
SUBSTITUTE HOUSE BILL 2446

State of Washington

66th Legislature

2020 Regular Session

By House Transportation (originally sponsored by Representatives Ryu, Frame, Kloba, Sells, Valdez, Santos, Ortiz-Self, and Wylie)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to limiting the disclosure of personal
2 information held by the department of licensing; amending RCW
3 46.12.630, 46.12.635, 46.20.037, 46.20.118, and 46.52.120; and adding
4 a new section to chapter 46.01 RCW.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.01
7 RCW to read as follows:

8 (1) Except as provided in subsection (2) of this section, the
9 department may not release personal information in response to a
10 request submitted to the department to be used primarily for:

11 (a) Civil immigration enforcement purposes; or

12 (b) Criminal immigration enforcement purposes for a violation of
13 8 U.S.C. Sec. 1325 (improper entry by alien), 8 U.S.C. Sec. 1326
14 (reentry of removed aliens), or any successors to those provisions.

15 (2) The department is authorized to release personal information
16 to be used primarily for the purposes identified in subsection (1) of
17 this section in response to a court order issued under the authority
18 of:

19 (a) A federal judge or magistrate serving in the judicial branch
20 under Article III of the United States Constitution; or

1 (b) A state judge or magistrate serving in the judicial branch
2 under Article IV of the Washington state Constitution.

3 (3) The department is not authorized to release personal
4 information to be used for the purposes identified in subsection (1)
5 of this section in response to a subpoena, summons, warrant, or other
6 order or request issued by an executive branch agency unless so
7 ordered by a judicial officer defined in subsection (2)(a) or (b) of
8 this section.

9 (4) This section does not apply to the retrieval of information
10 by entities granted permission to access driver record or vehicle or
11 vessel license plate data through an electronic interface.

12 (5) For the purposes of this section, "personal information"
13 means information that identifies an individual, including an
14 individual's photograph social security number, driver identification
15 number, name, address (but not the five-digit zip code), telephone
16 number, and medical or disability information.

17 **Sec. 2.** RCW 46.12.630 and 2016 c 80 s 1 are each amended to read
18 as follows:

19 (1) The department of licensing must furnish lists of registered
20 and legal owners of: (a) Motor vehicles only for the purposes
21 specified in this subsection (1)(a) to the manufacturers of motor
22 vehicles or motor vehicle components, or their authorized agents, to
23 enable those manufacturers to carry out the provisions of Titles I
24 and IV of the anti car theft act of 1992, the automobile information
25 disclosure act (15 U.S.C. Sec. 1231 et seq.), the clean air act (42
26 U.S.C. Sec. 7401 et seq.), and 49 U.S.C. Secs. 30101-30183,
27 30501-30505, and 32101-33118, as these acts existed on January 1,
28 2014, or such subsequent date as may be provided by the department by
29 rule, consistent with the purposes of this section. However, the
30 department may only provide a vehicle or vehicle component
31 manufacturer, or its authorized agent, lists of registered or legal
32 owners who purchased or leased a vehicle manufactured by that
33 manufacturer or a vehicle containing a component manufactured by that
34 component manufacturer. Manufacturers or authorized agents receiving
35 information on behalf of one manufacturer must not disclose this
36 information to any other third party that is not necessary to carry
37 out the purposes of this section; and (b) vessels only for the
38 purposes of this subsection (1)(b) to the manufacturers of vessels,
39 or their authorized agents, to enable those manufacturers to carry

1 out the provisions of 46 U.S.C. Sec. 4310 and any relevant Code of
2 Federal (~~Regulation[s]~~) Regulations adopted by the United States
3 coast guard, as these provisions and rules existed on January 1,
4 2015, or such subsequent date as may be provided by the department by
5 rule, consistent with the purposes of this section.

