

HOUSE BILL REPORT

HB 2446

As Reported by House Committee On: Transportation

Title: An act relating to limiting the disclosure of personal information held by the department of licensing.

Brief Description: Limiting the disclosure of personal information held by the department of licensing.

Sponsors: Representatives Ryu, Frame, Kloba, Sells, Valdez, Santos, Ortiz-Self and Wylie.

Brief History:

Committee Activity:

Transportation: 1/30/20, 2/10/20 [DPS].

Brief Summary of Substitute Bill

- Prohibits the release of personal information by the Department of Licensing (DOL) in response to a request to be used primarily for civil immigration purposes, or for criminal immigration enforcement purposes for a violation of federal law for improper entry by any person who is not a United States citizen or national or reentry of any removed person who is not a United States citizen or national.
- Establishes an exception to the release of personal information by the DOL for the reasons listed above when a court order has been issued under the authority of a judicial branch of government.
- Limits the sharing of results from the facial recognition matching system used by the DOL either to when it has been authorized by a court order for a violation of driver's license fraud or associated offenses, or when the DOL has determined that a person has committed driver's license fraud or any associated offenses and this determination has been confirmed by a hearings examiner.

HOUSE COMMITTEE ON TRANSPORTATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Chapman, Doglio, Duerr, Entenman, Gregerson, Kloba, Lovick, Mead, Ortiz-Self, Paul, Ramos, Riccelli and Shewmake.

Minority Report: Do not pass. Signed by 13 members: Representatives Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke, Chambers, Dent, Eslick, Goehner, Irwin, McCaslin, Orcutt, Van Werven and Volz.

Staff: Jennifer Harris (786-7143).

Background:

Personal Information Disclosure.

State and federal law specify when, to whom, and for what purpose the Department of Licensing (DOL) may release personal information obtained through vehicle or vessel registration or during the driver's license application or renewal process.

In the context of information held by the DOL in vehicle and vessel records, "personal information" is defined as information that identifies an individual, including an individual's photograph, Social Security number, driver identification number, name, address (excluding five-digit zip code), telephone number, or medical or disability information. An individual's photograph, Social Security number, and any medical or disability-related information is considered highly restricted personal information.

For personal information associated with vehicle or vessel registration, information disclosure is permitted under state law (excluding highly restricted personal information), for limited purposes, to the following recipients: vehicle or vessel manufacturers and the manufacturers of vehicle components; government agencies of the United States or Canada, or any political subdivision of either country; insurance or insurance support organizations; commercial parking companies; an authorized agent or contractor of the DOL; any business regularly making loans to finance the purchase of motor vehicles or vessels; and companies operating toll facilities.

Government agencies of the United States or Canada, or any political subdivision of either country, may only use registration information for the enforcement of motor vehicle or traffic laws or programs related to traffic safety, or for laws governing vessels, vessel operation, or vessel safety programs. Local government entities may also use registration information to provide notice to owners of towed and impounded vehicles. Law enforcement entities may use registration information to locate the owner or otherwise address a hazard created by a vessel. Any government agency may use the names and addresses of registered owners to notify them of outstanding parking violations.

The DOL is required under state law to disclose the mailing addresses and residence addresses of the registered owner of a motor vehicle or vessel in response to requests for

disclosure from courts, law enforcement agencies, or government entities with enforcement, investigative, or taxing authority, for use in the normal course of conducting their business.

The DOL is permitted under state law to disclose all photographs taken by the DOL as part of the driver's license or identicard application or renewal process to official government enforcement agencies to assist in investigations of suspected criminal activity or for the purpose of verifying identity when a law enforcement officer is authorized to request identification from an individual.

The DOL maintains a case record on every motor vehicle driver that includes information on each driver and that shows all convictions and findings of traffic infractions certified by the courts, including each accident reported that relates to a driver and that includes a statement of the accident's cause and whether or not the accident resulted in a fatality. These records may be used by the DOL, Washington State Patrol, Washington Traffic Safety Commission, and police officers.

Facial Recognition Matching System Information.

State law restricts the manner in which the DOL may use and share information from its facial recognition matching system. The DOL may only use this system to verify the identity of an applicant for or holder of a driver's license, permit, or identicard to determine whether the person has been issued a driver's license, permit, or identicard under a different name or names.

Results from the facial recognition matching system may only be disclosed:

- when authorized by a court order;
- to a federal government agency, if specifically required under federal law; and
- to a government agency, including a court or law enforcement agency, to carry out its functions in conjunction with a finding that a person has committed driver's license fraud or any associated offenses.

Summary of Substitute Bill:

Personal Information Disclosure.

Subject to the exception below, the DOL may not release personal information in response to a request submitted to be used primarily for civil immigration purposes or criminal immigration enforcement purposes for a violation of 8 U.S.C. Sec. 1325 (improper entry by any person who is not a United States citizen or national), 8 U.S.C. Sec. 1326 (reentry of any removed person who is not a United States citizen or national), or any successors to these provisions.

The DOL is authorized to release personal information to be used for civil immigration purposes or for the criminal immigration enforcement purposes noted above in response to a court order issued by a federal judge or magistrate serving in the judicial branch of the federal government or by a state judge or magistrate serving in a judicial branch of federal or

state government. The DOL is not authorized to release personal information for these purposes in response to a subpoena, summons, warrant, or other order or request issued by an executive branch agency unless ordered by a judge or magistrate serving in a judicial branch of federal or state government.

This restriction on the release of personal information does not apply to the retrieval of information by entities granted permission to access driver record or vehicle or vessel license plate data through an electronic interface.

Facial Recognition Matching System Information.

Results from the facial recognition matching system may only be disclosed:

- when authorized by a court order for a violation of driver's license fraud or any associated offenses; or
- to a government agency, including a court or law enforcement agency, to carry out its functions once the DOL has determined that a person has committed driver's license fraud or any associated offenses and this determination has been confirmed by a hearings examiner (or the person declined a hearing or did not attend a scheduled hearing).

Results from the facial recognition matching system may no longer be disclosed when authorized by a court order for suspected violations other than for driver's license fraud or any associated offenses. State law no longer directs that facial recognition matching system results must be disclosed to a federal government agency when required under federal law.

Substitute Bill Compared to Original Bill:

The substitute bill makes a technical correction to a subsection reference to make it consistent with language in the bill that establishes when facial recognition matching system information may be disclosed.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In July 2019 there were headlines in the news about how federal agencies have turned state driver's license facial recognition databases into a facial recognition goldmine, scanning through millions of individuals' photos without their knowledge or consent. The Legislature has worked hard to protect the privacy and security of data in the DOL's system. This is a good time to codify the work done in this area to have more confidence in current

best practices. The DOL has recently completed an independent assessment of its use of facial recognition technology.

(Opposed) The problem is not what this bill intends to do, but how it is doing it. The DOL already does not provide personal information to federal immigration authorities. Local law enforcement has made the DOL's current rules workable. But the bill regulates the purpose for which information is given to an agency. Law enforcement agencies will always have to ask for permission to query the system. The Keep Washington Working Act has already enacted specific rules around state and local agencies taking action for civil immigration enforcement. Rather than remaining in its current form, the bill should be drafted to prohibit the sharing of information with federal immigration authorities.

Persons Testifying: (In support) Representative Ryu, prime sponsor.

(Opposed) James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: None.