

2 SHB 1501 - S COMM AMD
3 By Committee on Transportation

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 13.40.265 and 1994 sp.s. c 7 s 435 are each amended
8 to read as follows:

9 (1)(a) If a juvenile thirteen years of age or older is found by
10 juvenile court to have committed an offense while armed with a firearm
11 or an offense that is a violation of RCW 9.41.040(1)((+e)) (b)(iii) or
12 chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the
13 department of licensing within twenty-four hours after entry of the
14 judgment.

15 (b) Except as otherwise provided in (c) of this subsection, upon
16 petition of a juvenile who has been found by the court to have
17 committed an offense that is a violation of chapter 66.44, 69.41,
18 69.50, or 69.52 RCW, the court may at any time the court deems
19 appropriate notify the department of licensing that the juvenile's
20 driving privileges should be reinstated.

21 (c) If the offense is the juvenile's first violation of chapter
22 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the
23 court for reinstatement of the juvenile's privilege to drive revoked
24 pursuant to RCW 46.20.265 until ninety days after the date the juvenile
25 turns sixteen or ninety days after the judgment was entered, whichever
26 is later. If the offense is the juvenile's second or subsequent
27 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile
28 may not petition the court for reinstatement of the juvenile's
29 privilege to drive revoked pursuant to RCW 46.20.265 until the date the
30 juvenile turns seventeen or one year after the date judgment was
31 entered, whichever is later.

32 (2)(a) If a juvenile enters into a diversion agreement with a
33 diversion unit pursuant to RCW 13.40.080 concerning an offense that is
34 a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion
35 unit shall notify the department of licensing within twenty-four hours
36 after the diversion agreement is signed.

1 (b) If a diversion unit has notified the department pursuant to (a)
2 of this subsection, the diversion unit shall notify the department of
3 licensing when the juvenile has completed the agreement.

4 **Sec. 2.** RCW 46.20.265 and 1994 sp.s. c 7 s 439 are each amended to
5 read as follows:

6 (1) In addition to any other authority to revoke driving privileges
7 under this chapter, the department shall revoke all driving privileges
8 of a juvenile when the department receives notice from a court pursuant
9 to RCW 9.41.040(5), 13.40.265, 66.44.365, 69.41.065, 69.50.420,
10 69.52.070, or a substantially similar municipal ordinance adopted by a
11 local legislative authority, or from a diversion unit pursuant to RCW
12 13.40.265. The revocation shall be imposed without hearing.

13 (2) The driving privileges of the juvenile revoked under subsection
14 (1) of this section shall be revoked in the following manner:

15 (a) Upon receipt of the first notice, the department shall impose
16 a revocation for one year, or until the juvenile reaches seventeen
17 years of age, whichever is longer.

18 (b) Upon receipt of a second or subsequent notice, the department
19 shall impose a revocation for two years or until the juvenile reaches
20 eighteen years of age, whichever is longer.

21 (c) Each offense for which the department receives notice shall
22 result in a separate period of revocation. All periods of revocation
23 imposed under this section that could otherwise overlap shall run
24 consecutively and no period of revocation imposed under this section
25 shall begin before the expiration of all other periods of revocation
26 imposed under this section or other law.

27 (3) If the department receives notice from a court that the
28 juvenile's privilege to drive should be reinstated, the department
29 shall immediately reinstate any driving privileges that have been
30 revoked under this section if the minimum term of revocation as
31 specified in RCW 13.40.265(1)(c), 66.44.365(3), 69.41.065(3),
32 69.50.420(3), 69.52.070(3), or similar ordinance has expired, and
33 subject to subsection (2)(c) of this section.

34 (4)(a) If the department receives notice pursuant to RCW
35 13.40.265(2)(b) from a diversion unit that a juvenile has completed a
36 diversion agreement for which the juvenile's driving privileges were
37 revoked, the department shall reinstate any driving privileges revoked

1 under this section as provided in (b) of this subsection, subject to
2 subsection (2)(c) of this section.

3 (b) If the diversion agreement was for the juvenile's first
4 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department
5 shall not reinstate the juvenile's privilege to drive until the later
6 of ninety days after the date the juvenile turns sixteen or ninety days
7 after the juvenile entered into a diversion agreement for the offense.
8 If the diversion agreement was for the juvenile's second or subsequent
9 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department
10 shall not reinstate the juvenile's privilege to drive until the later
11 of the date the juvenile turns seventeen or one year after the juvenile
12 entered into the second or subsequent diversion agreement.

