

2 SHB 1183 - S COMM AMD

3 By Committee on Law & Justice

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5 On page 3, beginning on line 26, strike all of section 2 and insert
6 the following:

7 "NEW SECTION. **Sec. 2.** The purpose of sections 3 through 15 of
8 this act is:

9 (1) To provide safety for all persons using the highways of this
10 state by quickly suspending or revoking the driving privilege of those
11 persons who have shown themselves to be safety hazards by driving with
12 an excessive concentration of alcohol in their bodies; and

13 (2) To guard against the potential for any erroneous deprivation of
14 the driving privilege by providing an opportunity for administrative
15 review prior to the effective date of the suspension or revocation."

16 "NEW SECTION. **Sec. 3.** A new section is added to chapter 46.04 RCW
17 to read as follows:

18 "Alcohol concentration" means (1) the grams of alcohol per two
19 hundred ten liters of a person's breath, or (2) the percent by weight
20 of alcohol in a person's blood.

21 "Test" means the test of a person's breath for alcohol
22 concentration by infrared test method consisting of the person
23 insufflating deep lung air samples at least twice into the instrument
24 sufficient to allow two separate measurements. There must be
25 sufficient time between the provision of each sample by the person to
26 permit the instrument to measure each sample individually. The two
27 breath samples supplied by the individual shall constitute one test.

1 An accurate test is presumed if the results of each measurement is
2 within plus or minus ten percent of the average of the two
3 measurements."

4 "Sec. 4. RCW 46.04.580 and 1990 c 250 s 22 are each amended to
5 read as follows:

6 "Suspend," in all its forms, means invalidation for any period less
7 than one calendar year and thereafter until reinstatement. However,
8 under RCW 46.61.515 and section 6 of this act the invalidation may last
9 for more than one calendar year."

10 "Sec. 5. RCW 46.20.308 and 1989 c 337 s 8 are each amended to read
11 as follows:

12 (1) Any person who operates a motor vehicle within this state is
13 deemed to have given consent, subject to the provisions of RCW
14 46.61.506, to a test or tests of his or her breath or blood for the
15 purpose of determining the alcoholic content of his or her breath or
16 blood if arrested for any offense where, at the time of the arrest, the
17 arresting officer has reasonable grounds to believe the person had been
18 driving or was in actual physical control of a motor vehicle while
19 under the influence of intoxicating liquor.

20 (2) The test or tests of breath shall be administered at the
21 direction of a law enforcement officer having reasonable grounds to
22 believe the person to have been driving or in actual physical control
23 of a motor vehicle within this state while under the influence of
24 intoxicating liquor. However, in those instances where: ~~((a))~~ The
25 person is incapable due to physical injury, physical incapacity, or
26 other physical limitation, of providing a breath sample; or ~~((b) as a~~
27 ~~result of a traffic accident))~~ the person is being treated for a
28 medical condition in a hospital, clinic, doctor's office, or other

1 similar facility in which a breath testing instrument is not present,
2 a blood test shall be administered by a qualified person as provided in
3 RCW 46.61.506(4). The officer shall inform the person of his or her
4 right to refuse the breath or blood test, and of his or her right to
5 have additional tests administered by any qualified person of his or
6 her choosing as provided in RCW 46.61.506. The officer shall warn the
7 driver that (a) his or her privilege to drive will be revoked or denied
8 if he or she refuses to submit to the test, (~~and~~) (b) that his or her
9 privilege to drive will be suspended, revoked, or denied if the test is
10 administered and the test indicates the alcohol concentration of the
11 person's breath or blood meets or exceeds the limits set forth in RCW
12 46.61.502 (1) and (2), and (c) that his or her refusal to take the test
13 may be used in a criminal trial.

14 (3) Except as provided in this section, the test administered shall
15 be of the breath only. If an individual is unconscious or is under
16 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
17 or vehicular assault as provided in RCW 46.61.522, or if an individual
18 is under arrest for the crime of driving while under the influence of
19 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest
20 results from an accident in which another person has been injured and
21 there is a reasonable likelihood that such other person may die as a
22 result of injuries sustained in the accident, a breath or blood test
23 may be administered without the consent of the individual so arrested.

24 (4) Any person who is dead, unconscious, or who is otherwise in a
25 condition rendering him or her incapable of refusal, shall be deemed
26 not to have withdrawn the consent provided by subsection (1) of this
27 section and the test or tests may be administered, subject to the
28 provisions of RCW 46.61.506, and the person shall be deemed to have
29 received the warnings required under subsection (2) of this section.

