
SUBSTITUTE SENATE BILL 6649

State of Washington

61st Legislature

2010 Regular Session

By Senate Transportation (originally sponsored by Senators King, Marr, Swecker, Haugen, Tom, and Shin)

READ FIRST TIME 02/01/10.

1 AN ACT Relating to driving record abstracts; amending RCW
2 46.52.130; and prescribing penalties.

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

4 **Sec. 1.** RCW 46.52.130 and 2009 c 276 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;~~

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; or~~

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

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

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

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

36 ~~(b) The director may enter into a contractual agreement with an~~
37 ~~insurance company or its agent for the limited purpose of reviewing the~~
38 ~~driving records of existing policyholders for changes to the record~~

1 during specified periods of time. The department shall establish a fee
2 for this service, which must be deposited in the highway safety fund.
3 The fee for this service must be set at a level that will not result in
4 a net revenue loss to the state. Any information provided under this
5 subsection must be treated in the same manner and subject to the same
6 restrictions as certified abstracts.

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

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

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

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

27 (b) The total number of vehicles involved;

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

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

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

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

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

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

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

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

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

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

37 ~~(12) Any employer or prospective employer or an agent acting on~~
38 ~~behalf of an employer or prospective employer, or a volunteer~~

1 organization for which the named individual has submitted an
2 application for a position that could require the transportation of
3 children under eighteen years of age, adults over sixty five years of
4 age, or persons with physical or mental disabilities, receiving the
5 certified abstract shall use it exclusively for his or her own purpose:
6 (a) To determine whether the licensee should be permitted to operate a
7 commercial vehicle or school bus, or operate a vehicle for a volunteer
8 organization for purposes of transporting children under eighteen years
9 of age, adults over sixty five years of age, or persons with physical
10 or mental disabilities, upon the public highways of this state; or (b)
11 for employment purposes related to driving by an individual as a
12 condition of that individual's employment or otherwise at the direction
13 of the employer or organization, and shall not divulge any information
14 contained in it to a third party.

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

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

27 (15) Release of a certified abstract of the driving record of an
28 employee, prospective employee, or prospective volunteer requires a
29 statement signed by: (a) The employee, prospective employee, or
30 prospective volunteer that authorizes the release of the record, and
31 (b) the employer or volunteer organization attesting that the
32 information is necessary: (i) To determine whether the licensee should
33 be employed to operate a commercial vehicle or school bus, or operate
34 a vehicle for a volunteer organization for purposes of transporting
35 children under eighteen years of age, adults over sixty five years of
36 age, or persons with physical or mental disabilities, upon the public
37 highways of this state; or (ii) for employment purposes related to
38 driving by an individual as a condition of that individual's employment

1 ~~or otherwise at the direction of the employer or organization. If the~~
2 ~~employer or prospective employer authorizes an agent to obtain this~~
3 ~~information on their behalf, this must be noted in the statement. This~~
4 ~~subsection does not apply to entities identified in subsection (1)(i)~~
5 ~~of this section.~~

6 ~~(16) Any negligent violation of this section is a gross~~
7 ~~misdemeanor.~~

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

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

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

15 (i) The total number of vehicles involved;

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

17 (iii) Whether the vehicles were occupied at the time of the
18 accident; and

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

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

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

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

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

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

33 (ii) Nothing in this section prevents a court from providing a copy
34 of the driver's abstract to the individual named in the abstract,
35 provided that the named individual has a pending or open infraction or
36 criminal case in that court. A pending case includes criminal cases
37 that have not reached a disposition by plea, stipulation, trial, or
38 amended charge. An open infraction or criminal case includes cases on

1 probation, payment agreement or subject to, or in collections. Courts
2 may charge a reasonable fee for the production and copying of the
3 abstract for the individual.

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

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

18 (c) **Volunteer organizations.** (i) An abstract of the full driving
19 record maintained by the department may be furnished to a volunteer
20 organization or an agent for a volunteer organization for which the
21 named individual has submitted an application for a position that would
22 require driving by the individual at the direction of the volunteer
23 organization.

24 (ii) Release of an abstract of the driving record of a prospective
25 volunteer requires a statement signed by: (A) The prospective
26 volunteer that authorizes the release of the record; and (B) the
27 volunteer organization attesting that the information is necessary for
28 purposes related to driving by the individual at the direction of the
29 volunteer organization. If the volunteer organization authorizes an
30 agent to obtain this information on their behalf, this must be noted in
31 the statement.

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

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

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

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

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

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

7 (A) Not contain any information related to actions committed by law
8 enforcement officers or firefighters, as both terms are defined in RCW
9 41.26.030, or by Washington state patrol officers, while driving
10 official vehicles in the performance of their occupational duty. This
11 does not apply to any situation where the vehicle was used in the
12 commission of a misdemeanor or felony;

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

17 (C) Exclude any deferred prosecution under RCW 10.05.060, except
18 that if a person is removed from a deferred prosecution under RCW
19 10.05.090, the abstract must show the deferred prosecution as well as
20 the removal.

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

25 (iv) Any insurance company or its agent, for underwriting purposes
26 relating to the operation of commercial motor vehicles, may not use any
27 information contained in the abstract relative to any person's
28 operation of motor vehicles while not engaged in such employment. Any
29 insurance company or its agent, for underwriting purposes relating to
30 the operation of noncommercial motor vehicles, may not use any
31 information contained in the abstract relative to any person's
32 operation of commercial motor vehicles.

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

1 a net revenue loss to the state. Any information provided under this
2 subsection must be treated in the same manner and is subject to the
3 same restrictions as driving record abstracts.

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

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

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

17 (g) **City attorneys and county prosecuting attorneys.** An abstract
18 of the full driving record maintained by the department, including
19 whether a recorded violation is an alcohol-related offense, as defined
20 in RCW 46.01.260(2), that was originally charged as a violation of
21 either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys
22 or county prosecuting attorneys. City attorneys and county prosecuting
23 attorneys may provide the driving record to alcohol/drug assessment or
24 treatment agencies approved by the department of social and health
25 services to which the named individual has applied or been assigned for
26 evaluation or treatment.

27 (h) **State colleges, universities, or agencies, or units of local**
28 **government.** An abstract of the full driving record maintained by the
29 department may be furnished to (i) state colleges, universities, or
30 agencies for employment and risk management purposes or (ii) units of
31 local government authorized to self-insure under RCW 48.62.031 for
32 employment and risk management purposes.

33 (i) **Superintendent of public instruction.** An abstract of the full
34 driving record maintained by the department may be furnished to the
35 superintendent of public instruction for review of public school bus
36 driver records. The superintendent or superintendent's designee may
37 discuss information on the driving record with an authorized

1 representative of the employing school district for employment and risk
2 management purposes.

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

9 (4) **Fee.** The director shall collect a ten-dollar fee for each
10 abstract of a person's driving record furnished by the department.
11 Fifty percent of the fee must be deposited in the highway safety fund,
12 and fifty percent of the fee must be deposited according to RCW
13 46.68.038.

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

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

--- END ---