
SENATE BILL 5638

State of Washington 55th Legislature 1997 Regular Session

By Senators Fraser, Fairley, McCaslin and Kohl

Read first time 02/04/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to traffic infractions that result in a fatality;
2 amending RCW 46.52.100, 46.52.120, and 46.20.322; reenacting and
3 amending RCW 46.52.130; and providing an effective date.

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

5 **Sec. 1.** RCW 46.52.100 and 1995 c 219 s 3 are each amended to read
6 as follows:

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

1 The Monday following the conviction, forfeiture of bail, or finding
2 that a traffic infraction was committed for violation of any provisions
3 of this chapter or other law regulating the operating of vehicles on
4 highways, every magistrate of the court or clerk of the court of record
5 in which such conviction was had, bail was forfeited, or the finding
6 made shall prepare and immediately forward to the director of licensing
7 at Olympia an abstract of the record of the court covering the case,
8 which abstract must be certified by the person so required to prepare
9 the same to be true and correct. Report need not be made of any
10 finding involving the illegal parking or standing of a vehicle.

11 The abstract must be made upon a form or forms furnished by the
12 director and shall include the name and address of the party charged,
13 the number, if any, of the party's driver's or chauffeur's license, the
14 registration number of the vehicle involved if required by the
15 director, the nature of the offense, the date of hearing, the plea, the
16 judgment, whether the offense was an alcohol-related offense as defined
17 in RCW 46.01.260(2), whether the incident that gave rise to the offense
18 charged resulted in any fatality, whether bail forfeited, whether the
19 determination that a traffic infraction was committed was contested,
20 and the amount of the fine, forfeiture, or penalty as the case may be.

21 Every court of record shall also forward a like report to the
22 director upon the conviction of any person of a felony in the
23 commission of which a vehicle was used.

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

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

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

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

1 **Sec. 2.** RCW 46.52.120 and 1993 c 501 s 12 are each amended to read
2 as follows:

3 (1) The director shall keep a case record on every motor vehicle
4 driver licensed under the laws of this state, together with information
5 on each driver, showing all the convictions and findings of traffic
6 infractions certified by the courts, together with an index cross-
7 reference record of each accident reported relating to such individual
8 with a brief statement of the cause of the accident and whether or not
9 the accident resulted in any fatality. The chief of the Washington
10 state patrol shall furnish the index cross-reference record to the
11 director, with reference to each driver involved in the reported
12 accidents.

13 (2) The records shall be for the confidential use of the director,
14 the chief of the Washington state patrol, the director of the
15 Washington traffic safety commission, and for such police officers or
16 other cognizant public officials as may be designated by law. Such
17 case records shall not be offered as evidence in any court except in
18 case appeal is taken from the order of the director, suspending,
19 revoking, canceling, or refusing a vehicle driver's license.

20 (3) The director shall tabulate and analyze vehicle driver's case
21 records and suspend, revoke, cancel, or refuse a vehicle driver's
22 license to a person when it is deemed from facts contained in the case
23 record of such person that it is for the best interest of public safety
24 that such person be denied the privilege of operating a motor vehicle.
25 The director shall also suspend a person's driver's license if the
26 person fails to complete the driver improvement interview when required
27 under RCW 46.20.322(3). Whenever the director orders the vehicle
28 driver's license of any such person suspended, revoked, or canceled, or
29 refuses the issuance of a vehicle driver's license, such suspension,
30 revocation, cancellation, or refusal is final and effective unless
31 appeal from the decision of the director is taken as provided by law.