1 (5) If, following his or her arrest and receipt of warnings under
2 subsection (2) of this section, the person arrested refuses upon the
3 request of a law enforcement officer to submit to a test or tests of
4 his or her breath or blood, no test shall be given except as authorized
5 under subsection (3) or (4) of this section.

6 (6) If, after arrest and after the other applicable conditions and
7 requirements of this section have been satisfied, a test or tests of
8 the person's blood or breath is administered and the test results
9 indicate that the alcohol concentration of the person's breath or blood
10 is 0.10 or more, or the person refuses to submit to a test, the
11 arresting officer or other law enforcement officer at whose direction
12 any test has been given, or the department if the arrest is the result
13 of a blood test, shall:

14 (a) Serve notice in writing on the person on behalf of the
15 department of its intention to suspend, revoke, or deny the person's
16 license, permit, or privilege to drive as required by subsection (7) of
17 this section;

18 (b) Serve notice in writing on the person on behalf of the
19 department of his or her right to a hearing, specifying the steps he or
20 she must take to obtain a hearing. Within ten days after the notice
21 has been given, the person may, in writing, request a formal hearing as
22 provided by subsection (8) of this section. If such request is made by
23 mail it must be postmarked within ten days after the notice has been
24 given;

25 (c) Confiscate the person's Washington state license or permit to
26 drive, if any;

27 (d) Issue a temporary license to be effective twelve hours after
28 the time of arrest and valid for forty-five days from the date of
29 arrest or until the suspension, revocation, or denial of the person's
30 license, permit, or privilege to drive is sustained at a hearing

1 pursuant to subsection (8) of this section, whichever occurs first. No
2 temporary license is valid to any greater degree than the license or
3 permit that it replaces;

4 (e) Immediately notify the department of licensing of the arrest
5 and transmit to the department of licensing any confiscated license or
6 permit and a sworn report that states:

7 (i) That the officer had reasonable grounds to believe the arrested
8 person had been driving or was in actual physical control of a motor
9 vehicle within this state while under the influence of intoxicating
10 liquor or drugs, or both;

11 (ii) That after receipt of the warnings required by subsection (2)
12 of this section the person refused to submit to a test of his or her
13 blood or breath, or a test was administered and the results indicated
14 that the alcohol concentration of the person's breath or blood was 0.10
15 or more; and

16 (iii) Any other information that the director may require by rule
17 or regulation.

18 (7) The department of licensing, upon the receipt of a sworn report
19 of the law enforcement officer that the officer had reasonable grounds
20 to believe the arrested person had been driving or was in actual
21 physical control of a motor vehicle within this state while under the
22 influence of intoxicating liquor and that (a) the person had refused to
23 submit to the test or tests upon the request of the law enforcement
24 officer after being informed that refusal would result in the
25 revocation of the person's privilege to drive, or (b) a test was
26 administered and the results indicated that the alcohol concentration
27 of the person's breath or blood was 0.10 or more, shall suspend,
28 revoke, or deny the person's license or permit to drive or any
29 nonresident operating privilege, such suspension, revocation, or denial
30 to be effective forty-five days from the date of arrest or when

1 sustained at a hearing pursuant to subsection (8) of this section,
2 whichever occurs first.

3 ~~((7) Upon revoking the license or permit to drive or the~~
4 ~~nonresident operating privilege of any person, the department shall~~
5 ~~immediately notify the person involved in writing by personal service~~
6 ~~or by certified mail of its decision and the grounds therefor, and of~~
7 ~~the person's right to a hearing, specifying the steps he or she must~~
8 ~~take to obtain a hearing. Within fifteen days after the notice has~~
9 ~~been given, the person may, in writing, request a formal hearing.))~~

10 (8) Upon timely receipt of ((such)) a request for a formal hearing,
11 the department shall afford the person an opportunity for a hearing as
12 provided in RCW 46.20.329 and 46.20.332. The hearing shall be
13 conducted in the county of the arrest, except that all or part of the
14 hearing may, at the discretion of the department, be conducted by
15 telephone or other electronic means. For the purposes of this section,
16 the scope of ~~((such))~~ the hearing shall cover the issues of whether a
17 law enforcement officer had reasonable grounds to believe the person
18 had been driving or was in actual physical control of a motor vehicle
19 within this state while under the influence of intoxicating liquor,
20 whether the person was placed under arrest, and whether (a) the person
21 refused to submit to the test or tests upon request of the officer
22 after having been informed that such refusal would result in the
23 revocation of the person's privilege to drive or, (b) if a test was
24 administered, whether the applicable requirements of this section were
25 satisfied before the administration of the test or tests, whether the
26 person submitted to the test or tests, or whether a test was
27 administered without express consent as permitted under this section,
28 and whether the test or tests indicated that the alcohol concentration
29 of the person's breath or blood was 0.10 or more. The sworn report
30 submitted by a law enforcement officer shall be prima facie evidence

