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SENATE BILL 5343

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State of Washington

65th Legislature

2017 Regular Session

By Senators Warnick and Takko

Read first time 01/20/17. Referred to Committee on Transportation.

1 AN ACT Relating to notice sent by and certain release of  
2 information affecting registered tow truck operators; and amending  
3 RCW 46.55.110 and 46.52.130.

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

5 **Sec. 1.** RCW 46.55.110 and 2002 c 279 s 11 are each amended to  
6 read as follows:

7 (1) When an unauthorized vehicle is impounded, the impounding  
8 towing operator shall notify the legal and registered owners of the  
9 impoundment of the unauthorized vehicle and the owners of any other  
10 items of personal property registered or titled with the department.  
11 The notification shall be sent by first-class mail within twenty-four  
12 hours after the impoundment to the last known registered and legal  
13 owners of the vehicle, and the owners of any other items of personal  
14 property registered or titled with the department, as provided by the  
15 law enforcement agency, and shall inform the owners of the identity  
16 of the person or agency authorizing the impound. The notification  
17 shall include the name of the impounding tow firm, its address, and  
18 telephone number. The notice shall also include the location, time of  
19 the impound, and by whose authority the vehicle was impounded. The  
20 notice shall also include the written notice of the right of

1 redemption and opportunity for a hearing to contest the validity of  
2 the impoundment pursuant to RCW 46.55.120.

3 (2) In addition, if a suspended license impound has been ordered,  
4 the notice must state the length of the impound, the requirement of  
5 the posting of a security deposit to ensure payment of the costs of  
6 removal, towing, and storage, notification that if the security  
7 deposit is not posted the vehicle will immediately be processed and  
8 sold at auction as an abandoned vehicle, and the requirements set out  
9 in RCW 46.55.120(1)(~~(b)~~) (c) regarding the payment of the costs of  
10 removal, towing, and storage as well as providing proof of  
11 satisfaction of any penalties, fines, or forfeitures before  
12 redemption. The notice must also state that the registered owner is  
13 ineligible to purchase the vehicle at the abandoned vehicle auction,  
14 if held.

15 (3) In the case of an abandoned vehicle, or other item of  
16 personal property registered or titled with the department, within  
17 twenty-four hours after receiving information on the legal and  
18 registered owners from the department through the abandoned vehicle  
19 report, the tow truck operator shall send by (~~(certified)~~) first-  
20 class mail(~~(, with return receipt requested,)~~) a notice of custody  
21 and sale to the legal and registered owners and of the penalties for  
22 the traffic infraction littering—abandoned vehicle.

23 (4) If the date on which a notice required by subsection (3) of  
24 this section is to be mailed falls upon a Saturday, Sunday, or a  
25 postal holiday, the notice may be mailed on the next day that is  
26 neither a Saturday, Sunday, nor a postal holiday.

27 (5) No notices need be sent to the legal or registered owners of  
28 an impounded vehicle or other item of personal property registered or  
29 titled with the department, if the vehicle or personal property has  
30 been redeemed.

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

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

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

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

39 (i) The total number of vehicles involved;

- 1 (ii) Whether the vehicles were legally parked or moving;
- 2 (iii) Whether the vehicles were occupied at the time of the  
3 accident; and
- 4 (iv) Whether the accident resulted in a fatality;
- 5 (b) Any reported convictions, forfeitures of bail, or findings  
6 that an infraction was committed based upon a violation of any motor  
7 vehicle law;
- 8 (c) The status of the person's driving privilege in this state;  
9 and
- 10 (d) Any reports of failure to appear in response to a traffic  
11 citation or failure to respond to a notice of infraction served upon  
12 the named individual by an arresting officer.

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

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

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

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

35 (B) Release of an abstract of the driving record of an employee  
36 or prospective employee requires a statement signed by: (I) The  
37 employee or prospective employee that authorizes the release of the  
38 record; and (II) the employer attesting that the information is  
39 necessary for employment purposes related to driving by the  
40 individual as a condition of employment or otherwise at the direction

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

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

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

29 (ii) In addition to the methods described in (b)(i) of this  
30 subsection, the director may enter into a contractual agreement with  
31 an employer or its agent for the purpose of reviewing the driving  
32 records of existing employees for changes to the record during  
33 specified periods of time. The department shall establish a fee for  
34 this service, which must be deposited in the highway safety fund. The  
35 fee for this service must be set at a level that will not result in a  
36 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.

39 (c) **Volunteer organizations.** (i) An abstract of the full driving  
40 record maintained by the department may be furnished to a volunteer

1 organization or an agent for a volunteer organization for which the  
2 named individual has submitted an application for a position that  
3 would require driving by the individual at the direction of the  
4 volunteer organization.

5 (ii) Release of an abstract of the driving record of a  
6 prospective volunteer requires a statement signed by: (A) The  
7 prospective volunteer that authorizes the release of the record; and  
8 (B) the volunteer organization attesting that the information is  
9 necessary for purposes related to driving by the individual at the  
10 direction of the volunteer organization. If the volunteer  
11 organization authorizes an agent to obtain this information on their  
12 behalf, this must be noted in the statement.

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

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

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

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

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

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

27 (A) Not contain any information related to actions committed by  
28 law enforcement officers or firefighters, as both terms are defined  
29 in RCW 41.26.030, or by Washington state patrol officers, while  
30 driving official vehicles in the performance of their occupational  
31 duty, or by registered tow truck operators as defined in RCW  
32 46.55.010 in the performance of their occupational duties. This does  
33 not apply to any situation where the vehicle was used in the  
34 commission of a misdemeanor or felony;

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

39 (C) Exclude any deferred prosecution under RCW 10.05.060, except  
40 that if a person is removed from a deferred prosecution under RCW

1 10.05.090, the abstract must show the deferred prosecution as well as  
2 the removal.

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

7 (iv) Any insurance company or its agent, for underwriting  
8 purposes relating to the operation of commercial motor vehicles, may  
9 not use any information contained in the abstract relative to any  
10 person's operation of motor vehicles while not engaged in such  
11 employment. Any insurance company or its agent, for underwriting  
12 purposes relating to the operation of noncommercial motor vehicles,  
13 may not use any information contained in the abstract relative to any  
14 person's operation of commercial motor vehicles.

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

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

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

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

38 (g) **Attorneys—City attorneys, county prosecuting attorneys, and**  
39 **named individual's attorney of record.** An abstract of the full  
40 driving record maintained by the department, including whether a

1 recorded violation is an alcohol-related offense, as defined in RCW  
2 46.01.260(2), that was originally charged as a violation of either  
3 RCW 46.61.502 or 46.61.504, may be furnished to city attorneys,  
4 county prosecuting attorneys, or the named individual's attorney of  
5 record. City attorneys, county prosecuting attorneys, or the named  
6 individual's attorney of record may provide the driving record to  
7 alcohol/drug assessment or treatment agencies approved by the  
8 department of social and health services to which the named  
9 individual has applied or been assigned for evaluation or treatment.

10 (h) **State colleges, universities, or agencies, or units of local**  
11 **government.** An abstract of the full driving record maintained by the  
12 department may be furnished to (i) state colleges, universities, or  
13 agencies for employment and risk management purposes or (ii) units of  
14 local government authorized to self-insure under RCW 48.62.031 for  
15 employment and risk management purposes.

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

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

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

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

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

38 (6) Effective July 1, 2019, the contents of a driving abstract  
39 pursuant to this section shall not include any information related to

1 sealed juvenile records unless that information is required by  
2 federal law or regulation.

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