

SB 5289 - H AMD TO TR COMM AMD (H-2609.2/17) 507
By Representative Bergquist

WITHDRAWN 04/12/2017

1 On page 1, line 17 of the amendment, after "section;" strike
2 "and"

3 On page 1, line 18 of the amendment, after "vehicle" insert "
4 and

5 (e) Beginning January 1, 2021, a person operating an autonomous
6 vehicle while it is being operated in a mode that does not require
7 the person to be in active physical control of or continuously
8 monitoring the vehicle"

9 On page 1, line 27 of the amendment, after "(5)" insert "A
10 finding that a person has committed an offense under this section, if
11 that offense is the first or second such offense committed within
12 three years, must not be made available to insurance companies.

13 (6)"

14 On page 1, line 28 of the amendment, after "(a)" insert
15 ""Autonomous vehicle" means any vehicle equipped with technology that
16 has the capability of operating or driving the vehicle without the
17 active physical control or monitoring of a human operator, whether or
18 not the technology is engaged, excluding vehicles equipped with one
19 or more systems that enhance safety or provide driver assistance but
20 are not capable of driving or operating the vehicle without the
21 active physical control or monitoring of a human operator. An
22 "autonomous vehicle" meets the definition of level 3, 4, or 5 of the
23 society of automotive engineers' taxonomy and definitions for terms
24 related to on-road motor vehicle automated driving systems.

25 (b)"

26 Reletter the remaining subsections alphabetically and correct any
27 internal references accordingly.

28 On page 8, after line 7 of the amendment, insert the following:

1 **"Sec. 5.** RCW 46.52.130 and 2015 2nd sp.s. c 3 s 12 are each
2 amended to read as follows:

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

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

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

9 (i) The total number of vehicles involved;

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

11 (iii) Whether the vehicles were occupied at the time of the
12 accident; and

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

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

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

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

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

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

28 (ii) Nothing in this section prevents a court from providing a
29 copy of the driver's abstract to the individual named in the abstract
30 or that named individual's attorney, provided that the named
31 individual has a pending or open infraction or criminal case in that
32 court. A pending case includes criminal cases that have not reached a
33 disposition by plea, stipulation, trial, or amended charge. An open
34 infraction or criminal case includes cases on probation, payment
35 agreement or subject to, or in collections. Courts may charge a
36 reasonable fee for the production and copying of the abstract for the
37 individual.

38 (b) **Employers or prospective employers.** (i)(A) An abstract of the
39 full driving record maintained by the department may be furnished to
40 an employer or prospective employer or an agent acting on behalf of

1 an employer or prospective employer of the named individual for
2 purposes related to driving by the individual as a condition of
3 employment or otherwise at the direction of the employer.

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

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

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

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

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

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

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

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

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

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

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

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

36 (A) Not contain any information related to actions committed by
37 law enforcement officers or firefighters, as both terms are defined
38 in RCW 41.26.030, or by Washington state patrol officers, while
39 driving official vehicles in the performance of their occupational

1 duty. This does not apply to any situation where the vehicle was used
2 in the commission of a misdemeanor or felony;

3 (B) Not include any information related to a finding that a
4 person has committed an offense for using a personal electronic
5 device while driving a motor vehicle on a public highway under
6 section 1 of this act if that offense is the first or second such
7 offense committed within three years;

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

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

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

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

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

38 (f) **Alcohol/drug assessment or treatment agencies.** An abstract of
39 the driving record maintained by the department covering the period
40 of not more than the last five years may be furnished to an alcohol/

1 drug assessment or treatment agency approved by the department of
2 social and health services to which the named individual has applied
3 or been assigned for evaluation or treatment, for purposes of
4 assisting employees in making a determination as to what level of
5 treatment, if any, is appropriate, except that the abstract must:

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

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

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

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

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

36 (3) **Release to third parties prohibited.** Any person or entity
37 receiving an abstract of a person's driving record under subsection
38 (2)(b) through (i) of this section shall use the abstract exclusively
39 for his, her, or its own purposes or as otherwise expressly permitted

1 under this section, and shall not divulge any information contained
2 in the abstract to a third party.

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

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

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

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

16 Renumber the remaining section consecutively, correct any
17 internal references accordingly, and correct the title.

EFFECT: Makes the following additions relating to distracted
driving infractions:

(1) Exempts drivers of autonomous vehicles, beginning in 2021,
from the prohibition on the use of personal electronic device usage
while the vehicle is being operated in a mode that does not require
the person to be in active physical control of or continuously
monitoring the vehicle;

(2) Defines "autonomous vehicle" as any vehicle equipped with
technology that has the capability of operating or driving the
vehicle without the active physical control or monitoring of a human
operator; and

(3) Prohibits a finding that a person has committed a first and
second offense within a three-year period for using a personal
electronic device while driving from being made available to
insurance companies.

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