

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5152

67th Legislature
2021 Regular Session

Passed by the Senate March 3, 2021
Yeas 49 Nays 0

President of the Senate

Passed by the House April 5, 2021
Yeas 76 Nays 22

**Speaker of the House of
Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5152** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5152

Passed Legislature - 2021 Regular Session

State of Washington

67th Legislature

2021 Regular Session

By Senate Transportation (originally sponsored by Senators Nguyen, Rivers, Carlyle, Das, Kuderer, Muzzall, Saldaña, and Wilson, C.; by request of Department of Licensing)

READ FIRST TIME 02/05/21.

1 AN ACT Relating to enhancing data stewardship and privacy
2 protections for vehicle and driver data by clarifying the allowable
3 uses of personal or identity information, prescribing penalties for
4 data misuse, and codifying existing data contract practices; amending
5 RCW 46.12.630, 46.12.635, 46.12.640, and 46.52.130; adding new
6 sections to chapter 46.04 RCW; adding a new chapter to Title 46 RCW;
7 and prescribing penalties.

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

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04
10 RCW to read as follows:

11 "Data services" means the practice of providing data sets to
12 governmental entities and businesses, as authorized or required by
13 law.

14 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.04
15 RCW to read as follows:

16 (1) "Identity information" means information that identifies an
17 individual, or may be used to determine the identity of an
18 individual, including:

19 (a) Federal tax identification number or employer identification
20 number;

- 1 (b) Residential and mailing address, but not the five-digit zip
2 code;
- 3 (c) Email address;
- 4 (d) Telephone number;
- 5 (e) Registered and legal vehicle owner name;
- 6 (f) Gender;
- 7 (g) Place of birth;
- 8 (h) Voter information status; and
- 9 (i) Selective service information.
- 10 (2) "Personal information" has the same meaning as in RCW
11 42.56.590.

12 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.04
13 RCW to read as follows:

14 "Transportation network company" means a corporation,
15 partnership, sole proprietorship, or other entity that operates in
16 this state, and uses a digital network to connect passengers with
17 transportation network company drivers to provide prearranged rides.

18 NEW SECTION. **Sec. 4.** (1) **Confidentiality of records.** Any
19 information or record containing personal or identity information
20 obtained by the department, pursuant to the administration of driver
21 and vehicle records, shall be private and confidential except as
22 otherwise provided in federal and state law.

23 (2) **Obligations of data recipients and subrecipients.** (a) All
24 data recipients and subrecipients, as defined by the department,
25 authorized to receive personal or identity information originating
26 from the department have an affirmative obligation to take all
27 reasonable actions necessary to prevent the unauthorized disclosure
28 and misuse of personal or identity information. The department may
29 require audit or investigation of any entity receiving personal or
30 identity information that originated from the department.

31 (b) If misuse or an unauthorized disclosure of personal or
32 identity information occurs, all parties aware of the violation must
33 inform the department and take all reasonably available actions to
34 mitigate and rectify the disclosure to the department's standards.

35 (3) **Contractual requirements.** (a) Prior to providing data
36 services that include the release of any personal or identity
37 information as authorized by federal or state law, the department
38 must enter into a contract with the entity authorized to receive the

1 personal or identity information. The contract must include, at a
2 minimum:

3 (i) Limitations and restrictions for the use of personal or
4 identity information;

5 (ii) A requirement that the data recipient allow the department
6 or its agent to conduct regular permissible use audits;

7 (iii) A requirement that the data recipient undergo regular data
8 security audits, and standards for the conduct of such audits.
9 Internal audit programs required under RCW 43.88.160 are considered
10 independent third-party auditors for the purposes of this section;

11 (iv) A provision that all costs of the audits performed pursuant
12 to this subsection are not the responsibility of the department;

13 (v) Provisions governing redisclosure of personal or identity
14 information by a data recipient or subrecipient other than to those
15 categories of parties permitted by contract and standards for the
16 handling of such information;

17 (vi) Other privacy, compliance, and contractual requirements as
18 may be set forth in rule by the department to protect personal or
19 identity information;

20 (vii) A statement that the ownership of data provided under this
21 chapter remains with the department, and ownership does not transfer
22 to the data recipient or subrecipient; and

23 (viii) A provision that the data recipient must conduct or review
24 regular data security and permissible use audits of all
25 subrecipients, and standards for the conduct of such audits.