1 that the officer had reasonable grounds to believe the person had been
2 driving or was in actual physical control of a motor vehicle within
3 this state while under the influence of intoxicating liquor, that the
4 officer complied with the requirements of this section, and that the
5 testing instrument was in proper working condition. ((The department
6 shall order that the revocation either be rescinded or sustained. Any
7 decision by the department revoking a person's driving privilege shall
8 be stayed and shall not take effect while a formal hearing is pending
9 as provided in this section or during the pendency of a subsequent
10 appeal to superior court so long as there is no conviction for a moving
11 violation or no finding that the person has committed a traffic
12 infraction that is a moving violation during pendency of the hearing
13 and appeal.

14 ~~(8))~~ (9) Failure of the person to request a hearing within the
15 time limit established by subsection (6) of this section, or failure to
16 attend or participate in such a hearing, constitutes a default and
17 results in the loss of that person's right to a hearing.

18 (10) If the suspension, revocation, or denial is sustained after
19 such a hearing, the person whose license, privilege, or permit is
20 suspended, revoked, or denied has the right to file a petition in the
21 superior court of the county of arrest to review the final order of
22 suspension, revocation, or denial by the department in the manner
23 provided in RCW 46.20.334. The filing of the appeal does not stay the
24 effective date of the suspension, revocation, or denial. A petition
25 filed under this subsection must include the petitioner's grounds for
26 requesting review. Upon granting petitioner's request for review, the
27 court shall review the department's final order of suspension,
28 revocation, or denial as expeditiously as possible. If judicial relief
29 is sought for a stay or other temporary remedy from the department's

1 action, the court shall not grant such relief unless the court finds
2 that:

3 (a) The petitioner is likely to prevail when the court finally
4 disposes of the matter;

5 (b) Without relief the petitioner will suffer irreparable injury;
6 and

7 (c) The threat to the safety of persons on the public highways is
8 not sufficiently serious to justify the department's action in the
9 circumstances.

10 ~~((9))~~ (11) When it has been finally determined under the
11 procedures of this section that a nonresident's privilege to operate a
12 motor vehicle in this state has been suspended, revoked, or denied the
13 department shall give information in writing of the action taken to the
14 motor vehicle administrator of the state of the person's residence and
15 of any state in which he or she has a license."

16 "NEW SECTION. Sec. 6. A new section is added to chapter 46.20 RCW
17 to read as follows:

18 (1) Pursuant to RCW 46.20.308, the department shall suspend,
19 revoke, or deny the arrested person's license, permit to drive, driving
20 privilege, or any nonresident privilege as follows:

21 (a) In the case of a person who has refused a test or tests:

22 (i) For a first refusal within five years preceding the date of
23 refusal, revocation or denial for one year;

24 (ii) For a second or subsequent refusal within five years preceding
25 the date of refusal, revocation or denial for two years.

26 (b) In the case of an incident where a person has submitted to or
27 been administered a test or tests indicating that the alcohol
28 concentration of the person's breath or blood was 0.10 or more:

1 (i) For a first incident within five years, where there has been no
2 previous conviction of RCW 46.61.502 or 46.61.504 within the five-year
3 period preceding the current incident, suspension, or denial until the
4 person reaches age nineteen or for ninety days, whichever is longer;

5 (ii) For a second incident within five years, revocation or denial
6 for one year. A previous conviction under RCW 46.61.502 or 46.61.504
7 within the five-year period preceding the current incident, that did
8 not result in a suspension or denial under this subsection, shall be
9 considered a previous incident for purposes of this subsection;

10 (iii) For a third or subsequent incident within five years,
11 revocation or denial for two years. Previous convictions under RCW
12 46.61.502, 46.61.504, 46.61.520, or 46.61.522 within the five-year
13 period preceding the current incident, that did not result in a
14 suspension, revocation, or denial under this subsection, shall be
15 considered previous incidents for purposes of this subsection.

