

SSB 5695 - H AMD TO TR COMM AMD (H-2801.2/19) **922**

By Representative MacEwen

WITHDRAWN 04/27/2019

1 On page 8, after line 37 of the striking amendment, insert the
2 following:

3

4 "Sec. 7. RCW 46.52.120 and 2017 c 147 s 9 are each amended to
5 read as follows:

6 (1)(a) The director shall keep a case record on every motor
7 vehicle driver licensed under the laws of this state, together with
8 information on each driver, showing all the convictions and findings
9 of traffic infractions certified by the courts, except for the traffic
10 infractions specified in subsection (b) of this section, together with
11 an index cross-reference record of each accident reported relating to
12 such individual with a brief statement of the cause of the accident
13 and whether or not the accident resulted in any fatality.

14 (b) Case records kept by the director under (a) of this subsection
15 shall not include information regarding high occupancy vehicle lane
16 violations under RCW 46.61.165.

17 (2) The records shall be for the confidential use of the director,
18 the chief of the Washington state patrol, the director of the
19 Washington traffic safety commission, and for such police officers or
20 other cognizant public officials as may be designated by law. Such
21 case records shall not be admitted into evidence in any court, except
22 where relevant to the prosecution or defense of a criminal charge, or
23 in case appeal is taken from the order of the director, suspending,
24 revoking, canceling, or refusing a vehicle driver's license.

25 (3) The director shall tabulate and analyze vehicle driver's case
26 records and suspend, revoke, cancel, or refuse a vehicle driver's
27 license to a person when it is deemed from facts contained in the case

1 record of such person that it is for the best interest of public
2 safety that such person be denied the privilege of operating a motor
3 vehicle. The director shall also suspend a person's driver's license
4 if the person fails to attend or complete a driver improvement
5 interview or fails to abide by conditions of probation under RCW
6 46.20.335. Whenever the director orders the vehicle driver's license
7 of any such person suspended, revoked, or canceled, or refuses the
8 issuance of a vehicle driver's license, such suspension, revocation,
9 cancellation, or refusal is final and effective unless appeal from the
10 decision of the director is taken as provided by law.

11

12 **Sec. 8.** RCW 46.52.130 and 2019 c . . . (SHB 1360) s 1 are each
13 amended to read as follows:

14 Upon a proper request, the department may furnish an abstract of
15 a person's driving record as permitted under this section. For the
16 purposes of this section, an "agent" means a representative of an
17 authorized recipient that has contracted with the recipient to
18 request driving records on its behalf and insurance pools
19 established under RCW 48.62.031 of which the authorized recipient is
20 a member.

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

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

25 (i) The total number of vehicles involved;

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

27 (iii) Whether the vehicles were occupied at the time of the
28 accident; and

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

30 (b) Any reported convictions, forfeitures of bail, or findings
31 that an infraction was committed based upon a violation of any motor
32 vehicle law, except for infractions for high occupancy vehicle lane
33 violations under RCW 46.61.165;

34

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.** Unless otherwise
7 required in this section, the release of an abstract does not
8 require a signed statement by the subject of the abstract. An
9 abstract of a person's driving record may be furnished to the
10 following persons or entities:

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

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

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

30 (B) Release of an abstract of the driving record of an employee
31 or prospective employee requires a statement signed by: (I) The
32 employee or prospective employee that authorizes the release of the
33 record; and (II) the employer attesting that the information is
34 necessary for employment purposes related to driving by the

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

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

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

30 (ii) In addition to the methods described in (b)(i) of this
31 subsection, the director may enter into a contractual agreement with
32 an employer or its agent for the purpose of reviewing the driving
33 records of existing employees for changes to the record during
34 specified periods of time. The department shall establish a fee for

1 this service, which must be deposited in the highway safety fund.
2 The fee for this service must be set at a level that will not result
3 in a net revenue loss to the state. Any information provided under
4 this subsection must be treated in the same manner and is subject to
5 the same restrictions as driving record abstracts.

