
SENATE BILL 5347

State of Washington **68th Legislature** **2023 Regular Session**

By Senators Wagoner, Pedersen, Dhingra, Kuderer, and C. Wilson

Read first time 01/12/23. Referred to Committee on Law & Justice.

1 AN ACT Relating to access to abstract driving records; and
2 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 2022 c 182 s 206 are each amended to
5 read as follows:

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

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

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

13 (i) The total number of vehicles involved;

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

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

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

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

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

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

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

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

14 (ii) Nothing in this section prevents a court from providing a
15 copy of the driver's abstract to the individual named in the abstract
16 or that named individual's attorney, provided that the named
17 individual has a pending or open infraction or criminal case in that
18 court. A pending case includes criminal cases that have not reached a
19 disposition by plea, stipulation, trial, or amended charge. An open
20 infraction or criminal case includes cases on probation, payment
21 agreement or subject to, or in collections. A probation clerk or
22 probation officer employed by the court may also provide a copy of
23 the driver's abstract to a treatment agency in accordance with (f) of
24 this subsection. Courts may charge a reasonable fee for the
25 production and copying of the abstract for the individual unless the
26 person is indigent as defined in RCW 10.101.010.

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

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

22 (v) 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 (vi) No employer or prospective employer, nor any agents 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 agents of the employer or prospective
36 employer, as may be required to ensure the application of this
37 subsection.

38 (c) **Volunteer organizations.** (i) An abstract of the full driving
39 record maintained by the department may be furnished to a volunteer
40 organization or an agent for a volunteer organization for which the

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

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

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

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

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

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

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

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

26 (A) Not contain any information related to actions committed by
27 law enforcement officers or firefighters, as both terms are defined
28 in RCW 41.26.030, or by Washington state patrol officers, while
29 driving official vehicles in the performance of their occupational
30 duty, or by registered tow truck operators as defined in RCW
31 46.55.010 in the performance of their occupational duties while at
32 the scene of a roadside impound or recovery so long as they are not
33 issued a citation. This does not apply to any situation where the
34 vehicle was used in the 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 agents, 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 agents, 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. For the purposes of
15 this subsection, "commercial motor vehicle" has the same meaning as
16 in RCW 46.25.010(6).

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

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

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

30 (g) **Attorneys—City attorneys, county prosecuting attorneys, and**
31 **named individual's attorney of record.** An abstract of the full
32 driving record maintained by the department, including whether a
33 recorded violation is an alcohol-related offense, as defined in RCW
34 46.01.260(2), that was originally charged as a violation of either
35 RCW 46.61.502 or 46.61.504, may be furnished to city attorneys,
36 county prosecuting attorneys, or the named individual's attorney of
37 record. City attorneys, county prosecuting attorneys, or the named
38 individual's attorney of record may provide the driving record to
39 alcohol/drug assessment or treatment agencies approved by the

1 department of social and health services to which the named
2 individual has applied or been assigned for evaluation or treatment.

3 (h) **State colleges, universities, or agencies, or units of local**
4 **government.** An abstract of the full driving record maintained by the
5 department may be furnished to (i) state colleges, universities, or
6 agencies for employment and risk management purposes or (ii) units of
7 local government authorized to self-insure under RCW 48.62.031, or
8 their agents, for employment and risk management purposes. "Unit of
9 local government" includes an insurance pool established under RCW
10 48.62.031.

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

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

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

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

29 (l) **Research.** (i) The department may furnish driving record data
30 to state agencies and bona fide scientific research organizations.
31 The department may require review and approval by an institutional
32 review board. For the purposes of this subsection, "research" means a
33 planned and systematic sociological, psychological, epidemiological,
34 biomedical, or other scientific investigation carried out by a state
35 agency, or by a scientific research professional associated with a
36 bona fide scientific research organization with an objective to
37 contribute to scientific knowledge, the solution of social and health
38 problems, or the evaluation of public benefit and service programs.
39 This definition excludes methods of record analysis and data

1 collection that are subjective, do not permit replication, and are
2 not designed to yield reliable and valid results.

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

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

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

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

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

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

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

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

30 (vi) Transportation network companies, or their agents.

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

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

39 (i) Employers may divulge driving records to regulatory bodies,
40 as defined by the department by rule, such as the United States

1 department of transportation and the federal motor carrier safety
2 administration.

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

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

8 (5) **Fees.** (a) The director shall collect a \$15 fee for each
9 abstract of a person's driving record furnished by the department.
10 After depositing \$2 of the driver's abstract fee in the move ahead WA
11 flexible account created in RCW 46.68.520, the remainder shall be
12 distributed as follows:

13 (i) Fifty percent must be deposited in the highway safety fund;
14 and

15 (ii) Fifty percent must be deposited according to RCW 46.68.038.

16 (b) Beginning July 1, 2029, the director shall collect an
17 additional \$2 fee for each abstract of a person's driving record
18 furnished by the department. The \$2 additional driver's abstract fee
19 must be deposited in the move ahead WA flexible account created in
20 RCW 46.68.520.

21 (c) City attorneys and county prosecuting attorneys are exempt
22 from paying the fees specified in (a) and (b) of this subsection for
23 an abstract of a person's driving record furnished by the department
24 for use in criminal proceedings.

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

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

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

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