

1 5341-S AAS 3/17/93

2 SSB 5341 - S AMD - 000364
3 By Senator A. Smith

4 ADOPTED 3/17/93

5 On page 2, line 1, after "shall" insert "immediately"

6 On page 2, at the beginning of line 3, strike "vehicle
7 registrations" and insert "vehicle registration"

8 SSB 5341 - S AMD - 000364
9 By Senator A. Smith

10 ADOPTED 3/17/93

11 On page 4, line 10, after "secured party" strike all material
12 through "omission" on line 12

13 SSB 5341 - S AMD - 000366
14 By Senator Nelson

15 ADOPTED 3/17/93

16 On page 4, after line 12, insert the following:

17 "**Sec. 2.** RCW 46.20.285 and 1990 c 250 s 43 are each amended to
18 read as follows:

19 The department shall forthwith revoke the license of any driver for
20 the period of one calendar year unless otherwise provided in this
21 section, upon receiving a record of the driver's conviction of any of
22 the following offenses, when the conviction has become final:

23 (1) For vehicular homicide the period of revocation shall be two
24 years;

25 (2) Vehicular assault;

26 (3) Driving a motor vehicle while under the influence of
27 intoxicating liquor or a narcotic drug, or under the influence of any
28 other drug to a degree which renders the driver incapable of safely
29 driving a motor vehicle, upon a showing by the department's records
30 that the conviction is the second such conviction for the driver within
31 a period of five years. Upon a showing that the conviction is the

1 third such conviction for the driver within a period of five years, the
2 period of revocation shall be two years;

3 (4) Any felony in the commission of which a motor vehicle is used;

4 (5) Failure to stop and give information or render aid as required
5 under the laws of this state in the event of a motor vehicle accident
6 resulting in the death or personal injury of another or resulting in
7 damage to a vehicle that is driven or attended by another;

8 (6) Perjury or the making of a false affidavit or statement under
9 oath to the department under Title 46 RCW or under any other law
10 relating to the ownership or operation of motor vehicles;

11 (7) Reckless driving upon a showing by the department's records
12 that the conviction is the third such conviction for the driver within
13 a period of two years;

14 (8) A felony violation of chapter 69.50 RCW. Upon a showing that
15 the conviction is the second such conviction within a period of five
16 years, the period of revocation shall be two years."

17 Renumber the remaining sections consecutively and correct any
18 internal references accordingly.

19 **SSB 5341** - S AMD - 000366
20 By Senator Nelson

21 ADOPTED 3/17/93

22 On page 1, line 2 of the title, after "drugs;" insert "amending RCW
23 46.20.285;"

24 **SSB 5341** - S AMD - 000324
25 By Senator Nelson

26 SCOPE RAISED BY SEN. TALMADGE - 3/15/93; RULED WITHIN SCOPE 3/16/93
27 ADOPTED W/AMENDMENT #000365 - 3/17/93 - Roll Call Vote 28-20
28

29 On page 4, after line 12, insert the following:

30 "NEW SECTION. **Sec. 2.** The purpose of sections 2 through 16 of
31 this act is:

32 (1) To provide safety for all persons using the highways of this
33 state by quickly suspending or revoking the driving privilege of those

1 persons who have shown themselves to be safety hazards by driving with
2 an excessive concentration of alcohol in their bodies; and

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

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.04 RCW
7 to read as follows:

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

11 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.04 RCW
12 to read as follows:

13 "Test" means the test of a person's breath for alcohol
14 concentration by infrared test method consisting of the person
15 insufflating deep lung air samples at least twice into the instrument
16 sufficient to allow two separate measurements. There must be
17 sufficient time between the provision of each sample by the person to
18 permit the instrument to measure each sample individually. The two
19 breath samples supplied by the individual shall constitute one test.
20 An accurate test is presumed if the results of each measurement is
21 within plus or minus ten percent of the average of the two
22 measurements.

