
HOUSE BILL 2716

State of Washington

53rd Legislature

1994 Regular Session

By Representatives Appelwick, Scott, Wineberry, Holm, Roland, Rust, H. Myers, Kessler, Jones, Karahalios and Ogden

Read first time 01/21/94. Referred to Committee on Judiciary.

1 AN ACT Relating to driving while under the influence of alcohol or
2 any drug; amending RCW 46.61.502, 46.61.504, 46.20.308, 46.61.506,
3 46.61.511, 46.20.311, 46.04.580, 46.20.391, 46.01.260, 46.52.100,
4 46.52.130, 10.05.060, 10.05.090, 10.05.120, 46.63.020, 2.68.020, and
5 43.135.035; amending 1994 c 2 s 13 (uncodified); reenacting and
6 amending RCW 9.94A.320; adding a new section to chapter 46.04 RCW;
7 adding new sections to chapter 46.61 RCW; adding a new section to
8 chapter 2.68 RCW; creating a new section; repealing RCW 46.61.515 and
9 82.64.900; repealing 1993 c 239 s 3 (uncodified); prescribing
10 penalties; making an appropriation; providing effective dates;
11 providing an expiration date; and declaring an emergency.

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

13 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04 RCW
14 to read as follows:

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

1 **Sec. 2.** RCW 46.61.502 and 1993 c 328 s 1 are each amended to read
2 as follows:

3 (1) ~~((A person is guilty of driving while under the influence of
4 intoxicating liquor or any drug if the person drives a vehicle within
5 this state:~~

6 ~~(a) And the person has 0.10 grams or more of alcohol per two
7 hundred ten liters of breath within two hours after driving, as shown
8 by analysis of the person's breath made under RCW 46.61.506; or~~

9 ~~(b) And the person has 0.10 percent or more by weight of alcohol in
10 the person's blood within two hours after driving, as shown by analysis
11 of the person's blood made under RCW 46.61.506; or~~

12 ~~(c) While the person is under the influence of or affected by
13 intoxicating liquor or any drug; or~~

14 ~~(d) While the person is under the combined influence of or affected
15 by intoxicating liquor and any drug.~~

16 ~~(2) The fact that any person charged with a violation of this
17 section is or has been entitled to use such drug under the laws of this
18 state shall not constitute a defense against any charge of violating
19 this section.~~

20 ~~(3) It is an affirmative defense to a violation of subsection (1)
21 (a) and (b) of this section which the defendant must prove by a
22 preponderance of the evidence that the defendant consumed a sufficient
23 quantity of alcohol after the time of driving and before the
24 administration of an analysis of the person's breath or blood to cause
25 the defendant's alcohol concentration to be 0.10 or more within two
26 hours after driving. The court shall not admit evidence of this
27 defense unless the defendant notifies the prosecution prior to the
28 omnibus or pretrial hearing in the case of the defendant's intent to
29 assert the affirmative defense.~~

30 ~~(4) Analyses of blood or breath samples obtained more than two
31 hours after the alleged driving may be used as evidence that within two
32 hours of the alleged driving, a person had 0.10 grams or more of
33 alcohol per two hundred ten liters of breath or 0.10 percent or more of
34 alcohol in the person's blood, pursuant to subsection (1) (a) and (b)
35 of this section, and may be used as evidence that a person was under
36 the influence of or affected by intoxicating liquors or any drug
37 pursuant to subsection (1) (c) and (d) of this section.)~~ Except as
38 provided in section 4 of this act, a person is guilty of driving while

1 under the influence of intoxicating liquor or any drug if the person
2 drives a vehicle within this state:

3 (a) And the person has, within two hours after driving, an alcohol
4 concentration of 0.08 or higher, or in the case of a minor has an
5 alcohol concentration of 0.02 or higher, as shown by analysis of the
6 person's breath or blood made under RCW 46.61.506; or

7 (b) While the person is under the influence of or affected by
8 intoxicating liquor or any drug; or

9 (c) While the person is under the combined influence of or affected
10 by intoxicating liquor and any drug.

11 (2) The fact that a person charged with a violation of this section
12 is or has been entitled to use a drug under the laws of this state
13 shall not constitute a defense against a charge of violating this
14 section.

15 (3) It is an affirmative defense to a violation of subsection
16 (1)(a) of this section which the defendant must prove by a
17 preponderance of the evidence that the defendant consumed a sufficient
18 quantity of alcohol after the time of driving and before the
19 administration of an analysis of the person's breath or blood to cause
20 the defendant's alcohol concentration to be 0.08 or more, or in the
21 case of a minor 0.02 or more, within two hours after driving. The
22 court shall not admit evidence of this defense unless the defendant
23 notifies the prosecution prior to the omnibus or pretrial hearing in
24 the case of the defendant's intent to assert the affirmative defense.

25 (4) Analyses of blood or breath samples obtained more than two
26 hours after the alleged driving may be used as evidence that within two
27 hours of the alleged driving, a person had an alcohol concentration of
28 0.08 or more, or in the case of a minor 0.02 or more, in violation of
29 subsection (1)(a) of this section, and in any case in which the
30 analysis shows an alcohol concentration above 0.00 may be used as
31 evidence that a person was under the influence of or affected by
32 intoxicating liquor or any drug in violation of subsection (1) (b) or
33 (c) of this section.

34 (5) Except as provided in section 4 of this act, a violation of
35 this section is a gross misdemeanor.

36 **Sec. 3.** RCW 46.61.504 and 1993 c 328 s 2 are each amended to read
37 as follows:

1 (1) (~~(A person is guilty of being in actual physical control of a~~
2 ~~motor vehicle while under the influence of intoxicating liquor or any~~
3 ~~drug if the person has actual physical control of a vehicle within this~~
4 ~~state:~~

5 ~~(a) And the person has 0.10 grams or more of alcohol per two~~
6 ~~hundred ten liters of breath within two hours after being in actual~~
7 ~~physical control of a motor vehicle, as shown by analysis of the~~
8 ~~person's breath made under RCW 46.61.506; or~~

9 ~~(b) And the person has 0.10 percent or more by weight of alcohol in~~
10 ~~the person's blood within two hours after being in actual physical~~
11 ~~control of a motor vehicle, as shown by analysis of the person's blood~~
12 ~~made under RCW 46.61.506; or~~

13 ~~(c) While the person is under the influence of or affected by~~
14 ~~intoxicating liquor or any drug; or~~

15 ~~(d) While the person is under the combined influence of or affected~~
16 ~~by intoxicating liquor and any drug.~~

17 (2) ~~The fact that any person charged with a violation of this~~
18 ~~section is or has been entitled to use such drug under the laws of this~~
19 ~~state shall not constitute a defense against any charge of violating~~
20 ~~this section. No person may be convicted under this section if, prior~~
21 ~~to being pursued by a law enforcement officer, the person has moved the~~
22 ~~vehicle safely off the roadway.~~

23 (3) ~~It is an affirmative defense to a violation of subsection (1)~~
24 ~~(a) and (b) of this section which the defendant must prove by a~~
25 ~~preponderance of the evidence that the defendant consumed a sufficient~~
26 ~~quantity of alcohol after the time of being in actual physical control~~
27 ~~of a motor vehicle and before the administration of an analysis of the~~
28 ~~person's breath or blood to cause the defendant's alcohol concentration~~
29 ~~to be 0.10 or more within two hours after being in actual physical~~
30 ~~control of a motor vehicle. The court shall not admit evidence of this~~
31 ~~defense unless the defendant notifies the prosecution prior to the~~
32 ~~omnibus or pretrial hearing in the case of the defendant's intent to~~
33 ~~assert the affirmative defense.~~

34 (4) ~~Analyses of blood or breath samples obtained more than two~~
35 ~~hours after the alleged actual physical control of a motor vehicle may~~
36 ~~be used as evidence that within two hours of the alleged actual~~
37 ~~physical control of a motor vehicle, a person had 0.10 grams or more of~~
38 ~~alcohol per two hundred ten liters of breath or 0.10 percent or more of~~
39 ~~alcohol in the person's blood, pursuant to subsection (1) (a) and (b)~~

1 ~~of this section, and may be used as evidence that a person was under~~
2 ~~the influence of or affected by intoxicating liquors or any drug~~
3 ~~pursuant to subsection (1) (c) and (d) of this section.)~~ Except as
4 provided in section 4 of this act, a person is guilty of being in
5 actual physical control of a motor vehicle while under the influence of
6 intoxicating liquor or any drug if the person has actual physical
7 control of a vehicle within this state:

8 (a) And the person has, within two hours after being in actual
9 physical control of the vehicle, an alcohol concentration of 0.08 or
10 higher, or in the case of a minor has an alcohol concentration of 0.02
11 or higher, as shown by analysis of the person's breath or blood made
12 under RCW 46.61.506; or

13 (b) While the person is under the influence of or affected by
14 intoxicating liquor or any drug; or

15 (c) While the person is under the combined influence of or affected
16 by intoxicating liquor and any drug.

17 (2) The fact that a person charged with a violation of this section
18 is or has been entitled to use a drug under the laws of this state does
19 not constitute a defense against any charge of violating this section.
20 No person may be convicted under this section if, prior to being
21 pursued by a law enforcement officer, the person has moved the vehicle
22 safely off the roadway.

23 (3) It is an affirmative defense to a violation of subsection
24 (1)(a) of this section which the defendant must prove by a
25 preponderance of the evidence that the defendant consumed a sufficient
26 quantity of alcohol after the time of being in actual physical control
27 of the vehicle and before the administration of an analysis of the
28 person's breath or blood to cause the defendant's alcohol concentration
29 to be 0.08 or more, or in the case of a minor 0.02 or more, within two
30 hours after being in such control. The court shall not admit evidence
31 of this defense unless the defendant notifies the prosecution prior to
32 the omnibus or pretrial hearing in the case of the defendant's intent
33 to assert the affirmative defense.

34 (4) Analyses of blood or breath samples obtained more than two
35 hours after the alleged being in actual physical control of a vehicle
36 may be used as evidence that within two hours of the alleged being in
37 such control, a person had an alcohol concentration of 0.08 or more or
38 in the case of a minor 0.02 or more, in violation of subsection (1)(a)
39 of this section, and in any case in which the analysis shows an alcohol

1 concentration above 0.00 may be used as evidence that a person was
2 under the influence of or affected by intoxicating liquor or any drug
3 in violation of subsection (1) (b) or (c) of this section.

4 (5) Except as provided in section 4 of this act, a violation of
5 this section is a gross misdemeanor.

