
HOUSE BILL 2175

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By Representatives J. Kohl, Jacobsen, Long, Lemmon, Linville, L. Johnson, Sommers, Appelwick, Cothorn, Foreman, Heavey, Karahalios, Forner, Brough, Johanson, Holm and Thomas

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1 AN ACT Relating to records of traffic offenses; and amending RCW
2 46.01.260, 46.52.100, 46.52.130, 10.05.060, and 10.05.120.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 46.01.260 and 1984 c 241 s 1 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section, the
7 director, in his or her discretion, may destroy applications for
8 vehicle licenses, copies of vehicle licenses issued, applications for
9 drivers' licenses, copies of issued drivers' licenses, certificates of
10 title and registration or other documents, records or supporting papers
11 on file in his or her office which have been microfilmed or
12 photographed or are more than five years old. If the applications for
13 vehicle licenses are renewal applications, the director may destroy
14 such applications when the computer record thereof has been updated.

15 (2)(a) The director shall not, within ten years from the date of
16 conviction, adjudication, or entry of deferred prosecution, destroy
17 records of the following:

18 (i) Convictions or adjudications of the following offenses: RCW
19 46.61.502, 46.61.504, 46.61.520(1)(a), or 46.61.522(1)(b);

1 (ii) If the offense was originally charged as one of the offenses
2 designated in (a)(i) of this subsection, convictions or adjudications
3 of the following offenses: RCW 46.61.500, 46.61.525, or any other
4 violation that was originally charged as one of the offenses designated
5 in (a)(i) of this subsection;

6 (iii) Deferred prosecutions granted under RCW 10.05.120; or

7 (iv) Convictions or adjudications of hit-and-run injury (RCW
8 46.52.020(4)) or hit-and-run attended (RCW 46.52.020(5)).

9 (b) For purposes of RCW 46.52.100 and 46.52.130, offenses subject
10 to this subsection shall be considered "alcohol-related" offenses.

11 **Sec. 2.** RCW 46.52.100 and 1991 c 363 s 123 are each amended to
12 read as follows:

13 Every district court, municipal court, and clerk of superior court
14 shall keep or cause to be kept a record of every traffic complaint,
15 traffic citation, notice of infraction, or other legal form of traffic
16 charge deposited with or presented to the court or a traffic violations
17 bureau, and shall keep a record of every official action by said court
18 or its traffic violations bureau in reference thereto, including but
19 not limited to a record of every conviction, forfeiture of bail,
20 judgment of acquittal, finding that a traffic infraction has been
21 committed, dismissal of a notice of infraction, and the amount of fine,
22 forfeiture, or penalty resulting from every said traffic complaint,
23 citation, or notice of infraction deposited with or presented to the
24 district court, municipal court, superior court, or traffic violations
25 bureau.

26 The Monday following the conviction, forfeiture of bail, or finding
27 that a traffic infraction was committed for violation of any provisions
28 of this chapter or other law regulating the operating of vehicles on
29 highways, every said magistrate of the court or clerk of the court of
30 record in which such conviction was had, bail was forfeited, or the
31 finding made shall prepare and immediately forward to the director of
32 licensing at Olympia an abstract of the record of said court covering
33 the case, which abstract must be certified by the person so required to
34 prepare the same to be true and correct. Report need not be made of
35 any finding involving the illegal parking or standing of a vehicle.

36 Said abstract must be made upon a form furnished by the director
37 and shall include the name and address of the party charged, the
38 number, if any, of the party's driver's or chauffeur's license, the

1 registration number of the vehicle involved, the nature of the offense,
2 the date of hearing, the plea, the judgment, whether the offense was an
3 alcohol-related offense as defined in RCW 46.01.260(2), whether bail
4 forfeited, whether the determination that a traffic infraction was
5 committed was contested, and the amount of the fine, forfeiture, or
6 penalty as the case may be.

7 Every court of record shall also forward a like report to the
8 director upon the conviction of any person of manslaughter or other
9 felony in the commission of which a vehicle was used.

10 The failure of any such judicial officer to comply with any of the
11 requirements of this section shall constitute misconduct in office and
12 shall be grounds for removal therefrom.

13 The director shall keep all abstracts received hereunder at the
14 director's office in Olympia and the same shall be open to public
15 inspection during reasonable business hours.

16 Venue in all district courts shall be before one of the two nearest
17 district judges in incorporated cities and towns nearest to the point
18 the violation allegedly occurred: PROVIDED, That in counties with
19 populations of one hundred twenty-five thousand or more such cases may
20 be tried in the county seat at the request of the defendant.

21 It shall be the duty of the officer, prosecuting attorney, or city
22 attorney signing the charge or information in any case involving a
23 charge of driving under the influence of intoxicating liquor or any
24 drug immediately to make request to the director for an abstract of
25 convictions and forfeitures which the director shall furnish.