23 **Sec. 5.** RCW 46.04.580 and 1990 c 250 s 22 are each amended to read
24 as follows:

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

29 **Sec. 6.** RCW 46.20.308 and 1989 c 337 s 8 are each amended to read
30 as follows:

31 (1) Any person who operates a motor vehicle within this state is
32 deemed to have given consent, subject to the provisions of RCW
33 46.61.506, to a test or tests of his or her breath or blood for the
34 purpose of determining the alcoholic content of his or her breath or
35 blood if arrested for any offense where, at the time of the arrest, the

1 arresting officer has reasonable grounds to believe the person had been
2 driving or was in actual physical control of a motor vehicle while
3 under the influence of intoxicating liquor.

4 (2) The test or tests of breath shall be administered at the
5 direction of a law enforcement officer having reasonable grounds to
6 believe the person to have been driving or in actual physical control
7 of a motor vehicle within this state while under the influence of
8 intoxicating liquor. However, in those instances where: ~~((a))~~ The
9 person is incapable due to physical injury, physical incapacity, or
10 other physical limitation, of providing a breath sample; or ~~((b) as a
11 result of a traffic accident))~~ the person is being treated for a
12 medical condition in a hospital, clinic, doctor's office, or other
13 similar facility in which a breath testing instrument is not present,
14 a blood test shall be administered by a qualified person as provided in
15 RCW 46.61.506(4). The officer shall inform the person of his or her
16 right to refuse the breath or blood test, and of his or her right to
17 have additional tests administered by any qualified person of his or
18 her choosing as provided in RCW 46.61.506. The officer shall warn the
19 driver that (a) his or her privilege to drive will be revoked or denied
20 if he or she refuses to submit to the test, ~~((and))~~ (b) ~~((that))~~ his or
21 her privilege to drive will be suspended, revoked, or denied if the
22 test is administered and the test indicates the alcohol concentration
23 of the person's breath or blood meets or exceeds the limits set forth
24 in RCW 46.61.502 (1) and (2), and (c) his or her refusal to take the
25 test may be used in a criminal trial.

26 (3) Except as provided in this section, the test administered shall
27 be of the breath only. If an individual is unconscious or is under
28 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
29 or vehicular assault as provided in RCW 46.61.522, or if an individual
30 is under arrest for the crime of driving while under the influence of
31 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest
32 results from an accident in which another person has been injured and
33 there is a reasonable likelihood that such other person may die as a
34 result of injuries sustained in the accident, a breath or blood test
35 may be administered without the consent of the individual so arrested.

36 (4) Any person who is dead, unconscious, or who is otherwise in a
37 condition rendering him or her incapable of refusal, shall be deemed
38 not to have withdrawn the consent provided by subsection (1) of this
39 section and the test or tests may be administered, subject to the

1 provisions of RCW 46.61.506, and the person shall be deemed to have
2 received the warnings required under subsection (2) of this section.

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

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

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

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

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

29 (d) Issue a temporary license to be effective twelve hours after
30 the time of arrest and valid for forty-five days from the date of
31 arrest or until the suspension, revocation, or denial of the person's
32 license, permit, or privilege to drive is sustained at a hearing
33 pursuant to subsection (8) of this section, whichever occurs first. No
34 temporary license is valid to any greater degree than the license or
35 permit that it replaces;

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

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

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

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

12 (7) The department of licensing, upon the receipt of a sworn report
13 of the law enforcement officer that the officer had reasonable grounds
14 to believe the arrested person had been driving or was in actual
15 physical control of a motor vehicle within this state while under the
16 influence of intoxicating liquor and that (a) the person had refused to
17 submit to the test or tests upon the request of the law enforcement
18 officer after being informed that refusal would result in the
19 revocation of the person's privilege to drive, or (b) a test was
20 administered and the results indicated that the alcohol concentration
21 of the person's breath or blood was 0.10 or more, shall suspend,
22 revoke, or deny the person's license or permit to drive or any
23 nonresident operating privilege, such suspension, revocation, or denial
24 to be effective forty-five days from the date of arrest or when
25 sustained at a hearing pursuant to subsection (8) of this section,
26 whichever occurs first.