16 (2) A diagnostic evaluation and treatment recommendation shall be
17 prepared by an alcoholism agency approved by the department of social
18 and health services or a qualified probation department approved by the
19 department of social and health services. A copy of the report shall
20 be forwarded to the department of licensing. The department shall not
21 grant or reinstate a person's privilege to drive that has been
22 suspended, revoked, or denied under subsection (1) of this section
23 until it has determined the person's eligibility for licensing based
24 upon the report provided by an approved alcoholism agency or probation
25 department and shall deny reinstatement until enrollment and
26 participation in an approved program has been established and the
27 person is otherwise qualified."

28 "Sec. 7. RCW 46.20.311 and 1990 c 250 s 45 are each amended to
29 read as follows:

1 (1) The department shall not suspend a driver's license or
2 privilege to drive a motor vehicle on the public highways for a fixed
3 period of more than one year, except as permitted under RCW 46.20.342
4 or 46.61.515. Whenever the license or driving privilege of any person
5 is suspended by reason of a conviction, a finding that a traffic
6 infraction has been committed, pursuant to chapter 46.29 RCW, or
7 pursuant to RCW 46.20.291, the suspension shall remain in effect until
8 the person gives and thereafter maintains proof of financial
9 responsibility for the future as provided in chapter 46.29 RCW. The
10 department shall not issue to the person a new, duplicate, or renewal
11 license until the person pays a reissue fee of twenty dollars. If the
12 suspension is the result of a violation of RCW 46.61.502 or 46.61.504,
13 the reissue fee shall be (~~fifty~~) one hundred dollars.

14 (2) Any person whose license or privilege to drive a motor vehicle
15 on the public highways has been revoked, unless the revocation was for
16 a cause which has been removed, is not entitled to have the license or
17 privilege renewed or restored until: (a) After the expiration of one
18 year from the date the license or privilege to drive was revoked; (b)
19 after the expiration of the applicable revocation period provided by
20 RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for
21 persons convicted of vehicular homicide; (d) after the expiration of
22 one year in cases of revocation for the first refusal within five years
23 to submit to a chemical test under RCW 46.20.308; (e) after the
24 expiration of two years in cases of revocation for the second refusal
25 within five years to submit to a chemical test under RCW 46.20.308; or
26 (f) after the expiration of the applicable revocation period provided
27 by RCW 46.20.265. After the expiration of the appropriate period, the
28 person may make application for a new license as provided by law
29 together with a reissue fee in the amount of twenty dollars, but if the
30 revocation is the result of a violation of RCW 46.20.308, 46.61.502, or

1 46.61.504, the reissue fee shall be (~~fifty~~) one hundred dollars.
2 Except for a revocation under RCW 46.20.265, the department shall not
3 then issue a new license unless it is satisfied after investigation of
4 the driving ability of the person that it will be safe to grant the
5 privilege of driving a motor vehicle on the public highways, and until
6 the person gives and thereafter maintains proof of financial
7 responsibility for the future as provided in chapter 46.29 RCW. For a
8 revocation under RCW 46.20.265, the department shall not issue a new
9 license unless it is satisfied after investigation of the driving
10 ability of the person that it will be safe to grant that person the
11 privilege of driving a motor vehicle on the public highways.

12 (3) Whenever the driver's license of any person is suspended
13 pursuant to Article IV of the nonresident violators compact or RCW
14 46.23.020, the department shall not issue to the person any new or
15 renewal license until the person pays a reissue fee of twenty dollars.
16 If the suspension is the result of a violation of the laws of another
17 state, province, or other jurisdiction involving (a) the operation or
18 physical control of a motor vehicle upon the public highways while
19 under the influence of intoxicating liquor or drugs, or (b) the refusal
20 to submit to a chemical test or tests of the driver's breath or blood
21 alcohol content, the reissue fee shall be (~~fifty~~) one hundred
22 dollars."

23 "**Sec. 8.** RCW 46.20.311 and 1992 c ... s 7 (section 7 of this act)
24 are each amended to read as follows:

25 (1) The department shall not suspend a driver's license or
26 privilege to drive a motor vehicle on the public highways for a fixed
27 period of more than one year, except as permitted under RCW 46.20.342
28 (~~or~~), 46.61.515, or section 6 of this act. Except for a suspension
29 under section 6(1)(b)(i) of this act, whenever the license or driving

