

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5610

Chapter 276, Laws of 2009

61st Legislature
2009 Regular Session

DRIVING RECORD ABSTRACTS--ACCESS TO EMPLOYERS

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 20, 2009
YEAS 42 NAYS 3

BRAD OWEN

President of the Senate

Passed by the House April 15, 2009
YEAS 97 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 29, 2009, 10:32 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5610** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 29, 2009

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5610

AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

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 and 46.01.260.

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; (~~(e)~~)

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 related to driving by
15 an individual as a condition of that individual's employment or
16 otherwise at the direction of the employer or organization.

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

28 (3) City attorneys and county prosecuting attorneys may provide the
29 driving record to alcohol/drug assessment or treatment agencies
30 approved by the department of social and health services to which the
31 named individual has applied or been assigned for evaluation or
32 treatment.

33 (~~(3)~~) (4)(a) The director, upon proper request, shall furnish a
34 certified abstract covering the period of not more than the last three
35 years to insurance companies.

36 (b) The director may enter into a contractual agreement with an
37 insurance company or its agent for the limited purpose of reviewing the
38 driving records of existing policyholders for changes to the record

1 during specified periods of time. The department shall establish a fee
2 for this service, which must be deposited in the highway safety fund.
3 The fee for this service must be set at a level that will not result in
4 a net revenue loss to the state. Any information provided under this
5 subsection must be treated in the same manner and subject to the same
6 restrictions as certified abstracts.

7 ~~((4))~~ (5) Upon proper request, the director shall furnish a
8 certified abstract covering a period of not more than the last five
9 years to state approved alcohol/drug assessment or treatment agencies,
10 except that the certified abstract shall also include records of
11 alcohol- related offenses as defined in RCW 46.01.260(2) covering a
12 period of not more than the last ten years.

13 ~~((5))~~ (6) Upon proper request, a certified abstract of the full
14 driving record maintained by the department shall be furnished to a
15 city or county prosecuting attorney, to the individual named in the
16 abstract, to an employer or prospective employer or an agent acting on
17 behalf of an employer or prospective employer of the named individual,
18 or to a volunteer organization for which the named individual has
19 submitted an application for a position that could require the
20 transportation of children under eighteen years of age, adults over
21 sixty-five years of age, or persons with physical or mental
22 disabilities, or to an employee or agent of a transit authority
23 checking prospective volunteer vanpool drivers for insurance and risk
24 management needs.

25 ~~((6))~~ (7) The abstract, whenever possible, shall include:

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

28 (b) The total number of vehicles involved;

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

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

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

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

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

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

1 (~~(7)~~) (8) Certified abstracts furnished to prosecutors and
2 alcohol/drug assessment or treatment agencies shall also indicate
3 whether a recorded violation is an alcohol-related offense as defined
4 in RCW 46.01.260(2) that was originally charged as one of the alcohol-
5 related offenses designated in RCW 46.01.260(2)(b)(i).

6 (~~(8)~~) (9) The abstract provided to the insurance company shall
7 exclude any information, except that related to the commission of
8 misdemeanors or felonies by the individual, pertaining to law
9 enforcement officers or firefighters as defined in RCW 41.26.030, or
10 any officer of the Washington state patrol, while driving official
11 vehicles in the performance of occupational duty. The abstract
12 provided to the insurance company shall include convictions for RCW
13 46.61.5249 and 46.61.525 except that the abstract shall report them
14 only as negligent driving without reference to whether they are for
15 first or second degree negligent driving. The abstract provided to the
16 insurance company shall exclude any deferred prosecution under RCW
17 10.05.060, except that if a person is removed from a deferred
18 prosecution under RCW 10.05.090, the abstract shall show the deferred
19 prosecution as well as the removal.

20 (~~(9)~~) (10) The director shall collect for each abstract the sum
21 of ten dollars, fifty percent of which shall be deposited in the
22 highway safety fund and fifty percent of which must be deposited
23 according to RCW 46.68.038.

24 (~~(10)~~) (11) Any insurance company or its agent receiving the
25 certified abstract shall use it exclusively for its own underwriting
26 purposes and shall not divulge any of the information contained in it
27 to a third party. No policy of insurance may be canceled, nonrenewed,
28 denied, or have the rate increased on the basis of such information
29 unless the policyholder was determined to be at fault. No insurance
30 company or its agent for underwriting purposes relating to the
31 operation of commercial motor vehicles may use any information
32 contained in the abstract relative to any person's operation of motor
33 vehicles while not engaged in such employment, nor may any insurance
34 company or its agent for underwriting purposes relating to the
35 operation of noncommercial motor vehicles use any information contained
36 in the abstract relative to any person's operation of commercial motor
37 vehicles.