6 (2) The department of licensing may furnish lists of registered
7 and legal owners of motor vehicles or vessels, only to the entities
8 and only for the purposes specified in this section, to:

9 (a) The manufacturers of motor vehicles or vessels, legitimate
10 businesses as defined by the department in rule, or their authorized
11 agents, for purposes of using lists of registered and legal owner
12 information to conduct research activities and produce statistical
13 reports, as long as the entity does not allow personal information
14 received under this section to be published, redisclosed, or used to
15 contact individuals. For purposes of this subsection (2)(a), the
16 department of licensing may only provide the manufacturer of a motor
17 vehicle or vessel, or the manufacturer of components contained in a
18 motor vehicle or vessel, the lists of registered or legal owners who
19 purchased or leased a vehicle or vessel manufactured by that
20 manufacturer or a vehicle or vessel containing components
21 manufactured by that component manufacturer;

22 (b) Any governmental agency of the United States or Canada, or
23 political subdivisions thereof, to be used by it or by its authorized
24 commercial agents or contractors only in connection with the
25 enforcement of: (i) Motor vehicle or traffic laws by, or programs
26 related to traffic safety of, that government agency; or (ii) the
27 laws governing vessels, vessel operation, or vessel safety programs
28 administered by that government agency or as otherwise provided by
29 law. Only such parts of the list under (b)(i) and (ii) of this
30 subsection (2)(~~(b)~~) as are required for completion of the work
31 required of the agent or contractor shall be provided to such agent
32 or contractor;

33 (c) Any insurer or insurance support organization, a self-insured
34 entity, or its agents, employees, or contractors for use in
35 connection with claims investigation activities, antifraud
36 activities, rating, or underwriting;

37 (d) Any local governmental entity or its agents for use in
38 providing notice to owners of towed and impounded vehicles, or to any
39 law enforcement entity for use, as may be necessary, in locating the
40 owner of or otherwise dealing with a vessel that has become a hazard;

1 (e) A government agency, commercial parking company, or its
2 agents requiring the names and addresses of registered owners to
3 notify them of outstanding parking violations. Subject to the
4 disclosure agreement provisions of RCW 46.12.635 and the requirements
5 of Executive Order 97-01, the department may provide only the parts
6 of the list that are required for completion of the work required of
7 the company;

8 (f) An authorized agent or contractor of the department, to be
9 used only in connection with providing motor vehicle or vessel excise
10 tax, licensing, title, and registration information to motor vehicle
11 or vessel dealers;

12 (g) Any business regularly making loans to other persons to
13 finance the purchase of motor vehicles or vessels, to be used to
14 assist the person requesting the list to determine ownership of
15 specific vehicles or vessels for the purpose of determining whether
16 or not to provide such financing; or

17 (h) A company or its agents operating a toll facility under
18 chapter 47.46 RCW or other applicable authority requiring the names,
19 addresses, and vehicle information of motor vehicle registered owners
20 to identify toll violators.

21 (3) Personal information received by an entity listed in
22 subsection (1) or (2) of this section may not be released for direct
23 marketing purposes.

24 (4) Prior to the release of any lists of vehicle or vessel owners
25 under subsection (1) or (2) of this section, the department must
26 enter into a contract with the entity authorized to receive the data.
27 The contract must include:

28 (a) A requirement that the department or its agent conduct both
29 regular permissible use and data security audits subject to the
30 following conditions and limitations:

31 (i) The data security audits must demonstrate compliance with the
32 data security standards adopted by the office of the chief
33 information officer.

34 (ii) When determining whether to conduct an audit under this
35 subsection, the department must first take into consideration any
36 independent third-party audit a data recipient has had before
37 requiring that any additional audits be performed. If the independent
38 third-party audit is a data security audit and it meets both
39 recognized national or international standards and the standards
40 adopted by the office of the chief information officer pursuant to

1 (a)(i) of this subsection, the department must accept the audit and
2 the audit is deemed to satisfy the conditions set out in this
3 subsection (4)(a). If the independent third-party audit is a
4 permissible use audit and it meets recognized national or
5 international standards, the department must accept the audit and the
6 audit is deemed to satisfy the conditions set out in this subsection
7 (4)(a); and

8 (b) A provision that the cost of the audits performed pursuant to
9 this subsection must be borne by the data recipient. A new data
10 recipient must bear the initial cost to set up a system to disburse
11 the data to the data recipient.

