor scooters and autocycles as
22 defined in KRS 186.010 shall be listed as a distinct category and shall not be
23 considered to be a motor vehicle or a motorcycle for reports issued under this
24 section.

25 ➔Section 2. KRS 61.870 is amended to read as follows:

26 As used in KRS 61.870 to 61.884, unless the context requires otherwise:

27 (1) "Public agency" means:

- 1 (a) Every state or local government officer;
- 2 (b) Every state or local government department, division, bureau, board,
3 commission, and authority;
- 4 (c) Every state or local legislative board, commission, committee, and officer;
- 5 (d) Every county and city governing body, council, school district board, special
6 district board, and municipal corporation;
- 7 (e) Every state or local court or judicial agency;
- 8 (f) Every state or local government agency, including the policy-making board of
9 an institution of education, created by or pursuant to state or local statute,
10 executive order, ordinance, resolution, or other legislative act;
- 11 (g) Any body created by state or local authority in any branch of government;
- 12 (h) Any body which, within any fiscal year, derives at least twenty-five percent
13 (25%) of its funds expended by it in the Commonwealth of Kentucky from
14 state or local authority funds. However, any funds derived from a state or
15 local authority in compensation for goods or services that are provided by a
16 contract obtained through a public competitive procurement process shall not
17 be included in the determination of whether a body is a public agency under
18 this subsection;
- 19 (i) Any entity where the majority of its governing body is appointed by a public
20 agency as defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (j), or (k) of
21 this subsection; by a member or employee of such a public agency; or by any
22 combination thereof;
- 23 (j) Any board, commission, committee, subcommittee, ad hoc committee,
24 advisory committee, council, or agency, except for a committee of a hospital
25 medical staff, established, created, and controlled by a public agency as
26 defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (k) of this
27 subsection; and

- 1 (k) Any interagency body of two (2) or more public agencies where each public
2 agency is defined in paragraph (a), (b), (c), (d), (e), (f), (g), (h), (i), or (j) of
3 this subsection;
- 4 (2) "Public record" means all books, papers, maps, photographs, cards, tapes, discs,
5 diskettes, recordings, software, or other documentation regardless of physical form
6 or characteristics, which are prepared, owned, used, in the possession of or retained
7 by a public agency. "Public record" shall not include any records owned or
8 maintained by or for a body referred to in subsection (1)(h) of this section that are
9 not related to functions, activities, programs, or operations funded by state or local
10 authority;
- 11 (3) (a) "Software" means the program code which makes a computer system
12 function, but does not include that portion of the program code which contains
13 public records exempted from inspection as provided by KRS 61.878 or
14 specific addresses of files, passwords, access codes, user identifications, or
15 any other mechanism for controlling the security or restricting access to
16 public records in the public agency's computer system.
- 17 (b) "Software" consists of the operating system, application programs,
18 procedures, routines, and subroutines such as translators and utility programs,
19 but does not include that material which is prohibited from disclosure or
20 copying by a license agreement between a public agency and an outside entity
21 which supplied the material to the agency;
- 22 (4) (a) "Commercial purpose" means the direct or indirect use of any part of a public
23 record or records, in any form, for sale, resale, solicitation, rent, or lease of a
24 service, or any use by which the user expects a profit either through
25 commission, salary, or fee.
- 26 (b) "Commercial purpose" shall not include:
- 27 1. Publication or related use of a public record by a newspaper or

- 1 periodical;
- 2 2. Use of a public record by a radio or television station in its news or
- 3 other informational programs; or
- 4 3. Use of a public record in the preparation for prosecution or defense of
- 5 litigation, or claims settlement by the parties to such action, or the
- 6 attorneys representing the parties;
- 7 (5) "Official custodian" means the chief administrative officer or any other officer or
- 8 employee of a public agency who is responsible for the maintenance, care and
- 9 keeping of public records, regardless of whether such records are in his actual
- 10 personal custody and control;
- 11 (6) "Custodian" means the official custodian or any authorized person having personal
- 12 custody and control of public records;
- 13 (7) "Media" means the physical material in or on which records may be stored or
- 14 represented, and which may include, but is not limited to paper, microform, disks,
- 15 diskettes, optical disks, magnetic tapes, and cards;
- 16 (8) "Mechanical processing" means any operation or other procedure which is
- 17 transacted on a machine, and which may include, but is not limited to a copier,
- 18 computer, recorder or tape processor, or other automated device;
- 19 (9) "Booking photograph and photographic record of inmate" means a photograph or
- 20 image of an individual generated by law enforcement for identification purposes
- 21 when the individual is booked into a detention facility as defined in KRS 520.010
- 22 or photograph and image of an inmate taken pursuant to KRS 196.099; and
- 23 (10) "Resident of the Commonwealth" means:
- 24 (a) An individual residing in the Commonwealth;
- 25 (b) A domestic business entity with a location in the Commonwealth;
- 26 (c) A foreign business entity registered with the Secretary of State;
- 27 (d) An individual that is employed and works at a location or locations within the

- 1 Commonwealth;
- 2 (e) An individual or business entity that owns real property within the
- 3 Commonwealth;
- 4 (f) Any individual or business entity that has been authorized to act on behalf of
- 5 an individual or business entity defined in paragraphs (a) to (e) of this
- 6 subsection; or
- 7 (g) A news-gathering organization as defined in KRS 189.635(2)(b)1.a. to e..