



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1493

Introduced 2/21/2007, by Rep. Daniel J. Burke

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-406	from Ch. 95 1/2, par. 11-406
625 ILCS 5/11-411	from Ch. 95 1/2, par. 11-411
625 ILCS 5/11-412	from Ch. 95 1/2, par. 11-412
815 ILCS 505/2Z	from Ch. 121 1/2, par. 262Z

Amends the Illinois Vehicle Code and the Consumer Fraud and Deceptive Business Practices Act. Requires a driver involved in an accident to report the accident to the Administrator of the Illinois Safety and Family Financial Responsibility Law of the Code within 10 days if the damage to the property of any one person as a result of the accident exceeds \$1,500 (rather than \$500). Provides that the written accident report forms supplied by the Administrator must call for detailed information with regard to the extent of any vehicle damage and prescribes a method for describing that damage. Provides that the Department of Transportation may supply vehicle-specific accident data to any person or entity in bulk electronic form after deleting specified private information. Provides that the person or entity must pay for the data and limits how the data may be used. Sets forth additional requirements for accessing the data. Requires the Department to create a vehicle history report database identifying vehicles damaged in accidents. Sets criteria for distribution and use of the reports compiled from the database. Makes other changes. Provides that a violation of the new provisions is an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. Provides that the new provisions are inseverable and, if they are held invalid, any person or entity that previously obtained access to accident data under the new provisions shall destroy the data and discontinue using the data in vehicle history reports. Effective immediately.

LRB095 03380 DRH 23384 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 11-406, 11-411, and 11-412 as follows:

6 (625 ILCS 5/11-406) (from Ch. 95 1/2, par. 11-406)

7 Sec. 11-406. Duty to report accident.

8 (a) The driver of a vehicle that is in any manner involved
9 in an accident within this State, resulting in injury to or
10 death of any person, or in which damage to the property of any
11 one person, including himself, in excess of \$1,500 ~~\$500~~ is
12 sustained, shall, as soon as possible but not later than 10
13 days after the accident, forward a written report of the
14 accident to the Administrator.

15 (b) Whenever a school bus is involved in an accident in
16 this State, caused by a collision, a sudden stop or otherwise,
17 resulting in any property damage, personal injury or death and
18 whenever an accident occurs within 50 feet of a school bus in
19 this State resulting in personal injury to or the death of any
20 person while awaiting or preparing to board the bus or
21 immediately after exiting the bus, the driver shall as soon as
22 possible but not later than 10 days after the accident, forward
23 a written report to the Department of Transportation. If a

1 report is also required under Subsection (a) of this Section,
2 that report and the report required by this Subsection shall be
3 submitted on a single form.

4 (c) The Administrator may require any driver, occupant or
5 owner of a vehicle involved in an accident of which report must
6 be made as provided in this Section or Section 11-410 of this
7 Chapter to file supplemental reports whenever the original
8 report is insufficient in the opinion of the Secretary of State
9 or the Administrator, and may require witnesses of the accident
10 to submit written reports to the Administrator. The report may
11 include photographs, charts, sketches, and graphs.

12 (d) Should the Administrator learn through other reports of
13 accidents required by law of the occurrence of an accident
14 reportable under this Article and the driver, owner, or witness
15 has not reported as required under Subsections (a), (b) or (c)
16 of this Section or Section 11-410, within the time specified,
17 the person is not relieved of the responsibility and the
18 Administrator shall notify the person by first class mail
19 directed to his last known address of his legal obligation.
20 However, the notification is not a condition precedent to
21 impose the penalty for failure to report as provided in
22 Subsection (e).

23 (e) The Secretary of State shall suspend the driver's
24 license or any non-resident's driving privilege of any person
25 who fails or neglects to make report of a traffic accident as
26 required or as required by any other law of this State.

1 (Source: P.A. 87-829.)

