

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2939

61st Legislature
2010 Regular Session

Passed by the House March 8, 2010
Yeas 96 Nays 0

Speaker of the House of Representatives

Passed by the Senate March 5, 2010
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2939** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2939

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

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;
3 creating a new section; prescribing penalties; and providing an
4 effective date.

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

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

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

10 ~~(a) The individual named in the abstract;~~

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

17 ~~(c) An employee or agent of a transit authority checking~~
18 ~~prospective volunteer vanpool drivers for insurance and risk management~~
19 ~~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).~~

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.

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

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

31 (15) Release of a certified abstract of the driving record of an
32 employee, prospective employee, or prospective volunteer requires a
33 statement signed by: (a) The employee, prospective employee, or
34 prospective volunteer that authorizes the release of the record, and
35 (b) the employer or volunteer organization attesting that the
36 information is necessary: (i) To determine whether the licensee should
37 be employed to operate a commercial vehicle or school bus, or operate
38 a vehicle for a volunteer organization for purposes of transporting

1 children under eighteen years of age, adults over sixty five years of
2 age, or persons with physical or mental disabilities, upon the public
3 highways of this state; or (ii) for employment purposes related to
4 driving by an individual as a condition of that individual's employment
5 or otherwise at the direction of the employer or organization. If the
6 employer or prospective employer authorizes an agent to obtain this
7 information on their behalf, this must be noted in the statement. This
8 subsection does not apply to entities identified in subsection (1)(i)
9 of this section.

10 (16) ~~Any negligent violation of this section is a gross~~
11 ~~misdemeanor.~~

12 (17) ~~Any intentional violation of this section is a class C~~
13 ~~felony.)~~ Upon a proper request, the department may furnish an abstract
14 of a person's driving record as permitted under this section.

15 (1) **Contents of abstract of driving record.** An abstract of a
16 person's driving record, whenever possible, must include:

17 (a) An enumeration of motor vehicle accidents in which the person
18 was driving, including:

19 (i) The total number of vehicles involved;

20 (ii) Whether the vehicles were legally parked or moving;

21 (iii) Whether the vehicles were occupied at the time of the
22 accident; and

23 (iv) Whether the accident resulted in a fatality;

24 (b) Any reported convictions, forfeitures of bail, or findings that
25 an infraction was committed based upon a violation of any motor vehicle
26 law;

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

28 (d) Any reports of failure to appear in response to a traffic
29 citation or failure to respond to a notice of infraction served upon
30 the named individual by an arresting officer.

31 (2) **Release of abstract of driving record.** An abstract of a
32 person's driving record may be furnished to the following persons or
33 entities:

34 (a) **Named individuals.** (i) An abstract of the full driving record
35 maintained by the department may be furnished to the individual named
36 in the abstract.

37 (ii) Nothing in this section prevents a court from providing a copy
38 of the driver's abstract to the individual named in the abstract,

1 provided that the named individual has a pending or open infraction or
2 criminal case in that court. A pending case includes criminal cases
3 that have not reached a disposition by plea, stipulation, trial, or
4 amended charge. An open infraction or criminal case includes cases on
5 probation, payment agreement or subject to, or in collections. Courts
6 may charge a reasonable fee for the production and copying of the
7 abstract for the individual.

8 (b) **Employers or prospective employers.** (i) An abstract of the
9 full driving record maintained by the department may be furnished to an
10 employer or prospective employer or an agent acting on behalf of an
11 employer or prospective employer of the named individual for purposes
12 related to driving by the individual as a condition of employment or
13 otherwise at the direction of the employer.

14 (ii) Release of an abstract of the driving record of an employee or
15 prospective employee requires a statement signed by: (A) The employee
16 or prospective employee that authorizes the release of the record; and
17 (B) the employer attesting that the information is necessary for
18 employment purposes related to driving by the individual as a condition
19 of employment or otherwise at the direction of the employer. If the
20 employer or prospective employer authorizes an agent to obtain this
21 information on their behalf, this must be noted in the statement.

22 (iii) Upon request of the person named in the abstract provided
23 under this subsection, and upon that same person furnishing copies of
24 court records ruling that the person was not at fault in a motor
25 vehicle accident, the department must indicate on any abstract provided
26 under this subsection that the person was not at fault in the motor
27 vehicle accident.

28 (c) **Volunteer organizations.** (i) An abstract of the full driving
29 record maintained by the department may be furnished to a volunteer
30 organization or an agent for a volunteer organization for which the
31 named individual has submitted an application for a position that would
32 require driving by the individual at the direction of the volunteer
33 organization.

34 (ii) Release of an abstract of the driving record of a prospective
35 volunteer requires a statement signed by: (A) The prospective
36 volunteer that authorizes the release of the record; and (B) the
37 volunteer organization attesting that the information is necessary for
38 purposes related to driving by the individual at the direction of the

1 volunteer organization. If the volunteer organization authorizes an
2 agent to obtain this information on their behalf, this must be noted in
3 the statement.

