

# SENATE, No. 815

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator GERALD CARDINALE**

**District 39 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senators Oroho and Singleton**

**SYNOPSIS**

Restricts access to motor vehicle accident reports under certain circumstances.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 11/27/2018)**

S815 SCUTARI, CARDINALE

2

1 AN ACT concerning motor vehicle accidents and amending  
2 P.L.1998, c.21 and R.S.39:4-131.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 45 of P.L.1998, c.21 (C.17:33A-29) is amended to  
8 read as follows:

9 45. Every **[state]** State and local law enforcement agency,  
10 including the New Jersey State Police, shall make available to: (1)  
11 investigators and claim representatives employed by insurers; (2)  
12 vehicle owners, operators, or passengers listed in the accident report  
13 or an authorized representative of such identified person; (3)  
14 governmental employees authorized to investigate or prosecute  
15 insurance fraud; and (4) any person who claims to have suffered  
16 personal injury or property damage as a result of the motor vehicle  
17 accident, including pedestrians, or an authorized representative of  
18 such person, provided such person or authorized representative  
19 identifies with sufficient specificity the time and location of the  
20 accident described in the report, upon presentation of appropriate  
21 identification and any other information required by this section,  
22 information from any accident report, as set forth in this section, no  
23 later than 24 hours following the time of occurrence. The  
24 information may include, but need not be limited to, the names and  
25 addresses of the owners of the vehicles, insurance information  
26 recorded on the accident report, and the names and addresses of  
27 passengers in the vehicles at the time of the occurrence and, if  
28 applicable, the name of any pedestrian injured in an accident.  
29 Every accident report form shall contain the names and addresses of  
30 any person occupying a vehicle involved in an accident, and any  
31 pedestrian injured in an accident. Except as authorized by this  
32 section or by order of the court, no State or local law enforcement  
33 agency, including the New Jersey State Police, shall make available  
34 an accident report, nor any information contained in it, other than  
35 information concerning a criminal investigation which is otherwise  
36 required to be made available pursuant to subsection b. of section 3  
37 of P.L.1963, c.73 (C.47:1A-3), to any other person until after 90  
38 days have elapsed from the date of the accident.

39 For purposes of this section, an "authorized representative"  
40 means: (1) a licensed attorney retained by and acting under the  
41 express authorization of a person listed in the accident report or the  
42 express authorization of a person who claims to have suffered  
43 personal injury or property damage as a result of the motor vehicle  
44 accident, or an employee of such attorney, who provides written  
45 documentation demonstrating that the attorney has been retained to

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 represent such person; or (2) the next of kin of any person whose  
2 death or incapacitation results from the motor vehicle accident.

3 (cf: P.L.1998, c.21, s.45)

4

5 2. R.S.39:4-131 is amended to read as follows:

6 39:4-131. The commission shall prepare and supply to police  
7 departments and other suitable agencies, forms for accident reports  
8 calling for sufficiently detailed information with reference to a  
9 motor vehicle accident, including the cause, the conditions then  
10 existing, the persons and vehicles involved, the compliance with  
11 P.L.1984, c.179 (C.39:3-76.2e et seq.) by the operators and  
12 passengers of the vehicles involved in the accident, whether the  
13 operator of the vehicle was using a cellular telephone when the  
14 accident occurred, and such other information as the chief  
15 administrator may require.

16 Every law enforcement officer who investigates a vehicle  
17 accident of which report must be made as required in this Title, or  
18 who otherwise prepares a written report as a result of an accident or  
19 thereafter by interviewing the participants or witnesses, shall  
20 forward a written report of such accident to the commission, on  
21 forms furnished by it, within five days after his investigation of the  
22 accident.

23 Such written reports required to be forwarded by law  
24 enforcement officers and the information contained therein shall not  
25 be privileged or held confidential **【. Every】**, except that such  
26 reports and information shall not be made available to the public  
27 until after 90 days have elapsed from the date of the accident. At  
28 such time, every citizen of this State shall have the right, during  
29 regular business hours and under supervision, to inspect and copy  
30 such reports and shall also have the right in person to purchase  
31 copies of the reports at the same fee established by section 6 of  
32 P.L.2001, c.404 (C.47:1A-5). If copies of reports are requested  
33 other than in person, an additional fee of up to \$5.00 may be added  
34 to cover the administrative costs of the report. Upon request, a  
35 police department shall send an accident report to a person through  
36 the mail or via fax **【as defined in section 2 of P.L.1976, c.23**  
37 **(C.19:59-2)】**. The police department may require the person  
38 requesting the report to provide a completed request form and the  
39 appropriate fee prior to faxing or mailing the report. The police  
40 department shall provide the person requesting the report with the  
41 option of submitting the form and providing the appropriate fee  
42 either in person, through the mail, or via fax **【as defined in section**  
43 **2 of P.L.1976, c.23 (C.19:59-2)】**.