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

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

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

24 The director may enter into a contractual agreement with a
25 transit authority or its agent for the purpose of reviewing the
26 driving records of existing vanpool drivers for changes to the
27 record during specified periods of time. The department shall
28 establish a fee for this service, which must be deposited in the
29 highway safety fund. The fee for this service must be set at a level
30 that does not result in a net revenue loss to the state. Any
31 information provided under this subsection must be treated in the
32 same manner and is subject to the same restrictions as driving
33 record abstracts.

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

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

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

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

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

11 (A) Not contain any information related to actions committed by
12 law enforcement officers or firefighters, as both terms are defined
13 in RCW 41.26.030, or by Washington state patrol officers, while
14 driving official vehicles in the performance of their occupational
15 duty, or by registered tow truck operators as defined in RCW
16 46.55.010 in the performance of their occupational duties while at
17 the scene of a roadside impound or recovery so long as they are not
18 issued a citation. This does not apply to any situation where the
19 vehicle was used in the commission of a misdemeanor or felony;

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

24 (C) Exclude any deferred prosecution under RCW 10.05.060, except
25 that if a person is removed from a deferred prosecution under RCW
26 10.05.090, the abstract must show the deferred prosecution as well
27 as the removal.

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

32 (iv) Any insurance company or its agent, for underwriting
33 purposes relating to the operation of commercial motor vehicles, may
34 not use any information contained in the abstract relative to any

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

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

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

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

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

30 (g) **Attorneys—City attorneys, county prosecuting attorneys, and**
31 **named individual's attorney of record.** An abstract of the full
32 driving record maintained by the department, including whether a
33 recorded violation is an alcohol-related offense, as defined in RCW
34 46.01.260(2), that was originally charged as a violation of either

1 RCW 46.61.502 or 46.61.504, may be furnished to city attorneys,
2 county prosecuting attorneys, or the named individual's attorney of
3 record. City attorneys, county prosecuting attorneys, or the named
4 individual's attorney of record may provide the driving record to
5 alcohol/drug assessment or treatment agencies approved by the
6 department of social and health services to which the named
7 individual has applied or been assigned for evaluation or treatment.

8 (h) **State colleges, universities, or agencies, or units of local**
9 **government.** An abstract of the full driving record maintained by the
10 department may be furnished to (i) state colleges, universities, or
11 agencies for employment and risk management purposes or (ii) units
12 of local government authorized to self-insure under RCW 48.62.031,
13 or their agents, for employment and risk management purposes. The
14 director may enter into a contractual agreement with a unit of local
15 government, or its agent, for the purpose of reviewing the driving
16 records of existing employees for changes to the record during
17 specified periods of time. The department shall establish a fee for
18 this service, which must be deposited in the highway safety fund.
19 The fee for this service must be set at a level that will not result
20 in a net revenue loss to the state. Any information provided under
21 this subsection must be treated in the same manner and is subject to
22 the same restrictions as driving record abstracts. "Unit of local
23 government" includes an insurance pool established under RCW
24 48.62.031.

25 (i) **Superintendent of public instruction.** An abstract of the
26 full driving record maintained by the department may be furnished to
27 the superintendent of public instruction for review of public school
28 bus driver records. The superintendent or superintendent's designee
29 may discuss information on the driving record with an authorized
30 representative of the employing school district for employment and
31 risk management purposes.

32 (3) **Release to third parties prohibited.** Any person or entity
33 receiving an abstract of a person's driving record under subsection
34 (2)(b) through (i) of this section shall use the abstract

1 exclusively for his, her, or its own purposes or as otherwise
2 expressly permitted under this section, and shall not divulge any
3 information contained in the abstract to a third party.

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

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

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

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

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EFFECT: Prohibits traffic infractions for high-occupancy
vehicle lane violations from being included in Washington State
Department of Licensing (DOL) case records on motor vehicle drivers
and in DOL abstracts of driving records that may be released as
specified in state law, including to prospective employers, county
prosecuting attorneys, insurance companies, transit authorities,
units of local governments, and the Office of the Superintendent of
Public Instruction.

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