6 NEW SECTION. Sec. 4. A new section is added to chapter 46.61 RCW
7 to read as follows:

8 (1) A violation of RCW 46.61.502 or 46.61.504 is a traffic
9 infraction under chapter 46.63 RCW if:

10 (a) The person either: (i) Violates RCW 46.61.502(1)(a) or
11 46.61.504(1)(a) because of an alcohol concentration of at least 0.08
12 but less than 0.10, or in the case of a minor of at least 0.02 but less
13 than 0.10; or (ii) violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1)
14 (b) or (c) and, for any reason other than the person's refusal to take
15 a test offered pursuant to RCW 46.20.308, the person's alcohol
16 concentration is not proved; or (iii) violates RCW 46.61.502(1) (b) or
17 (c) or 46.61.504(1) (b) or (c) and a test taken pursuant to RCW
18 46.20.308 shows the person's alcohol concentration to be more than 0.00
19 but less than 0.10, or in the case of a minor more than 0.00 but less
20 than 0.02; and

21 (b) The person has a valid driver's license and is not driving
22 while his or her license is in a probationary, suspended, or revoked
23 status; and

24 (c) The person has not within five years before the commission of
25 the current violation committed the offense of driving or being in
26 actual physical control of a motor vehicle while under the influence of
27 intoxicating liquor or any drug.

28 (2) The only response that the person may make to a notice of
29 infraction under this section is appearance at a hearing under RCW
30 46.63.090. Upon a determination that an infraction has been committed
31 the court shall impose the following penalties:

32 (a) A fine of not less than two hundred fifty dollars nor more than
33 five thousand dollars; and

34 (b) Suspension of the person's license or permit to drive, or
35 suspension of any nonresident privilege to drive, for a period of not
36 more than ninety days as determined by the court. The court shall stay
37 any suspension imposed unless the person fails to pay any fine imposed
38 or fails to comply with the conditions of any alcohol assessment or

1 treatment ordered. The court shall notify the department of licensing
2 of the determination of the infraction and of any period of suspension
3 and shall notify the department of the person's completion of any
4 period of suspension. Upon receiving notification of the
5 determination, or if applicable, upon receiving notification of the
6 completion of any period of suspension, the department shall issue the
7 person a probationary license in accordance with section 8 of this act.

8 (3) In exercising its discretion in setting penalties within the
9 limits allowed by this section, the court shall particularly consider
10 whether the person's driving at the time of the offense was responsible
11 for injury or damage to another or another's property.

12 (4) For a violation of this section, the notice of infraction under
13 RCW 46.63.060 shall include a statement that the person agrees to
14 appear at a hearing under RCW 46.63.090. The supreme court shall
15 provide for a notice of infraction form for violations under this
16 section that contains the statements required by this section and only
17 those statements listed in RCW 46.63.070 that apply to violations of
18 this section.

19 (5) Upon a determination of an infraction under this section, the
20 person's driver's license is deemed to be in a probationary status for
21 five years from the date of the infraction, unless before the
22 expiration of the five years the license is suspended or revoked for
23 some other violation of law. Being on probationary status does not
24 authorize a person to drive during any period of license suspension
25 imposed as a penalty for the infraction.

26 (6) A person punishable under this section is subject to the
27 alcohol assessment and treatment provisions of section 9 of this act.
28 The court may suspend or defer all or any part of the civil fine
29 prescribed by this section as a means of encouraging compliance with
30 the assessment and treatment provisions of section 9 of this act.

31 (7) A police officer who has reasonable grounds to believe a person
32 has committed an infraction under this section may detain the person
33 for purposes of administering a test pursuant to RCW 46.20.308.

34 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.61 RCW
35 to read as follows:

36 (1) A person whose driver's license is not in a probationary,
37 suspended, or revoked status, and who has not been convicted of a
38 violation of RCW 46.61.502 or 46.61.504 that was committed within five

1 years before the commission of the current violation, and who violates
2 RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an alcohol
3 concentration of at least 0.10 but less than 0.15 is guilty of a gross
4 misdemeanor and shall be punished as follows:

5 (a) By imprisonment for not less than one day nor more than one
6 year; and

7 (b) By a fine of not less than three hundred fifty dollars nor more
8 than five thousand dollars. Three hundred fifty dollars of the fine
9 may not be suspended or deferred unless the court finds the offender to
10 be indigent; and

11 (c) By suspension of the offender's license or permit to drive, or
12 suspension of any nonresident privilege to drive, for a period of not
13 less than thirty days nor more than one hundred twenty days as
14 determined by the court. The court shall notify the department of
15 licensing of the conviction and of any period of suspension and shall
16 notify the department of the person's completion of any period of
17 suspension. Upon receiving notification of the conviction, or if
18 applicable, upon receiving notification of the completion of any period
19 of suspension, the department shall issue the offender a probationary
20 license in accordance with section 8 of this act.

21 (2) A person whose driver's license is not in a probationary,
22 suspended, or revoked status, and who has not been convicted of a
23 violation of RCW 46.61.502 or 46.61.504 that was committed within five
24 years before the commission of the current violation, and who either:

25 (a) Violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an
26 alcohol concentration of 0.15 or more; or

27 (b) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c)
28 and, because of the person's refusal to take a test offered pursuant to
29 RCW 46.20.308, there is no test result indicating the person's alcohol
30 concentration, is guilty of a gross misdemeanor and shall be punished
31 as follows:

32 (i) By imprisonment for not less than seven days nor more than one
33 year; and

34 (ii) By a fine of not less than five hundred dollars nor more than
35 five thousand dollars. Five hundred dollars of the fine may not be
36 suspended or deferred unless the court finds the offender to be
37 indigent; and

38 (iii) By suspension of the offender's license or permit to drive,
39 or suspension of any nonresident privilege to drive, for a period of

1 not less than sixty days nor more than one hundred eighty days as
2 determined by the court. The court shall notify the department of any
3 period of suspension and shall notify the department of the completion
4 of any period of suspension. Upon receiving notification of the
5 conviction, or if applicable, upon receiving notification of the
6 completion of any period of suspension, the department shall issue the
7 offender a probationary license in accordance with section 8 of this
8 act.

9 (3) In exercising its discretion in setting penalties within the
10 limits allowed by this section, the court shall particularly consider
11 whether the person's driving at the time of the offense was responsible
12 for injury or damage to another or another's property.

13 (4) Upon conviction under this section, the offender's driver's
14 license is deemed to be in a probationary status for five years from
15 the date of the infraction, unless before the expiration of the five
16 years the license is suspended or revoked for some other violation of
17 law. Being on probationary status does not authorize a person to drive
18 during any period of license suspension imposed as a penalty for the
19 infraction.

20 (5) An offender punishable under this section is subject to the
21 alcohol assessment and treatment provisions of section 9 of this act.
22 The court may suspend or defer all or any part of the civil fine or
23 driver's license suspension prescribed by this section as a means of
24 encouraging compliance with the assessment and treatment provisions of
25 section 9 of this act.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.61 RCW
27 to read as follows:

28 (1) A person whose driver's license is in a probationary status and
29 who either:

30 (a) Violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an
31 alcohol concentration of at least 0.08 but less than 0.10, or in the
32 case of a minor at least 0.02 but less than 0.10; or

33 (b) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c)
34 and, because of any reason other than the person's refusal to submit to
35 a test requested pursuant to RCW 46.20.308, the person's alcohol
36 concentration is not proved; or

37 (c) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c)
38 and a test taken pursuant to RCW 46.20.308 shows the person's alcohol

1 concentration to be more than 0.00 but less than 0.10, or in the case
2 of a minor more than 0.00 but less than 0.02, is guilty of a gross
3 misdemeanor and shall be punished as follows:

4 (i) By imprisonment for not less than seven days nor more than one
5 year; and

6 (ii) By a fine of not less than five hundred dollars nor more than
7 five thousand dollars. Five hundred dollars of the fine may not be
8 suspended or deferred unless the court finds the offender to be
9 indigent; and

10 (iii) By suspension of the offender's license or permit to drive,
11 or suspension of any nonresident privilege to drive, for a period of
12 not less than sixty days nor more than two hundred forty days as
13 determined by the court. The court shall notify the department of
14 licensing of the imposition of any period of suspension and of the
15 completion of any period of suspension.

16 (2) A person whose driver's license is in a probationary status and
17 who violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an
18 alcohol concentration of at least 0.10 but less than 0.15 is guilty of
19 a gross misdemeanor and shall be punished as follows:

20 (a) By imprisonment for not less than seven days nor more than one
21 year. Seven consecutive days of the imprisonment may not be suspended
22 or deferred unless the court finds that the imposition of this
23 mandatory minimum sentence would pose a risk to the offender's physical
24 or mental well-being. Whenever the mandatory minimum sentence is
25 suspended or deferred, the court shall state in writing the reason for
26 granting the suspension or deferral and the facts upon which the
27 suspension or deferral is based; and

28 (b) By a fine of not less than six hundred dollars nor more than
29 five thousand dollars. Six hundred dollars of the fine may not be
30 suspended or deferred unless the court finds the offender to be
31 indigent; and

32 (c) By suspension of the offender's license or permit to drive, or
33 suspension of any nonresident privilege to drive, for a period of not
34 less than one hundred twenty days nor more than one year as determined
35 by the court. The court shall notify the department of the imposition
36 of any period of suspension and of the completion of any period of
37 suspension.

38 (3) A person whose driver's license is in a probationary status and
39 who either:

1 (a) Violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an
2 alcohol concentration of 0.15 or more; or

3 (b) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c)
4 and, because of the person's refusal to take a test offered pursuant to
5 RCW 46.20.308, there is no test result indicating the person's alcohol
6 concentration, is guilty of a gross misdemeanor and shall be punished
7 as follows:

8 (i) By imprisonment for not less than seven days nor more than one
9 year. Seven consecutive days of the imprisonment may not be suspended
10 or deferred unless the court finds that the imposition of this
11 mandatory minimum sentence would pose a risk to the offender's physical
12 or mental well-being. Whenever the mandatory minimum sentence is
13 suspended or deferred, the court shall state in writing the reason for
14 granting the suspension or deferral and the facts upon which the
15 suspension or deferral is based; and

16 (ii) By a fine of not less than seven hundred fifty dollars nor
17 more than five thousand dollars. Seven hundred fifty dollars of the
18 fine may not be suspended or deferred unless the court finds the
19 offender to be indigent; and

20 (iii) By revocation of the offender's license or permit to drive or
21 of any nonresident privilege to drive, for a period of not less than
22 one year nor more than two years as determined by the court. The
23 revocation may not be suspended or deferred.

24 (4) In exercising its discretion in setting penalties within the
25 limits allowed by this section, the court shall particularly consider
26 whether the person's driving at the time of the offense was responsible
27 for injury or damage to another or another's property.

28 (5) An offender punishable under this section is subject to the
29 alcohol assessment and treatment provisions of section 9 of this act.
30 The court may suspend or defer all or any part of the civil fine or
31 driver's license suspension prescribed by this section as a means of
32 encouraging compliance with the assessment and treatment provisions of
33 section 9 of this act. An offender punishable under subsection (2) or
34 (3) of this section is subject to the vehicle seizure and forfeiture
35 provisions of RCW 46.61.511. No offender punishable under this section
36 is eligible for an occupational license under RCW 46.20.391.