2 (625 ILCS 5/11-411) (from Ch. 95 1/2, par. 11-411)

3 Sec. 11-411. Accident report forms.

4 (a) The Administrator must prepare and upon request supply
5 to police departments, sheriffs and other appropriate agencies
6 or individuals, forms for written accident reports as required
7 hereunder, suitable with respect to the persons required to
8 make such reports and the purposes to be served. The written
9 reports must call for sufficiently detailed information to
10 disclose with reference to a vehicle accident the cause,
11 conditions then existing, ~~and~~ the persons and vehicles
12 involved, the extent of any vehicle damage as provided in
13 subsection (a-5), and ~~or~~ any other data concerning such
14 accident that may be required for a complete analysis of all
15 related circumstances and events leading to the accident or
16 subsequent to the occurrence.

17 (a-5) The information provided under subsection (a) shall
18 include a description of the extent of damage to each vehicle
19 involved, using the following terms according to their
20 respective definitions:

21 (1) "None" means there is no apparent damage to the
22 vehicle.

23 (2) "Very minor" means the vehicle has sustained damage
24 of a cosmetic nature, but not including dents or missing
25 trim pieces. Examples: paint scratches; tire scuff marks;

1 bumper rub marks.

2 (3) "Minor" means that (i) the vehicle has sustained
3 damage that may include dents but is repairable and (ii)
4 the damage does not include creased metal parts. Examples:
5 tire damage; a broken windshield or window; missing trim
6 pieces; small dents.

7 (4) "Moderate" means that (i) the vehicle has sustained
8 damage that includes dented or creased quarter panels,
9 broken or missing parts that can be either replaced or
10 repaired, or damage from an engine compartment fire and
11 (ii) the vehicle has not sustained damage to its frame or
12 unibody.

13 (5) "Severe" means the vehicle is not drivable but may
14 be salvaged.

15 (6) "Very severe" means the vehicle is not salvageable.
16 Example: extensive vehicle damage due to a collision, fire,
17 or roll over.

18 (7) "Unknown" means the extent of the damage is unknown
19 to the investigating officer. Examples: a vehicle repaired
20 prior to the police investigation; a vehicle returned to
21 the owner's or driver's home state after an accident; an
22 unidentified vehicle whose driver fled the accident scene.

23 (b) Every accident report required to be made in writing
24 must be made on an appropriate form approved or provided by the
25 Administrator and must contain all the information required
26 therein unless that information is not available.

1 (c) Should special accident studies be required by the
2 Administrator, the Administrator may provide the supplemental
3 forms for the special studies.

4 (Source: P.A. 78-255.)

5 (625 ILCS 5/11-412) (from Ch. 95 1/2, par. 11-412)

6 Sec. 11-412. Motor vehicle accident reports confidential.

7 (a) All required written motor vehicle accident reports and
8 supplemental reports shall be without prejudice to the
9 individual so reporting and shall be for the confidential use
10 of the Department and the Secretary of State and, in the case
11 of second division vehicles operated under certificate of
12 convenience and necessity issued by the Illinois Commerce
13 Commission, of the Commission, except that the Administrator or
14 the Secretary of State or the Commission may disclose the
15 identity of a person involved in a motor vehicle accident when
16 such identity is not otherwise known or when such person denies
17 his presence at such motor vehicle accident and the Department
18 shall disclose the identity of the insurance carrier, if any,
19 upon demand. The Secretary of State may also disclose notations
20 of accident involvement maintained on individual driving
21 records. The Department may furnish copies of its written
22 accident reports to federal and State agencies that are engaged
23 in highway safety research and studies. Reports furnished to
24 any agency other than the Secretary of State or the Illinois
25 Commerce Commission may be used only for statistical or

1 analytical purposes and shall be held confidential by that
2 agency. No such written report shall be used as evidence in any
3 trial, civil or criminal, arising out of a motor vehicle
4 accident, except that the Administrator shall furnish upon
5 demand of any person who has, or claims to have, made such a
6 written report, or upon demand of any court, a certificate
7 showing that a specified written accident report has or has not
8 been made to the Administrator solely to prove a compliance or
9 a failure to comply with the requirement that such a written
10 report be made to the Administrator.

11 (b) The Department of Transportation at its discretion may
12 provide for in-depth investigations of accidents involving
13 Department employees. A written report describing the
14 preventability of such an accident may be prepared to enhance
15 the safety of Department employees. Such reports and any
16 opinions expressed in the review of the accident as to the
17 preventability of the accident shall be for the privileged use
18 of the Department and held confidential and shall not be
19 obtainable or used in any civil or criminal proceeding.

