

# HOUSE BILL 488

C4, R7

EMERGENCY BILL

8lr1810

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By: ~~Delegate Davis~~ Delegates Davis, Anderson, Aumann, Beitzel, Boteler, Cardin, Carter, Costa, DeBoy, Eckardt, Frank, George, Griffith, Haddaway, Jennings, Lafferty, McComas, McConkey, McDonough, Miller, Morhaim, Myers, Norman, Shewell, Smigiel, Stein, Stocksdale, and Weir

Introduced and read first time: January 30, 2008

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2008

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Motor Vehicle Accident Reports - Access**

3 FOR the purpose of ~~altering the period of time during which certain persons may~~  
4 ~~access a certain motor vehicle accident report; authorizing owners of certain~~  
5 ~~motor vehicles and property to access a certain motor vehicle accident report~~  
6 ~~during a certain time following the date the motor vehicle accident occurred;~~  
7 ~~requiring a person that accesses a certain motor vehicle accident report during a~~  
8 ~~certain time after the motor vehicle accident occurred to present certain~~  
9 ~~information to certain authorized employees; providing for certain exceptions;~~  
10 ~~providing that certain persons who knowingly disclose a certain motor vehicle~~  
11 ~~accident report to certain persons are subject to a certain penalty~~ prohibiting a  
12 person from accessing a certain motor vehicle accident report for certain  
13 purposes under certain circumstances; providing for a certain penalty; repealing  
14 certain provisions of law concerning access to and disclosure of a certain motor  
15 vehicle accident report; defining certain terms; making this Act an emergency  
16 measure; and generally relating to motor vehicle accident reports.

17 BY repealing ~~and reenacting, with amendments,~~  
18 Article – Transportation  
19 Section 20–110  
20 Annotated Code of Maryland  
21 (2006 Replacement Volume and 2007 Supplement)

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, with amendments,  
 2 Article – Business Occupations and Professions  
 3 Section 10–604  
 4 Annotated Code of Maryland  
 5 (2004 Replacement Volume and 2007 Supplement)

6 BY repealing and reenacting, without amendments,  
 7 Article – Business Occupations and Professions  
 8 Section 10–606(c)  
 9 Annotated Code of Maryland  
 10 (2004 Replacement Volume and 2007 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Transportation**

14 ~~20–110.~~

15 (a) (1) ~~In this section the following words have the meanings indicated:~~

16 (2) ~~“Law enforcement agency” means an agency that is listed in §~~  
 17 ~~3–101(e) of the Public Safety Article.~~

18 (3) ~~“Motor vehicle accident” has the meaning stated in § 27–401 of the~~  
 19 ~~Insurance Article.~~

20 (4) (i) ~~“Newspaper” includes a newspaper of general circulation~~  
 21 ~~that is:~~

22 ~~1. Published at least once a week;~~

23 ~~2. Includes stories of general interest to the public; and~~

24 ~~3. Used primarily for the dissemination of news.~~

25 (ii) ~~“Newspaper” does not include a publication:~~

26 ~~1. That is intended primarily for members of a~~  
 27 ~~particular profession or occupational group;~~

28 ~~2. With the primary purpose of distributing advertising;~~  
 29 ~~or~~

30 ~~3. With the primary purpose of publishing names and~~  
 31 ~~other personal identifying information regarding parties to a motor vehicle accident.~~

1           ~~(5) “Report” means a report completed by an officer of a law~~  
2 ~~enforcement agency that:~~

3           ~~(i) Indicates that a motor vehicle accident occurred; and~~

4           ~~(ii) Includes information about the persons involved in the~~  
5 ~~motor vehicle accident including:~~

6           ~~1. Names;~~

7           ~~2. Telephone numbers; and~~

8           ~~3. Addresses.~~

9           ~~(b) For 60 days following the date a [report is filed with a law enforcement~~  
10 ~~agency] **MOTOR VEHICLE ACCIDENT OCCURRED**, only the following persons may~~  
11 ~~access the report:~~

12           ~~(1) The individuals involved in the motor vehicle accident;~~

13           ~~(2) **THE OWNER OF A MOTOR VEHICLE INVOLVED IN THE MOTOR**~~  
14 ~~**VEHICLE ACCIDENT OR PROPERTY DAMAGED IN THE MOTOR VEHICLE**~~  
15 ~~**ACCIDENT;**~~

16           ~~(3) The legal representative of an individual involved in the motor~~  
17 ~~vehicle accident;~~

18           ~~[(3)](4) The insurance producer, insurer, or employee or agent of the~~  
19 ~~insurer of an individual involved in the motor vehicle accident;~~

20           ~~[(4)](5) A State’s Attorney or other prosecutor;~~

21           ~~[(5)](6) A representative of a victim services program;~~

22           ~~[(6)](7) An employee of a radio or television station licensed by the~~  
23 ~~Federal Communications Commission;~~

24           ~~[(7)](8) An employee of a newspaper; and~~

25           ~~[(8)](9) A unit of local, State, or federal government that is~~  
26 ~~otherwise authorized to have access to a report in furtherance of the unit’s duties.~~

27           ~~(e) (1) Except as provided in paragraph (2) of this subsection, a person~~  
28 ~~that accesses a report within 60 days after the date a [report is filed] **MOTOR**~~  
29 ~~**VEHICLE ACCIDENT OCCURRED** shall present to [the] **AN OFFICER OR AUTHORIZED**~~  
30 ~~**EMPLOYEE** of a law enforcement agency in which the report is filed;~~

