S-0864.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 5152**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**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)

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

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

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

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

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

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

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

(b) Residential and mailing address, but not the five-digit zip code;

(c) Email address;

(d) Telephone number;

(e) Registered and legal vehicle owner name;

(f) Gender;

(g) Place of birth;

(h) Voter information status; and

(i) Selective service information.

(2) "Personal information" has the same meaning as in RCW 42.56.590.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) If personal or identity information provided by the department is used for any purpose other than that authorized in the data recipient's contract with the department, the data recipient and any subrecipient responsible for the misuse, unauthorized disclosure, or nondata destruction may be denied further access to personal or identity information by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) The requesting party enters into a disclosure agreement with the department in which the party promises that the party will use the information only for the purpose stated in the request for the information; and that the party does not intend to use, or facilitate the use of, the information for the purpose of making any unsolicited business contact with a person named in the disclosed information. The term "unsolicited business contact" means a contact that is intended to result in, or promote, the sale of any goods or services to a person named in the disclosed information. The term does not apply to situations where the requesting party and such person have been involved in a business transaction prior to the date of the disclosure request and where the request is made in connection with the transaction.

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

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

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

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

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

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

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

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

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

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

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

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

(1) The department may review the activities of a person ((~~who~~)) or entity that receives ((~~vehicle or vessel record~~)) personal or identity information to ensure compliance with the limitations imposed on the use of the information. The department ((~~shall~~)) may suspend or revoke for up to five years the privilege of obtaining ((~~vehicle or vessel record~~)) personal or identity information of a person found to be in violation of this chapter or a disclosure agreement executed with the department.

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

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

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

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

(d) The sale or other distribution of any ((~~vehicle or vessel owner name or address~~)) personal or identity information to another person not disclosed in the request or disclosure agreement

is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail for up to three hundred sixty-four days, or by both such fine and imprisonment for each violation.

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

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

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

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

(i) The total number of vehicles involved;

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

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

(iv) Whether the accident resulted in a fatality;

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

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

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

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

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

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

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

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

(iii) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or the agent(s) acting on behalf of an employer or prospective employer of the named individual for purposes unrelated to driving by the individual when a driving record is required by federal or state law, or the employee or prospective employee will be handling heavy equipment or machinery.

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty, or by registered tow truck operators as defined in RCW 46.55.010 in the performance of their occupational duties while at the scene of a roadside impound or recovery so long as they are not issued a citation. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

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

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

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

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

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

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

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

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

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

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031, or their agents, for employment and risk management purposes. ((~~The director may enter into a contractual agreement with a unit of local government, or its agent, for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.~~)) "Unit of local government" includes an insurance pool established under RCW 48.62.031.

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

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

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

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

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

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

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

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

(i) Employers for existing employees, or their agents;

(ii) Transit authorities for current vanpool drivers, or their agents;

(iii) Insurance carriers for current policyholders, or their agents;

(iv) State colleges, universities, or agencies, or units of local government, or their agents;

(v) The office of the superintendent of public instruction for school bus drivers statewide; and

(vi) Transportation network companies, or their agents.

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

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

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

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

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

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

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

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

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

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

**--- END ---**