1 privilege of any person is suspended by reason of a conviction, a
2 finding that a traffic infraction has been committed, pursuant to
3 chapter 46.29 RCW, or pursuant to RCW 46.20.291 (~~or 46.20.308~~), the
4 suspension shall remain in effect until the person gives and thereafter
5 maintains proof of financial responsibility for the future as provided
6 in chapter 46.29 RCW. The department shall not issue to the person a
7 new, duplicate, or renewal license until the person pays a reissue fee
8 of twenty dollars. If the suspension is the result of a violation of
9 RCW 46.61.502 or 46.61.504 or was imposed under RCW 46.20.308, the
10 reissue fee shall be one hundred dollars. If the suspension was
11 imposed under section 6(1)(b)(i) of this act, the suspension shall
12 remain in effect and the department shall not issue any new, duplicate,
13 or renewal license until the person pays a reinstatement fee of one
14 hundred dollars.

15 (2) Any person whose license or privilege to drive a motor vehicle
16 on the public highways has been revoked, unless the revocation was for
17 a cause which has been removed, is not entitled to have the license or
18 privilege renewed or restored until: (a) After the expiration of one
19 year from the date the license or privilege to drive was revoked; (b)
20 after the expiration of the applicable revocation period provided by
21 RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for
22 persons convicted of vehicular homicide; (d) after the expiration of
23 (~~one year in cases of revocation for the first refusal within five~~
24 ~~years to submit to a chemical test under RCW 46.20.308; (e) after the~~
25 ~~expiration of two years in cases of revocation for the second refusal~~
26 ~~within five years to submit to a chemical test under RCW 46.20.308; or~~
27 ~~(f))~~) the applicable revocation period provided by section 6 of this
28 act; or (e) after the expiration of the applicable revocation period
29 provided by RCW 46.20.265. After the expiration of the appropriate
30 period, the person may make application for a new license as provided

1 by law together with a reissue fee in the amount of twenty dollars, but
2 if the revocation is the result of a violation of RCW 46.20.308,
3 46.61.502, or 46.61.504 or was imposed under RCW 46.20.308, the reissue
4 fee shall be one hundred dollars. Except for a revocation under RCW
5 46.20.265, the department shall not then issue a new license unless it
6 is satisfied after investigation of the driving ability of the person
7 that it will be safe to grant the privilege of driving a motor vehicle
8 on the public highways, and until the person gives and thereafter
9 maintains proof of financial responsibility for the future as provided
10 in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the
11 department shall not issue a new license unless it is satisfied after
12 investigation of the driving ability of the person that it will be safe
13 to grant that person the privilege of driving a motor vehicle on the
14 public highways.

15 (3) Whenever the driver's license of any person is suspended
16 pursuant to Article IV of the nonresident violators compact or RCW
17 46.23.020, the department shall not issue to the person any new or
18 renewal license until the person pays a reissue fee of twenty dollars.
19 If the suspension is the result of a violation of the laws of another
20 state, province, or other jurisdiction involving (a) the operation or
21 physical control of a motor vehicle upon the public highways while
22 under the influence of intoxicating liquor or drugs, or (b) the refusal
23 to submit to a chemical test or tests of the driver's breath or blood
24 alcohol content, the reissue fee shall be one hundred dollars."

25 "Sec. 9. RCW 46.20.391 and 1985 c 407 s 5 are each amended to read
26 as follows:

27 (1) Any person licensed under this chapter whose driving privilege
28 has been suspended under section 6(1)(b)(i) of this act or who is
29 convicted of an offense relating to motor vehicles for which suspension

1 or revocation of the driver's license is mandatory, other than
2 vehicular homicide or vehicular assault, may submit to the department
3 an application for an occupational driver's license. The department,
4 upon receipt of the prescribed fee and upon determining that the
5 petitioner is engaged in an occupation or trade that makes it essential
6 that the petitioner operate a motor vehicle, may issue an occupational
7 driver's license and may set definite restrictions as provided in RCW
8 46.20.394. No person may petition for, and the department shall not
9 issue, an occupational driver's license that is effective during the
10 first thirty days of any suspension or revocation imposed under RCW
11 46.61.515 or section 6(1)(b)(i) of this act. A person aggrieved by the
12 decision of the department on the application for an occupational
13 driver's license may request a hearing as provided by rule of the
14 department.