12 (5)(a) Beginning January 1, 2015, the department must collect a
13 fee of ten dollars per one thousand individual registered or legal
14 owners included on a list requested by a private entity under
15 subsection (1) or (2) of this section. Beginning January 1, 2016, the
16 department must collect a fee of twenty dollars per one thousand
17 individual registered or legal vehicle or vessel owners included on a
18 list requested by a private entity under subsection (1) or (2) of
19 this section. Beginning January 1, 2021, the department must collect
20 a fee of twenty-five dollars per one thousand individual registered
21 or legal owners included on a list requested by a private entity
22 under subsection (1) or (2) of this section. The department must
23 prorate the fee when the request is for less than a full one thousand
24 records.

25 (b) In lieu of the fee specified in (a) of this subsection, if
26 the request requires a daily, weekly, monthly, or other regular
27 update of those vehicle or vessel records that have changed:

28 (i) Beginning January 1, 2015, the department must collect a fee
29 of one cent per individual registered or legal vehicle or vessel
30 owner record provided to the private entity;

31 (ii) Beginning January 1, 2016, the department must collect a fee
32 of two cents per individual registered or legal vehicle or vessel
33 owner record provided to the private entity;

34 (iii) Beginning January 1, 2021, the department must collect a
35 fee of two and one-half cents per individual registered or legal
36 vehicle or vessel owner record provided to the private entity.

37 (c) The department must deposit any moneys collected under this
38 subsection to the department of licensing technology improvement and
39 data management account created in RCW 46.68.063.

1 (6) Where both a mailing address and residence address are
2 recorded on the vehicle or vessel record and are different, only the
3 mailing address will be disclosed. Both addresses will be disclosed
4 in response to requests for disclosure from courts, law enforcement
5 agencies, or government entities with enforcement, investigative, or
6 taxing authority, except as provided in section 1 of this act, and
7 only for use in the normal course of conducting their business.

8 (7) If a list of registered and legal owners of motor vehicles or
9 vessels is used for any purpose other than that authorized in this
10 section, the manufacturer, governmental agency, commercial parking
11 company, contractor, financial institution, insurer, insurance
12 support organization, self-insured entity, legitimate business
13 entity, toll facility operator, or any authorized agent or contractor
14 responsible for the unauthorized disclosure or use will be denied
15 further access to such information by the department of licensing.

16 (8) For purposes of this section, "personal information" means
17 information that identifies an individual, including an individual's
18 photograph, social security number, driver identification number,
19 name, address (but not the five-digit zip code), telephone number, or
20 medical or disability information. However, an individual's
21 photograph, social security number, and any medical or disability-
22 related information is considered highly restricted personal
23 information and may not be released under this section.

24 **Sec. 3.** RCW 46.12.635 and 2019 c 278 s 1 are each amended to
25 read as follows:

26 (1) Notwithstanding the provisions of chapter 42.56 RCW, the name
27 or address of an individual vehicle or vessel owner shall not be
28 released by the department, county auditor, or agency or firm
29 authorized by the department except under the following
30 circumstances:

31 (a) The requesting party is a business entity that requests the
32 information for use in the course of business;

33 (b) The request is a written request that is signed by the person
34 requesting disclosure that contains the full legal name and address
35 of the requesting party, that specifies the purpose for which the
36 information will be used; and

37 (c) The requesting party enters into a disclosure agreement with
38 the department in which the party promises that the party will use
39 the information only for the purpose stated in the request for the

1 information; and that the party does not intend to use, or facilitate
2 the use of, the information for the purpose of making any unsolicited
3 business contact with a person named in the disclosed information.
4 The term "unsolicited business contact" means a contact that is
5 intended to result in, or promote, the sale of any goods or services
6 to a person named in the disclosed information. The term does not
7 apply to situations where the requesting party and such person have
8 been involved in a business transaction prior to the date of the
9 disclosure request and where the request is made in connection with
10 the transaction.

11 (2) Where both a mailing address and residence address are
12 recorded on the vehicle or vessel record and are different, only the
13 mailing address will be disclosed. Both addresses will be disclosed
14 in response to requests for disclosure from courts, law enforcement
15 agencies, or government entities with enforcement, investigative, or
16 taxing authority, except as provided in section 1 of this act, and
17 only for use in the normal course of conducting their business.

18 (3) The disclosing entity shall retain the request for disclosure
19 for three years.