32 **Sec. 3.** RCW 46.52.130 and 1996 c 307 s 4 and 1996 c 183 s 2 are
33 each reenacted and amended to read as follows:

34 A certified abstract of the driving record shall be furnished only
35 to the individual named in the abstract, an employer or prospective
36 employer or an agent acting on behalf of an employer or prospective
37 employer, the insurance carrier that has insurance in effect covering
38 the employer or a prospective employer, the insurance carrier that has

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

1 The abstract provided to the insurance company shall exclude any
2 information, except that related to the commission of misdemeanors or
3 felonies by the individual, pertaining to law enforcement officers or
4 fire fighters as defined in RCW 41.26.030, or any officer of the
5 Washington state patrol, while driving official vehicles in the
6 performance of occupational duty. The abstract provided to the
7 insurance company shall include convictions for RCW 46.61.525 (1) and
8 (2) except that the abstract shall report them only as negligent
9 driving without reference to whether they are for first or second
10 degree negligent driving. The abstract provided to the insurance
11 company shall exclude any deferred prosecution under RCW 10.05.060,
12 except that if a person is removed from a deferred prosecution under
13 RCW 10.05.090, the abstract shall show the deferred prosecution as well
14 as the removal.

15 The director shall collect for each abstract the sum of four
16 dollars and fifty cents which shall be deposited in the highway safety
17 fund.

18 Any insurance company or its agent receiving the certified abstract
19 shall use it exclusively for its own underwriting purposes and shall
20 not divulge any of the information contained in it to a third party.
21 No policy of insurance may be canceled, nonrenewed, denied, or have the
22 rate increased on the basis of such information unless the policyholder
23 was determined to be at fault. No insurance company or its agent for
24 underwriting purposes relating to the operation of commercial motor
25 vehicles may use any information contained in the abstract relative to
26 any person's operation of motor vehicles while not engaged in such
27 employment, nor may any insurance company or its agent for underwriting
28 purposes relating to the operation of noncommercial motor vehicles use
29 any information contained in the abstract relative to any person's
30 operation of commercial motor vehicles.

31 Any employer or prospective employer or an agent acting on behalf
32 of an employer or prospective employer receiving the certified abstract
33 shall use it exclusively for his or her own purpose to determine
34 whether the licensee should be permitted to operate a commercial
35 vehicle or school bus upon the public highways of this state and shall
36 not divulge any information contained in it to a third party.

37 Any alcohol/drug assessment or treatment agency approved by the
38 department of social and health services receiving the certified
39 abstract shall use it exclusively for the purpose of assisting its

1 employees in making a determination as to what level of treatment, if
2 any, is appropriate. The agency, or any of its employees, shall not
3 divulge any information contained in the abstract to a third party.

4 Release of a certified abstract of the driving record of an
5 employee or prospective employee requires a statement signed by: (1)
6 The employee or prospective employee that authorizes the release of the
7 record, and (2) the employer attesting that the information is
8 necessary to determine whether the licensee should be employed to
9 operate a commercial vehicle or school bus upon the public highways of
10 this state. If the employer or prospective employer authorizes an
11 agent to obtain this information on their behalf, this must be noted in
12 the statement.

13 Any violation of this section is a gross misdemeanor.

14 **Sec. 4.** RCW 46.20.322 and 1979 c 61 s 10 are each amended to read
15 as follows:

16 (1) Whenever the department proposes to suspend or revoke the
17 driving privilege of any person or proposes to impose terms of
18 probation on a person's driving privilege or proposes to refuse to
19 renew a driver's license, notice and an opportunity for a driver
20 improvement interview shall be given before taking such action, except
21 as provided in RCW 46.20.324 and 46.20.325.

22 (2) Whenever the department proposes to suspend, revoke, restrict,
23 or condition a minor driver's driving privilege the department may
24 require the appearance of the minor's legal guardian or father or
25 mother, otherwise the parent or guardian having custody of the minor.

26 (3) Whenever a driver has forfeited bail on an infraction that
27 resulted in any fatality or has been found to have committed an
28 infraction that resulted in any fatality, the department shall require
29 such driver to participate in a driver improvement interview. If the
30 driver fails to complete the driver improvement interview, the
31 department shall suspend the driver's driving privilege until such time
32 as the driver has completed the driver improvement interview.

33 NEW SECTION. **Sec. 5.** This act takes effect January 1, 1998.

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