15 (2) An applicant for an occupational driver's license is eligible
16 to receive such license only if:

17 (a) Within one year immediately preceding the present conviction or
18 administrative action, the applicant has not been convicted of any
19 offense relating to motor vehicles for which suspension or revocation
20 of a driver's license is mandatory; and

21 (b) Within five years immediately preceding the present conviction
22 or administrative action, the applicant has not been convicted of
23 driving or being in actual physical control of a motor vehicle while
24 under the influence of intoxicating liquor under RCW 46.61.502 or
25 46.61.504, of vehicular homicide under RCW 46.61.520, or of vehicular
26 assault under RCW 46.61.522, or had a license administratively
27 suspended or revoked under section 6(1)(b)(i) of this act; and

28 (c) The applicant is engaged in an occupation or trade that makes
29 it essential that he or she operate a motor vehicle; and

1 (d) The applicant files satisfactory proof of financial
2 responsibility pursuant to chapter 46.29 RCW, unless the suspension was
3 imposed under section 6(1)(b)(i) of this act.

4 (3) The director shall cancel an occupational driver's license upon
5 receipt of notice that the holder thereof has had a driver's license
6 administratively suspended or revoked under RCW 46.20.308 or has been
7 convicted of operating a motor vehicle in violation of its
8 restrictions, or of an offense that pursuant to chapter 46.20 RCW would
9 warrant suspension or revocation of a regular driver's license. The
10 cancellation is effective as of the date of the conviction, and
11 continues with the same force and effect as any suspension or
12 revocation under this title."

13 "NEW SECTION. Sec. 10. A new section is added to chapter 46.20
14 RCW to read as follows:

15 (1) Any person licensed under this chapter or any nonresident
16 granted the privilege of driving a motor vehicle on the highways of
17 this state, whose driver's license or driving privilege has been
18 suspended or revoked, other than for vehicular homicide, vehicular
19 assault, or under section 6(1)(a) of this act, or for a physical or
20 mental disability that would affect that person's ability to operate a
21 motor vehicle with safety upon the highways, may submit to the
22 department an application for a provisional driver's license for
23 purposes of participation in an alcohol or drug abuse treatment program
24 approved by the department of social and health services. The
25 department, upon receipt of the fee prescribed by this section and upon
26 determining that the applicant is engaged in a treatment program
27 approved by the department of social and health services that makes it
28 essential that the applicant operate a motor vehicle, may issue a
29 provisional driver's license. No person may petition for, and the

1 department shall not issue, a provisional driver's license that is
2 effective during the first thirty days of any suspension or revocation
3 imposed under RCW 46.61.515 or section 6 of this act.

4 (2) An applicant for a provisional driver's license is eligible to
5 receive such license only if:

6 (a) The applicant is engaged in a program of treatment that makes
7 it essential that he or she operate a motor vehicle; and

8 (b) The applicant files satisfactory proof of financial
9 responsibility pursuant to chapter 46.29 RCW, unless the suspension was
10 imposed under section 6(1)(b)(i) of this act; and

11 (c) The applicant pays to the department a treatment assessment fee
12 of twenty-five dollars, such fee to be deposited in a special sober or
13 suspended account, within the department of social and health services,
14 to be administered by the division of alcohol and substance abuse, to
15 be used to pay the cost of the diagnostic evaluation or assessment
16 required under section 6(2) of this act for indigent or low-income
17 individuals.

18 (3) In issuing a provisional driver's license under this section,
19 the department shall set forth in detail the specific hours of the day
20 during which the person may drive to and from his or her place of
21 treatment; the days of the week during which the license may be used;
22 the general routes over which the person may travel; and the expiration
23 date of the license, such date to correspond to the ending date of any
24 suspension or revocation of the person's driver's license or driving
25 privilege, or the date the person's treatment program is to be
26 concluded, whichever occurs first. These restrictions shall be
27 prepared in written form by the department, such document to be carried
28 in the vehicle at all times and presented to a law enforcement officer
29 under the same terms as the provisional driver's license. Any

1 violation of the restrictions constitutes a violation of RCW 46.20.342
2 and subjects the person to all procedures and penalties therefor.

3 (4) The department shall cancel a provisional driver's license upon
4 receipt of notice that the holder thereof has been convicted of
5 operating a motor vehicle in violation of its restrictions, or of an
6 offense that pursuant to this chapter would warrant suspension or
7 revocation of a regular driver's license, or upon the recommendation of
8 a treatment agency for nonparticipation in a treatment program. The
9 cancellation is effective as of the date of the conviction, or the date
10 a recommendation is accepted from a treatment agency, and continues
11 with the same force and effect as any suspension or revocation under
12 this title."