37 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.61 RCW
38 to read as follows:

1 (1) A person who violates RCW 46.61.502 or 46.61.504 and who either
2 has a driver's license in a suspended or revoked status or who has been
3 convicted under section 6 of this act or RCW 46.61.502 or 46.61.504 of
4 an offense that was committed within five years before the commission
5 of the current violation, is guilty of a gross misdemeanor and shall be
6 punished as follows:

7 (a) By imprisonment for not less than ninety days nor more than one
8 year. Ninety consecutive days of the imprisonment may not be suspended
9 or deferred unless the court finds that the imposition of this
10 mandatory minimum sentence would pose a risk to the offender's physical
11 or mental well-being. Whenever the mandatory minimum sentence is
12 suspended or deferred, the court shall state in writing the reason for
13 granting the suspension or deferral and the facts upon which the
14 suspension or deferral is based; and

15 (b) By a fine of not less than seven hundred fifty dollars nor more
16 than five thousand dollars. Seven hundred fifty dollars of the fine
17 may not be suspended or deferred unless the court finds the offender to
18 be indigent; and

19 (c) By revocation by the department of licensing of the offender's
20 license or permit to drive or of any nonresident privilege to drive,
21 for a period of two years. The revocation of license, permit, or
22 privilege may not be suspended or deferred.

23 (2) In exercising its discretion in setting penalties within the
24 limits allowed by this section, the court shall particularly consider
25 whether the person's driving at the time of the offense was responsible
26 for injury or damage to another or another's property.

27 (3) An offender punishable under this section is subject to the
28 alcohol assessment and treatment provisions of section 9 of this act.
29 An offender punishable under this section is subject to the vehicle
30 seizure and forfeiture provisions of RCW 46.61.511. No offender
31 punishable under this section is eligible for an occupational license
32 under RCW 46.20.391.

33 NEW SECTION. **Sec. 8.** A new section is added to chapter 46.61 RCW
34 to read as follows:

35 (1) Upon receipt of a record of the court's determination and order
36 under chapter 46.63 RCW regarding an infraction under section 4 of this
37 act, or upon notification of a conviction under RCW 46.61.502 or
38 46.61.504 for which the issuance of a probationary driver's license is

1 required, or upon receipt of an abstract indicating a deferred
2 prosecution has been granted under RCW 10.05.060, the department of
3 licensing shall order the person to surrender his or her license. The
4 department shall revoke the license of any person who fails to
5 surrender it as required by this section.

6 (2) Upon receipt of the surrendered license, and following the
7 expiration of any period of license suspension ordered by a court, the
8 department shall issue the person a probationary license. The
9 probationary license shall be renewed on the same cycle as the person's
10 regular license would have been renewed until five years after the date
11 of the infraction or criminal offense, at which time the department
12 shall reissue a regular license if the person otherwise qualifies for
13 one.

14 (3) For each issue or reissue of a license under this section, the
15 department may charge the fee authorized under RCW 46.20.311 for the
16 reissuance of a license following a revocation for a violation of RCW
17 46.61.502 or 46.61.504.

18 (4) A probationary license shall enable the department and law
19 enforcement personnel to determine that the person is on probationary
20 status, including the period of that status, for a violation of RCW
21 46.61.502 or 46.61.504 or section 4 of this act. That fact that a
22 person has been issued a probationary license shall not be a part of
23 the person's record that is available to insurance companies.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 46.61 RCW
25 to read as follows:

26 (1) A person subject to alcohol assessment and treatment under
27 section 4, 5, 6, or 7 of this act shall be required by the court to
28 complete a course in an alcohol information school approved by the
29 department of social and health services or to complete more intensive
30 treatment in a program approved by the department of social and health
31 services, as determined by the court. The court shall notify the
32 department of licensing whenever it orders a person to complete a
33 course or treatment program under this section.

34 (2) 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 person shall be required to complete a course in
3 an alcohol information school approved by the department of social and
4 health services or more intensive treatment in a program approved by
5 the department of social and health services.

6 (3) Standards for approval for alcohol treatment programs shall be
7 prescribed by the department of social and health services. The
8 department of social and health services shall periodically review the
9 costs of alcohol information schools and treatment programs.

10 (4) The department of social and health services shall require as
11 a condition of approval under this section that any agency that offers
12 outpatient treatment must provide all phases of such treatment as
13 determined by the department of social and health services.

14 (5) Any agency that provides treatment ordered under section 4, 5,
15 6, or 7 of this act, shall immediately report to the court and to the
16 department of licensing any noncompliance by a person with the
17 conditions of his or her ordered treatment. The court shall notify the
18 department of licensing and the department of social and health
19 services of any failure by an agency to so report noncompliance. Any
20 agency with knowledge of noncompliance that fails to so report shall be
21 fined two hundred fifty dollars by the department of social and health
22 services. Upon three such failures by an agency within one year, the
23 department of social and health services shall revoke the agency's
24 approval under this section.

25 (6) Unless the court orders otherwise, in ordering assessment or
26 treatment under section 4, 5, 6, or 7 of this act, the agency providing
27 a person with a course in an information school, or providing a person
28 with more intensive treatment, must be different from the agency that
29 performed the evaluation and treatment recommendation regarding the
30 person.

31 (7) The department of licensing and the department of social and
32 health services may adopt such rules as are necessary to carry out this
33 section.

34 NEW SECTION. **Sec. 10.** A new section is added to chapter 46.61 RCW
35 to read as follows:

36 (1) This section applies to any person who:

37 (a) Is a minor and has an alcohol concentration of 0.02 or higher
38 as shown by a test administered under RCW 46.20.308; or

1 (b) Is twenty-one years old or older and has an alcohol
2 concentration of 0.08 or higher as shown by a test administered under
3 RCW 46.20.308 and whose driving record indicates that he or she has a
4 driver's license in a probationary, suspended, or revoked status and
5 that he or she has been ordered to complete alcohol assessment or
6 treatment under section 9 of this act or whose driving record indicates
7 that he or she has been granted a deferred prosecution under RCW
8 10.05.060 within five years before the commission of the current
9 violation.

10 (2) The arresting officer or other law enforcement officer at whose
11 direction the test was given shall:

12 (a) Serve the person notice in writing on behalf of the department
13 of licensing of its intention to suspend, revoke, or deny the person's
14 license, permit, or privilege to drive;

15 (b) Serve the person notice in writing on behalf of the department
16 of the person's right to a hearing, specifying the steps required to
17 obtain a hearing;

18 (c) Confiscate the person's Washington state license or permit to
19 drive, if any, and issue a temporary license to replace any confiscated
20 license or permit. The temporary license shall be valid for thirty
21 days from the date of arrest or until the suspension or revocation of
22 the person's license or permit is sustained at a hearing pursuant to
23 subsection (5) of this section, whichever occurs first. No temporary
24 license is valid to any greater degree than the license or permit it
25 replaces;

26 (d) Notify the department of the arrest, and transmit to the
27 department any confiscated license or permit and a sworn report
28 stating:

29 (i) That the officer had reasonable grounds to believe the arrested
30 person was driving or in actual physical control of a motor vehicle
31 within this state while under the influence of intoxicating liquor or
32 drug, or both;

33 (ii) That pursuant to RCW 46.20.308 a test of the person's alcohol
34 concentration was administered;

35 (iii) That the test indicated that the person's alcohol
36 concentration was 0.08 or higher, or in the case of a minor was 0.02 or
37 higher; and

38 (iv) Any other information that the department may require by rule.

1 (3) Upon receipt of a sworn statement under subsection (2) of this
2 section, the department shall suspend, revoke, or deny the person's
3 license, permit, or driving privilege effective beginning thirty days
4 from the date of the arrest or beginning when the suspension,
5 revocation, or denial is sustained at a hearing pursuant to subsection
6 (5) of this section, whichever occurs first. The period of suspension,
7 revocation, or denial shall be as follows:

8 (a) With respect to a minor:

9 (i) Upon receipt of a first sworn statement, revocation for one
10 year or until the minor reaches age seventeen, whichever is longer;

11 (ii) Upon receipt of a second or subsequent statement indicating an
12 arrest date that is within five years of the arrest date indicated by
13 a previous statement, revocation for two years or until the minor
14 reaches age eighteen, whichever is longer.

15 (b) With respect to a person twenty-one years of age or older:

16 (i) Upon receipt of a first sworn statement, suspension or denial
17 for ninety days;

18 (ii) Upon receipt of a second or subsequent statement indicating an
19 arrest date that is within five years of the arrest date indicated by
20 a previous statement, revocation for two years.

21 (4) A person receiving notification under subsection (2) of this
22 section may, within five days after his or her arrest, request a
23 hearing before the department under subsection (5) of this section.
24 The request shall be in writing. If the request is mailed, it must be
25 postmarked within five days after the arrest.

26 (5) Upon timely receipt of a request under subsection (4) of this
27 section, the department shall afford the person an opportunity for a
28 hearing. Except as otherwise provided in this section, the hearing is
29 subject to and shall be scheduled and conducted in accordance with RCW
30 46.20.329 and 46.20.332. The hearing shall be conducted in the county
31 of arrest and within thirty days following the arrest, unless otherwise
32 agreed to by the department and the person. The hearing shall cover
33 the issues of:

34 (a) Whether the law enforcement officer had reasonable grounds to
35 believe the person was driving or in actual physical control of a motor
36 vehicle within this state while under the influence of intoxicating
37 liquor;

38 (b) Whether the test of the person's alcohol concentration was
39 administered in accordance with RCW 46.20.308; and

1 (c) Whether the test indicated that the person's alcohol
2 concentration was 0.08 or higher, or in the case of a minor was 0.02 or
3 higher.

4 (6) If the suspension, revocation, or denial is sustained after a
5 hearing conducted under subsection (5) of this section, the person
6 affected may file a petition in the superior court of the county of
7 arrest seeking review as provided in RCW 46.20.334.

8 (7) The period of any suspension, revocation, or denial imposed
9 under this section shall run consecutively to the period of any
10 suspension, revocation, or denial imposed pursuant to a criminal
11 conviction or determination of infraction arising out of the same
12 incident.

13 (8) If the suspension, revocation, or denial is sustained after
14 such a hearing, the person whose license, privilege, or permit is
15 suspended, revoked, or denied has the right to file a petition in the
16 superior court of the county of arrest or detention to review the final
17 order of suspension, revocation, or denial by the department in the
18 manner provided in RCW 46.20.334.

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

25 NEW SECTION. **Sec. 11.** A new section is added to chapter 46.61 RCW
26 to read as follows:

27 (1)(a) In addition to penalties set forth in sections 4 through 7
28 of this act, a one hundred twenty-five dollar fee shall be assessed to
29 a person who is either convicted, sentenced to a lesser charge, or
30 given deferred prosecution, as a result of an arrest for violating RCW
31 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the
32 purpose of funding the Washington state toxicology laboratory and the
33 Washington state patrol breath test program.