26 (b) The department may adopt other contract requirements as
27 necessary to ensure the privacy of individuals and protection of
28 personal or identity information.

29 (4) **Penalties.** (a) The unauthorized disclosure or use of personal
30 or identity information shall subject the disclosing entity to a
31 civil penalty of up to twenty thousand dollars, per incident, in 2021
32 and annually adjusted by the department on the first calendar day of
33 each year based on changes in the United States consumer price index
34 for all urban consumers.

35 (b) Other applicable sanctions under state and federal law may
36 also apply. The amount of any penalties collected pursuant to (a) of
37 this subsection shall be paid into the department's technology
38 improvement and data management account created in RCW 46.68.063.

39 (c) If personal or identity information provided by the
40 department is used for any purpose other than that authorized in the

1 data recipient's contract with the department, the data recipient and
2 any subrecipient responsible for the misuse, unauthorized disclosure,
3 or nondata destruction may be denied further access to personal or
4 identity information by the department.

5 **Sec. 5.** RCW 46.12.630 and 2016 c 80 s 1 are each amended to read
6 as follows:

7 (1) The department of licensing must furnish lists of registered
8 and legal owners of: (a) Motor vehicles only for the purposes
9 specified in this subsection (1)(a) to the manufacturers of motor
10 vehicles or motor vehicle components, or their authorized agents, to
11 enable those manufacturers to carry out the provisions of Titles I
12 and IV of the anti car theft act of 1992, the automobile information
13 disclosure act (15 U.S.C. Sec. 1231 et seq.), the clean air act (42
14 U.S.C. Sec. 7401 et seq.), and 49 U.S.C. Secs. 30101-30183,
15 30501-30505, and 32101-33118, as these acts existed on January 1,
16 2014, or such subsequent date as may be provided by the department by
17 rule, consistent with the purposes of this section. However, the
18 department may only provide a vehicle or vehicle component
19 manufacturer, or its authorized agents, lists of registered or legal
20 owners who purchased or leased a vehicle manufactured by that
21 manufacturer or a vehicle containing a component manufactured by that
22 component manufacturer. Manufacturers or authorized agents receiving
23 information on behalf of one manufacturer must not disclose this
24 information to any other third party that is not necessary to carry
25 out the purposes of this section; and (b) vessels only for the
26 purposes of this subsection (1)(b) to the manufacturers of vessels,
27 or their authorized agents, to enable those manufacturers to carry
28 out the provisions of 46 U.S.C. Sec. 4310 and any relevant Code of
29 Federal (~~Regulation[s]~~) Regulations adopted by the United States
30 coast guard, as these provisions and rules existed on January 1,
31 2015, or such subsequent date as may be provided by the department by
32 rule, consistent with the purposes of this section.

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

36 (a) The manufacturers of motor vehicles or vessels, and
37 legitimate businesses as defined by the department in rule, or their
38 authorized agents, for purposes of using lists of registered and
39 legal owner information to conduct research activities and produce

1 statistical reports, as long as the entity does not allow personal or
2 identity information received under this section to be published,
3 redisclosed, or used to contact individuals. For purposes of this
4 subsection (2)(a), the department of licensing may only provide the
5 manufacturer of a motor vehicle or vessel, or the manufacturer of
6 components contained in a motor vehicle or vessel, the lists of
7 registered or legal owners who purchased or leased a vehicle or
8 vessel manufactured by that manufacturer or a vehicle or vessel
9 containing components manufactured by that component manufacturer;

10 (b) Any governmental agency (~~(of the United States or Canada, or~~
11 ~~political subdivisions thereof, to be used by it or by its authorized~~
12 ~~commercial agents or contractors only in connection with the~~
13 ~~enforcement of: (i) Motor vehicle or traffic laws by, or programs~~
14 ~~related to traffic safety of, that government agency; or (ii) the~~
15 ~~laws governing vessels, vessel operation, or vessel safety programs~~
16 ~~administered by that government agency or as otherwise provided by~~
17 ~~law. Only such parts of the list under (i) and (ii) of this~~
18 ~~subsection (2)(b) as are required for completion of the work required~~
19 ~~of the agent or contractor shall be provided to such agent or~~
20 ~~contractor;)), including any court or law enforcement agency, or any
21 private person or entity acting on behalf of a federal, state, or
22 local agency, or Canada in carrying out its functions: PROVIDED,
23 HOWEVER, That nothing in this section is construed to allow actions
24 prohibited under RCW 43.17.425;~~

