

SSB 5289 - H AMD TO TR COMM AMD (H-2609.2/17) 547
By Representative Farrell

ADOPTED 04/12/2017

1 On page 1, line 27 of the striking amendment, after "(5)" insert
2 "A finding that a person has committed an offense under this section,
3 if that offense is the first such offense committed within five years,
4 must not be made available to insurance companies.

5 (6)"

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7 On page 8, after line 7 of the striking amendment, insert the
8 following:

9 "Sec. 5. RCW 46.52.130 and 2015 2nd sp.s. c 3 s 12 are each
10 amended to read as follows:

11 Upon a proper request, the department may furnish an abstract of
12 a person's driving record as permitted under this section.

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

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

17 (i) The total number of vehicles involved;

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

19 (iii) Whether the vehicles were occupied at the time of the
20 accident; and

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

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

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

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1 (d) 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 (2) **Release of abstract of driving record.** An abstract of a
5 person's driving record may be furnished to the following persons or
6 entities:

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

10 (ii) Nothing in this section prevents a court from providing a
11 copy of the driver's abstract to the individual named in the
12 abstract or that named individual's attorney, provided that the
13 named individual has a pending or open infraction or criminal case
14 in that court. A pending case includes criminal cases that have not
15 reached a disposition by plea, stipulation, trial, or amended
16 charge. An open infraction or criminal case includes cases on
17 probation, payment agreement or subject to, or in collections.
18 Courts may charge a reasonable fee for the production and copying of
19 the abstract for the individual.

20 (b) **Employers or prospective employers.** (i)(A) An abstract of
21 the full driving record maintained by the department may be
22 furnished to an employer or prospective employer or an agent acting
23 on behalf of an employer or prospective employer of the named
24 individual for purposes related to driving by the individual as a
25 condition of employment or otherwise at the direction of the
26 employer.

27 (B) Release of an abstract of the driving record of an employee
28 or prospective employee requires a statement signed by: (I) The
29 employee or prospective employee that authorizes the release of the
30 record; and (II) the employer attesting that the information is
31 necessary for employment purposes related to driving by the
32 individual as a condition of employment or otherwise at the
33 direction of the employer. If the employer or prospective employer
34 authorizes an agent to obtain this information on their behalf, this

1 must be noted in the statement. The statement must also note that
2 any information contained in the abstract related to an adjudication
3 that is subject to a court order sealing the juvenile record of an
4 employee or prospective employee may not be used by the employer or
5 prospective employer, or an agent authorized to obtain this
6 information on their behalf, unless required by federal regulation
7 or law. The employer or prospective employer must afford the
8 employee or prospective employee an opportunity to demonstrate that
9 an adjudication contained in the abstract is subject to a court
10 order sealing the juvenile record.

11 (C) Upon request of the person named in the abstract provided
12 under this subsection, and upon that same person furnishing copies
13 of court records ruling that the person was not at fault in a motor
14 vehicle accident, the department must indicate on any abstract
15 provided under this subsection that the person was not at fault in
16 the motor vehicle accident.

17 (D) No employer or prospective employer, nor any agent of an
18 employer or prospective employer, may use information contained in
19 the abstract related to an adjudication that is subject to a court
20 order sealing the juvenile record of an employee or prospective
21 employee for any purpose unless required by federal regulation or
22 law. The employee or prospective employee must furnish a copy of the
23 court order sealing the juvenile record to the employer or
24 prospective employer, or the agent of the employer or prospective
25 employer, as may be required to ensure the application of this
26 subsection.

27 (ii) In addition to the methods described in (b)(i) of this
28 subsection, the director may enter into a contractual agreement with
29 an employer or its agent for the purpose of reviewing the driving
30 records of existing employees for changes to the record during
31 specified periods of time. The department shall establish a fee for
32 this service, which must be deposited in the highway safety fund.
33 The fee for this service must be set at a level that will not result
34 in a net revenue loss to the state. Any information provided under

1 this subsection must be treated in the same manner and is subject to
2 the same restrictions as driving record abstracts.

3 (c) **Volunteer organizations.** (i) An abstract of the full driving
4 record maintained by the department may be furnished to a volunteer
5 organization or an agent for a volunteer organization for which the
6 named individual has submitted an application for a position that
7 would require driving by the individual at the direction of the
8 volunteer organization.

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

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

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

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

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

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

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

31 (A) Not contain any information related to actions committed by
32 law enforcement officers or firefighters, as both terms are defined
33 in RCW 41.26.030, or by Washington state patrol officers, while
34 driving official vehicles in the performance of their occupational

1 duty. This does not apply to any situation where the vehicle was
2 used in the commission of a misdemeanor or felony;

3 (B) Not include any information related to a finding that a
4 person has committed an offense for using a personal electronic
5 device while driving a motor vehicle on a public highway under
6 section 1 of this act if that offense is the first such offense
7 committed within five years;

8 (C) Include convictions under RCW 46.61.5249 and 46.61.525,
9 except that the abstract must report the convictions only as
10 negligent driving without reference to whether they are for first or
11 second degree negligent driving; and

12 ((+C+)) (D) Exclude any deferred prosecution under RCW
13 10.05.060, except that if a person is removed from a deferred
14 prosecution under RCW 10.05.090, the abstract must show the deferred
15 prosecution as well as the removal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (6) Effective July 1, 2019, the contents of a driving abstract
26 pursuant to this section shall not include any information related
27 to sealed juvenile records unless that information is required by
28 federal law or regulation."

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30 Renumber the remaining section consecutively, correct any
31 internal references accordingly, and correct the title.

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EFFECT: Prohibits a finding that a person has committed a
33 first offense within a five-year period for using a personal

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electronic device while driving from being made available to insurance companies.

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