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SENATE BILL 5246

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State of Washington                      62nd Legislature                      2011 Regular Session

By Senators Chase, Harper, White, and Nelson

Read first time 01/19/11. Referred to Committee on Transportation.

1            AN ACT Relating to employer review of abstracts of driving records;  
2 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 2010 c 253 s 1 are each amended to read  
5 as follows:

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

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

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

12            (i) The total number of vehicles involved;

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

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

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

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

1 (c) The status of the person's driving privilege in this state; and  
2 (d) Any reports of failure to appear in response to a traffic  
3 citation or failure to respond to a notice of infraction served upon  
4 the named individual by an arresting officer.

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

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

11 (ii) Nothing in this section prevents a court from providing a copy  
12 of the driver's abstract to the individual named in the abstract,  
13 provided that the named individual has a pending or open infraction or  
14 criminal case in that court. A pending case includes criminal cases  
15 that have not reached a disposition by plea, stipulation, trial, or  
16 amended charge. An open infraction or criminal case includes cases on  
17 probation, payment agreement or subject to, or in collections. Courts  
18 may charge a reasonable fee for the production and copying of the  
19 abstract for the individual.

20 (b) **Employers or prospective employers.** (i) (A) An abstract of the  
21 full driving record maintained by the department may be furnished to an  
22 employer or prospective employer or an agent acting on behalf of an  
23 employer or prospective employer of the named individual for purposes  
24 related to driving by the individual as a condition of employment or  
25 otherwise at the direction of the employer.

26 ~~((+ii))~~ (B) Release of an abstract of the driving record of an  
27 employee or prospective employee requires a statement signed by:  
28 ~~((+A))~~ (I) The employee or prospective employee that authorizes the  
29 release of the record; and ~~((+B))~~ (II) the employer attesting that the  
30 information is necessary for employment purposes related to driving by  
31 the individual as a condition of employment or otherwise at the  
32 direction of the employer. If the employer or prospective employer  
33 authorizes an agent to obtain this information on their behalf, this  
34 must be noted in the statement.

35 ~~((+iii))~~ (C) Upon request of the person named in the abstract  
36 provided under this subsection, and upon that same person furnishing  
37 copies of court records ruling that the person was not at fault in a

1 motor vehicle accident, the department must indicate on any abstract  
2 provided under this subsection that the person was not at fault in the  
3 motor vehicle accident.

4 (ii) In addition to the methods described in (b)(i) of this  
5 subsection, the director may enter into a contractual agreement with an  
6 employer or its agent for the purpose of reviewing the driving records  
7 of existing employees for changes to the record during specified  
8 periods of time. The department shall establish a fee for this  
9 service, which must be deposited in the highway safety fund. The fee  
10 for this service must be set at a level that will not result in a net  
11 revenue loss to the state. Any information provided under this  
12 subsection must be treated in the same manner and is subject to the  
13 same restrictions as driving record abstracts.

14 (c) **Volunteer organizations.** (i) An abstract of the full driving  
15 record maintained by the department may be furnished to a volunteer  
16 organization or an agent for a volunteer organization for which the  
17 named individual has submitted an application for a position that would  
18 require driving by the individual at the direction of the volunteer  
19 organization.

20 (ii) Release of an abstract of the driving record of a prospective  
21 volunteer requires a statement signed by: (A) The prospective  
22 volunteer that authorizes the release of the record; and (B) the  
23 volunteer organization attesting that the information is necessary for  
24 purposes related to driving by the individual at the direction of the  
25 volunteer organization. If the volunteer organization authorizes an  
26 agent to obtain this information on their behalf, this must be noted in  
27 the statement.

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

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

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

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

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

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

4 (A) Not contain any information related to actions committed by law  
5 enforcement officers or firefighters, as both terms are defined in RCW  
6 41.26.030, or by Washington state patrol officers, while driving  
7 official vehicles in the performance of their occupational duty. This  
8 does not apply to any situation where the vehicle was used in the  
9 commission of a misdemeanor or felony;

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

14 (C) Exclude any deferred prosecution under RCW 10.05.060, except  
15 that if a person is removed from a deferred prosecution under RCW  
16 10.05.090, the abstract must show the deferred prosecution as well as  
17 the removal.

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

22 (iv) Any insurance company or its agent, for underwriting purposes  
23 relating to the operation of commercial motor vehicles, may not use any  
24 information contained in the abstract relative to any person's  
25 operation of motor vehicles while not engaged in such employment. Any  
26 insurance company or its agent, for underwriting purposes relating to  
27 the operation of noncommercial motor vehicles, may not use any  
28 information contained in the abstract relative to any person's  
29 operation of commercial motor vehicles.

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

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

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

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

14 (g) **City attorneys and county prosecuting attorneys.** An abstract  
15 of the full driving record maintained by the department, including  
16 whether a recorded violation is an alcohol-related offense, as defined  
17 in RCW 46.01.260(2), that was originally charged as a violation of  
18 either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys  
19 or county prosecuting attorneys. City attorneys and county prosecuting  
20 attorneys may provide the driving record to alcohol/drug assessment or  
21 treatment agencies approved by the department of social and health  
22 services to which the named individual has applied or been assigned for  
23 evaluation or treatment.

24 (h) **State colleges, universities, or agencies, or units of local  
25 government.** An abstract of the full driving record maintained by the  
26 department may be furnished to (i) state colleges, universities, or  
27 agencies for employment and risk management purposes or (ii) units of  
28 local government authorized to self-insure under RCW 48.62.031 for  
29 employment and risk management purposes.

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

37 (3) **Release to third parties prohibited.** Any person or entity  
38 receiving an abstract of a person's driving record under subsection

1 (2)(b) through (i) of this section shall use the abstract exclusively  
2 for his, her, or its own purposes or as otherwise expressly permitted  
3 under this section, and shall not divulge any information contained in  
4 the abstract to a third party.

5 (4) **Fee.** The director shall collect a ten-dollar fee for each  
6 abstract of a person's driving record furnished by the department.  
7 Fifty percent of the fee must be deposited in the highway safety fund,  
8 and fifty percent of the fee must be deposited according to RCW  
9 46.68.038.

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

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

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