1 ~~(i) A valid driver's license or other State issued identification~~  
2 ~~card;~~

3 ~~(ii) Proof that the person is a person authorized to receive the~~  
4 ~~report under subsection (b) of this section; and~~

5 ~~(iii) A statement indicating that from the time the person is~~  
6 ~~granted access to the report until 60 days after the date the report is filed;~~

7 ~~1. The report will not be used for any commercial~~  
8 ~~solicitation of an individual listed in the report; and~~

9 ~~2. The person will not knowingly disclose any~~  
10 ~~information contained in the report to a third party for commercial solicitation of an~~  
11 ~~individual listed in the report.~~

12 ~~(2) Paragraph (1) of this subsection does not apply to [an]:~~

13 ~~(I) AN insurance producer, insurer, or employee or agent of the~~  
14 ~~insurer of an individual involved in the motor vehicle accident;~~

15 ~~(II) AN INDIVIDUAL INVOLVED IN THE MOTOR VEHICLE~~  
16 ~~ACCIDENT, THE OWNER OF A MOTOR VEHICLE INVOLVED OR PROPERTY~~  
17 ~~DAMAGED IN THE MOTOR VEHICLE ACCIDENT;~~

18 ~~(III) A STATE'S ATTORNEY OR OTHER PROSECUTOR; OR~~

19 ~~(IV) A UNIT OF LOCAL, STATE, OR FEDERAL GOVERNMENT~~  
20 ~~THAT IS OTHERWISE AUTHORIZED TO HAVE ACCESS TO A REPORT IN~~  
21 ~~FURTHERANCE OF THE UNIT'S DUTIES.~~

22 ~~(d) This section does not prohibit the dissemination or publication of news to~~  
23 ~~the general public by any legitimate media entitled to access reports.~~

24 ~~(e) (1) A person who obtains a report in violation of this subsection is~~  
25 ~~guilty of a felony and on conviction is subject to a fine not exceeding \$10,000 or~~  
26 ~~imprisonment not exceeding 15 years or both.~~

27 ~~(2) [An officer of a law enforcement agency] A PERSON who~~  
28 ~~knowingly discloses a report to a person not entitled to access the report under this~~  
29 ~~section is guilty of a felony and on conviction is subject to a fine not exceeding \$10,000~~  
30 ~~or imprisonment not exceeding 15 years or both.~~

31 Article - Business Occupations and Professions

1           **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
2 **MEANINGS INDICATED.**

3                   **(2) “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS**  
4 **LISTED IN § 3-101(E) OF THE PUBLIC SAFETY ARTICLE.**

5                   **(3) “MOTOR VEHICLE ACCIDENT” HAS THE MEANING STATED IN §**  
6 **27-401 OF THE INSURANCE ARTICLE.**

7                   **(4) “REPORT” MEANS A REPORT COMPLETED BY A POLICE**  
8 **OFFICER OF A LAW ENFORCEMENT AGENCY THAT:**

9                               **(I) INDICATES THAT A MOTOR VEHICLE ACCIDENT**  
10 **OCCURRED; AND**

11                               **(II) INCLUDES INFORMATION ABOUT A PERSON INVOLVED**  
12 **IN THE MOTOR VEHICLE ACCIDENT, INCLUDING THE PERSON’S NAME,**  
13 **TELEPHONE NUMBER, AND ADDRESS.**

14           **[(a)] (B) Without an existing relationship or interest in an issue:**

15                               **(1) a person may not, for personal gain, solicit another person to sue or**  
16 **to retain a lawyer to represent the other person in a lawsuit;**

17                               **(2) A PERSON MAY NOT, FOR PERSONAL GAIN, ACCESS A REPORT**  
18 **FOR THE PURPOSE OF SOLICITING ANOTHER PERSON TO SUE OR TO RETAIN A**  
19 **LAWYER TO REPRESENT THE OTHER PERSON; and**

20                               **[(2)] (3) a lawyer, except as provided in the Rules of Professional**  
21 **Conduct, may not:**

22                                       **(i) for personal gain, solicit another person to sue or to retain**  
23 **the lawyer to represent the person in a lawsuit;**

24                                       **(ii) directly or indirectly employ or in any way compensate or**  
25 **agree to employ or compensate any person as an expert witness or otherwise for the**  
26 **purpose of having that person solicit or attempt to solicit clients for the lawyer;**

27                                       **(iii) knowingly represent a person who retained the lawyer as a**  
28 **result of solicitation prohibited under this section; or**

29                                       **(iv) cause a case to be instituted without the authority of a**  
30 **client.**

1 [(b)] (C) Any solicitation involving acts described in this section is prima  
2 facie evidence that the person soliciting is acting for gain.

3 10-606.

4 (c) Except as provided in subsections (a) and (b) of this section, a person who  
5 violates any provision of this title is guilty of a misdemeanor and on conviction is  
6 subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

7 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~  
8 ~~July 1, 2008.~~

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
10 measure, is necessary for the immediate preservation of the public health or safety,  
11 has been passed by a ye and nay vote supported by three-fifths of all the members  
12 elected to each of the two Houses of the General Assembly, and shall take effect from  
13 the date it is enacted.

Approved:

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Governor.

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Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.