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

34 (8) Upon timely receipt of ((such)) a request for a formal hearing,
35 the department shall afford the person an opportunity for a hearing as
36 provided in RCW 46.20.329 and 46.20.332. The hearing shall be
37 conducted in the county of the arrest, except that all or part of the
38 hearing may, at the discretion of the department, be conducted by
39 telephone or other electronic means. For the purposes of this section,

1 the scope of (~~such~~) the hearing shall cover the issues of whether a
2 law enforcement officer had reasonable grounds to believe the person
3 had been driving or was in actual physical control of a motor vehicle
4 within this state while under the influence of intoxicating liquor,
5 whether the person was placed under arrest, and whether (a) the person
6 refused to submit to the test or tests upon request of the officer
7 after having been informed that such refusal would result in the
8 revocation of the person's privilege to drive or, (b) if a test was
9 administered, whether the applicable requirements of this section were
10 satisfied before the administration of the test or tests, whether the
11 person submitted to the test or tests, or whether a test was
12 administered without express consent as permitted under this section,
13 and whether the test or tests indicated that the alcohol concentration
14 of the person's breath or blood was 0.10 or more. The sworn report
15 submitted by a law enforcement officer shall be prima facie evidence
16 that the officer had reasonable grounds to believe the person had been
17 driving or was in actual physical control of a motor vehicle within
18 this state while under the influence of intoxicating liquor, that the
19 officer complied with the requirements of this section, and that the
20 testing instrument was in proper working condition. (~~The department~~
21 shall order that the revocation either be rescinded or sustained. Any
22 decision by the department revoking a person's driving privilege shall
23 be stayed and shall not take effect while a formal hearing is pending
24 as provided in this section or during the pendency of a subsequent
25 appeal to superior court so long as there is no conviction for a moving
26 violation or no finding that the person has committed a traffic
27 infraction that is a moving violation during pendency of the hearing
28 and appeal.

29 (~~8~~) (9) Failure of the person to request a hearing within the
30 time limit established by subsection (6) of this section, or failure to
31 attend or participate in such a hearing, constitutes a default and
32 results in the loss of that person's right to a hearing.

33 (10) If the suspension, revocation, or denial is sustained after
34 such a hearing, the person whose license, privilege, or permit is
35 suspended, revoked, or denied has the right to file a petition in the
36 superior court of the county of arrest to review the final order of
37 suspension, revocation, or denial by the department in the manner
38 provided in RCW 46.20.334. The filing of the appeal does not stay the
39 effective date of the suspension, revocation, or denial. A petition

1 filed under this subsection must include the petitioner's grounds for
2 requesting review. Upon granting petitioner's request for review, the
3 court shall review the department's final order of suspension,
4 revocation, or denial as expeditiously as possible. If judicial relief
5 is sought for a stay or other temporary remedy from the department's
6 action, the court shall not grant such relief unless the court finds
7 that:

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

10 (b) Without relief the petitioner will suffer irreparable injury;
11 and

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

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

21 NEW SECTION. Sec. 7. A new section is added to chapter 46.20 RCW
22 to read as follows:

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

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

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

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

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

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

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

6 (iii) For a third or subsequent incident within five years,
7 revocation or denial for two years. Previous convictions under RCW
8 46.61.502, 46.61.504, 46.61.520, or 46.61.522 within the five-year
9 period preceding the current incident, that did not result in a
10 suspension, revocation, or denial under this subsection, shall be
11 considered previous incidents for purposes of this subsection.

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

24 **Sec. 8.** RCW 46.20.311 and 1990 c 250 s 45 are each amended to read
25 as follows:

26 (1) The department shall not suspend a driver's license or
27 privilege to drive a motor vehicle on the public highways for a fixed
28 period of more than one year, except as permitted under RCW 46.20.342
29 or 46.61.515. Whenever the license or driving privilege of any person
30 is suspended by reason of a conviction, a finding that a traffic
31 infraction has been committed, pursuant to chapter 46.29 RCW, or
32 pursuant to RCW 46.20.291, the suspension shall remain in effect until
33 the person gives and thereafter maintains proof of financial
34 responsibility for the future as provided in chapter 46.29 RCW. The
35 department shall not issue to the person a new, duplicate, or renewal
36 license until the person pays a reissue fee of twenty dollars. If the
37 suspension is the result of a violation of RCW 46.61.502 or 46.61.504,
38 the reissue fee shall be (~~fifty~~) one hundred dollars.

