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**SUBSTITUTE SENATE BILL 5610**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Haugen, Delvin, Sheldon, Berkey, Jarrett, and Shin)

READ FIRST TIME 02/18/09.

1       AN ACT Relating to the release of driving record abstracts for  
2 employment purposes; and amending RCW 46.52.130.

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

4       **Sec. 1.** RCW 46.52.130 and 2008 c 253 s 1 are each amended to read  
5 as follows:

6       (1) A certified abstract of the driving record shall be furnished  
7 only to:

8       (a) The individual named in the abstract;

9       (b) An employer or prospective employer or an agent acting on  
10 behalf of an employer or prospective employer, or a volunteer  
11 organization for which the named individual has submitted an  
12 application for a position that could require the transportation of  
13 children under eighteen years of age, adults over sixty-five years of  
14 age, or persons with mental or physical disabilities;

15       (c) An employee or agent of a transit authority checking  
16 prospective volunteer vanpool drivers for insurance and risk management  
17 needs;

18       (d) The insurance carrier that has insurance in effect covering the  
19 employer or a prospective employer;

1 (e) The insurance carrier that has motor vehicle or life insurance  
2 in effect covering the named individual;

3 (f) The insurance carrier to which the named individual has  
4 applied;

5 (g) An alcohol/drug assessment or treatment agency approved by the  
6 department of social and health services, to which the named individual  
7 has applied or been assigned for evaluation or treatment;

8 (h) City and county prosecuting attorneys; (~~or~~)

9 (i) State colleges, universities, or agencies for employment and  
10 risk management purposes; or units of local government authorized to  
11 self-insure under RCW 48.62.031; or

12 (j) An employer or prospective employer or volunteer organization,  
13 or an agent acting on behalf of an employer or prospective employer or  
14 volunteer organization, for employment purposes.

15 (2) City attorneys and county prosecuting attorneys may provide the  
16 driving record to alcohol/drug assessment or treatment agencies  
17 approved by the department of social and health services to which the  
18 named individual has applied or been assigned for evaluation or  
19 treatment.

20 (3)(a) The director, upon proper request, shall furnish a certified  
21 abstract covering the period of not more than the last three years to  
22 insurance companies.

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

32 (4) Upon proper request, the director shall furnish a certified  
33 abstract covering a period of not more than the last five years to  
34 state approved alcohol/drug assessment or treatment agencies, except  
35 that the certified abstract shall also include records of alcohol-  
36 related offenses as defined in RCW 46.01.260(2) covering a period of  
37 not more than the last ten years.

1 (5) Upon proper request, a certified abstract of the full driving  
2 record maintained by the department shall be furnished to a city or  
3 county prosecuting attorney, to the individual named in the abstract,  
4 to an employer or prospective employer or an agent acting on behalf of  
5 an employer or prospective employer of the named individual, or to a  
6 volunteer organization for which the named individual has submitted an  
7 application for a position that could require the transportation of  
8 children under eighteen years of age, adults over sixty-five years of  
9 age, or persons with physical or mental disabilities, or to an employee  
10 or agent of a transit authority checking prospective volunteer vanpool  
11 drivers for insurance and risk management needs.

12 (6) The abstract, whenever possible, shall include:

13 (a) An enumeration of motor vehicle accidents in which the person  
14 was driving;

15 (b) The total number of vehicles involved;

16 (c) Whether the vehicles were legally parked or moving;

17 (d) Whether the vehicles were occupied at the time of the accident;

18 (e) Whether the accident resulted in any fatality;

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

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

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

26 (7) Certified abstracts furnished to prosecutors and alcohol/drug  
27 assessment or treatment agencies shall also indicate whether a recorded  
28 violation is an alcohol-related offense as defined in RCW 46.01.260(2)  
29 that was originally charged as one of the alcohol-related offenses  
30 designated in RCW 46.01.260(2)(b)(i).