34 (b) Upon a verified petition by the person assessed the fee, the
35 court may suspend payment of all or part of the fee if it finds that
36 the person does not have the ability to pay.

37 (c) When a minor has been adjudicated a juvenile offender for an
38 offense which, if committed by an adult, would constitute a violation

1 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall
2 assess the one hundred twenty-five dollar fee under (a) of this
3 subsection. Upon a verified petition by a minor assessed the fee, the
4 court may suspend payment of all or part of the fee if it finds that
5 the minor does not have the ability to pay the fee.

6 (2) The fee assessed under subsection (1) of this section shall be
7 collected by the clerk of the court and distributed as follows:

8 (a) Forty percent shall be subject to distribution under RCW
9 3.62.020, 3.62.040, or 10.82.040.

10 (b) If the case involves a blood test by the state toxicology
11 laboratory, the remainder of the fee shall be forwarded to the state
12 treasurer for deposit in the death investigations account to be used
13 solely for funding the state toxicology laboratory blood testing
14 program.

15 (c) Otherwise, the remainder of the fee shall be forwarded to the
16 state treasurer for deposit in the state patrol highway account to be
17 used solely for funding the Washington state patrol breath test
18 program.

19 NEW SECTION. **Sec. 12.** A new section is added to chapter 46.61 RCW
20 to read as follows:

21 For the purposes of sections 1, 4, 6, and 10 of this act and RCW
22 46.61.502, 46.61.504, and 46.61.506, "minor" means a person under the
23 age of twenty-one years.

24 **Sec. 13.** RCW 46.20.308 and 1989 c 337 s 8 are each amended to read
25 as follows:

26 (1) Any person who operates a motor vehicle within this state is
27 deemed to have given consent, subject to the provisions of RCW
28 46.61.506, to a test or tests of his or her breath or blood for the
29 purpose of determining the alcoholic content of his or her breath or
30 blood if arrested for any (~~offense~~) crime or detained for any
31 infraction where, at the time of the arrest or detention, the arresting
32 or detaining officer has reasonable grounds to believe the person had
33 been driving or was in actual physical control of a motor vehicle while
34 under the influence of intoxicating liquor.

35 (2) The test or tests of breath shall be administered at the
36 direction of a law enforcement officer having reasonable grounds to
37 believe the person to have been driving or in actual physical control

1 of a motor vehicle within this state while under the influence of
2 intoxicating liquor. However, in those instances where: (a) The
3 person is incapable due to physical injury, physical incapacity, or
4 other physical limitation, of providing a breath sample; or (b) as a
5 result of a traffic accident the person is being treated for a medical
6 condition in a hospital, clinic, doctor's office, or other similar
7 facility in which a breath testing instrument is not present, a blood
8 test shall be administered by a qualified person as provided in RCW
9 46.61.506(4). The officer shall inform the person (~~of his or her~~
10 ~~right to refuse the breath or blood test, and~~) of his or her right to
11 have additional tests administered by any qualified person of his or
12 her choosing as provided in RCW 46.61.506. The officer shall warn the
13 driver (~~that~~) (a) that refusal to take the test is a crime punishable
14 by a fine and imprisonment; (b) that his or her privilege to drive will
15 be revoked or denied if he or she refuses to submit to the test(~~, and~~
16 ~~(b)~~); (c) that the fact of his or her refusal to take the test may be
17 used as evidence in a criminal trial on charges related to driving or
18 being in physical control of a vehicle while under the influence of
19 alcohol; and (d) that if he or she takes the test his or her privilege
20 to drive may be suspended, revoked, or denied depending on the test
21 results and his or her prior driving record.

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

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

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

7 (6) Refusal to take a test as requested under this section is a
8 gross misdemeanor punishable as provided for in chapter 9A.20 RCW.
9 Regardless of whether criminal charges are filed, the department of
10 licensing, upon the receipt of a sworn report of the law enforcement
11 officer that the officer had reasonable grounds to believe the arrested
12 or detained person had been driving or was in actual physical control
13 of a motor vehicle within this state while under the influence of
14 intoxicating liquor and that the person had refused to submit to the
15 test or tests upon the request of the law enforcement officer after
16 being informed that refusal would result in the revocation of the
17 person's privilege to drive, shall revoke the person's license or
18 permit to drive or any nonresident operating privilege as follows:

19 (a) Except as otherwise provided in this subsection, for a first
20 refusal for a period of one year;

21 (b) Except as otherwise provided in this subsection, for a second
22 refusal within five years, for a period of two years;

23 (c) For a first refusal by a person with a probationary license
24 issued under section 9 of this act, for a period of one year;

25 (d) For a second refusal within five years when the second refusal
26 occurs while the person has a probationary license issued under section
27 9 of this act, for a period of three years;

28 (e) For a first refusal by a person on suspended or revoked status,
29 for a period of two years;

30 (f) For a second refusal within five years by a person on suspended
31 or revoked status, for a period of three years.

32 (7) Upon revoking the license or permit to drive or the nonresident
33 operating privilege of any person, the department shall immediately
34 notify the person involved in writing by personal service or by
35 certified mail of its decision and the grounds therefor, and of the
36 person's right to a hearing, specifying the steps he or she must take
37 to obtain a hearing. Within fifteen days after the notice has been
38 given, the person may, in writing, request a formal hearing. Upon
39 receipt of such request, the department shall afford the person an

1 opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332.
2 The hearing shall be conducted in the county of the arrest or
3 detention. For the purposes of this section, the scope of such hearing
4 shall cover the issues of whether a law enforcement officer had
5 reasonable grounds to believe the person had been driving or was in
6 actual physical control of a motor vehicle within this state while
7 under the influence of intoxicating liquor, whether the person was
8 placed under arrest or was detained, and whether the person refused to
9 submit to the test or tests upon request of the officer after having
10 been informed that such refusal would result in the revocation of the
11 person's privilege to drive. The department shall order that the
12 revocation either be rescinded or sustained. Any decision by the
13 department revoking a person's driving privilege shall be stayed and
14 shall not take effect while a formal hearing is pending as provided in
15 this section or during the pendency of a subsequent appeal to superior
16 court so long as there is no conviction for a moving violation or no
17 finding that the person has committed a traffic infraction that is a
18 moving violation during pendency of the hearing and appeal.

19 (8) The period of any revocation imposed under this section shall
20 run consecutively to the period of any revocation imposed pursuant to
21 a criminal conviction arising out of the same incident.

22 (9) If the revocation is sustained after such a hearing, the person
23 whose license, privilege, or permit is revoked has the right to file a
24 petition in the superior court of the county of arrest or detention to
25 review the final order of revocation by the department in the manner
26 provided in RCW 46.20.334.

27 ((+9)) (10) When it has been finally determined under the
28 procedures of this section that a nonresident's privilege to operate a
29 motor vehicle in this state has been revoked, the department shall give
30 information in writing of the action taken to the motor vehicle
31 administrator of the state of the person's residence and of any state
32 in which he or she has a license.

33 **Sec. 14.** RCW 46.61.506 and 1987 c 373 s 4 are each amended to read
34 as follows:

35 (1) Upon the trial of any civil or criminal action or proceeding
36 arising out of acts alleged to have been committed by any person while
37 driving or in actual physical control of a vehicle while under the
38 influence of intoxicating liquor or any drug, if the ((amount—of

1 ~~alcohol in the person's blood or breath at the time alleged as shown by~~
2 ~~analysis of his blood or breath is less than 0.10 percent by weight of~~
3 ~~alcohol in his blood or 0.10 grams of alcohol per two hundred ten~~
4 ~~liters of the person's breath)) person's alcohol concentration is less~~
5 ~~than 0.08, or in the case of minor less than 0.02, it is evidence that~~
6 may be considered with other competent evidence in determining whether
7 the person was under the influence of intoxicating liquor or any drug.

8 (2) The breath analysis shall be based upon grams of alcohol per
9 two hundred ten liters of breath. The foregoing provisions of this
10 section shall not be construed as limiting the introduction of any
11 other competent evidence bearing upon the question whether the person
12 was under the influence of intoxicating liquor or any drug.

13 (3) Analysis of the person's blood or breath to be considered valid
14 under the provisions of this section or RCW 46.61.502 or 46.61.504
15 shall have been performed according to methods approved by the state
16 toxicologist and by an individual possessing a valid permit issued by
17 the state toxicologist for this purpose. The state toxicologist is
18 directed to approve satisfactory techniques or methods, to supervise
19 the examination of individuals to ascertain their qualifications and
20 competence to conduct such analyses, and to issue permits which shall
21 be subject to termination or revocation at the discretion of the state
22 toxicologist.

23 (4) When a blood test is administered under the provisions of RCW
24 46.20.308, the withdrawal of blood for the purpose of determining its
25 alcoholic content may be performed only by a physician, a registered
26 nurse, or a qualified technician. This limitation shall not apply to
27 the taking of breath specimens.

28 (5) The person tested may have a physician, or a qualified
29 technician, chemist, registered nurse, or other qualified person of his
30 or her own choosing administer one or more tests in addition to any
31 administered at the direction of a law enforcement officer. The
32 failure or inability to obtain an additional test by a person shall not
33 preclude the admission of evidence relating to the test or tests taken
34 at the direction of a law enforcement officer.

35 (6) Upon the request of the person who shall submit to a test or
36 tests at the request of a law enforcement officer, full information
37 concerning the test or tests shall be made available to him or her or
38 his or her attorney.

1 **Sec. 15.** RCW 46.61.511 and 1993 c 487 s 2 are each amended to read
2 as follows:

3 (1) As provided in sections 6 and 7 of this act, a vehicle driven
4 by or under the actual physical control of the owner of the vehicle in
5 violation of RCW 46.61.502 or 46.61.504 is, upon the conviction of the
6 owner (~~when that conviction is the second or subsequent conviction for~~
7 ~~a violation of RCW 46.61.502 or 46.61.504 within a five-year period~~),
8 subject to seizure and forfeiture and no property right exists in that
9 vehicle.

10 A forfeiture of a vehicle encumbered by a bona fide security
11 interest is subject to the interest of the secured party if the secured
12 party neither had knowledge of nor consented to the violation of RCW
13 46.61.502 or 46.61.504.

14 (2) A vehicle subject to forfeiture under this chapter may be
15 seized by a law enforcement officer of this state upon process issued
16 by a court of competent jurisdiction. Seizure of a vehicle may be made
17 without process if the vehicle subject to seizure has been the subject
18 of a prior judgment in favor of the state in a forfeiture proceeding
19 based upon this section.

