

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 5343

Chapter 43, Laws of 2017

65th Legislature
2017 Regular Session

TOW TRUCK OPERATORS--NOTICES AND RELEASE OF INFORMATION

EFFECTIVE DATE: 7/23/2017

Passed by the Senate March 3, 2017
Yeas 43 Nays 1

CYRUS HABIB

President of the Senate

Passed by the House April 5, 2017
Yeas 97 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 17, 2017 11:42 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5343** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 17, 2017

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5343

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By Senate Transportation (originally sponsored by Senators Warnick and Takko)

READ FIRST TIME 02/23/17.

1 AN ACT Relating to notice sent by and certain release of
2 information affecting registered tow truck operators; and amending
3 RCW 46.55.110 and 46.52.130.

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

5 **Sec. 1.** RCW 46.55.110 and 2002 c 279 s 11 are each amended to
6 read as follows:

7 (1) When an unauthorized vehicle is impounded, the impounding
8 towing operator shall notify the legal and registered owners of the
9 impoundment of the unauthorized vehicle and the owners of any other
10 items of personal property registered or titled with the department.
11 The notification shall be sent by first-class mail within twenty-four
12 hours after the impoundment to the last known registered and legal
13 owners of the vehicle, and the owners of any other items of personal
14 property registered or titled with the department, as provided by the
15 law enforcement agency, and shall inform the owners of the identity
16 of the person or agency authorizing the impound. The notification
17 shall include the name of the impounding tow firm, its address, and
18 telephone number. The notice shall also include the location, time of
19 the impound, and by whose authority the vehicle was impounded. The
20 notice shall also include the written notice of the right of

1 redemption and opportunity for a hearing to contest the validity of
2 the impoundment pursuant to RCW 46.55.120.

3 (2) In addition, if a suspended license impound has been ordered,
4 the notice must state the length of the impound, the requirement of
5 the posting of a security deposit to ensure payment of the costs of
6 removal, towing, and storage, notification that if the security
7 deposit is not posted the vehicle will immediately be processed and
8 sold at auction as an abandoned vehicle, and the requirements set out
9 in RCW 46.55.120(1)((~~b~~)) (c) regarding the payment of the costs of
10 removal, towing, and storage as well as providing proof of
11 satisfaction of any penalties, fines, or forfeitures before
12 redemption. The notice must also state that the registered owner is
13 ineligible to purchase the vehicle at the abandoned vehicle auction,
14 if held.

15 (3) In the case of an abandoned vehicle, or other item of
16 personal property registered or titled with the department, within
17 twenty-four hours after receiving information on the legal and
18 registered owners from the department through the abandoned vehicle
19 report, the tow truck operator shall send by ((~~certified~~)) first-
20 class mail((~~, with return receipt requested,~~)) a notice of custody
21 and sale to the legal and registered owners and of the penalties for
22 the traffic infraction littering—abandoned vehicle. The tow truck
23 operator shall obtain a certificate of mailing from the United States
24 postal service when notice is mailed.

25 (4) If the date on which a notice required by subsection (3) of
26 this section is to be mailed falls upon a Saturday, Sunday, or a
27 postal holiday, the notice may be mailed on the next day that is
28 neither a Saturday, Sunday, nor a postal holiday.

29 (5) No notices need be sent to the legal or registered owners of
30 an impounded vehicle or other item of personal property registered or
31 titled with the department, if the vehicle or personal property has
32 been redeemed.

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

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

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

1 (a) An enumeration of motor vehicle accidents in which the person
2 was driving, including:
3 (i) The total number of vehicles involved;
4 (ii) Whether the vehicles were legally parked or moving;
5 (iii) Whether the vehicles were occupied at the time of the
6 accident; and
7 (iv) Whether the accident resulted in a fatality;
8 (b) Any reported convictions, forfeitures of bail, or findings
9 that an infraction was committed based upon a violation of any motor
10 vehicle law;
11 (c) The status of the person's driving privilege in this state;
12 and
13 (d) Any reports of failure to appear in response to a traffic
14 citation or failure to respond to a notice of infraction served upon
15 the named individual by an arresting officer.