20 (4) (a) Whenever the disclosing entity grants a request for
21 information under this section by an attorney or private
22 investigator, the disclosing entity shall provide notice to the
23 vehicle or vessel owner, to whom the information applies, that the
24 request has been granted. The notice must only include: (i) That the
25 disclosing entity has disclosed the vehicle or vessel owner's name
26 and address pursuant to a request made under this section; (ii) the
27 date that the disclosure was made; and (iii) that the vehicle or
28 vessel owner has five days from receipt of the notice to contact the
29 disclosing entity to determine the occupation of the requesting
30 party.

31 (b) Except as provided in (c) of this subsection, the only
32 information about the requesting party that the disclosing entity may
33 disclose in response to a request made by a vehicle or vessel owner
34 under (a) of this subsection is whether the requesting party was an
35 attorney or private investigator. The request by the vehicle or
36 vessel owner must be submitted to the disclosing entity within five
37 days of receipt of the original notice.

38 (c) In the case of a vehicle or vessel owner who submits to the
39 disclosing entity a copy of a valid court order restricting another
40 person from contacting the vehicle or vessel owner or his or her

1 family or household member, the disclosing entity shall provide the
2 vehicle or vessel owner with the name and address of the requesting
3 party.

4 (5) Any person who is furnished vehicle or vessel owner
5 information under this section shall be responsible for assuring that
6 the information furnished is not used for a purpose contrary to the
7 agreement between the person and the department.

8 (6) This section shall not apply to requests for information by
9 governmental entities or requests that may be granted under any other
10 provision of this title expressly authorizing the disclosure of the
11 names or addresses of vehicle or vessel owners. Requests from law
12 enforcement officers for vessel record information must be granted,
13 except as provided in section 1 of this act. The disclosure agreement
14 with law enforcement entities must provide that law enforcement may
15 redisclose a vessel owner's name or address when trying to locate the
16 owner of or otherwise deal with a vessel that has become a hazard.

17 (7) The department shall disclose vessel records for any vessel
18 owned by a governmental entity upon request.

19 (8) This section shall not apply to title history information
20 under RCW 19.118.170.

21 (9) The department shall charge a fee of two dollars for each
22 record returned pursuant to a request made by a business entity under
23 subsection (1) of this section and deposit the fee into the highway
24 safety account.

25 (10) The department, county auditor, or agency or firm authorized
26 by the department shall not release the name, any address, vehicle
27 make, vehicle model, vehicle year, vehicle identification number,
28 vessel make and model, vessel model year, hull identification number,
29 vessel document number, vessel registration number, vessel decal
30 number, or license plate number associated with an individual vehicle
31 or vessel owner who is a participant in the address confidentiality
32 program under chapter 40.24 RCW except as allowed in subsection (6)
33 of this section and RCW 40.24.075.

34 **Sec. 4.** RCW 46.20.037 and 2012 c 80 s 1 are each amended to read
35 as follows:

36 (1) The department may implement a facial recognition matching
37 system for drivers' licenses, permits, and identicards. Any facial
38 recognition matching system selected by the department must be used
39 only to verify the identity of an applicant for or holder of a

1 driver's license, permit, or identicard to determine whether the
2 person has been issued a driver's license, permit, or identicard
3 under a different name or names, except as permitted under
4 subsections (4) and (5) of this section.

5 (2) Any facial recognition matching system selected by the
6 department must be capable of highly accurate matching, and must be
7 compliant with appropriate standards established by the American
8 association of motor vehicle administrators that exist on June 7,
9 2012, or such subsequent date as may be provided by the department by
10 rule, consistent with the purposes of this section.

11 (3) The department shall post notices in conspicuous locations at
12 all department driver licensing offices, make written information
13 available to all applicants at department driver licensing offices,
14 and provide information on the department's web site regarding the
15 facial recognition matching system. The notices, written information,
16 and information on the web site must address how the facial
17 recognition matching system works, all ways in which the department
18 may use results from the facial recognition matching system, how an
19 investigation based on results from the facial recognition matching
20 system would be conducted, and a person's right to appeal any
21 determinations made under this chapter.