13 "Sec. 11. RCW 46.61.515 and 1985 c 352 s 1 are each amended to
14 read as follows:

15 (1) Every person who is convicted of a violation of RCW 46.61.502
16 or 46.61.504 shall be punished by imprisonment for not less than
17 twenty-four consecutive hours nor more than one year, and by a fine of
18 not less than two hundred fifty dollars and not more than one thousand
19 dollars. Unless the judge finds the person to be indigent, two hundred
20 fifty dollars of the fine shall not be suspended or deferred. Twenty-
21 four consecutive hours of the jail sentence shall not be suspended or
22 deferred unless the judge finds that the imposition of the jail
23 sentence will pose a risk to the defendant's physical or mental well-
24 being. Whenever the mandatory jail sentence is suspended or deferred,
25 the judge must state, in writing, the reason for granting the
26 suspension or deferral and the facts upon which the suspension or
27 deferral is based. The court may impose conditions of probation that
28 may include nonrepetition, alcohol or drug treatment, supervised
29 probation, or other conditions that may be appropriate. The convicted

1 person shall, in addition, be required to complete a course in an
2 alcohol information school approved by the department of social and
3 health services or more intensive treatment in a program approved by
4 the department of social and health services, as determined by the
5 court. A diagnostic evaluation and treatment recommendation shall be
6 prepared under the direction of the court by an alcoholism agency
7 approved by the department of social and health services or a qualified
8 probation department approved by the department of social and health
9 services. A copy of the report shall be forwarded to the department of
10 licensing. Based on the diagnostic evaluation, the court shall
11 determine whether the convicted person shall be required to complete a
12 course in an alcohol information school approved by the department of
13 social and health services or more intensive treatment in a program
14 approved by the department of social and health services. Standards
15 for approval for alcohol treatment programs shall be prescribed by rule
16 under the administrative procedure act, chapter 34.05 RCW. The courts
17 shall periodically review the costs of alcohol information schools and
18 treatment programs within their jurisdictions.

19 (2) On a second or subsequent conviction for driving or being in
20 physical control of a motor vehicle while under the influence of
21 intoxicating liquor or drugs within a five-year period a person shall
22 be punished by imprisonment for not less than seven days nor more than
23 one year and by a fine of not less than five hundred dollars and not
24 more than two thousand dollars. District courts and courts organized
25 under chapter 35.20 RCW are authorized to impose such fine. Unless the
26 judge finds the person to be indigent, five hundred dollars of the fine
27 shall not be suspended or deferred. The jail sentence shall not be
28 suspended or deferred unless the judge finds that the imposition of the
29 jail sentence will pose a risk to the defendant's physical or mental
30 well-being. Whenever the mandatory jail sentence is suspended or

1 deferred, the judge must state, in writing, the reason for granting the
2 suspension or deferral and the facts upon which the suspension or
3 deferral is based. If, at the time of a second or subsequent
4 conviction, the driver is without a license or permit because of a
5 previous suspension or revocation, the minimum mandatory sentence shall
6 be ninety days in jail and a two hundred dollar fine. The penalty so
7 imposed shall not be suspended or deferred. The person shall, in
8 addition, be required to complete a diagnostic evaluation by an
9 alcoholism agency approved by the department of social and health
10 services or a qualified probation department approved by the department
11 of social and health services. The report shall be forwarded to the
12 department of licensing. If the person is found to have an alcohol or
13 drug problem requiring treatment, the person shall complete treatment
14 at an approved alcoholism treatment ((facility)) program or approved
15 drug treatment center.

16 In addition to any nonsuspendable and nondeferrable jail sentence
17 required by this subsection, the court shall sentence a person to a
18 term of imprisonment not exceeding one hundred eighty days and shall
19 suspend but shall not defer the sentence for a period not exceeding two
20 years. The suspension of the sentence may be conditioned upon
21 nonrepetition, alcohol or drug treatment, supervised probation, or
22 other conditions that may be appropriate. The sentence may be imposed
23 in whole or in part upon violation of a condition of suspension during
24 the suspension period.