44 The provisions of any other law or regulation to the contrary  
45 notwithstanding, reports obtained pursuant to this act shall not be  
46 subject to confidentiality requirements except as provided by  
47 section 28 of P.L.1960, c.52 (C.2A:84A-28).

1       When a motor vehicle accident results in the death or  
2       incapacitation of the driver or any passenger, the law enforcement  
3       officer responsible for notifying the next of kin that their relative is  
4       deceased or incapacitated, also shall inform the relative, in writing,  
5       how to obtain a copy of the accident report required by this section  
6       and the name, address, and telephone number of the person storing  
7       the motor vehicle pursuant to section 1 of P.L.1964, c.81  
8       (C.39:10A-1).

9       Nothing in this section shall be construed to prohibit a law  
10      enforcement agency from making information from an accident  
11      report available in accordance with the provisions of section 45 of  
12      P.L.1998, c.21 (C.17:33A-29) or to require withholding information  
13      concerning a criminal investigation which is otherwise required to  
14      be made available pursuant to subsection b. of section 3 of  
15      P.L.1963, c.73 (C.47:1A-3).  
16      (cf: P.L.2010, c.75, s.2)

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18       3. This act shall take effect immediately.

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#### STATEMENT

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23       This bill establishes parameters for the distribution of certain  
24       accident report information.

25       Under current law, section 45 of P.L.1998, c.21 (C.17:33A-29),  
26       accident reports are made available by State and local law  
27       enforcement to investigators employed by insurers no later than 24  
28       hours following the time of occurrence.

29       The bill would provide that these reports would not be available  
30       to the public until after 90 days have elapsed from the date of the  
31       accident, with certain exceptions. Under the bill, no later than 24  
32       hours following the occurrence, the reports would be available to  
33       the following individuals: (1) investigators and claim  
34       representatives employed by insurers; (2) vehicle owners, operators,  
35       or passengers listed in the accident report or an authorized  
36       representative of such identified person; (3) governmental  
37       employees authorized to investigate or prosecute insurance fraud;  
38       and (4) any person who claims to have suffered personal injury or  
39       property damage as a result of the motor vehicle accident, including  
40       pedestrians, or an authorized representative of such person,  
41       provided such person or authorized representative identifies with  
42       sufficient specificity the time and location of the accident described  
43       in the report, upon presentation of appropriate identification and  
44       any other information required by section 45 of P.L.1998, c.21  
45       (C.17:33A-29).

46       The bill defines an "authorized representative" as: (1) a licensed  
47       attorney retained by and acting under the express authorization of a  
48       person listed in the accident report or of a person who claims to

1 have suffered personal injury or property damage as a result of the  
2 motor vehicle accident, or an employee of such attorney, who  
3 provides written documentation demonstrating that the attorney has  
4 been retained to represent such person; or (2) the next of kin of any  
5 person whose death or incapacitation results from the motor vehicle  
6 accident.

7 The bill further provides that information contained in an  
8 accident report concerning a criminal investigation otherwise  
9 required to be made available within 24 hours or as soon as  
10 practical pursuant to subsection b. of section 3 of P.L.1963, c.73  
11 (C.47:1A-3), provisions of the State's Open Public Records Act,  
12 shall not be subject to the 90 day period.

13 This bill also amends R.S.39:4-131 with regard to the form for  
14 an accident report which is prepared by the Motor Vehicle  
15 Commission and supplied to police departments. Under current law  
16 these accident reports are not considered privileged or confidential  
17 and every citizen has a right to inspect and copy these reports. The  
18 bill would delay the availability of such information to the public,  
19 except as enumerated above, until after 90 days have elapsed from  
20 the date of the accident.

21 Additionally in this section of law, the bill removes cross  
22 references to section 2 of P.L.1976, c.23 (C.19:59-2) concerning the  
23 definition of "fax," being one of the means by which people could  
24 request and police departments provide accident reports. The cross  
25 reference is obsolete because that referred to section was amended  
26 in 2008 to replace the definition of fax with a new definition for  
27 "electronic means" as a means of transmitting information. See  
28 P.L.2008, c.61, s.2.