1 (2) Any person whose license or privilege to drive a motor vehicle
2 on the public highways has been revoked, unless the revocation was for
3 a cause which has been removed, is not entitled to have the license or
4 privilege renewed or restored until: (a) After the expiration of one
5 year from the date the license or privilege to drive was revoked; (b)
6 after the expiration of the applicable revocation period provided by
7 RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for
8 persons convicted of vehicular homicide; (d) after the expiration of
9 one year in cases of revocation for the first refusal within five years
10 to submit to a chemical test under RCW 46.20.308; (e) after the
11 expiration of two years in cases of revocation for the second refusal
12 within five years to submit to a chemical test under RCW 46.20.308; or
13 (f) after the expiration of the applicable revocation period provided
14 by RCW 46.20.265. After the expiration of the appropriate period, the
15 person may make application for a new license as provided by law
16 together with a reissue fee in the amount of twenty dollars, but if the
17 revocation is the result of a violation of RCW 46.20.308, 46.61.502, or
18 46.61.504, the reissue fee shall be (~~fifty~~) one hundred dollars.
19 Except for a revocation under RCW 46.20.265, the department shall not
20 then issue a new license unless it is satisfied after investigation of
21 the driving ability of the person that it will be safe to grant the
22 privilege of driving a motor vehicle on the public highways, and until
23 the person gives and thereafter maintains proof of financial
24 responsibility for the future as provided in chapter 46.29 RCW. For a
25 revocation under RCW 46.20.265, the department shall not issue a new
26 license unless it is satisfied after investigation of the driving
27 ability of the person that it will be safe to grant that person the
28 privilege of driving a motor vehicle on the public highways.

29 (3) Whenever the driver's license of any person is suspended
30 pursuant to Article IV of the nonresident violators compact or RCW
31 46.23.020, the department shall not issue to the person any new or
32 renewal license until the person pays a reissue fee of twenty dollars.
33 If the suspension is the result of a violation of the laws of another
34 state, province, or other jurisdiction involving (a) the operation or
35 physical control of a motor vehicle upon the public highways while
36 under the influence of intoxicating liquor or drugs, or (b) the refusal
37 to submit to a chemical test or tests of the driver's breath or blood
38 alcohol content, the reissue fee shall be (~~fifty~~) one hundred
39 dollars.

1 **Sec. 9.** RCW 46.20.311 and 1993 c ... s 8 (section 8 of this act)
2 are each amended to read as follows:

3 (1) The department shall not suspend a driver's license or
4 privilege to drive a motor vehicle on the public highways for a fixed
5 period of more than one year, except as permitted under RCW 46.20.342
6 ~~((or))~~, 46.61.515, or section 7 of this act. Except for a suspension
7 under section 7(1)(b)(i) of this act, whenever the license or driving
8 privilege of any person is suspended by reason of a conviction, a
9 finding that a traffic infraction has been committed, pursuant to
10 chapter 46.29 RCW, or pursuant to RCW 46.20.291 ~~((or 46.20.308))~~, the
11 suspension shall remain in effect until the person gives and thereafter
12 maintains proof of financial responsibility for the future as provided
13 in chapter 46.29 RCW. The department shall not issue to the person a
14 new, duplicate, or renewal license until the person pays a reissue fee
15 of twenty dollars. If the suspension is the result of a violation of
16 RCW 46.61.502 or 46.61.504 or was imposed under RCW 46.20.308, the
17 reissue fee shall be one hundred dollars. If the suspension was
18 imposed under section 7(1)(b)(i) of this act, the suspension shall
19 remain in effect and the department shall not issue any new, duplicate,
20 or renewal license until the person pays a reinstatement fee of one
21 hundred dollars.