25 (3) The license or permit to drive or any nonresident privilege of
26 any person convicted of driving or being in physical control of a motor
27 vehicle while under the influence of intoxicating liquor or drugs
28 shall:

29 (a) On the first conviction under either offense, where there has
30 been no previous suspension or denial imposed under section 6(1)(b) of

1 this act for the incident upon which the conviction is based, or where
2 there has been no previous incident resulting in a suspension,
3 revocation, or denial under section 6(1)(b) of this act within the
4 five-year period preceding the current conviction, be suspended by the
5 department until the person reaches age nineteen or for ninety days,
6 whichever is longer. The department of licensing shall determine the
7 person's eligibility for licensing based upon the reports provided by
8 the designated alcoholism agency, drug treatment center, or probation
9 department and shall deny reinstatement until enrollment and
10 participation in an approved program has been established and the
11 person is otherwise qualified;

12 (b) On a second conviction under either offense within a five-year
13 period, where there has been no previous revocation or denial imposed
14 under section 6(1)(b) of this act for the incident upon which the
15 conviction is based, be revoked by the department for one year. A
16 previous incident resulting in a suspension, revocation, or denial
17 under section 6(1)(b) of this act within the five-year period preceding
18 the current conviction shall be considered a previous conviction for
19 purposes of this subsection. The department of licensing shall
20 determine the person's eligibility for licensing based upon the reports
21 provided by the designated alcoholism agency, drug treatment center, or
22 probation department and shall deny reinstatement until satisfactory
23 progress in an approved program has been established and the person is
24 otherwise qualified;

25 (c) On a third or subsequent conviction of driving or being in
26 physical control of a motor vehicle while under the influence of
27 intoxicating liquor or drugs, vehicular homicide, or vehicular assault,
28 or any combination thereof within a five-year period, where there has
29 been no previous revocation or denial imposed under section 6(1)(b) of
30 this act for the incident upon which the conviction is based, be

1 revoked by the department for two years. Previous incidents resulting
2 in suspension, revocation, or denial under section 6(1)(b) of this act
3 within the five-year period preceding the current conviction shall be
4 considered previous convictions for purposes of this subsection.

5 (4) In any case provided for in this section, where a driver's
6 license is to be revoked or suspended, the revocation or suspension
7 shall be stayed and shall not take effect until after the determination
8 of any appeal from the conviction which may lawfully be taken, but in
9 case the conviction is sustained on appeal the revocation or suspension
10 takes effect as of the date that the conviction becomes effective for
11 other purposes.

12 (5) For purposes of determining punishment under subsection (2) or
13 (3) of this section, a prior conviction for negligent driving in the
14 first degree shall be treated the same as a prior conviction for
15 driving or being in physical control of a motor vehicle while under the
16 influence of intoxicating liquor or drugs."

17 "Sec. 12. RCW 46.68.060 and 1969 c 99 s 11 are each amended to
18 read as follows:

19 (1) There is hereby created in the state treasury a fund to be
20 known as the highway safety fund to the credit of which shall be
21 deposited all moneys directed by law to be deposited therein. This
22 fund shall be used for carrying out the provisions of law relating to
23 driver licensing, driver improvement, financial responsibility, cost of
24 furnishing abstracts of driving records ~~((and))~~, maintaining ~~((such))~~
25 the case records~~((, and))~~ necessary to carry out the purposes set forth
26 in RCW 43.59.010, and as otherwise provided in subsection (2) of this
27 section.

28 (2) The sum of ten dollars shall be paid from the highway safety
29 fund to law enforcement agencies for each reissue fee collected under

1 RCW 46.20.311 due to a suspension or revocation arising from an arrest
2 under RCW 46.61.502 or 46.61.504 as reimbursement for the required
3 administrative procedures."

4 "NEW SECTION. Sec. 13. The traffic safety commission shall
5 undertake a study of the effectiveness of sections 3 through 12 of this
6 act and shall report its finding to the governor and the appropriate
7 legislative committees within thirty months of the effective date of
8 this section."

9 "NEW SECTION. Sec. 14. If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected."

13 "NEW SECTION. Sec. 15. The department may adopt rules necessary
14 to carry out this act."

15 "NEW SECTION. Sec. 16. Section 7 of this act is necessary for
16 the immediate preservation of the public peace, health, or safety, or
17 support of the state government and its existing public institutions,
18 and shall take effect immediately. The remainder of this act shall
19 take effect on July 1, 1992. The director of licensing may immediately
20 take such steps as are necessary to insure that all sections of this
21 act are implemented on their respective effective dates."

1 **SHB 1183** - S COMM AMD
2 By Committee on Law & Justice

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4 On page 1, line 1 of the title, after "violations;" strike the
5 remainder of the title and insert "amending RCW 46.61.525, 46.04.580,
6 46.20.308, 46.20.311, 46.20.311, 46.20.391, 46.61.515, and 46.68.060;
7 adding a new section to chapter 46.04 RCW; adding new sections to
8 chapter 46.20 RCW; creating new sections; prescribing penalties;
9 providing an effective date; and declaring an emergency."