20 (c) The Department may supply vehicle-specific accident
21 data to any person or entity in bulk electronic form after
22 deleting all private information, including, but not limited,
23 to the following:

24 (1) the name, address, telephone number, social
25 security number, driver's license number, and date of birth
26 of the driver;

- 1 (2) the vehicle's license plate number;
2 (3) the insurance policy number and company covering
3 the vehicle;
4 (4) the accident report number; and
5 (5) the identification number of the peace officer
6 investigating the accident.

7 The data supplied under this subsection (c) may be used
8 only for the purpose of preparing vehicle-specific history
9 reports.

10 (d) The person or entity must pay for all records obtained
11 in bulk electronic form. The Department may set a bulk rate for
12 access to the records in bulk electronic form. The bulk rate
13 must, at a minimum, cover all costs associated with compiling
14 and producing the accident records. The Department, however,
15 shall not agree to grant to any person or entity an exclusive
16 right to receive this information or data.

17 (e) Any person or entity that requests access to the
18 accident data in bulk electronic form shall:

19 (1) use the data only for the purpose of identifying
20 vehicles that have been damaged and not for the purpose of
21 identifying or contacting individuals or for the purpose of
22 setting insurance premiums;

23 (2) assume all responsibility for the accurate use and
24 portrayal of the accident data;

25 (3) not use the accident data in a manner that
26 compromises the integrity of the information regarding the

1 accident;

2 (4) be liable for omissions or errors in the accident
3 data occurring as a result of actions by or on behalf of
4 the person or entity;

5 (5) promptly remove or correct the accident data upon
6 receiving notification that the accident data was created
7 in error or that certain data elements on an accident
8 record were entered in error;

9 (6) use the accident records only to the extent
10 permitted under the Driver's Privacy Protection Act of 1994
11 and subsequent amendments;

12 (7) not sell the data to any third party, except as
13 part of individual vehicle history reports;

14 (8) in addition to being subject to other statutory or
15 common law remedies, refund the cost of the report if the
16 vehicle history report provided on a particular vehicle is
17 inaccurate or incomplete;

18 (9) not prohibit purchasers of the reports who reside
19 in Illinois from filing claims in State or federal court
20 against any person or entity;

21 (10) agree to be subject to the jurisdiction of the
22 courts of this State and to its laws and regulations; and

23 (11) provide a signed statement verifying that none of
24 the following persons or entities have been found, in
25 civil, criminal, or administrative proceedings, to have
26 committed violations of the federal Driver's Privacy

1 Protection Act of 1994 and subsequent amendments or of the
2 Consumer Fraud and Deceptive Business Practices Act or a
3 similar Act of any other state:

4 (A) the person or entity;

5 (B) the entity's parent company;

6 (C) the officers and directors of and the
7 shareholders having a 10% or greater ownership
8 interest in the entity or the entity's parent company;
9 and

10 (D) the proprietor or any partner, member,
11 officer, director, trustee, manager, or other
12 principal of the entity or entity's parent company.

13 (f) Any person or entity that requests access to the
14 accident data in bulk electronic form shall, in addition to the
15 requirements of subsection (e), comply with any other
16 requirements the Department or this State may prescribe.

17 (g) The Department shall use the accident records to create
18 a vehicle history report database that identifies vehicles that
19 have been damaged in accidents. The Department shall make this
20 database searchable by vehicle identification number and
21 freely available on the Internet and shall remove all private
22 information as required in subsection (c). The Department may
23 not sell accident report data as permitted in subsection (c)
24 until this public database is available on the Internet. A
25 person or entity, other than this State, may not provide
26 vehicle history reports containing this data, unless the person

1 or entity has purchased the data in bulk electronic form from
2 this State.

3 (h) The Department shall cease providing the accident data
4 to the person or entity if the Department concludes that the
5 person or entity has failed to use the accident data in the
6 manner prescribed by this Code.