25 (c) Any insurer or insurance support organization, a self-insured
26 entity, or its agents, employees, or contractors for use in
27 connection with claims investigation activities, antifraud
28 activities, rating, or underwriting;

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

33 (e) A government agency, commercial parking company, or its
34 agents requiring the names and addresses of registered owners to
35 notify them of outstanding parking violations. Subject to the
36 disclosure agreement provisions of RCW 46.12.635 and the requirements
37 of Executive Order 97-01, the department may provide only the parts
38 of the list that are required for completion of the work required of
39 the company;

1 (f) (~~An authorized~~) Authorized agents or contractor of the
2 department, to be used only in connection with providing motor
3 vehicle or vessel excise tax, licensing, title, and registration
4 information to motor vehicle or vessel dealers;

5 (g) Any business regularly making loans to other persons to
6 finance the purchase of motor vehicles or vessels, to be used to
7 assist the person requesting the list to determine ownership of
8 specific vehicles or vessels for the purpose of determining whether
9 or not to provide such financing; or

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

14 (3) Personal or identity information received by an entity listed
15 in subsection (1) or (2) of this section may not be released for
16 direct marketing purposes.

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

21 ~~(a) A requirement that the department or its agent conduct both~~
22 ~~regular permissible use and data security audits subject to the~~
23 ~~following conditions and limitations:~~

24 ~~(i) The data security audits must demonstrate compliance with the~~
25 ~~data security standards adopted by the office of the chief~~
26 ~~information officer.~~

27 ~~(ii) When determining whether to conduct an audit under this~~
28 ~~subsection, the department must first take into consideration any~~
29 ~~independent third-party audit a data recipient has had before~~
30 ~~requiring that any additional audits be performed. If the independent~~
31 ~~third-party audit is a data security audit and it meets both~~
32 ~~recognized national or international standards and the standards~~
33 ~~adopted by the office of the chief information officer pursuant to~~
34 ~~(a)(i) of this subsection, the department must accept the audit and~~
35 ~~the audit is deemed to satisfy the conditions set out in this~~
36 ~~subsection (4)(a). If the independent third-party audit is a~~
37 ~~permissible use audit and it meets recognized national or~~
38 ~~international standards, the department must accept the audit and the~~
39 ~~audit is deemed to satisfy the conditions set out in this subsection~~
40 ~~(4)(a); and~~

1 ~~(b) A provision that the cost of the audits performed pursuant to~~
2 ~~this subsection must be borne by the data recipient. A new data~~
3 ~~recipient must bear the initial cost to set up a system to disburse~~
4 ~~the data to the data recipient.)) pursuant to section 4 of this act.~~

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

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

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

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

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

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

33 (6) Where both a mailing address and residence address are
34 recorded on the vehicle or vessel record and are different, only the
35 mailing address will be disclosed. Both addresses will be disclosed
36 in response to requests for disclosure from courts, law enforcement
37 agencies, or government entities (~~with enforcement, investigative,~~
38 ~~or taxing authority~~) and only for use in the normal course of
39 conducting their business.

1 (7) If a list of registered and legal owners of motor vehicles or
2 vessels is used for any purpose other than that authorized in this
3 section, the (~~manufacturer, governmental agency, commercial parking~~
4 ~~company, contractor, financial institution, insurer, insurance~~
5 ~~support organization, self-insured entity, legitimate business~~
6 ~~entity, toll facility operator~~) recipient under subsection (1) or
7 (2) of this section, or any authorized agent or contractor
8 responsible for the unauthorized disclosure or use will be denied
9 further access to such information by the department of licensing.

