

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5246

Chapter 73, Laws of 2012

62nd Legislature
2012 Regular Session

DRIVING RECORD ABSTRACTS--EMPLOYER REVIEW

EFFECTIVE DATE: 06/07/12

Passed by the Senate March 3, 2012
YEAS 44 NAYS 5

BRAD OWEN

President of the Senate

Passed by the House March 1, 2012
YEAS 96 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 23, 2012, 11:47 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5246** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 23, 2012

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5246

AS AMENDED BY THE HOUSE

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Senate Transportation (originally sponsored by Senators Chase, Harper, White, and Nelson)

READ FIRST TIME 02/25/11.

1 AN ACT Relating to employer review of abstracts of driving records;
2 and amending RCW 46.52.130.

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

4 **Sec. 1.** RCW 46.52.130 and 2010 c 253 s 1 are each amended to read
5 as follows:

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

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

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

12 (i) The total number of vehicles involved;

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

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

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

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

1 (c) The status of the person's driving privilege in this state; and
2 (d) Any reports of failure to appear in response to a traffic
3 citation or failure to respond to a notice of infraction served upon
4 the named individual by an arresting officer.

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

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

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

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

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

35 ~~((+iii))~~ (C) Upon request of the person named in the abstract
36 provided under this subsection, and upon that same person furnishing
37 copies of court records ruling that the person was not at fault in a

1 motor vehicle accident, the department must indicate on any abstract
2 provided under this subsection that the person was not at fault in the
3 motor vehicle accident.

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

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

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

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

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

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

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

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

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

4 (A) Not contain any information related to actions committed by law
5 enforcement officers or firefighters, as both terms are defined in RCW
6 41.26.030, or by Washington state patrol officers, while driving
7 official vehicles in the performance of their occupational duty. This
8 does not apply to any situation where the vehicle was used in the
9 commission of a misdemeanor or felony;

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

14 (C) Exclude any deferred prosecution under RCW 10.05.060, except
15 that if a person is removed from a deferred prosecution under RCW
16 10.05.090, the abstract must show the deferred prosecution as well as
17 the removal.

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

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

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

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

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

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

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

24 (h) **State colleges, universities, or agencies, or units of local
25 government.** An abstract of the full driving record maintained by the
26 department may be furnished to (i) state colleges, universities, or
27 agencies for employment and risk management purposes or (ii) units of
28 local government authorized to self-insure under RCW 48.62.031 for
29 employment and risk management purposes.

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

37 (3) **Release to third parties prohibited.** Any person or entity
38 receiving an abstract of a person's driving record under subsection

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

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

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

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

Passed by the Senate March 3, 2012.

Passed by the House March 1, 2012.

Approved by the Governor March 23, 2012.

Filed in Office of Secretary of State March 23, 2012.