20 (3) A seizure under subsection (2) of this section automatically
21 commences proceedings for forfeiture. The law enforcement agency under
22 whose authority the seizure was made shall cause notice of the seizure
23 and intended forfeiture of the seized vehicle to be served within
24 fifteen days after the seizure on the owner of the vehicle seized, on
25 the person in charge of the vehicle, and on any person having a known
26 right or interest in the vehicle, including a community property
27 interest. The notice of seizure may be served by any method authorized
28 by law or court rule, including but not limited to service by certified
29 mail with return receipt requested. Service by mail is complete upon
30 mailing within the fifteen-day period after the seizure. Notice of
31 seizure in the case of property subject to a security interest that has
32 been perfected by filing a financing statement in accordance with
33 chapter 62A.9 RCW, or a certificate of title, shall be made by service
34 upon the secured party or the secured party's assignee at the address
35 shown on the financing statement or the certificate of title.

36 (4) If no person notifies the seizing law enforcement agency in
37 writing of the person's claim of ownership or right to possession of
38 the seized vehicle within forty-five days of the seizure, the vehicle
39 is deemed forfeited.

1 (5) If a person notifies the seizing law enforcement agency in
2 writing of the person's claim of ownership or right to possession of
3 the seized vehicle within forty-five days of the seizure, the law
4 enforcement agency shall give the person or persons a reasonable
5 opportunity to be heard as to the claim or right. The hearing shall be
6 before the chief law enforcement officer of the seizing agency or the
7 chief law enforcement officer's designee, except where the seizing
8 agency is a state agency as defined in RCW 34.12.020(4), the hearing
9 shall be before the chief law enforcement officer of the seizing agency
10 or an administrative law judge appointed under chapter 34.12 RCW,
11 except that any person asserting a claim or right may remove the matter
12 to a court of competent jurisdiction. Removal may only be accomplished
13 according to the rules of civil procedure. The person seeking removal
14 of the matter must serve process against the state, county, political
15 subdivision, or municipality that operates the seizing agency, and any
16 other party of interest, in accordance with RCW 4.28.080 or 4.92.020,
17 within forty-five days after the person seeking removal has notified
18 the seizing law enforcement agency of the person's claim of ownership
19 or right to possession. The court to which the matter is to be removed
20 shall be the district court when the aggregate value of the vehicle is
21 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
22 before the seizing agency and any appeal therefrom shall be under Title
23 34 RCW. In a court hearing between two or more claimants to the
24 vehicle involved, the prevailing party shall be entitled to a judgment
25 for costs and reasonable attorney's fees. The burden of producing
26 evidence shall be upon the person claiming to be the lawful owner or
27 the person claiming to have the lawful right to possession of the
28 vehicle. The seizing law enforcement agency shall promptly return the
29 vehicle to the claimant upon a determination by the administrative law
30 judge or court that the claimant is the present lawful owner or is
31 lawfully entitled to possession of the vehicle.

32 (6) When a vehicle is forfeited under this chapter the seizing law
33 enforcement agency may sell the vehicle, retain it for official use, or
34 upon application by a law enforcement agency of this state release the
35 vehicle to that agency for the exclusive use of enforcing this title.

36 (7) When a vehicle is forfeited, the seizing agency shall keep a
37 record indicating the identity of the prior owner, if known, a
38 description of the vehicle, the disposition of the vehicle, the value

1 of the vehicle at the time of seizure, and the amount of proceeds
2 realized from disposition of the vehicle.

3 (8) Each seizing agency shall retain records of forfeited vehicles
4 for at least seven years.

5 (9) Each seizing agency shall file a report including a copy of the
6 records of forfeited vehicles with the state treasurer each calendar
7 quarter.

8 (10) The quarterly report need not include a record of a forfeited
9 vehicle that is still being held for use as evidence during the
10 investigation or prosecution of a case or during the appeal from a
11 conviction.

12 (11) By January 31st of each year, each seizing agency shall remit
13 to the state treasurer an amount equal to ten percent of the net
14 proceeds of vehicles forfeited during the preceding calendar year.
15 Money remitted shall be deposited in the public safety and education
16 account.

17 (12) The net proceeds of a forfeited vehicle is the value of the
18 forfeitable interest in the vehicle after deducting the cost of
19 satisfying a bona fide security interest to which the vehicle is
20 subject at the time of seizure; and in the case of a sold vehicle,
21 after deducting the cost of sale, including reasonable fees or
22 commissions paid to independent selling agents.

23 (13) The value of a sold forfeited vehicle is the sale price. The
24 value of a retained forfeited vehicle is the fair market value of the
25 vehicle at the time of seizure, determined when possible by reference
26 to an applicable commonly used index, such as the index used by the
27 department of licensing. A seizing agency may use, but need not use,
28 an independent qualified appraiser to determine the value of retained
29 vehicles. If an appraiser is used, the value of the vehicle appraised
30 is net of the cost of the appraisal.

31 **Sec. 16.** RCW 46.20.311 and 1993 c 501 s 5 are each amended to read
32 as follows:

33 (1) The department shall not suspend a driver's license or
34 privilege to drive a motor vehicle on the public highways for a fixed
35 period of more than one year, except as specifically permitted under
36 RCW 46.20.342 or (~~46.61.515~~) other provision of law. Except for a
37 suspension under RCW 46.20.289 and 46.20.291(5), whenever the license
38 or driving privilege of any person is suspended by reason of a

1 conviction, a finding that a traffic infraction has been committed,
2 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291, the
3 suspension shall remain in effect until the person gives and thereafter
4 maintains proof of financial responsibility for the future as provided
5 in chapter 46.29 RCW. The department shall not issue to the person a
6 new, duplicate, or renewal license until the person pays a reissue fee
7 of twenty dollars. If the suspension is the result of a violation of
8 RCW 46.61.502 or 46.61.504, the reissue fee shall be fifty dollars.

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

1 (3) Whenever the driver's license of any person is suspended
2 pursuant to Article IV of the nonresident violators compact or RCW
3 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue
4 to the person any new or renewal license until the person pays a
5 reissue fee of twenty dollars. If the suspension is the result of a
6 violation of the laws of this or any other state, province, or other
7 jurisdiction involving (a) the operation or physical control of a motor
8 vehicle upon the public highways while under the influence of
9 intoxicating liquor or drugs, or (b) the refusal to submit to a
10 chemical test of the driver's blood alcohol content, the reissue fee
11 shall be fifty dollars.

12 **Sec. 17.** RCW 46.04.580 and 1990 c 250 s 22 are each amended to
13 read as follows:

14 "Suspend," in all its forms and unless a different period is
15 specified, means invalidation for any period less than one calendar
16 year and thereafter until reinstatement. ((However, under RCW
17 46.61.515 the invalidation may last for more than one calendar year.))

18 **Sec. 18.** RCW 46.20.391 and 1985 c 407 s 5 are each amended to read
19 as follows:

20 (1) Any person licensed under this chapter who is convicted of an
21 offense relating to motor vehicles for which suspension or revocation
22 of the driver's license is mandatory, other than vehicular homicide or
23 vehicular assault, may submit to the department an application for an
24 occupational driver's license. The department, upon receipt of the
25 prescribed fee and upon determining that the petitioner is engaged in
26 an occupation or trade that makes it essential that the petitioner
27 operate a motor vehicle, may issue an occupational driver's license and
28 may set definite restrictions as provided in RCW 46.20.394. No person
29 may petition for, and the department shall not issue, an occupational
30 driver's license that is effective during the first thirty days of any
31 suspension or revocation imposed ((under RCW 46.61.515)) for a
32 violation of RCW 46.61.502 or 46.61.504. No person may petition for,
33 and the department shall not issue, an occupational driver's license if
34 the person is ineligible for such a license under section 6 or 7 of
35 this act. A person aggrieved by the decision of the department on the
36 application for an occupational driver's license may request a hearing
37 as provided by rule of the department.

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

3 (a) Within one year immediately preceding the date of the offense
4 that gave rise to the present conviction, the applicant has not ((been
5 ~~convicted~~)) committed of any offense relating to motor vehicles for
6 which suspension or revocation of a driver's license is mandatory; and

7 (b) Within five years immediately preceding the date of the offense
8 that gave rise to the present conviction, the applicant has not ((been
9 ~~convicted of~~)) committed any of the following offenses: (i) Driving or
10 being in actual physical control of a motor vehicle while under the
11 influence of intoxicating liquor ((~~under RCW 46.61.502 or 46.61.504,~~
12 ~~of~~)); (ii) vehicular homicide under RCW 46.61.520((~~, or of~~)); or (iii)
13 vehicular assault under RCW 46.61.522; and

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

16 (d) The applicant files satisfactory proof of financial
17 responsibility pursuant to chapter 46.29 RCW.

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

25 **Sec. 19.** RCW 46.01.260 and 1984 c 241 s 1 are each amended to read
26 as follows:

27 (1) Except as provided in subsection (2) of this section, the
28 director, in his or her discretion, may destroy applications for
29 vehicle licenses, copies of vehicle licenses issued, applications for
30 drivers' licenses, copies of issued drivers' licenses, certificates of
31 title and registration or other documents, records or supporting papers
32 on file in his or her office which have been microfilmed or
33 photographed or are more than five years old. If the applications for
34 vehicle licenses are renewal applications, the director may destroy
35 such applications when the computer record thereof has been updated.

36 (2)(a) The director shall not, within ten years from the date of
37 conviction, adjudication, or entry of deferred prosecution, destroy
38 records of the following:

1 (i) Convictions or adjudications of the following offenses: RCW
2 46.61.502, 46.61.504, 46.61.520(1)(a), or 46.61.522(1)(b);
3 (ii) If the offense was originally charged as one of the offenses
4 designated in (a)(i) of this subsection, convictions or adjudications
5 of the following offenses: RCW 46.61.500 or 46.61.525, or any other
6 violation that was originally charged as one of the offenses designated
7 in (a)(i) of this subsection; or
8 (iii) Deferred prosecutions granted under RCW 10.05.120.
9 (b) For purposes of RCW 46.52.100 and 46.52.130, offenses subject
10 to this subsection shall be considered "alcohol-related" offenses.

11 **Sec. 20.** RCW 46.52.100 and 1991 c 363 s 123 are each amended to
12 read as follows:

13 Every district court, municipal court, and clerk of superior court
14 shall keep or cause to be kept a record of every traffic complaint,
15 traffic citation, notice of infraction, or other legal form of traffic
16 charge deposited with or presented to the court or a traffic violations
17 bureau, and shall keep a record of every official action by ~~((said))~~
18 the court or its traffic violations bureau in reference thereto,
19 including but not limited to a record of every conviction, forfeiture
20 of bail, judgment of acquittal, finding that a traffic infraction has
21 been committed, dismissal of a notice of infraction, and the amount of
22 fine, forfeiture, or penalty resulting from every ~~((said))~~ traffic
23 complaint, citation, or notice of infraction deposited with or
24 presented to the district court, municipal court, superior court, or
25 traffic violations bureau.