10 (8) For purposes of this section, "personal information" (~~means~~
11 ~~information that identifies an individual, including an individual's~~
12 ~~photograph, social security number, driver identification number,~~
13 ~~name, address (but not the five-digit zip code), telephone number, or~~
14 ~~medical or disability information. However, an individual's~~
15 ~~photograph, social security number, and any medical or disability-~~
16 ~~related information is considered highly restricted personal~~
17 ~~information and may not be released under this section)) and
18 "identity information" have the same meanings as in section 2 of this
19 act.~~

20 **Sec. 6.** RCW 46.12.635 and 2019 c 278 s 1 are each amended to
21 read as follows:

22 (1) Notwithstanding the provisions of chapter 42.56 RCW, the name
23 or address of an individual vehicle or vessel owner shall not be
24 released by the department, county auditor, data recipient,
25 subrecipient, or agency or firm authorized by the department except
26 under the following circumstances:

27 (a) The requesting party is a business entity that requests the
28 information for use as defined by the department in rule, and in the
29 course of business;

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

34 (c) The requesting party enters into a disclosure agreement with
35 the department in which the party promises that the party will use
36 the information only for the purpose stated in the request for the
37 information; and that the party does not intend to use, or facilitate
38 the use of, the information for the purpose of making any unsolicited
39 business contact with a person named in the disclosed information.

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

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

15 (3) The disclosing entity shall retain the request for disclosure
16 for three years.

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

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

35 (c) In the case of a vehicle or vessel owner who submits to the
36 disclosing entity a copy of a valid court order restricting another
37 person from contacting the vehicle or vessel owner or his or her
38 family or household member, the disclosing entity shall provide the
39 vehicle or vessel owner with the name and address of the requesting
40 party.

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

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

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

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

18 (9) The department shall charge a fee of two dollars for each
19 record returned pursuant to a request made by a business entity under
20 subsection (1) of this section and deposit the fee into the highway
21 safety ((~~account~~ [~~fund~~])) fund.

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

31 **Sec. 7.** RCW 46.12.640 and 2016 c 80 s 3 are each amended to read
32 as follows:

33 (1) The department may review the activities of a person ((~~who~~))
34 or entity that receives ((~~vehicle or vessel record~~)) personal or
35 identity information to ensure compliance with the limitations
36 imposed on the use of the information. The department ((~~shall~~)) may
37 suspend or revoke for up to five years the privilege of obtaining
38 ((~~vehicle or vessel record~~)) personal or identity information of a

1 person found to be in violation of this chapter or a disclosure
2 agreement executed with the department.

3 (2) In addition to the penalty in subsection (1) of this section:

4 (a) The unauthorized disclosure of personal or identity
5 information (~~(from a department vehicle or vessel record)~~); or

6 (b) The use of a false representation to obtain personal or
7 identity information from the (~~(department's vehicle or vessel~~
8 ~~records)) department; or~~

9 (c) The use of personal or identity information obtained from the
10 department (~~(vehicle or vessel records)~~) for a purpose other than
11 what is stated in the request for information or in the disclosure
12 agreement executed with the department; or

13 (d) The sale or other distribution of any (~~(vehicle or vessel~~
14 ~~owner name or address)) personal or identity information to another
15 person not disclosed in the request or disclosure agreement
16 is a gross misdemeanor punishable by a fine not to exceed ten
17 thousand dollars, or by imprisonment in a county jail for up to three
18 hundred sixty-four days, or by both such fine and imprisonment for
19 each violation.~~

20 **Sec. 8.** RCW 46.52.130 and 2019 c 99 s 1 are each amended to read
21 as follows:

22 Upon a proper request, the department may only furnish
23 information contained in an abstract of a person's driving record as
24 permitted under this section. (~~(For the purposes of this section, an~~
25 ~~"agent" means a representative of an authorized recipient that has~~
26 ~~contracted with the recipient to request driving records on its~~
27 ~~behalf and insurance pools established under RCW 48.62.031 of which~~
28 ~~the authorized recipient is a member.))~~

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

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

33 (i) The total number of vehicles involved;

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

35 (iii) Whether the vehicles were occupied at the time of the
36 accident; and

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

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

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

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

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

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

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

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

33 (~~(B)~~) (ii) The department may provide employers or their agents
34 a three-year insurance carrier driving record of existing employees
35 only for the purposes of sharing the driving record with its
36 insurance carrier for underwriting. Employers may not provide the
37 employees' full driving records to its insurance carrier.

38 (iii) An abstract of the full driving record maintained by the
39 department may be furnished to an employer or prospective employer or
40 the agent(s) acting on behalf of an employer or prospective employer

1 of the named individual for purposes unrelated to driving by the
2 individual when a driving record is required by federal or state law,
3 or the employee or prospective employee will be handling heavy
4 equipment or machinery.