1 ~~((11))~~ (12) Any employer or prospective employer or an agent
2 acting on behalf of an employer or prospective employer, or a volunteer
3 organization for which the named individual has submitted an
4 application for a position that could require the transportation of
5 children under eighteen years of age, adults over sixty-five years of
6 age, or persons with physical or mental disabilities, receiving the
7 certified abstract shall use it exclusively for his or her own purpose:
8 (a) To determine whether the licensee should be permitted to operate a
9 commercial vehicle or school bus, or operate a vehicle for a volunteer
10 organization for purposes of transporting children under eighteen years
11 of age, adults over sixty-five years of age, or persons with physical
12 or mental disabilities, upon the public highways of this state; or (b)
13 for employment purposes related to driving by an individual as a
14 condition of that individual's employment or otherwise at the direction
15 of the employer or organization, and shall not divulge any information
16 contained in it to a third party.

17 ~~((12))~~ (13) Any employee or agent of a transit authority
18 receiving a certified abstract for its vanpool program shall use it
19 exclusively for determining whether the volunteer licensee meets those
20 insurance and risk management requirements necessary to drive a vanpool
21 vehicle. The transit authority may not divulge any information
22 contained in the abstract to a third party.

23 ~~((13))~~ (14) Any alcohol/drug assessment or treatment agency
24 approved by the department of social and health services receiving the
25 certified abstract shall use it exclusively for the purpose of
26 assisting its employees in making a determination as to what level of
27 treatment, if any, is appropriate. The agency, or any of its
28 employees, shall not divulge any information contained in the abstract
29 to a third party.

30 ~~((14))~~ (15) Release of a certified abstract of the driving record
31 of an employee, prospective employee, or prospective volunteer requires
32 a statement signed by: (a) The employee, prospective employee, or
33 prospective volunteer that authorizes the release of the record, and
34 (b) the employer or volunteer organization attesting that the
35 information is necessary: (i) To determine whether the licensee should
36 be employed to operate a commercial vehicle or school bus, or operate
37 a vehicle for a volunteer organization for purposes of transporting
38 children under eighteen years of age, adults over sixty-five years of

1 age, or persons with physical or mental disabilities, upon the public
2 highways of this state; or (ii) for employment purposes related to
3 driving by an individual as a condition of that individual's employment
4 or otherwise at the direction of the employer or organization. If the
5 employer or prospective employer authorizes an agent to obtain this
6 information on their behalf, this must be noted in the statement. This
7 subsection does not apply to entities identified in subsection (1)(i)
8 of this section.

9 ~~((15))~~ (16) Any negligent violation of this section is a gross
10 misdemeanor.

11 ~~((16))~~ (17) Any intentional violation of this section is a class
12 C felony.

13 **Sec. 2.** RCW 46.01.260 and 1999 c 86 s 2 are each amended to read
14 as follows:

15 (1) Except as provided in subsection (2) of this section, the
16 director, in his or her discretion, may destroy applications for
17 vehicle licenses, copies of vehicle licenses issued, applications for
18 drivers' licenses, copies of issued drivers' licenses, certificates of
19 title and registration or other documents, records or supporting papers
20 on file in his or her office which have been microfilmed or
21 photographed or are more than five years old. If the applications for
22 vehicle licenses are renewal applications, the director may destroy
23 such applications when the computer record thereof has been updated.

24 (2)(a) The director shall not destroy records of convictions or
25 adjudications of RCW 46.61.502, 46.61.504, 46.61.520, and 46.61.522, or
26 records of deferred prosecutions granted under RCW 10.05.120 and shall
27 maintain such records permanently on file.

28 (b) The director shall not, within fifteen years from the date of
29 conviction or adjudication, destroy records ~~((of the following:~~

30 ~~(i) Convictions or adjudications of the following offenses: RCW~~
31 ~~46.61.502 or 46.61.504; or~~

32 ~~(ii))~~ if the offense was originally charged as one of the offenses
33 designated in (a) ~~((or (b)(i))~~ of this subsection, convictions or
34 adjudications of the following offenses: RCW 46.61.500 or 46.61.5249
35 or any other violation that was originally charged as one of the
36 offenses designated in (a) ~~((or (b)(i))~~ of this subsection.

1 (c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject
2 to this subsection shall be considered "alcohol-related" offenses.

Passed by the Senate April 20, 2009.

Passed by the House April 15, 2009.

Approved by the Governor April 29, 2009.

Filed in Office of Secretary of State April 29, 2009.