26 The Monday following the conviction, forfeiture of bail, or finding
27 that a traffic infraction was committed for violation of any provisions
28 of this chapter or other law regulating the operating of vehicles on
29 highways, every ~~((said))~~ magistrate of the court or clerk of the court
30 of record in which such conviction was had, bail was forfeited, or the
31 finding made shall prepare and immediately forward to the director of
32 licensing at Olympia an abstract of the record of ~~((said))~~ the court
33 covering the case, which abstract must be certified by the person so
34 required to prepare the same to be true and correct. Report need not
35 be made of any finding involving the illegal parking or standing of a
36 vehicle.

37 ~~((said))~~ The abstract must be made upon a form furnished by the
38 director and shall include the name and address of the party charged,

1 the number, if any, of the party's driver's or chauffeur's license, the
2 registration number of the vehicle involved, the nature of the offense,
3 the date of hearing, the plea, the judgment, whether the offense was an
4 alcohol-related offense as defined in RCW 46.01.260(2), whether bail
5 forfeited, whether the determination that a traffic infraction was
6 committed was contested, and the amount of the fine, forfeiture, or
7 penalty as the case may be.

8 Every court of record shall also forward a like report to the
9 director upon the conviction of any person of manslaughter or other
10 felony in the commission of which a vehicle was used.

11 The failure of any such judicial officer to comply with any of the
12 requirements of this section shall constitute misconduct in office and
13 shall be grounds for removal therefrom.

14 The director shall keep all abstracts received hereunder at the
15 director's office in Olympia and the same shall be open to public
16 inspection during reasonable business hours.

17 Venue in all district courts shall be before one of the two nearest
18 district judges in incorporated cities and towns nearest to the point
19 the violation allegedly occurred: PROVIDED, That in counties with
20 populations of one hundred twenty-five thousand or more such cases may
21 be tried in the county seat at the request of the defendant.

22 It shall be the duty of the officer, prosecuting attorney, or city
23 attorney signing the charge or information in any case involving a
24 charge of driving under the influence of intoxicating liquor or any
25 drug immediately to make request to the director for an abstract of
26 convictions and forfeitures which the director shall furnish.

27 **Sec. 21.** RCW 46.52.130 and 1991 c 243 s 1 are each amended to read
28 as follows:

29 A certified abstract of the driving record shall be furnished only
30 to the individual named in the abstract, an employer, the insurance
31 carrier that has insurance in effect covering the employer or a
32 prospective employer, the insurance carrier that has insurance in
33 effect covering the named individual, the insurance carrier to which
34 the named individual has applied, ((or)) an alcohol/drug assessment or
35 treatment agency approved by the department of social and health
36 services, to which the named individual has applied or been assigned
37 for evaluation or treatment, or city and county prosecuting attorneys.
38 City attorneys and county prosecuting attorneys may provide the driving

1 record to alcohol/drug assessment or treatment agencies approved by the
2 department of social and health services to which the named individual
3 has applied or been assigned for evaluation or treatment. The
4 director, upon proper request, shall furnish a certified abstract
5 covering the period of not more than the last three years to insurance
6 companies(~~(, and)~~). Upon proper request, the director shall furnish a
7 certified abstract covering a period of not more than the last five
8 years to state approved alcohol/drug assessment or treatment agencies,
9 except that the certified abstract shall also include records of
10 alcohol-related offenses as defined in RCW 46.01.260(2) covering a
11 period of not more than the last ten years. Upon proper request, a
12 certified abstract of the full driving record maintained by the
13 department shall be furnished to a city or county prosecuting attorney,
14 to the individual(~~(s and)~~) named in the abstract or to an employer(~~(s)~~)
15 or prospective employer(~~(s)~~) of the named individual. The abstract,
16 whenever possible, shall include an enumeration of motor vehicle
17 accidents in which the person was driving; the total number of vehicles
18 involved; whether the vehicles were legally parked or moving; whether
19 the vehicles were occupied at the time of the accident; any reported
20 convictions, forfeitures of bail, or findings that an infraction was
21 committed based upon a violation of any motor vehicle law; and the
22 status of the person's driving privilege in this state. The
23 enumeration shall include any reports of failure to appear in response
24 to a traffic citation or failure to respond to a notice of infraction
25 served upon the named individual by an arresting officer. Certified
26 abstracts furnished to prosecutors and alcohol/drug assessment or
27 treatment agencies shall also indicate whether a recorded violation is
28 an alcohol-related offense as defined in RCW 46.01.260(2) that was
29 originally charged as one of the alcohol-related offenses designated in
30 RCW 46.01.260(2)(a)(i).

31 The abstract provided to the insurance company shall exclude any
32 information, except that related to the commission of misdemeanors or
33 felonies by the individual, pertaining to law enforcement officers or
34 fire fighters as defined in RCW 41.26.030, or any officer of the
35 Washington state patrol, while driving official vehicles in the
36 performance of occupational duty. The abstract provided to the
37 insurance company shall exclude any infraction under section 4 of this
38 act unless the driving record also shows a conviction for a violation
39 of RCW 46.61.502 or 46.61.504 and the violation occurred within five

1 years after the commission of the infraction, in which case the
2 abstract shall show the infraction as well as the conviction. The
3 abstract provided to the insurance company shall exclude any deferred
4 prosecution under RCW 10.05.060, except that if a person is removed
5 from a deferred prosecution under RCW 10.05.090, the abstract shall
6 show the deferred prosecution as well as the removal.

7 The director shall collect for each abstract the sum of four
8 dollars and fifty cents which shall be deposited in the highway safety
9 fund.

10 Any insurance company or its agent receiving the certified abstract
11 shall use it exclusively for its own underwriting purposes and shall
12 not divulge any of the information contained in it to a third party.
13 No policy of insurance may be canceled, nonrenewed, denied, or have the
14 rate increased on the basis of such information unless the policyholder
15 was determined to be at fault. No insurance company or its agent for
16 underwriting purposes relating to the operation of commercial motor
17 vehicles may use any information contained in the abstract relative to
18 any person's operation of motor vehicles while not engaged in such
19 employment, nor may any insurance company or its agent for underwriting
20 purposes relating to the operation of noncommercial motor vehicles use
21 any information contained in the abstract relative to any person's
22 operation of commercial motor vehicles.

23 Any employer or prospective employer receiving the certified
24 abstract shall use it exclusively for his or her own purpose to
25 determine whether the licensee should be permitted to operate a
26 commercial vehicle or school bus upon the public highways of this state
27 and shall not divulge any information contained in it to a third party.

28 Any alcohol/drug assessment or treatment agency approved by the
29 department of social and health services receiving the certified
30 abstract shall use it exclusively for the purpose of assisting its
31 employees in making a determination as to what level of treatment, if
32 any, is appropriate. The agency, or any of its employees, shall not
33 divulge any information contained in the abstract to a third party.

34 Any violation of this section is a gross misdemeanor.

35 **Sec. 22.** RCW 10.05.060 and 1990 c 250 s 13 are each amended to
36 read as follows:

37 If the report recommends treatment, the court shall examine the
38 treatment plan. If it approves the plan and the petitioner agrees to

1 comply with its terms and conditions and agrees to pay the cost
2 thereof, if able to do so, or arrange for the treatment, an entry shall
3 be made upon the person's court docket showing that the person has been
4 accepted for deferred prosecution. A copy of the treatment plan shall
5 be attached to the docket, which shall then be removed from the regular
6 court dockets and filed in a special court deferred prosecution file.
7 If the charge be one that an abstract of the docket showing the charge,
8 the date of the violation for which the charge was made, and the date
9 of petitioner's acceptance is required to be sent to the department of
10 licensing, an abstract shall be sent, and the department of licensing
11 shall make an entry of the charge and of the petitioner's acceptance
12 for deferred prosecution on the department's driving record of the
13 petitioner. The entry is not a conviction for purposes of Title 46
14 RCW. Upon receipt of the abstract of the docket, the department shall
15 issue the petitioner a probationary license in accordance with section
16 8 of this act, and the petitioner's driver's license shall be on
17 probationary status for five years from the date of the violation that
18 gave rise to the charge. The department shall maintain the record for
19 ((five)) ten years from date of entry of the order granting deferred
20 prosecution.

21 **Sec. 23.** RCW 10.05.090 and 1985 c 352 s 12 are each amended to
22 read as follows:

23 If a petitioner, who has been accepted for a deferred prosecution,
24 fails or neglects to carry out and fulfill any term or condition of the
25 petitioner's treatment plan, the facility, center, institution, or
26 agency administering the treatment shall immediately report such breach
27 to the court, the prosecutor, and the petitioner or petitioner's
28 attorney of record, together with its recommendation. The court upon
29 receiving such a report shall hold a hearing to determine whether the
30 petitioner should be removed from the deferred prosecution program. At
31 the hearing, evidence shall be taken of the petitioner's alleged
32 failure to comply with the treatment plan and the petitioner shall have
33 the right to present evidence on his or her own behalf. The court
34 shall either order that the petitioner continue on the treatment plan
35 or be removed from deferred prosecution. If removed from deferred
36 prosecution, the court shall enter judgment pursuant to RCW 10.05.020
37 and shall notify the department of licensing of the removal.

1 Over 18 and deliver heroin or narcotic
2 from Schedule I or II to someone
3 under 18 (RCW 69.50.406)
4 Leading Organized Crime (RCW
5 9A.82.060(1)(a))

6 IX Assault of a Child 2 (RCW 9A.36.130)
7 Robbery 1 (RCW 9A.56.200)
8 Manslaughter 1 (RCW 9A.32.060)
9 Explosive devices prohibited (RCW
10 70.74.180)
11 Indecent Liberties (with forcible
12 compulsion) (RCW 9A.44.100(1)(a))
13 Endangering life and property by
14 explosives with threat to human being
15 (RCW 70.74.270)
16 Over 18 and deliver narcotic from Schedule
17 III, IV, or V or a nonnarcotic from
18 Schedule I-V to someone under 18 and
19 3 years junior (RCW 69.50.406)
20 Controlled Substance Homicide (RCW
21 69.50.415)
22 Sexual Exploitation (RCW 9.68A.040)
23 Inciting Criminal Profiteering (RCW
24 9A.82.060(1)(b))
25 Vehicular Homicide, by being under the
26 influence of intoxicating liquor or
27 any drug (RCW 46.61.520)

28 VIII Arson 1 (RCW 9A.48.020)
29 Promoting Prostitution 1 (RCW 9A.88.070)
30 Selling for profit (controlled or
31 counterfeit) any controlled substance
32 (RCW 69.50.410)
33 Manufacture, deliver, or possess with
34 intent to deliver heroin or cocaine
35 (RCW 69.50.401(a)(1)(i))
36 Manufacture, deliver, or possess with
37 intent to deliver methamphetamine
38 (RCW 69.50.401(a)(1)(ii))

