
SUBSTITUTE HOUSE BILL 2939

State of Washington 61st Legislature 2010 Regular Session

By House Transportation (originally sponsored by Representatives Dammeier, Orwall, Parker, Probst, Morrell, Kessler, Smith, and Kenney)

READ FIRST TIME 02/09/10.

1 AN ACT Relating to notations on driver abstracts that a person was
2 not at fault in a motor vehicle accident; amending RCW 46.52.130; and
3 creating a new section.

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

5 **Sec. 1.** RCW 46.52.130 and 2009 c 276 s 1 are each amended to read
6 as follows:

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

9 (a) The individual named in the abstract;

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

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

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

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

5 (f) The insurance carrier to which the named individual has
6 applied;

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

10 (h) City and county prosecuting attorneys;

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

14 (j) An employer or prospective employer or volunteer organization,
15 or an agent acting on behalf of an employer or prospective employer or
16 volunteer organization, for employment purposes related to driving by
17 an individual as a condition of that individual's employment or
18 otherwise at the direction of the employer or organization.

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

30 (3) City attorneys and county prosecuting attorneys may provide the
31 driving record to alcohol/drug assessment or treatment agencies
32 approved by the department of social and health services to which the
33 named individual has applied or been assigned for evaluation or
34 treatment.

35 (4)(a) The director, upon proper request, shall furnish a certified
36 abstract covering the period of not more than the last three years to
37 insurance companies.

1 (b) The director may enter into a contractual agreement with an
2 insurance company or its agent for the limited purpose of reviewing the
3 driving records of existing policyholders for changes to the record
4 during specified periods of time. The department shall establish a fee
5 for this service, which must be deposited in the highway safety fund.
6 The fee for this service must be set at a level that will not result in
7 a net revenue loss to the state. Any information provided under this
8 subsection must be treated in the same manner and subject to the same
9 restrictions as certified abstracts.

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

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

27 (7) The abstract, whenever possible, shall include:

28 (a) An enumeration of motor vehicle accidents in which the person
29 was driving;

30 (b) The total number of vehicles involved;

31 (c) Whether the vehicles were legally parked or moving;

32 (d) Whether the vehicles were occupied at the time of the accident;

33 (e) Whether the accident resulted in any fatality;

34 (f) Any reported convictions, forfeitures of bail, or findings that
35 an infraction was committed based upon a violation of any motor vehicle
36 law;

37 (g) The status of the person's driving privilege in this state; and

1 (h) Any reports of failure to appear in response to a traffic
2 citation or failure to respond to a notice of infraction served upon
3 the named individual by an arresting officer.

4 (8) Certified abstracts furnished to prosecutors and alcohol/drug
5 assessment or treatment agencies shall also indicate whether a recorded
6 violation is an alcohol-related offense as defined in RCW 46.01.260(2)
7 that was originally charged as one of the alcohol-related offenses
8 designated in RCW 46.01.260(2)((b)(i)) (a).

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

23 (10) The director shall collect for each abstract the sum of ten
24 dollars, fifty percent of which shall be deposited in the highway
25 safety fund and fifty percent of which must be deposited according to
26 RCW 46.68.038.

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

1 motor vehicles use any information contained in the abstract relative
2 to any person's operation of commercial motor vehicles.

3 (12) Any employer or prospective employer or an agent acting on
4 behalf of an employer or prospective employer, or a volunteer
5 organization for which the named individual has submitted an
6 application for a position that could require the transportation of
7 children under eighteen years of age, adults over sixty-five years of
8 age, or persons with physical or mental disabilities, receiving the
9 certified abstract shall use it exclusively for his or her own purpose:

10 (a) To determine whether the licensee should be permitted to operate a
11 commercial vehicle or school bus, or operate a vehicle for a volunteer
12 organization for purposes of transporting children under eighteen years
13 of age, adults over sixty-five years of age, or persons with physical
14 or mental disabilities, upon the public highways of this state; or (b)
15 for employment purposes related to driving by an individual as a
16 condition of that individual's employment or otherwise at the direction
17 of the employer or organization, and shall not divulge any information
18 contained in it to a third party. Upon request of the person named in
19 the abstract provided pursuant to this subsection and subsection (1)(b)
20 of this section, and upon that same person furnishing copies of court
21 records or documents showing that the person was not at fault in a
22 motor vehicle accident, the department must indicate on any abstract
23 provided pursuant to this subsection and subsection (1)(b) of this
24 section that the person was not at fault in the motor vehicle accident.

25 (13) Any employee or agent of a transit authority receiving a
26 certified abstract for its vanpool program shall use it exclusively for
27 determining whether the volunteer licensee meets those insurance and
28 risk management requirements necessary to drive a vanpool vehicle. The
29 transit authority may not divulge any information contained in the
30 abstract to a third party.

31 (14) Any alcohol/drug assessment or treatment agency approved by
32 the department of social and health services receiving the certified
33 abstract shall use it exclusively for the purpose of assisting its
34 employees in making a determination as to what level of treatment, if
35 any, is appropriate. The agency, or any of its employees, shall not
36 divulge any information contained in the abstract to a third party.

37 (15) Release of a certified abstract of the driving record of an
38 employee, prospective employee, or prospective volunteer requires a

1 statement signed by: (a) The employee, prospective employee, or
2 prospective volunteer that authorizes the release of the record, and
3 (b) the employer or volunteer organization attesting that the
4 information is necessary: (i) To determine whether the licensee should
5 be employed to operate a commercial vehicle or school bus, or operate
6 a vehicle for a volunteer organization for purposes of transporting
7 children under eighteen years of age, adults over sixty-five years of
8 age, or persons with physical or mental disabilities, upon the public
9 highways of this state; or (ii) for employment purposes related to
10 driving by an individual as a condition of that individual's employment
11 or otherwise at the direction of the employer or organization. If the
12 employer or prospective employer authorizes an agent to obtain this
13 information on their behalf, this must be noted in the statement. This
14 subsection does not apply to entities identified in subsection (1)(i)
15 of this section.

16 (16) Any negligent violation of this section is a gross
17 misdemeanor.

18 (17) Any intentional violation of this section is a class C felony.

19 NEW SECTION. **Sec. 2.** If specific funding for the purposes of this
20 act, referencing this act by bill or chapter number, is not provided by
21 June 30, 2010, in the omnibus transportation appropriations act, this
22 act is null and void.

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