State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0338

SENATE ENGROSSED NO. HB 1016 - 02/14/2007

Introduced by: The Committee on Judiciary at the request of the Bureau of Administration

FOR AN ACT ENTITLED, An Act to exempt law enforcement and emergency vehicle accidents from certain driving records.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 32-12-61 be amended to read as follows:

32-12-61. The Department of Public Safety shall file all abstracts of court records of convictions received by it under the laws of this state and all accident reports received. The Department of Public Safety shall maintain records or make suitable notations on the individual record of each licensee and any person domiciled in this state who is required to have a driver license showing the convictions, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control committed while the licensee or person was operating any type of vehicle and the traffic accidents in which the licensee or person has been involved. The information shall be readily ascertainable and available for the consideration of the department upon any application for renewal of a license. However, with the exception of convictions resulting from operation of a commercial motor vehicle, no conviction for speeding which is ten miles per hour or less over the posted speed limit and no speeding conviction received from another state may be entered on the licensee's driving record,

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

but may be recorded separately. The separate record may not be made available to the public. No accident may be entered on the driving record of a law enforcement officer, firefighter, or emergency medical technician if such accident resulted from the law enforcement officer's, firefighter's, or emergency medical technician's response to a call of duty as a law enforcement officer, firefighter, or emergency medical technician and the law enforcement officer, firefighter, or emergency medical technician was lawfully engaged in the performance of official duties and was driving an official vehicle. Such accident shall be recorded separately.

Section 2. That § 32-35-101 be amended to read as follows:

32-35-101. The Department of Public Safety shall furnish to any person upon request a certified abstract of the operating record for the last three years of any person subject to the provisions of this chapter. The abstract shall include enumeration of any motor vehicle accidents in which the person has been involved and reference to any convictions of the person for a violation of the motor vehicle laws as reported to the department. No accident may be entered on the driving record of a law enforcement officer, firefighter, or emergency medical technician if such accident resulted from the law enforcement officer's, firefighter's, or emergency medical technician's response to a call of duty as a law enforcement officer, firefighter, or emergency medical technician and the law enforcement officer, firefighter, or emergency medical technician was lawfully engaged in the performance of official duties and was driving an official vehicle. Such accident shall be recorded separately. The department shall collect four dollars for each abstract. The fee shall be credited to the state motor vehicle fund. Any governmental entity or subdivision is exempt from this fee.

Section 3. That chapter 58-24 be amended by adding thereto a NEW SECTION to read as follows:

No insurer may increase the premium or rate of an insured at policy issuance, during the

term of a policy, or at renewal because of an accident if the insured was responding to a call of duty as a law enforcement officer, firefighter, or emergency medical technician for any accident:

(1) That occurred while the law enforcement officer, firefighter, or emergency medical technician was lawfully engaged in the performance of official duties; and

(2) That occurred while the law enforcement officer, firefighter, or emergency medical technician was driving an official vehicle; and

(3) For which the law enforcement officer, firefighter, or emergency medical technician furnishes notice to the insurer that the accident occurred under circumstances identified in subdivisions (1) and (2) of this section.

This section is not applicable to commercial lines policies. Any premium or rate increase in violation of this section, which is made erroneously and does not constitute a continuing business practice of the insurer, may not be the basis of any disciplinary action by the division against the insurer if the insurer refunds any excess premium promptly upon discovery of the error or upon request by the insured.