26 **Sec. 3.** RCW 46.52.130 and 1991 c 243 s 1 are each amended to read
27 as follows:

28 A certified abstract of the driving record shall be furnished only
29 to the individual named in the abstract, an employer, the insurance
30 carrier that has insurance in effect covering the employer or a
31 prospective employer, the insurance carrier that has insurance in
32 effect covering the named individual, the insurance carrier to which
33 the named individual has applied, ((or)) an alcohol/drug assessment or
34 treatment agency approved by the department of social and health
35 services, to which the named individual has applied or been assigned
36 for evaluation or treatment, courts, or city and county prosecuting
37 attorneys. City attorneys and county prosecuting attorneys may provide
38 the driving record to alcohol/drug assessment or treatment agencies

1 approved by the department of social and health services to which the
2 named individual has applied or been assigned for evaluation or
3 treatment. The director, upon proper request, shall furnish a
4 certified abstract covering the period of not more than the last three
5 years to insurance companies(~~(, and)~~). Upon proper request, the
6 director shall furnish a certified abstract covering a period of not
7 more than the last five years to state approved alcohol/drug assessment
8 or treatment agencies, except that the certified abstract shall also
9 include records of alcohol-related offenses as defined in RCW
10 46.01.260(2) covering a period of not more than the last ten years. A
11 certified abstract of the full driving record maintained by the
12 department shall be furnished to individuals (~~and~~), employers or
13 prospective employers, courts, and city and county prosecuting
14 attorneys. The abstract, whenever possible, shall include an
15 enumeration of motor vehicle accidents in which the person was driving;
16 the total number of vehicles involved; whether the vehicles were
17 legally parked or moving; whether the vehicles were occupied at the
18 time of the accident; any reported convictions, forfeitures of bail, or
19 findings that an infraction was committed based upon a violation of any
20 motor vehicle law; and the status of the person's driving privilege in
21 this state. The enumeration shall include any reports of failure to
22 appear in response to a traffic citation or failure to respond to a
23 notice of infraction served upon the named individual by an arresting
24 officer. Certified abstracts furnished to courts, prosecutors, and
25 alcohol/drug assessment centers shall also indicate whether a recorded
26 violation is an alcohol-related offense as defined in RCW 46.01.260(2)
27 that was originally charged as one of the alcohol-related offenses
28 designated in RCW 46.01.260(2)(a)(i).

29 The abstract provided to the insurance company shall exclude any
30 information except that related to the commission of misdemeanors or
31 felonies by the individual pertaining to law enforcement officers or
32 fire fighters as defined in RCW 41.26.030, or any officer of the
33 Washington state patrol, while driving official vehicles in the
34 performance of occupational duty.

35 The director shall collect for each abstract the sum of four
36 dollars and fifty cents which shall be deposited in the highway safety
37 fund.

38 Any insurance company or its agent receiving the certified abstract
39 shall use it exclusively for its own underwriting purposes and shall

1 not divulge any of the information contained in it to a third party.
2 No policy of insurance may be canceled, nonrenewed, denied, or have the
3 rate increased on the basis of such information unless the policyholder
4 was determined to be at fault. No insurance company or its agent for
5 underwriting purposes relating to the operation of commercial motor
6 vehicles may use any information contained in the abstract relative to
7 any person's operation of motor vehicles while not engaged in such
8 employment, nor may any insurance company or its agent for underwriting
9 purposes relating to the operation of noncommercial motor vehicles use
10 any information contained in the abstract relative to any person's
11 operation of commercial motor vehicles.

12 Any employer or prospective employer receiving the certified
13 abstract shall use it exclusively for his or her own purpose to
14 determine whether the licensee should be permitted to operate a
15 commercial vehicle or school bus upon the public highways of this state
16 and shall not divulge any information contained in it to a third party.

17 Any alcohol/drug assessment or treatment agency approved by the
18 department of social and health services receiving the certified
19 abstract shall use it exclusively for the purpose of assisting its
20 employees in making a determination as to what level of treatment, if
21 any, is appropriate. The agency, or any of its employees, shall not
22 divulge any information contained in the abstract to a third party.

23 Any violation of this section is a gross misdemeanor.

24 **Sec. 4.** RCW 10.05.060 and 1990 c 250 s 13 are each amended to read
25 as follows:

26 If the report recommends treatment, the court shall examine the
27 treatment plan. If it approves the plan and the petitioner agrees to
28 comply with its terms and conditions and agrees to pay the cost
29 thereof, if able to do so, or arrange for the treatment, an entry shall
30 be made upon the person's court docket showing that the person has been
31 accepted for deferred prosecution. A copy of the treatment plan shall
32 be attached to the docket, which shall then be removed from the regular
33 court dockets and filed in a special court deferred prosecution file.
34 If the charge be one that an abstract of the docket showing the charge
35 and the date of petitioner's acceptance is required to be sent to the
36 department of licensing, an abstract shall be sent, and the department
37 of licensing shall make an entry of the charge and of the petitioner's
38 acceptance for deferred prosecution on the department's driving record

1 of the petitioner. The entry is not a conviction for purposes of Title
2 46 RCW. The department shall maintain the record for ((five)) ten
3 years from date of entry of the order granting deferred prosecution.

4 **Sec. 5.** RCW 10.05.120 and 1985 c 352 s 15 are each amended to read
5 as follows:

6 Upon proof of successful completion of the two-year treatment
7 program, the court shall dismiss the charges pending against the
8 petitioner.

9 ~~((Five years from the date of the court's approval of a deferred
10 prosecution program for an individual petitioner, those entries that
11 remain in the department of licensing records relating to such
12 petitioner shall be removed.))~~ A deferred prosecution may be
13 considered for enhancement purposes when imposing mandatory penalties
14 and suspensions under RCW 46.61.515 for subsequent offenses within a
15 five-year period.

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