7 (i) A seller or lessor of a vehicle shall not be held
8 liable for, and no cause of action may be brought in relation
9 to, the sale or lease of a vehicle damaged in a collision prior
10 to the sale or lease, if:

11 (1) the seller or lessor did not own the vehicle at the
12 time of the accident;

13 (2) the seller or lessor, at the time of sale or lease,
14 accessed a vehicle history damage report under subsection
15 (c) or (g) of this Section; and

16 (3) the vehicle history damage report did not contain
17 any information indicating that the vehicle was previously
18 damaged or involved in an accident.

19 (j) Any person or entity, including the Department, that
20 provides a vehicle history report to any person must, in
21 writing on the report, clearly and conspicuously disclose the
22 following:

23 (1) the exact date when that entity or person first
24 publicly made available the accident data;

25 (2) that any damage resulting from the accident may
26 have been repaired and that the vehicle's value may not be

1 affected; and

2 (3) the date on which the person or entity accessed the
3 vehicle history report.

4 (k) Any seller of a vehicle history report must:

5 (1) disclose to purchasers (i) the names of the states
6 from which the person or entity purchases accident reports
7 and (ii) the estimated percentage of total accidents that
8 occur in this State that are actually recorded in accident
9 reports;

10 (2) disclose to purchasers the sources of the
11 information contained in the vehicle history report;

12 (3) permit owners or former owners of vehicles whose
13 vehicles appear on the seller's database to provide repair
14 history information;

15 (4) provide a toll-free telephone number with a live
16 operator and a website to allow owners of vehicles to
17 provide additional information or corrections to vehicle
18 history reports; and

19 (5) update any vehicle history report within 48 hours
20 of receiving additional information with regard to the
21 vehicle that is the subject of the report.

22 (l) A violation of this Section by a person or entity that
23 obtains access to the accident data in bulk electronic form
24 constitutes an unlawful practice under the Consumer Fraud and
25 Deceptive Business Practices Act and is subject to civil
26 penalties under that Act, in addition to any other penalties.

1 (m) A person or entity may not use the accident data to set
2 the insurance premium for any customer whose vehicle is the
3 subject of a vehicle history report.

4 (Source: P.A. 89-503, eff. 7-1-96.)

5 Section 10. The Consumer Fraud and Deceptive Business
6 Practices Act is amended by changing Section 2Z as follows:

7 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

8 Sec. 2Z. Violations of other Acts. Any person who knowingly
9 violates the Automotive Repair Act, the Automotive Collision
10 Repair Act, the Home Repair and Remodeling Act, the Dance
11 Studio Act, the Physical Fitness Services Act, the Hearing
12 Instrument Consumer Protection Act, the Illinois Union Label
13 Act, the Job Referral and Job Listing Services Consumer
14 Protection Act, the Travel Promotion Consumer Protection Act,
15 the Credit Services Organizations Act, the Automatic Telephone
16 Dialers Act, the Pay-Per-Call Services Consumer Protection
17 Act, the Telephone Solicitations Act, the Illinois Funeral or
18 Burial Funds Act, the Cemetery Care Act, the Safe and Hygienic
19 Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home
20 Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud
21 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
22 Act, the Payday Loan Reform Act, subsection (a) or (b) of
23 Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail
24 Act, paragraph (6) of subsection (k) of Section 6-305 of the

1 Illinois Vehicle Code, Section 11-412 of the Illinois Vehicle
2 Code as provided in subsection (i) of that Section, Article 3
3 of the Residential Real Property Disclosure Act, the Automatic
4 Contract Renewal Act, or the Personal Information Protection
5 Act commits an unlawful practice within the meaning of this
6 Act.

7 (Source: P.A. 93-561, eff. 1-1-04; 93-950, eff. 1-1-05; 94-13,
8 eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292,
9 eff. 1-1-06; 94-822, eff. 1-1-07.)

10 Section 97. Inseverability; invalidity. The changes made
11 to existing statutory law by this Act are mutually dependent
12 and inseverable. If any change made to existing statutory law
13 by this Act is held invalid, then all changes made to existing
14 statutory law by this Act are invalid in their entirety.

15 If this Act is held invalid, any person or entity that
16 previously obtained access to accident data in bulk electronic
17 form under this Act shall promptly destroy the data and shall
18 discontinue using the data in vehicle history reports.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.