1 Vehicular Homicide, (~~by being under the~~
2 ~~influence of intoxicating liquor or~~
3 ~~any drug or~~) by the operation of any
4 vehicle in a reckless manner (RCW
5 46.61.520)

6 VII Burglary 1 (RCW 9A.52.020)
7 Vehicular Homicide, by disregard for the
8 safety of others (RCW 46.61.520)
9 Introducing Contraband 1 (RCW 9A.76.140)
10 Indecent Liberties (without forcible
11 compulsion) (RCW 9A.44.100(1) (b) and
12 (c))
13 Child Molestation 2 (RCW 9A.44.086)
14 Dealing in depictions of minor engaged in
15 sexually explicit conduct (RCW
16 9.68A.050)
17 Sending, bringing into state depictions of
18 minor engaged in sexually explicit
19 conduct (RCW 9.68A.060)
20 Involving a minor in drug dealing (RCW
21 69.50.401(f))

22 VI Bribery (RCW 9A.68.010)
23 Manslaughter 2 (RCW 9A.32.070)
24 Rape of a Child 3 (RCW 9A.44.079)
25 Intimidating a Juror/Witness (RCW
26 9A.72.110, 9A.72.130)
27 Damaging building, etc., by explosion with
28 no threat to human being (RCW
29 70.74.280(2))
30 Endangering life and property by
31 explosives with no threat to human
32 being (RCW 70.74.270)
33 Incest 1 (RCW 9A.64.020(1))
34 Manufacture, deliver, or possess with
35 intent to deliver narcotics from
36 Schedule I or II (except heroin or
37 cocaine) (RCW 69.50.401(a)(1)(i))

1 Intimidating a Judge (RCW 9A.72.160)
2 Bail Jumping with Murder 1 (RCW
3 9A.76.170(2)(a))
4 V Criminal Mistreatment 1 (RCW 9A.42.020)
5 Rape 3 (RCW 9A.44.060)
6 Sexual Misconduct with a Minor 1 (RCW
7 9A.44.093)
8 Child Molestation 3 (RCW 9A.44.089)
9 Kidnapping 2 (RCW 9A.40.030)
10 Extortion 1 (RCW 9A.56.120)
11 Incest 2 (RCW 9A.64.020(2))
12 Perjury 1 (RCW 9A.72.020)
13 Extortionate Extension of Credit (RCW
14 9A.82.020)
15 Advancing money or property for
16 extortionate extension of credit (RCW
17 9A.82.030)
18 Extortionate Means to Collect Extensions
19 of Credit (RCW 9A.82.040)
20 Rendering Criminal Assistance 1 (RCW
21 9A.76.070)
22 Bail Jumping with class A Felony (RCW
23 9A.76.170(2)(b))
24 Delivery of imitation controlled substance
25 by person eighteen or over to person
26 under eighteen (RCW 69.52.030(2))
27 IV Residential Burglary (RCW 9A.52.025)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Robbery 2 (RCW 9A.56.210)
30 Assault 2 (RCW 9A.36.021)
31 Escape 1 (RCW 9A.76.110)
32 Arson 2 (RCW 9A.48.030)
33 Bribing a Witness/Bribe Received by
34 Witness (RCW 9A.72.090, 9A.72.100)
35 Malicious Harassment (RCW 9A.36.080)
36 Threats to Bomb (RCW 9.61.160)
37 Willful Failure to Return from Furlough
38 (RCW 72.66.060)

1 Hit and Run « Injury Accident (RCW
2 46.52.020(4))
3 Vehicular Assault (RCW 46.61.522)
4 Manufacture, deliver, or possess with
5 intent to deliver narcotics from
6 Schedule III, IV, or V or
7 nonnarcotics from Schedule I-V
8 (except marijuana or
9 methamphetamines) (RCW
10 69.50.401(a)(1)(ii) through (iv))
11 Influencing Outcome of Sporting Event (RCW
12 9A.82.070)
13 Use of Proceeds of Criminal Profiteering
14 (RCW 9A.82.080 (1) and (2))
15 Knowingly Trafficking in Stolen Property
16 (RCW 9A.82.050(2))

17 III Criminal mistreatment 2 (RCW 9A.42.030)
18 Extortion 2 (RCW 9A.56.130)
19 Unlawful Imprisonment (RCW 9A.40.040)
20 Assault 3 (RCW 9A.36.031)
21 Assault of a Child 3 (RCW 9A.36.140)
22 Custodial Assault (RCW 9A.36.100)
23 Unlawful possession of firearm or pistol by felon (RCW
24 9.41.040)
25 Harassment (RCW 9A.46.020)
26 Promoting Prostitution 2 (RCW 9A.88.080)
27 Willful Failure to Return from Work
28 Release (RCW 72.65.070)
29 Burglary 2 (RCW 9A.52.030)
30 Introducing Contraband 2 (RCW 9A.76.150)
31 Communication with a Minor for Immoral
32 Purposes (RCW 9.68A.090)
33 Patronizing a Juvenile Prostitute (RCW
34 9.68A.100)
35 Escape 2 (RCW 9A.76.120)
36 Perjury 2 (RCW 9A.72.030)
37 Bail Jumping with class B or C Felony (RCW
38 9A.76.170(2)(c))

1 Intimidating a Public Servant (RCW
2 9A.76.180)
3 Tampering with a Witness (RCW 9A.72.120)
4 Manufacture, deliver, or possess with
5 intent to deliver marijuana (RCW
6 69.50.401(a)(1)(ii))
7 Delivery of a material in lieu of a
8 controlled substance (RCW
9 69.50.401(c))
10 Manufacture, distribute, or possess with
11 intent to distribute an imitation
12 controlled substance (RCW
13 69.52.030(1))
14 Recklessly Trafficking in Stolen Property
15 (RCW 9A.82.050(1))
16 Theft of livestock 2 (RCW 9A.56.080)
17 Securities Act violation (RCW 21.20.400)
18 II Malicious Mischief 1 (RCW 9A.48.070)
19 Possession of Stolen Property 1 (RCW
20 9A.56.150)
21 Theft 1 (RCW 9A.56.030)
22 Possession of controlled substance that is
23 either heroin or narcotics from
24 Schedule I or II (RCW 69.50.401(d))
25 Possession of phencyclidine (PCP) (RCW
26 69.50.401(d))
27 Create, deliver, or possess a counterfeit
28 controlled substance (RCW
29 69.50.401(b))
30 Computer Trespass 1 (RCW 9A.52.110)
31 Reckless Endangerment 1 (RCW 9A.36.045)
32 Escape from Community Custody (RCW
33 72.09.310)
34 I Theft 2 (RCW 9A.56.040)
35 Possession of Stolen Property 2 (RCW
36 9A.56.160)
37 Forgery (RCW 9A.60.020)

1 Taking Motor Vehicle Without Permission
2 (RCW 9A.56.070)
3 Vehicle Prowl 1 (RCW 9A.52.095)
4 Attempting to Elude a Pursuing Police
5 Vehicle (RCW 46.61.024)
6 Malicious Mischief 2 (RCW 9A.48.080)
7 Reckless Burning 1 (RCW 9A.48.040)
8 Unlawful Issuance of Checks or Drafts (RCW
9 9A.56.060)
10 Unlawful Use of Food Stamps (RCW 9.91.140
11 (2) and (3))
12 False Verification for Welfare (RCW
13 74.08.055)
14 Forged Prescription (RCW 69.41.020)
15 Forged Prescription for a Controlled
16 Substance (RCW 69.50.403)
17 Possess Controlled Substance that is a
18 Narcotic from Schedule III, IV, or V
19 or Non-narcotic from Schedule I-V
20 (except phencyclidine) (RCW
21 69.50.401(d))

22 **Sec. 26.** RCW 46.63.020 and 1993 c 501 s 8 are each amended to read
23 as follows:

24 Failure to perform any act required or the performance of any act
25 prohibited by this title or an equivalent administrative regulation or
26 local law, ordinance, regulation, or resolution relating to traffic
27 including parking, standing, stopping, and pedestrian offenses, is
28 designated as a traffic infraction and may not be classified as a
29 criminal offense, except for an offense contained in the following
30 provisions of this title or a violation of an equivalent administrative
31 regulation or local law, ordinance, regulation, or resolution:

32 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
33 vehicle while under the influence of intoxicating liquor or a
34 controlled substance;

35 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

1 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
2 while under the influence of intoxicating liquor or narcotics or habit-
3 forming drugs or in a manner endangering the person of another;
4 (4) RCW 46.10.130 relating to the operation of snowmobiles;
5 (5) Chapter 46.12 RCW relating to certificates of ownership and
6 registration;
7 (6) RCW 46.16.010 relating to initial registration of motor
8 vehicles;
9 (7) RCW 46.16.011 relating to permitting unauthorized persons to
10 drive;
11 (8) RCW 46.16.160 relating to vehicle trip permits;
12 (9) RCW 46.16.381 (6) or (~~((+8))~~) (9) relating to unauthorized use
13 or acquisition of a special placard or license plate for disabled
14 persons' parking;
15 (10) RCW 46.20.021 relating to driving without a valid driver's
16 license;
17 (11) RCW 46.20.308 relating to refusal to submit to a breath or
18 blood alcohol test;
19 (12) RCW 46.20.336 relating to the unlawful possession and use of
20 a driver's license;
21 (~~((+12))~~) (13) RCW 46.20.342 relating to driving with a suspended or
22 revoked license or status;
23 (~~((+13))~~) (14) RCW 46.20.410 relating to the violation of
24 restrictions of an occupational driver's license;
25 (~~((+14))~~) (15) RCW 46.20.420 relating to the operation of a motor
26 vehicle with a suspended or revoked license;
27 (~~((+15))~~) (16) RCW 46.20.750 relating to assisting another person to
28 start a vehicle equipped with an ignition interlock device;
29 (~~((+16))~~) (17) RCW 46.25.170 relating to commercial driver's
30 licenses;
31 (~~((+17))~~) (18) Chapter 46.29 RCW relating to financial
32 responsibility;
33 (~~((+18))~~) (19) RCW 46.30.040 relating to providing false evidence of
34 financial responsibility;
35 (~~((+19))~~) (20) RCW 46.37.435 relating to wrongful installation of
36 sunscreening material;
37 (~~((+20))~~) (21) RCW 46.44.180 relating to operation of mobile home
38 pilot vehicles;

1 ~~((21))~~ (22) RCW 46.48.175 relating to the transportation of
2 dangerous articles;

3 ~~((22))~~ (23) RCW 46.52.010 relating to duty on striking an
4 unattended car or other property;

5 ~~((23))~~ (24) RCW 46.52.020 relating to duty in case of injury to
6 or death of a person or damage to an attended vehicle;

7 ~~((24))~~ (25) RCW 46.52.090 relating to reports by repairmen,
8 storagemen, and appraisers;

