
ENGROSSED HOUSE BILL 1251

State of Washington

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By Representatives Shea, Goodman, Ross, O'Brien, Rodne, Simpson, and Kelley

Read first time 01/15/09. Referred to Committee on Judiciary.

1 AN ACT Relating to the release of certified abstracts of full
2 driving records; and amending RCW 46.52.130 and 46.01.260.

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

4 **Sec. 1.** RCW 46.52.130 and 2008 c 253 s 1 are each amended to read
5 as follows:

6 (1) A certified abstract of the driving record shall be furnished
7 only to:

8 (a) The individual named in the abstract;

9 (b) An employer or prospective employer or an agent acting on
10 behalf of an employer or prospective employer, or a volunteer
11 organization for which the named individual has submitted an
12 application for a position that could require the transportation of
13 children under eighteen years of age, adults over sixty-five years of
14 age, or persons with mental or physical disabilities;

15 (c) An employee or agent of a transit authority checking
16 prospective volunteer vanpool drivers for insurance and risk management
17 needs;

18 (d) The insurance carrier that has insurance in effect covering the
19 employer or a prospective employer;

1 (e) The insurance carrier that has motor vehicle or life insurance
2 in effect covering the named individual;

3 (f) The insurance carrier to which the named individual has
4 applied;

5 (g) An alcohol/drug assessment or treatment agency approved by the
6 department of social and health services, to which the named individual
7 has applied or been assigned for evaluation or treatment;

8 (h) City and county prosecuting attorneys; or

9 (i) State colleges, universities, or agencies for employment and
10 risk management purposes; or units of local government authorized to
11 self-insure under RCW 48.62.031.

12 (2) Nothing in this section shall be interpreted to prevent a court
13 from providing a copy of the driver's abstract to the individual named
14 in the abstract, provided that the named individual has a pending case
15 in that court for a suspended license violation or an open infraction
16 or criminal case in that court that has resulted in the suspension of
17 the individual's driver's license. A pending case includes criminal
18 cases that have not reached a disposition by plea, stipulation, trial,
19 or amended charge. An open infraction or criminal case includes cases
20 on probation, payment agreement or subject to, or in collections.
21 Courts may charge a reasonable fee for production and copying of the
22 abstract for the individual.

23 (3) City attorneys and county prosecuting attorneys may provide the
24 driving record to alcohol/drug assessment or treatment agencies
25 approved by the department of social and health services to which the
26 named individual has applied or been assigned for evaluation or
27 treatment.

28 ((+3)) (4)(a) The director, upon proper request, shall furnish a
29 certified abstract covering the period of not more than the last three
30 years to insurance companies.

31 (b) The director may enter into a contractual agreement with an
32 insurance company or its agent for the limited purpose of reviewing the
33 driving records of existing policyholders for changes to the record
34 during specified periods of time. The department shall establish a fee
35 for this service, which must be deposited in the highway safety fund.
36 The fee for this service must be set at a level that will not result in
37 a net revenue loss to the state. Any information provided under this

1 subsection must be treated in the same manner and subject to the same
2 restrictions as certified abstracts.

3 ~~((4))~~ (5) Upon proper request, the director shall furnish a
4 certified abstract covering a period of not more than the last five
5 years to state approved alcohol/drug assessment or treatment agencies,
6 except that the certified abstract shall also include records of
7 alcohol-related offenses as defined in RCW 46.01.260(2) covering a
8 period of not more than the last ten years.

9 ~~((5))~~ (6) Upon proper request, a certified abstract of the full
10 driving record maintained by the department shall be furnished to a
11 city or county prosecuting attorney, to the individual named in the
12 abstract, to an employer or prospective employer or an agent acting on
13 behalf of an employer or prospective employer of the named individual,
14 or to a volunteer organization for which the named individual has
15 submitted an application for a position that could require the
16 transportation of children under eighteen years of age, adults over
17 sixty-five years of age, or persons with physical or mental
18 disabilities, or to an employee or agent of a transit authority
19 checking prospective volunteer vanpool drivers for insurance and risk
20 management needs.

21 ~~((6))~~ (7) The abstract, whenever possible, shall include:

- 22 (a) An enumeration of motor vehicle accidents in which the person
23 was driving;
- 24 (b) The total number of vehicles involved;
- 25 (c) Whether the vehicles were legally parked or moving;
- 26 (d) Whether the vehicles were occupied at the time of the accident;
- 27 (e) Whether the accident resulted in any fatality;
- 28 (f) Any reported convictions, forfeitures of bail, or findings that
29 an infraction was committed based upon a violation of any motor vehicle
30 law;
- 31 (g) The status of the person's driving privilege in this state; and
- 32 (h) Any reports of failure to appear in response to a traffic
33 citation or failure to respond to a notice of infraction served upon
34 the named individual by an arresting officer.

35 ~~((7))~~ (8) Certified abstracts furnished to prosecutors and
36 alcohol/drug assessment or treatment agencies shall also indicate
37 whether a recorded violation is an alcohol-related offense as defined

1 in RCW 46.01.260(2) that was originally charged as one of the alcohol-
2 related offenses designated in RCW 46.01.260(2)(b)(i).