22 (2) Any person whose license or privilege to drive a motor vehicle
23 on the public highways has been revoked, unless the revocation was for
24 a cause which has been removed, is not entitled to have the license or
25 privilege renewed or restored until: (a) After the expiration of one
26 year from the date the license or privilege to drive was revoked; (b)
27 after the expiration of the applicable revocation period provided by
28 RCW 46.61.515(3) (b) or (c); (c) after the expiration of two years for
29 persons convicted of vehicular homicide; (d) after the expiration of
30 ~~((one year in cases of revocation for the first refusal within five~~
31 ~~years to submit to a chemical test under RCW 46.20.308; (e) after the~~
32 ~~expiration of two years in cases of revocation for the second refusal~~
33 ~~within five years to submit to a chemical test under RCW 46.20.308; or~~
34 ~~(f))~~ the applicable revocation period provided by section 7 of this
35 act; or (e) after the expiration of the applicable revocation period
36 provided by RCW 46.20.265. After the expiration of the appropriate
37 period, the person may make application for a new license as provided
38 by law together with a reissue fee in the amount of twenty dollars, but
39 if the revocation is the result of a violation of RCW 46.20.308,

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

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

23 **Sec. 10.** RCW 46.20.391 and 1985 c 407 s 5 are each amended to read
24 as follows:

25 (1) Any person licensed under this chapter whose driving privilege
26 has been suspended under section 7(1)(b)(i) of this act or who is
27 convicted of an offense relating to motor vehicles for which suspension
28 or revocation of the driver's license is mandatory, other than
29 vehicular homicide or vehicular assault, may submit to the department
30 an application for an occupational driver's license. The department,
31 upon receipt of the prescribed fee and upon determining that the
32 petitioner is engaged in an occupation or trade that makes it essential
33 that the petitioner operate a motor vehicle, may issue an occupational
34 driver's license and may set definite restrictions as provided in RCW
35 46.20.394. No person may petition for, and the department shall not
36 issue, an occupational driver's license that is effective during the
37 first thirty days of any suspension or revocation imposed under RCW
38 46.61.515 or section 7(1)(b)(i) of this act. A person aggrieved by the

1 decision of the department on the application for an occupational
2 driver's license may request a hearing as provided by rule of the
3 department.

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

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

10 (b) Within five years immediately preceding the present conviction
11 or administrative action, the applicant has not been convicted of
12 driving or being in actual physical control of a motor vehicle while
13 under the influence of intoxicating liquor under RCW 46.61.502 or
14 46.61.504, of vehicular homicide under RCW 46.61.520, or of vehicular
15 assault under RCW 46.61.522, or had a license administratively
16 suspended or revoked under section 7(1)(b)(i) of this act; and

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

19 (d) The applicant files satisfactory proof of financial
20 responsibility pursuant to chapter 46.29 RCW, unless the suspension was
21 imposed under section 7(1)(b)(i) of this act.

22 (3) The director shall cancel an occupational driver's license upon
23 receipt of notice that the holder thereof has had a driver's license
24 administratively suspended or revoked under RCW 46.20.308 or has been
25 convicted of operating a motor vehicle in violation of its
26 restrictions, or of an offense that pursuant to chapter 46.20 RCW would
27 warrant suspension or revocation of a regular driver's license. The
28 cancellation is effective as of the date of the conviction, and
29 continues with the same force and effect as any suspension or
30 revocation under this title.

31 NEW SECTION. Sec. 11. A new section is added to chapter 46.20 RCW
32 to read as follows:

33 (1) Any person licensed under this chapter or any nonresident
34 granted the privilege of driving a motor vehicle on the highways of
35 this state, whose driver's license or driving privilege has been
36 suspended or revoked, other than for vehicular homicide, vehicular
37 assault, or under section 7(1)(a) of this act, or for a physical or
38 mental disability that would affect that person's ability to operate a

1 motor vehicle with safety upon the highways, may submit to the
2 department an application for a provisional driver's license for
3 purposes of participation in an alcohol or drug abuse treatment program
4 approved by the department of social and health services. The
5 department, upon receipt of the fee prescribed by this section and upon
6 determining that the applicant is engaged in a treatment program
7 approved by the department of social and health services that makes it
8 essential that the applicant operate a motor vehicle, may issue a
9 provisional driver's license. No person may petition for, and the
10 department shall not issue, a provisional driver's license that is
11 effective during the first thirty days of any suspension or revocation
12 imposed under RCW 46.61.515 or section 7 of this act.

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

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

17 (b) The applicant files satisfactory proof of financial
18 responsibility pursuant to chapter 46.29 RCW, unless the suspension was
19 imposed under section 7(1)(b)(i) of this act; and

20 (c) The applicant pays to the department a treatment assessment fee
21 of twenty-five dollars, such fee to be deposited in a special sober or
22 suspended account, within the department of social and health services,
23 to be administered by the division of alcohol and substance abuse, to
24 be used to pay the cost of the diagnostic evaluation or assessment
25 required under section 7(2) of this act for indigent or low-income
26 individuals.