31 (8) The abstract provided to the insurance company shall exclude  
32 any information, except that related to the commission of misdemeanors  
33 or felonies by the individual, pertaining to law enforcement officers  
34 or firefighters as defined in RCW 41.26.030, or any officer of the  
35 Washington state patrol, while driving official vehicles in the  
36 performance of occupational duty. The abstract provided to the  
37 insurance company shall include convictions for RCW 46.61.5249 and  
38 46.61.525 except that the abstract shall report them only as negligent

1 driving without reference to whether they are for first or second  
2 degree negligent driving. The abstract provided to the insurance  
3 company shall exclude any deferred prosecution under RCW 10.05.060,  
4 except that if a person is removed from a deferred prosecution under  
5 RCW 10.05.090, the abstract shall show the deferred prosecution as well  
6 as the removal.

7 (9) The director shall collect for each abstract the sum of ten  
8 dollars, fifty percent of which shall be deposited in the highway  
9 safety fund and fifty percent of which must be deposited according to  
10 RCW 46.68.038.

11 (10) Any insurance company or its agent receiving the certified  
12 abstract shall use it exclusively for its own underwriting purposes and  
13 shall not divulge any of the information contained in it to a third  
14 party. No policy of insurance may be canceled, nonrenewed, denied, or  
15 have the rate increased on the basis of such information unless the  
16 policyholder was determined to be at fault. No insurance company or  
17 its agent for underwriting purposes relating to the operation of  
18 commercial motor vehicles may use any information contained in the  
19 abstract relative to any person's operation of motor vehicles while not  
20 engaged in such employment, nor may any insurance company or its agent  
21 for underwriting purposes relating to the operation of noncommercial  
22 motor vehicles use any information contained in the abstract relative  
23 to any person's operation of commercial motor vehicles.

24 (11) Any employer or prospective employer or an agent acting on  
25 behalf of an employer or prospective employer, or a volunteer  
26 organization for which the named individual has submitted an  
27 application for a position that could require the transportation of  
28 children under eighteen years of age, adults over sixty-five years of  
29 age, or persons with physical or mental disabilities, receiving the  
30 certified abstract shall use it exclusively for his or her own purpose:  
31 (a) To determine whether the licensee should be permitted to operate a  
32 commercial vehicle or school bus, or operate a vehicle for a volunteer  
33 organization for purposes of transporting children under eighteen years  
34 of age, adults over sixty-five years of age, or persons with physical  
35 or mental disabilities, upon the public highways of this state; or (b)  
36 for employment purposes, and shall not divulge any information  
37 contained in it to a third party.

1 (12) Any employee or agent of a transit authority receiving a  
2 certified abstract for its vanpool program shall use it exclusively for  
3 determining whether the volunteer licensee meets those insurance and  
4 risk management requirements necessary to drive a vanpool vehicle. The  
5 transit authority may not divulge any information contained in the  
6 abstract to a third party.

7 (13) Any alcohol/drug assessment or treatment agency approved by  
8 the department of social and health services receiving the certified  
9 abstract shall use it exclusively for the purpose of assisting its  
10 employees in making a determination as to what level of treatment, if  
11 any, is appropriate. The agency, or any of its employees, shall not  
12 divulge any information contained in the abstract to a third party.

13 (14) Release of a certified abstract of the driving record of an  
14 employee, prospective employee, or prospective volunteer requires a  
15 statement signed by: (a) The employee, prospective employee, or  
16 prospective volunteer that authorizes the release of the record, and  
17 (b) the employer or volunteer organization attesting that the  
18 information is necessary: (i) To determine whether the licensee should  
19 be employed to operate a commercial vehicle or school bus, or operate  
20 a vehicle for a volunteer organization for purposes of transporting  
21 children under eighteen years of age, adults over sixty-five years of  
22 age, or persons with physical or mental disabilities, upon the public  
23 highways of this state; or (ii) for employment purposes. If the  
24 employer or prospective employer authorizes an agent to obtain this  
25 information on their behalf, this must be noted in the statement. This  
26 subsection does not apply to entities identified in subsection (1)(i)  
27 of this section.

28 (15) Any negligent violation of this section is a gross  
29 misdemeanor.

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

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