5 (iv) Release of an abstract of the driving record of an employee
6 or prospective employee requires a statement signed by: ~~((+I+))~~ (A)
7 The employee or prospective employee that authorizes the release of
8 the record; and ~~((+II+))~~ (B) the employer attesting that the
9 information is necessary for employment purposes related to driving
10 by the individual as a condition of employment or otherwise at the
11 direction of the employer. If the employer or prospective employer
12 authorizes ~~((an))~~ agents to obtain this information on their behalf,
13 this must be noted in the statement. The statement must also note
14 that any information contained in the abstract related to an
15 adjudication that is subject to a court order sealing the juvenile
16 record of an employee or prospective employee may not be used by the
17 employer or prospective employer, or an agent authorized to obtain
18 this information on their behalf, unless required by federal
19 regulation or law. The employer or prospective employer must afford
20 the employee or prospective employee an opportunity to demonstrate
21 that an adjudication contained in the abstract is subject to a court
22 order sealing the juvenile record.

23 ~~((+C+))~~ (v) Upon request of the person named in the abstract
24 provided under this subsection, and upon that same person furnishing
25 copies of court records ruling that the person was not at fault in a
26 motor vehicle accident, the department must indicate on any abstract
27 provided under this subsection that the person was not at fault in
28 the motor vehicle accident.

29 ~~((+D+))~~ (vi) No employer or prospective employer, nor any agents
30 of an employer or prospective employer, may use information contained
31 in the abstract related to an adjudication that is subject to a court
32 order sealing the juvenile record of an employee or prospective
33 employee for any purpose unless required by federal regulation or
34 law. The employee or prospective employee must furnish a copy of the
35 court order sealing the juvenile record to the employer or
36 prospective employer, or the agents of the employer or prospective
37 employer, as may be required to ensure the application of this
38 subsection.

39 ~~((+ii)) In addition to the methods described in (b)(i) of this~~
40 ~~subsection, the director may enter into a contractual agreement with~~

1 ~~an employer or its agent for the purpose of reviewing the driving~~
2 ~~records of existing employees for changes to the record during~~
3 ~~specified periods of time. The department shall establish a fee for~~
4 ~~this service, which must be deposited in the highway safety fund. The~~
5 ~~fee for this service must be set at a level that will not result in a~~
6 ~~net revenue loss to the state. Any information provided under this~~
7 ~~subsection must be treated in the same manner and is subject to the~~
8 ~~same restrictions as driving record abstracts.))~~

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

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

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

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

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
39 agents:

1 (A) That has motor vehicle or life insurance in effect covering
2 the 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
8 law enforcement officers or firefighters, as both terms are defined
9 in RCW 41.26.030, or by Washington state patrol officers, while
10 driving official vehicles in the performance of their occupational
11 duty, or by registered tow truck operators as defined in RCW
12 46.55.010 in the performance of their occupational duties while at
13 the scene of a roadside impound or recovery so long as they are not
14 issued a citation. This does not apply to any situation where the
15 vehicle was used in the commission of a misdemeanor or felony;

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

20 (C) Exclude any deferred prosecution under RCW 10.05.060, except
21 that if a person is removed from a deferred prosecution under RCW
22 10.05.090, the abstract must show the deferred prosecution as well as
23 the removal.

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

28 (iv) Any insurance company or its agents, for underwriting
29 purposes relating to the operation of commercial motor vehicles, may
30 not use any information contained in the abstract relative to any
31 person's operation of motor vehicles while not engaged in such
32 employment. Any insurance company or its agents, for underwriting
33 purposes relating to the operation of noncommercial motor vehicles,
34 may not use any information contained in the abstract relative to any
35 person's operation of commercial motor vehicles. For the purposes of
36 this subsection, "commercial motor vehicle" has the same meaning as
37 in RCW 46.25.010(6).