4 (d) **Transit authorities.** An abstract of the full driving record
5 maintained by the department may be furnished to an employee or agent
6 of a transit authority checking prospective volunteer vanpool drivers
7 for insurance and risk management needs.

8 (e) **Insurance carriers.** (i) An abstract of the driving record
9 maintained by the department covering the period of not more than the
10 last three years may be furnished to an insurance company or its agent:

11 (A) That has motor vehicle or life insurance in effect covering the
12 named individual;

13 (B) To which the named individual has applied; or

14 (C) That has insurance in effect covering the employer or a
15 prospective employer of the named individual.

16 (ii) The abstract provided to the insurance company must:

17 (A) Not contain any information related to actions committed by law
18 enforcement officers or firefighters, as both terms are defined in RCW
19 41.26.030, or by Washington state patrol officers, while driving
20 official vehicles in the performance of their occupational duty. This
21 does not apply to any situation where the vehicle was used in the
22 commission of a misdemeanor or felony;

23 (B) Include convictions under RCW 46.61.5249 and 46.61.525, except
24 that the abstract must report the convictions only as negligent driving
25 without reference to whether they are for first or second degree
26 negligent driving; and

27 (C) Exclude any deferred prosecution under RCW 10.05.060, except
28 that if a person is removed from a deferred prosecution under RCW
29 10.05.090, the abstract must show the deferred prosecution as well as
30 the removal.

31 (iii) Any policy of insurance may not be canceled, nonrenewed,
32 denied, or have the rate increased on the basis of information
33 regarding an accident included in the abstract of a driving record,
34 unless the policyholder was determined to be at fault.

35 (iv) Any insurance company or its agent, for underwriting purposes
36 relating to the operation of commercial motor vehicles, may not use any
37 information contained in the abstract relative to any person's
38 operation of motor vehicles while not engaged in such employment. Any

1 insurance company or its agent, for underwriting purposes relating to
2 the operation of noncommercial motor vehicles, may not use any
3 information contained in the abstract relative to any person's
4 operation of commercial motor vehicles.

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

14 (f) **Alcohol/drug assessment or treatment agencies.** An abstract of
15 the driving record maintained by the department covering the period of
16 not more than the last five years may be furnished to an alcohol/drug
17 assessment or treatment agency approved by the department of social and
18 health services to which the named individual has applied or been
19 assigned for evaluation or treatment, for purposes of assisting
20 employees in making a determination as to what level of treatment, if
21 any, is appropriate, except that the abstract must:

22 (i) Also include records of alcohol-related offenses, as defined in
23 RCW 46.01.260(2), covering a period of not more than the last ten
24 years; and

25 (ii) Indicate whether an alcohol-related offense was originally
26 charged as a violation of either RCW 46.61.502 or 46.61.504.

27 (g) **City attorneys and county prosecuting attorneys.** An abstract
28 of the full driving record maintained by the department, including
29 whether a recorded violation is an alcohol-related offense, as defined
30 in RCW 46.01.260(2), that was originally charged as a violation of
31 either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys
32 or county prosecuting attorneys. City attorneys and county prosecuting
33 attorneys may provide the driving record to alcohol/drug assessment or
34 treatment agencies approved by the department of social and health
35 services to which the named individual has applied or been assigned for
36 evaluation or treatment.

37 (h) **State colleges, universities, or agencies, or units of local**
38 **government.** An abstract of the full driving record maintained by the

1 department may be furnished to (i) state colleges, universities, or
2 agencies for employment and risk management purposes or (ii) units of
3 local government authorized to self-insure under RCW 48.62.031 for
4 employment and risk management purposes.

5 (i) **Superintendent of public instruction.** An abstract of the full
6 driving record maintained by the department may be furnished to the
7 superintendent of public instruction for review of public school bus
8 driver records. The superintendent or superintendent's designee may
9 discuss information on the driving record with an authorized
10 representative of the employing school district for employment and risk
11 management purposes.

12 (3) **Release to third parties prohibited.** Any person or entity
13 receiving an abstract of a person's driving record under subsection
14 (2)(b) through (i) of this section shall use the abstract exclusively
15 for his, her, or its own purposes or as otherwise expressly permitted
16 under this section, and shall not divulge any information contained in
17 the abstract to a third party.

18 (4) **Fee.** The director shall collect a ten-dollar fee for each
19 abstract of a person's driving record furnished by the department.
20 Fifty percent of the fee must be deposited in the highway safety fund,
21 and fifty percent of the fee must be deposited according to RCW
22 46.68.038.

23 (5) **Violation.** (a) Any negligent violation of this section is a
24 gross misdemeanor.

25 (b) Any intentional violation of this section is a class C felony.

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

30 NEW SECTION. **Sec. 3.** This act takes effect October 31, 2010.

--- END ---