3 ~~((+8+))~~ (9) The abstract provided to the insurance company shall
4 exclude any information, except that related to the commission of
5 misdemeanors or felonies by the individual, pertaining to law
6 enforcement officers or firefighters as defined in RCW 41.26.030, or
7 any officer of the Washington state patrol, while driving official
8 vehicles in the performance of occupational duty. The abstract
9 provided to the insurance company shall include convictions for RCW
10 46.61.5249 and 46.61.525 except that the abstract shall report them
11 only as negligent driving without reference to whether they are for
12 first or second degree negligent driving. The abstract provided to the
13 insurance company shall exclude any deferred prosecution under RCW
14 10.05.060, except that if a person is removed from a deferred
15 prosecution under RCW 10.05.090, the abstract shall show the deferred
16 prosecution as well as the removal.

17 ~~((+9+))~~ (10) The director shall collect for each abstract the sum
18 of ten dollars, fifty percent of which shall be deposited in the
19 highway safety fund and fifty percent of which must be deposited
20 according to RCW 46.68.038.

21 ~~((+10+))~~ (11) Any insurance company or its agent receiving the
22 certified abstract shall use it exclusively for its own underwriting
23 purposes and shall not divulge any of the information contained in it
24 to a third party. No policy of insurance may be canceled, nonrenewed,
25 denied, or have the rate increased on the basis of such information
26 unless the policyholder was determined to be at fault. No insurance
27 company or its agent for underwriting purposes relating to the
28 operation of commercial motor vehicles may use any information
29 contained in the abstract relative to any person's operation of motor
30 vehicles while not engaged in such employment, nor may any insurance
31 company or its agent for underwriting purposes relating to the
32 operation of noncommercial motor vehicles use any information contained
33 in the abstract relative to any person's operation of commercial motor
34 vehicles.

35 ~~((+11+))~~ (12) Any employer or prospective employer or an agent
36 acting on behalf of an employer or prospective employer, or a volunteer
37 organization for which the named individual has submitted an
38 application for a position that could require the transportation of

1 children under eighteen years of age, adults over sixty-five years of
2 age, or persons with physical or mental disabilities, receiving the
3 certified abstract shall use it exclusively for his or her own purpose
4 to determine whether the licensee should be permitted to operate a
5 commercial vehicle or school bus, or operate a vehicle for a volunteer
6 organization for purposes of transporting children under eighteen years
7 of age, adults over sixty-five years of age, or persons with physical
8 or mental disabilities, upon the public highways of this state and
9 shall not divulge any information contained in it to a third party.

10 ~~((+12+))~~ (13) Any employee or agent of a transit authority
11 receiving a certified abstract for its vanpool program shall use it
12 exclusively for determining whether the volunteer licensee meets those
13 insurance and risk management requirements necessary to drive a vanpool
14 vehicle. The transit authority may not divulge any information
15 contained in the abstract to a third party.

16 ~~((+13+))~~ (14) Any alcohol/drug assessment or treatment agency
17 approved by the department of social and health services receiving the
18 certified abstract shall use it exclusively for the purpose of
19 assisting its employees in making a determination as to what level of
20 treatment, if any, is appropriate. The agency, or any of its
21 employees, shall not divulge any information contained in the abstract
22 to a third party.

23 ~~((+14+))~~ (15) Release of a certified abstract of the driving record
24 of an employee, prospective employee, or prospective volunteer requires
25 a statement signed by: (a) The employee, prospective employee, or
26 prospective volunteer that authorizes the release of the record, and
27 (b) the employer or volunteer organization attesting that the
28 information is necessary to determine whether the licensee should be
29 employed to operate a commercial vehicle or school bus, or operate a
30 vehicle for a volunteer organization for purposes of transporting
31 children under eighteen years of age, adults over sixty-five years of
32 age, or persons with physical or mental disabilities, upon the public
33 highways of this state. If the employer or prospective employer
34 authorizes an agent to obtain this information on their behalf, this
35 must be noted in the statement. This subsection does not apply to
36 entities identified in subsection (1)(i) of this section.

37 ~~((+15+))~~ (16) Any negligent violation of this section is a gross
38 misdemeanor.

1 (~~(16)~~) (17) Any intentional violation of this section is a class
2 C felony.

3 **Sec. 2.** RCW 46.01.260 and 1999 c 86 s 2 are each amended to read
4 as follows:

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

14 (2)(a) The director shall not destroy records of convictions or
15 adjudications of RCW 46.61.502, 46.61.504, 46.61.520, and 46.61.522, or
16 records of deferred prosecutions granted under RCW 10.05.120 and shall
17 maintain such records permanently on file.

18 (b) The director shall not, within fifteen years from the date of
19 conviction or adjudication, destroy records (~~of the following:~~

20 ~~(i) Convictions or adjudications of the following offenses: RCW~~
21 ~~46.61.502 or 46.61.504; or~~

22 ~~(ii))~~ if the offense was originally charged as one of the offenses
23 designated in (a) (~~or (b)(i))~~) of this subsection, convictions or
24 adjudications of the following offenses: RCW 46.61.500 or 46.61.5249
25 or any other violation that was originally charged as one of the
26 offenses designated in (a) (~~or (b)(i))~~) of this subsection.

27 (c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject
28 to this subsection shall be considered "alcohol-related" offenses.

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