27 (3) In issuing a provisional driver's license under this section,
28 the department shall set forth in detail the specific hours of the day
29 during which the person may drive to and from his or her place of
30 treatment; the days of the week during which the license may be used;
31 the general routes over which the person may travel; and the expiration
32 date of the license, such date to correspond to the ending date of any
33 suspension or revocation of the person's driver's license or driving
34 privilege, or the date the person's treatment program is to be
35 concluded, whichever occurs first. These restrictions shall be
36 prepared in written form by the department, such document to be carried
37 in the vehicle at all times and presented to a law enforcement officer
38 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. 12.** RCW 46.61.515 and 1985 c 352 s 1 are each amended to read
14 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
30 person shall, in addition, be required to complete a course in an
31 alcohol information school approved by the department of social and
32 health services or more intensive treatment in a program approved by
33 the department of social and health services, as determined by the
34 court. A diagnostic evaluation and treatment recommendation shall be
35 prepared under the direction of the court by an alcoholism agency
36 approved by the department of social and health services or a qualified
37 probation department approved by the department of social and health
38 services. A copy of the report shall be forwarded to the department of

1 licensing. Based on the diagnostic evaluation, the court shall
2 determine whether the convicted person shall be required to complete a
3 course in an alcohol information school approved by the department of
4 social and health services or more intensive treatment in a program
5 approved by the department of social and health services. Standards
6 for approval for alcohol treatment programs shall be prescribed by rule
7 under the administrative procedure act, chapter 34.05 RCW. The courts
8 shall periodically review the costs of alcohol information schools and
9 treatment programs within their jurisdictions.

10 (2) On a second or subsequent conviction for driving or being in
11 physical control of a motor vehicle while under the influence of
12 intoxicating liquor or drugs within a five-year period a person shall
13 be punished by imprisonment for not less than seven days nor more than
14 one year and by a fine of not less than five hundred dollars and not
15 more than two thousand dollars. District courts and courts organized
16 under chapter 35.20 RCW are authorized to impose such fine. Unless the
17 judge finds the person to be indigent, five hundred dollars of the fine
18 shall not be suspended or deferred. The jail sentence shall not be
19 suspended or deferred unless the judge finds that the imposition of the
20 jail sentence will pose a risk to the defendant's physical or mental
21 well-being. Whenever the mandatory jail sentence is suspended or
22 deferred, the judge must state, in writing, the reason for granting the
23 suspension or deferral and the facts upon which the suspension or
24 deferral is based. If, at the time of a second or subsequent
25 conviction, the driver is without a license or permit because of a
26 previous suspension or revocation, the minimum mandatory sentence shall
27 be ninety days in jail and a two hundred dollar fine. The penalty so
28 imposed shall not be suspended or deferred. The person shall, in
29 addition, be required to complete a diagnostic evaluation by an
30 alcoholism agency approved by the department of social and health
31 services or a qualified probation department approved by the department
32 of social and health services. The report shall be forwarded to the
33 department of licensing. If the person is found to have an alcohol or
34 drug problem requiring treatment, the person shall complete treatment
35 at an approved alcoholism treatment facility or approved drug treatment
36 center.

37 In addition to any nonsuspendable and nondeferrable jail sentence
38 required by this subsection, the court shall sentence a person to a
39 term of imprisonment not exceeding one hundred eighty days and shall

1 suspend but shall not defer the sentence for a period not exceeding two
2 years. The suspension of the sentence may be conditioned upon
3 nonrepetition, alcohol or drug treatment, supervised probation, or
4 other conditions that may be appropriate. The sentence may be imposed
5 in whole or in part upon violation of a condition of suspension during
6 the suspension period.