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

19 (a) **Named individuals.** (i) An abstract of the full driving record
20 maintained by the department may be furnished to the individual named
21 in the abstract.
22 (ii) Nothing in this section prevents a court from providing a
23 copy of the driver's abstract to the individual named in the abstract
24 or that named individual's attorney, provided that the named
25 individual has a pending or open infraction or criminal case in that
26 court. A pending case includes criminal cases that have not reached a
27 disposition by plea, stipulation, trial, or amended charge. An open
28 infraction or criminal case includes cases on probation, payment
29 agreement or subject to, or in collections. Courts may charge a
30 reasonable fee for the production and copying of the abstract for the
31 individual.

32 (b) **Employers or prospective employers.** (i)(A) An abstract of the
33 full driving record maintained by the department may be furnished to
34 an employer or prospective employer or an agent acting on behalf of
35 an employer or prospective employer of the named individual for
36 purposes related to driving by the individual as a condition of
37 employment or otherwise at the direction of the employer.
38 (B) Release of an abstract of the driving record of an employee
39 or prospective employee requires a statement signed by: (I) The
40 employee or prospective employee that authorizes the release of the

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

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

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

32 (ii) In addition to the methods described in (b)(i) of this
33 subsection, the director may enter into a contractual agreement with
34 an employer or its agent for the purpose of reviewing the driving
35 records of existing employees for changes to the record during
36 specified periods of time. The department shall establish a fee for
37 this service, which must be deposited in the highway safety fund. The
38 fee for this service must be set at a level that will not result in a
39 net revenue loss to the state. Any information provided under this

1 subsection must be treated in the same manner and is subject to the
2 same restrictions as driving record abstracts.

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

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

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

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

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

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

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

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

31 (A) Not contain any information related to actions committed by
32 law enforcement officers or firefighters, as both terms are defined
33 in RCW 41.26.030, or by Washington state patrol officers, while
34 driving official vehicles in the performance of their occupational
35 duty, or by registered tow truck operators as defined in RCW
36 46.55.010 in the performance of their occupational duties while at
37 the scene of a roadside impound or recovery so long as they are not
38 issued a citation. This does not apply to any situation where the
39 vehicle was used in the commission of a misdemeanor or felony;

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

5 (C) Exclude any deferred prosecution under RCW 10.05.060, except
6 that if a person is removed from a deferred prosecution under RCW
7 10.05.090, the abstract must show the deferred prosecution as well as
8 the removal.

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

13 (iv) Any insurance company or its agent, for underwriting
14 purposes relating to the operation of commercial motor vehicles, may
15 not use any information contained in the abstract relative to any
16 person's operation of motor vehicles while not engaged in such
17 employment. Any insurance company or its agent, for underwriting
18 purposes relating to the operation of noncommercial motor vehicles,
19 may not use any information contained in the abstract relative to any
20 person's operation of commercial motor vehicles.

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

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

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

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

6 (g) **Attorneys—City attorneys, county prosecuting attorneys, and**
7 **named individual's attorney of record.** An abstract of the full
8 driving record maintained by the department, including whether a
9 recorded violation is an alcohol-related offense, as defined in RCW
10 46.01.260(2), that was originally charged as a violation of either
11 RCW 46.61.502 or 46.61.504, may be furnished to city attorneys,
12 county prosecuting attorneys, or the named individual's attorney of
13 record. City attorneys, county prosecuting attorneys, or the named
14 individual's attorney of record may provide the driving record to
15 alcohol/drug assessment or treatment agencies approved by the
16 department of social and health services to which the named
17 individual has applied or been assigned for evaluation or treatment.

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

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

31 (3) **Release to third parties prohibited.** Any person or entity
32 receiving an abstract of a person's driving record under subsection
33 (2)(b) through (i) 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 (4) **Fee.** The director shall collect a thirteen dollar fee for
38 each abstract of a person's driving record furnished by the
39 department. Fifty percent of the fee must be deposited in the highway

1 safety fund, and fifty percent of the fee must be deposited according
2 to RCW 46.68.038.

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

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

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

Passed by the Senate March 3, 2017.

Passed by the House April 5, 2017.

Approved by the Governor April 17, 2017.

Filed in Office of Secretary of State April 17, 2017.

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