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

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

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

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

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

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

33 (h) **State colleges, universities, or agencies, or units of local**
34 **government.** An abstract of the full driving record maintained by the
35 department may be furnished to (i) state colleges, universities, or
36 agencies for employment and risk management purposes or (ii) units of
37 local government authorized to self-insure under RCW 48.62.031, or
38 their agents, for employment and risk management purposes. ~~((The~~
39 ~~director may enter into a contractual agreement with a unit of local~~
40 ~~government, or its agent, for the purpose of reviewing the driving~~

1 records of existing employees for changes to the record during
2 specified periods of time. The department shall establish a fee for
3 this service, which must be deposited in the highway safety fund. The
4 fee for this service must be set at a level that will not result in a
5 net revenue loss to the state. Any information provided under this
6 subsection must be treated in the same manner and is subject to the
7 same restrictions as driving record abstracts.)) "Unit of local
8 government" includes an insurance pool established under RCW
9 48.62.031.

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

17 (ii) The superintendent of public instruction is exempt from
18 paying the fees related to the reviewing of records and the fee
19 required in subsection (5) of this section.

20 (j) State and federal agencies. An abstract of the driving record
21 maintained by the department may be furnished to state and federal
22 agencies, or their agents, in carrying out its functions.

23 (k) Transportation network companies. An abstract of the full
24 driving record maintained by the department may be furnished to a
25 transportation network company or its agents acting on its behalf of
26 the named individual for purposes related to driving by the
27 individual as a condition of being a contracted driver.

28 (l) Research. (i) The department may furnish driving record data
29 to state agencies and bona fide scientific research organizations.
30 The department may require review and approval by an institutional
31 review board. For the purposes of this subsection, "research" means a
32 planned and systematic sociological, psychological, epidemiological,
33 biomedical, or other scientific investigation carried out by a state
34 agency, or by a scientific research professional associated with a
35 bona fide scientific research organization with an objective to
36 contribute to scientific knowledge, the solution of social and health
37 problems, or the evaluation of public benefit and service programs.
38 This definition excludes methods of record analysis and data
39 collection that are subjective, do not permit replication, and are
40 not designed to yield reliable and valid results.

1 (ii) The state agency, or a scientific research professional
2 associated with a bona fide scientific research organization, are
3 exempt from paying the fees related to the reviewing of records and
4 the fee required in subsection (5) of this section. However, the
5 department may charge a cost-recovery fee for the actual cost of
6 providing the data.

7 (3) **Reviewing of driving records.** (a) In addition to the methods
8 described herein, the director may enter into a contractual agreement
9 for the purpose of reviewing the driving records of existing
10 employees for changes to the record during specified periods of time.
11 The department shall establish a fee for this service, which must be
12 deposited in the highway safety fund. The fee for this service must
13 be set at a level that does not result in a net revenue loss to the
14 state. Any information provided under this subsection must be treated
15 in the same manner and is subject to the same restrictions as driving
16 record abstracts.

17 (b) The department may provide reviewing services to the
18 following entities:

- 19 (i) Employers for existing employees, or their agents;
20 (ii) Transit authorities for current vanpool drivers, or their
21 agents;
22 (iii) Insurance carriers for current policyholders, or their
23 agents;
24 (iv) State colleges, universities, or agencies, or units of local
25 government, or their agents;
26 (v) The office of the superintendent of public instruction for
27 school bus drivers statewide; and
28 (vi) Transportation network companies, or their agents.

29 (4) **Release to third parties prohibited.** (a) Any person or entity
30 receiving an abstract of a person's driving record under subsection
31 (2)(b) through ((+i)) (1) of this section shall use the abstract
32 exclusively for his, her, or its own purposes or as otherwise
33 expressly permitted under this section, and shall not divulge any
34 information contained in the abstract to a third party.

35 (b) The following release of records to third parties are hereby
36 authorized:

- 37 (i) Employers may divulge driving records to regulatory bodies,
38 as defined by the department by rule, such as the United States
39 department of transportation and the federal motor carrier safety
40 administration.

1 (ii) Employers may divulge a three-year driving record to their
2 insurance carrier for underwriting purposes.

3 (iii) Employers may divulge driving records to contracted motor
4 carrier consultants for the purposes of ensuring driver compliance
5 and risk management.

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

11 ~~((5))~~ (6) Violation. (a) Any negligent violation of this
12 section is a gross misdemeanor.

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

15 ~~((6))~~ (7) Effective July 1, 2019, the contents of a driving
16 abstract pursuant to this section shall not include any information
17 related to sealed juvenile records unless that information is
18 required by federal law or regulation.

19 NEW SECTION. Sec. 9. Section 4 of this act constitutes a new
20 chapter in Title 46 RCW.

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