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

11 (a) On the first conviction under either offense, where there has
12 been no previous suspension or denial imposed under section 7(1)(b) of
13 this act for the incident upon which the conviction is based, or where
14 there has been no previous incident resulting in a suspension,
15 revocation, or denial under section 7(1)(b) of this act within the
16 five-year period preceding the current conviction, be suspended by the
17 department until the person reaches age nineteen or for ninety days,
18 whichever is longer. The department of licensing shall determine the
19 person's eligibility for licensing based upon the reports provided by
20 the designated alcoholism agency, drug treatment center, or probation
21 department and shall deny reinstatement until enrollment and
22 participation in an approved program has been established and the
23 person is otherwise qualified;

24 (b) On a second conviction under either offense within a five-year
25 period, where there has been no previous revocation or denial imposed
26 under section 7(1)(b) of this act for the incident upon which the
27 conviction is based, be revoked by the department for one year. A
28 previous incident resulting in a suspension, revocation, or denial
29 under section 7(1)(b) of this act within the five-year period preceding
30 the current conviction shall be considered a previous conviction for
31 purposes of this subsection. The department of licensing shall
32 determine the person's eligibility for licensing based upon the reports
33 provided by the designated alcoholism agency, drug treatment center, or
34 probation department and shall deny reinstatement until satisfactory
35 progress in an approved program has been established and the person is
36 otherwise qualified;

37 (c) On a third or subsequent conviction of driving or being in
38 physical control of a motor vehicle while under the influence of
39 intoxicating liquor or drugs, vehicular homicide, or vehicular assault,

1 or any combination thereof within a five-year period, where there has
2 been no previous revocation or denial imposed under section 7(1)(b) of
3 this act for the incident upon which the conviction is based, be
4 revoked by the department for two years. Previous incidents resulting
5 in suspension, revocation, or denial under section 7(1)(b) of this act
6 within the five-year period preceding the current conviction shall be
7 considered previous convictions for purposes of this subsection.

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

15 **Sec. 13.** RCW 46.68.060 and 1969 c 99 s 11 are each amended to read
16 as follows:

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

26 (2) The sum of ten dollars shall be paid from the highway safety
27 fund to law enforcement agencies for each reissue fee collected under
28 RCW 46.20.311 due to a suspension or revocation arising from an arrest
29 under RCW 46.61.502 or 46.61.504 as reimbursement for the required
30 administrative procedures.

31 NEW SECTION. **Sec. 14.** The traffic safety commission shall
32 undertake a study of the effectiveness of this act and shall report its
33 finding to the governor and the appropriate legislative committees
34 within thirty months of the effective date of this section.

35 NEW SECTION. **Sec. 15.** If any provision of this act or its
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 16.** The department of licensing may adopt rules
4 necessary to carry out this act.

5 NEW SECTION. **Sec. 17.** Section 8 of this act is necessary for the
6 immediate preservation of the public peace, health, or safety, or
7 support of the state government and its existing public institutions,
8 and shall take effect immediately. Sections 2 through 7 and 9 through
9 16 of this act shall take effect July 1, 1994. The director of
10 licensing may immediately take such steps as are necessary to insure
11 that all sections of this act are implemented on their respective
12 effective dates."

13 **SSB 5341** - S AMD - 000324
14 By Senator Nelson

15

16 On page 1, line 2 of the title, after "drugs;" strike the remainder
17 of the title and insert "amending RCW 46.04.580, 46.20.308, 46.20.311,
18 46.20.311, 46.20.391, 46.61.515, and 46.68.060; adding a new section to
19 chapter 46.61 RCW; adding new sections to chapter 46.04 RCW; adding new
20 sections to chapter 46.20 RCW; creating new sections; prescribing
21 penalties; providing an effective date; and declaring an emergency."

22 **SSB 5341** - S Amd to S Amd (S-2505.1) 000365
23 By Senator A. Smith

24

ADOPTED 3/17/93

25 On page 7, line 24 of the amendment, after "(2)" insert the
26 following and renumber the subsections accordingly:

27 "The department shall stay the suspension, revocation, or denial
28 action pursuant to this section against any person, for whom it
29 receives evidence of a court order for deferred prosecution, in
30 accordance with chapter 10.05 RCW. The stay shall remain in effect for
31 the term of the order: PROVIDED, That the department shall remove the
32 stay upon receipt of evidence of new charges in violation of RCW

1 46.20.308 or that the terms of the deferred prosecution order have
2 been violated."

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