9 ~~((25))~~ (26) RCW 46.52.100 relating to driving under the influence
10 of liquor or drugs;

11 ~~((26))~~ (27) RCW 46.52.130 relating to confidentiality of the
12 driving record to be furnished to an insurance company, an employer,
13 and an alcohol/drug assessment or treatment agency;

14 ~~((27))~~ (28) RCW 46.55.020 relating to engaging in the activities
15 of a registered tow truck operator without a registration certificate;

16 ~~((28))~~ (29) RCW 46.55.035 relating to prohibited practices by tow
17 truck operators;

18 ~~((29))~~ (30) RCW 46.61.015 relating to obedience to police
19 officers, flagmen, or fire fighters;

20 ~~((30))~~ (31) RCW 46.61.020 relating to refusal to give information
21 to or cooperate with an officer;

22 ~~((31))~~ (32) RCW 46.61.022 relating to failure to stop and give
23 identification to an officer;

24 ~~((32))~~ (33) RCW 46.61.024 relating to attempting to elude
25 pursuing police vehicles;

26 ~~((33))~~ (34) RCW 46.61.500 relating to reckless driving;

27 ~~((34))~~ (35) RCW 46.61.502 and 46.61.504 and sections 5, 6, and 7
28 of this act relating to persons under the influence of intoxicating
29 liquor or drugs;

30 ~~((35))~~ (36) RCW 46.61.520 relating to vehicular homicide by motor
31 vehicle;

32 ~~((36))~~ (37) RCW 46.61.522 relating to vehicular assault;

33 ~~((37))~~ (38) RCW 46.61.525 relating to negligent driving;

34 ~~((38))~~ (39) RCW 46.61.530 relating to racing of vehicles on
35 highways;

36 ~~((39))~~ (40) RCW 46.61.685 relating to leaving children in an
37 unattended vehicle with the motor running;

38 ~~((40))~~ (41) RCW 46.64.010 relating to unlawful cancellation of or
39 attempt to cancel a traffic citation;

1 (~~(41)~~) (42) RCW 46.64.048 relating to attempting, aiding,
2 abetting, coercing, and committing crimes;

3 (~~(42)~~) (43) Chapter 46.65 RCW relating to habitual traffic
4 offenders;

5 (~~(43)~~) (44) Chapter 46.70 RCW relating to unfair motor vehicle
6 business practices, except where that chapter provides for the
7 assessment of monetary penalties of a civil nature;

8 (~~(44)~~) (45) Chapter 46.72 RCW relating to the transportation of
9 passengers in for hire vehicles;

10 (~~(45)~~) (46) Chapter 46.80 RCW relating to motor vehicle wreckers;

11 (~~(46)~~) (47) Chapter 46.82 RCW relating to driver's training
12 schools;

13 (~~(47)~~) (48) RCW 46.87.260 relating to alteration or forgery of a
14 cab card, letter of authority, or other temporary authority issued
15 under chapter 46.87 RCW;

16 (~~(48)~~) (49) RCW 46.87.290 relating to operation of an
17 unregistered or unlicensed vehicle under chapter 46.87 RCW.

18 NEW SECTION. **Sec. 27.** A new section is added to chapter 46.61 RCW
19 to read as follows:

20 The state of Washington hereby fully occupies and preempts the
21 entire field of regulating driving or being in physical control of a
22 vehicle while under the influence of intoxicating liquor or any drug
23 within the boundaries of the state. No jurisdiction may enact a law or
24 ordinance that is different from, inconsistent with, more restrictive
25 than, or less restrictive than state law in this field, and any such
26 law or ordinance in existence on the effective date of this section is
27 preempted and repealed, regardless of the nature of the code, charter,
28 or home rule status of the town, city, county, or other jurisdiction
29 that enacted the law or ordinance.

30 **Sec. 28.** RCW 2.68.020 and 1989 c 364 s 2 are each amended to read
31 as follows:

32 There is created an account in the custody of the state treasurer
33 to be known as the judicial information system account. The office of
34 the administrator for the courts shall maintain and administer the
35 account, in which shall be deposited all moneys received from in-state
36 noncourt users and any out-of-state users of the judicial information
37 system(~~(. The legislature shall appropriate the funds in the account~~

1 ~~for the purposes of the judicial information system. The account shall~~
2 ~~be credited with all receipts from the rental, sale, or distribution of~~
3 ~~supplies, equipment, computer software, products, and services rendered~~
4 ~~to in-state noncourt users and all out-of-state users and licensees of~~
5 ~~the judicial information system)) and moneys as specified in section 29~~
6 of this act for the purposes of providing judicial information system
7 access to noncourt users and providing an adequate level of automated
8 services to the judiciary. The account is subject to the allotment
9 procedure provided under chapter 43.88 RCW. Disbursements from the
10 account are not subject to appropriation. The account shall be used
11 for the acquisition of equipment, software, supplies, services, and
12 other costs incidental to the acquisition, development, operation, and
13 administration of information services, telecommunications, systems,
14 software, supplies, and equipment, including the payment of principal
15 and interest on items paid in installments.

16 NEW SECTION. Sec. 29. A new section is added to chapter 2.68 RCW
17 to read as follows:

18 (1) To support the judicial information system account provided for
19 in RCW 2.68.020, the supreme court may provide by rule for an increase
20 in fines, penalties, and assessments, and the increased amount shall be
21 forwarded to the state treasurer for deposit in the account:

22 (a) Pursuant to the authority of RCW 46.63.110(2), the sum of ten
23 dollars to any penalty collected by a court pursuant to supreme court
24 infraction rules for courts of limited jurisdiction;

25 (b) Pursuant to RCW 3.62.060, a mandatory appearance cost in the
26 initial sum of ten dollars to be assessed on all defendants; and

27 (c) Pursuant to RCW 46.63.110(5), a ten dollar assessment for each
28 account for which a person requests a time payment schedule.

29 (2) Notwithstanding a provision of law or rule to the contrary, the
30 assessments provided for in this section may not be waived or suspended
31 and shall be immediately due and payable upon forfeiture, conviction,
32 deferral of prosecution, or request for time payment, as each shall
33 occur.

34 (3) The supreme court is requested to adjust these assessments for
35 inflation.

36 NEW SECTION. Sec. 30. The sum of dollars, or as much
37 thereof as may be necessary, is appropriated for the biennium ending

1 June 30, 1995, from the drug enforcement and education account to the
2 office of the administrator for the courts for court probation
3 services.

4 **Sec. 31.** RCW 43.135.035 and 1994 c 2 s 4 (Initiative Measure No.
5 601) are each amended to read as follows:

6 (1) After July 1, 1995, any action or combination of actions by the
7 legislature that raises state revenue or requires revenue-neutral tax
8 shifts may be taken only if approved by a two-thirds vote of each
9 house, and then only if state expenditures in any fiscal year,
10 including the new revenue, will not exceed the state expenditure limits
11 established under this chapter.

12 (2)(a) If the legislative action under subsection (1) of this
13 section will result in expenditures in excess of the state expenditure
14 limit, then the action of the legislature shall not take effect until
15 approved by a vote of the people at a November general election. The
16 office of financial management shall adjust the state expenditure limit
17 by the amount of additional revenue approved by the voters under this
18 section. This adjustment shall not exceed the amount of revenue
19 generated by the legislative action during the first full fiscal year
20 in which it is in effect. The state expenditure limit shall be
21 adjusted downward upon expiration or repeal of the legislative action.

22 (b) The ballot title for any vote of the people required under this
23 section shall be substantially as follows:

24 "Shall taxes be imposed on in order to allow a
25 spending increase above last year's authorized spending adjusted for
26 inflation and population increases?"

27 (3)(a) The state expenditure limit may be exceeded upon declaration
28 of an emergency for a period not to exceed twenty-four months by a law
29 approved by a two-thirds vote of each house of the legislature and
30 signed by the governor. The law shall set forth the nature of the
31 emergency, which is limited to natural disasters that require immediate
32 government action to alleviate human suffering and provide humanitarian
33 assistance. The state expenditure limit may be exceeded for no more
34 than twenty-four months following the declaration of the emergency and
35 only for the purposes contained in the emergency declaration.

36 (b) Additional taxes required for an emergency under this section
37 may be imposed only until thirty days following the next general

1 election, unless an extension is approved at that general election.
2 The additional taxes shall expire upon expiration of the declaration of
3 emergency. The legislature shall not impose additional taxes for
4 emergency purposes under this subsection unless funds in the education
5 construction fund have been exhausted.

6 (c) The state or any political subdivision of the state shall not
7 impose any tax on intangible property listed in RCW 84.36.070 as that
8 statute exists on January 1, 1993.

9 (4) If the cost of any state program or function is shifted from
10 the state general fund on or after January 1, 1993, to another source
11 of funding, or if moneys are transferred from the state general fund to
12 another fund or account, the office of financial management shall lower
13 the state expenditure limit to reflect the shift.

14 (5) This section does not apply to the repeal of RCW 82.64.900.

15 **Sec. 32.** 1994 c 2 s 13 (Initiative Measure No. 601) (uncodified)
16 is amended to read as follows:

17 (1) After the effective date of this section, the state may raise
18 existing taxes, impose new taxes as authorized by law, or make revenue-
19 neutral tax shifts only with approval of a majority of the voters at a
20 November general election. The requirement for a vote at a November
21 general election is in addition to any other requirements established
22 by law.

23 (2) This section expires on July 1, 1995.

24 (3) This section does not apply to the repeal of RCW 82.64.900.

25 NEW SECTION. **Sec. 33.** The following acts or parts of acts are
26 each repealed:

27 (1) RCW 46.61.515 and 1993 c 501 s 7, 1993 c 239 s 1, 1985 c 352 s
28 1, 1984 c 258 s 328, 1983 c 165 s 21, 1983 c 150 s 1, 1982 1st ex.s. c
29 47 s 27, 1979 ex.s. c 176 s 6, 1977 ex.s. c 3 s 3, 1975 1st ex.s. c 287
30 s 2, 1974 ex.s. c 130 s 1, 1971 ex.s. c 284 s 1, 1967 c 32 s 68, & 1965
31 ex.s. c 155 s 62;

32 (2) RCW 82.64.900 and 1989 c 271 s 509; and

33 (3) 1993 c 239 s 3 (uncodified).

34 NEW SECTION. **Sec. 34.** This act shall be known as the "1994
35 Omnibus Drunk Driving Act."

1 NEW SECTION. **Sec. 35.** Section 11 of this act shall expire June
2 30, 1995.

3 NEW SECTION. **Sec. 36.** (1) This act shall take effect July 1,
4 1994, except for sections 28, 29, and 31 of this act.

5 (2) Sections 28 and 29 of this act are necessary for the immediate
6 preservation of the public peace, health, or safety, or support of the
7 state government and its existing public institutions, and shall take
8 effect immediately.

9 (3) Section 31 of this act shall take effect July 1, 1995.

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