22 (4) ~~((Results from))~~ (a) Information or data generated through
23 the use of the facial recognition ((matching)) system((÷
24 ~~(a) Are))~~, including system results that identify a potential
25 match between two photographs:

26 (i) Is not available for public inspection and copying under
27 chapter 42.56 RCW; and

28 ~~((b))~~ (ii) May only be disclosed when authorized by a court
29 order((÷

30 ~~(c) May only be disclosed to a federal government agency if~~
31 ~~specifically required under federal law; and~~

32 ~~(d) May only be disclosed by the department))~~ related to a
33 suspected violation of RCW 46.20.0921.

34 (b) For the purpose of (a) of this subsection, a "court order"
35 means a directive issued under the authority of a judge or magistrate
36 under the authority of Article III of the United States Constitution
37 or Article IV of the Washington state Constitution.

38 (5) The department may provide the results of an investigation
39 initiated or assisted through the use of the facial recognition
40 system to a government agency, including a court or law enforcement

1 agency, for use in carrying out its functions if the department has
2 determined that person has committed one of the prohibited practices
3 listed in RCW 46.20.0921 and this determination has been confirmed by
4 a hearings examiner under this chapter or the person declined a
5 hearing or did not attend a scheduled hearing.

6 ~~((+5))~~ (6) All personally identifying information derived from
7 the facial recognition matching system must be stored with
8 appropriate security safeguards. The office of the chief information
9 officer shall develop the appropriate security standards for the
10 department's use of the facial recognition matching system, subject
11 to approval and oversight by the technology services board.

12 ~~((+6))~~ (7) The department shall develop procedures to handle
13 instances in which the facial recognition matching system fails to
14 verify the identity of an applicant for a renewal or duplicate
15 driver's license, permit, or identicard. These procedures must allow
16 an applicant to prove identity without using the facial recognition
17 matching system.

18 **Sec. 5.** RCW 46.20.118 and 2009 c 366 s 1 are each amended to
19 read as follows:

20 (1) The department shall maintain a ~~((negative))~~ file ~~((It shall~~
21 ~~contain negatives))~~ of all ~~((pictures))~~ the driver's license, permit,
22 and identicard photographs taken by the department of licensing as
23 authorized by this chapter. ~~((Negatives))~~ Photographs in the file
24 shall not be available for public inspection and copying under
25 chapter 42.56 RCW.

26 (2) The department may ~~((make))~~ provide a copy of a photograph
27 from the file ~~((available))~~ to official governmental enforcement
28 agencies to assist in the investigation by the agencies of suspected
29 criminal activity or for the purposes of verifying identity when a
30 law enforcement officer is authorized by law to request
31 identification from an individual, except as provided in section 1 of
32 this act.

33 (3) The department shall make the file available to the office of
34 the secretary of state, at the expense of the secretary of state, to
35 assist in maintenance of the statewide voter registration database.

36 (4) The department may also provide a ~~((print))~~ copy of a
37 photograph from the file to the driver's next of kin in the event the
38 driver is deceased.

1 **Sec. 6.** RCW 46.52.120 and 2017 c 147 s 9 are each amended to
2 read as follows:

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

10 (2) The records shall be for the confidential use of the
11 director, the chief of the Washington state patrol, the director of
12 the Washington traffic safety commission, and for such police
13 officers or other cognizant public officials as may be designated by
14 law, except as provided in section 1 of this act. Such case records
15 shall not be admitted into evidence in any court, except where
16 relevant to the prosecution or defense of a criminal charge, or in
17 case appeal is taken from the order of the director, suspending,
18 revoking, canceling, or refusing a vehicle driver's license.

19 (3) The director shall tabulate and analyze vehicle driver's case
20 records and suspend, revoke, cancel, or refuse a vehicle driver's
21 license to a person when it is deemed from facts contained in the
22 case record of such person that it is for the best interest of public
23 safety that such person be denied the privilege of operating a motor
24 vehicle. The director shall also suspend a person's driver's license
25 if the person fails to attend or complete a driver improvement
26 interview or fails to abide by conditions of probation under RCW
27 46.20.335. Whenever the director orders the vehicle driver's license
28 of any such person suspended, revoked, or canceled, or refuses the
29 issuance of a vehicle driver's license, such suspension, revocation,
30 cancellation, or refusal is final and effective unless appeal from
31 the decision of the director is taken as provided by law.

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