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**SUBSTITUTE HOUSE BILL 1877**

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**State of Washington**                      **65th Legislature**                      **2017 Regular Session**

**By** House Transportation (originally sponsored by Representative Stanford)

READ FIRST TIME 02/24/17.

1            AN ACT Relating to the release of driving record abstract  
2 information affecting registered tow truck operators; and amending  
3 RCW 46.52.130.

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

5            **Sec. 1.** RCW 46.52.130 and 2015 2nd sp.s. c 3 s 12 are each  
6 amended to read as follows:

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

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

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

13            (i) The total number of vehicles involved;

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

15            (iii) Whether the vehicles were occupied at the time of the  
16 accident; and

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

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

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

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

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

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

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

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

28 (B) Release of an abstract of the driving record of an employee  
29 or prospective employee requires a statement signed by: (I) The  
30 employee or prospective employee that authorizes the release of the  
31 record; and (II) the employer attesting that the information is  
32 necessary for employment purposes related to driving by the  
33 individual as a condition of employment or otherwise at the direction  
34 of the employer. If the employer or prospective employer authorizes  
35 an agent to obtain this information on their behalf, this must be  
36 noted in the statement. The statement must also note that any  
37 information contained in the abstract related to an adjudication that  
38 is subject to a court order sealing the juvenile record of an  
39 employee or prospective employee may not be used by the employer or  
40 prospective employer, or an agent authorized to obtain this

1 information on their behalf, unless required by federal regulation or  
2 law. The employer or prospective employer must afford the employee or  
3 prospective employee an opportunity to demonstrate that an  
4 adjudication contained in the abstract is subject to a court order  
5 sealing the juvenile record.

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

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

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

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

38 (ii) Release of an abstract of the driving record of a  
39 prospective volunteer requires a statement signed by: (A) The  
40 prospective volunteer that authorizes the release of the record; and

1 (B) the volunteer organization attesting that the information is  
2 necessary for purposes related to driving by the individual at the  
3 direction of the volunteer organization. If the volunteer  
4 organization authorizes an agent to obtain this information on their  
5 behalf, this must be noted in the statement.

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

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

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

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

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

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

20 (A) Not contain any information related to actions committed by  
21 law enforcement officers or firefighters, as both terms are defined  
22 in RCW 41.26.030((~~7~~)); or by Washington state patrol officers, while  
23 driving official vehicles in the performance of their occupational  
24 duty; or by registered tow truck operators as defined in RCW  
25 46.55.010 in the performance of their occupational duties while at  
26 the scene of a roadside impound or recovery, so long as they are not  
27 issued a citation. This does not apply to any situation where the  
28 vehicle was used in the commission of a misdemeanor or felony;

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

33 (C) Exclude any deferred prosecution under RCW 10.05.060, except  
34 that if a person is removed from a deferred prosecution under RCW  
35 10.05.090, the abstract must show the deferred prosecution as well as  
36 the removal.

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

1 (iv) Any insurance company or its agent, for underwriting  
2 purposes relating to the operation of commercial motor vehicles, may  
3 not use any information contained in the abstract relative to any  
4 person's operation of motor vehicles while not engaged in such  
5 employment. Any insurance company or its agent, for underwriting  
6 purposes relating to the operation of noncommercial motor vehicles,  
7 may not use any information contained in the abstract relative to any  
8 person's operation of commercial motor vehicles.

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

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

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

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

32 (g) **Attorneys—City attorneys, county prosecuting attorneys, and**  
33 **named individual's attorney of record.** An abstract of the full  
34 driving record maintained by the department, including whether a  
35 recorded violation is an alcohol-related offense, as defined in RCW  
36 46.01.260(2), that was originally charged as a violation of either  
37 RCW 46.61.502 or 46.61.504, may be furnished to city attorneys,  
38 county prosecuting attorneys, or the named individual's attorney of  
39 record. City attorneys, county prosecuting attorneys, or the named  
40 individual's attorney of record may provide the driving record to

1 alcohol/drug assessment or treatment agencies approved by the  
2 department of social and health services to which the named  
3 individual has applied or been assigned for evaluation or treatment.

4 (h) **State colleges, universities, or agencies, or units of local**  
5 **government.** An abstract of the full driving record maintained by the  
6 department may be furnished to (i) state colleges, universities, or  
7 agencies for employment and risk management purposes or (ii) units of  
8 local government authorized to self-insure under RCW 48.62.031 for  
9 employment and risk management purposes.

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

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

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

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

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

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

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