13 **Sec. 3.** RCW 46.20.285 and 1996 c 199 s 5 are each amended to read
14 as follows:

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

19 (1) For vehicular homicide the period of revocation shall be two
20 years. The revocation period shall be tolled during any period of
21 total confinement for the offense;

22 (2) Vehicular assault. The revocation period shall be tolled
23 during any period of total confinement for the offense;

24 (3) Driving a motor vehicle while under the influence of
25 intoxicating liquor or a narcotic drug, or under the influence of any
26 other drug to a degree which renders the driver incapable of safely
27 driving a motor vehicle, upon a showing by the department's records
28 that the conviction is the second or subsequent such conviction for the
29 driver within a period of five years. (~~Upon a showing that the~~
30 ~~conviction is the third such conviction for the driver within a period~~
31 ~~of five years, the period of revocation shall be two years)) The
32 revocation period shall be as provided in RCW 46.61.5055;~~

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

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

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

4 (7) Reckless driving upon a showing by the department's records
5 that the conviction is the third such conviction for the driver within
6 a period of two years.

7 **Sec. 4.** RCW 46.20.308 and 1995 c 332 s 1 are each amended to read
8 as follows:

9 (1) Any person who operates a motor vehicle within this state is
10 deemed to have given consent, subject to the provisions of RCW
11 46.61.506, to a test or tests of his or her breath or blood for the
12 purpose of determining the alcohol concentration or presence of any
13 drug in his or her breath or blood if arrested for any offense where,
14 at the time of the arrest, the arresting officer has reasonable grounds
15 to believe the person had been driving or was in actual physical
16 control of a motor vehicle while under the influence of intoxicating
17 liquor or any drug or was in violation of RCW 46.61.503.

18 (2) The test or tests of breath shall be administered at the
19 direction of a law enforcement officer having reasonable grounds to
20 believe the person to have been driving or in actual physical control
21 of a motor vehicle within this state while under the influence of
22 intoxicating liquor or any drug or the person to have been driving or
23 in actual physical control of a motor vehicle while having alcohol in
24 a concentration of 0.02 or more in his or her system and being under
25 the age of twenty-one. However, in those instances where the person is
26 incapable due to physical injury, physical incapacity, or other
27 physical limitation, of providing a breath sample or where the person
28 is being treated in a hospital, clinic, doctor's office, emergency
29 medical vehicle, ambulance, or other similar facility in which a breath
30 testing instrument is not present or where the officer has reasonable
31 grounds to believe that the person is under the influence of a drug, a
32 blood test shall be administered by a qualified person as provided in
33 RCW 46.61.506(4). The officer shall inform the person of his or her
34 right to refuse the breath or blood test, and of his or her right to
35 have additional tests administered by any qualified person of his or
36 her choosing as provided in RCW 46.61.506. The officer shall warn the
37 driver that:

1 (a) His or her license, permit, or privilege to drive will be
2 revoked or denied if he or she refuses to submit to the test;

3 (b) His or her license, permit, or privilege to drive will be
4 suspended, revoked, denied, or placed in probationary status if the
5 test is administered and the test indicates the alcohol concentration
6 of the person's breath or blood is 0.10 or more, in the case of a
7 person age twenty-one or over, or 0.02 or more in the case of a person
8 under age twenty-one; and

9 (c) His or her refusal to take the test may be used in a criminal
10 trial.

11 (3) Except as provided in this section, the test administered shall
12 be of the breath only. If an individual is unconscious or is under
13 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
14 or vehicular assault as provided in RCW 46.61.522, or if an individual
15 is under arrest for the crime of driving while under the influence of
16 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest
17 results from an accident in which there has been serious bodily injury
18 to another person, a breath or blood test may be administered without
19 the consent of the individual so arrested.

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

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

31 (6) If, after arrest and after the other applicable conditions and
32 requirements of this section have been satisfied, a test or tests of
33 the person's blood or breath is administered and the test results
34 indicate that the alcohol concentration of the person's breath or blood
35 is 0.10 or more if the person is age twenty-one or over, or is 0.02 or
36 more if the person is under the age of twenty-one, or the person
37 refuses to submit to a test, the arresting officer or other law
38 enforcement officer at whose direction any test has been given, or the

1 department, where applicable, if the arrest results in a test of the
2 person's blood, shall:

3 (a) Serve notice in writing on the person on behalf of the
4 department of its intention to suspend, revoke, deny, or place in
5 probationary status the person's license, permit, or privilege to drive
6 as required by subsection (7) of this section;

7 (b) Serve notice in writing on the person on behalf of the
8 department of his or her right to a hearing, specifying the steps he or
9 she must take to obtain a hearing as provided by subsection (8) of this
10 section;

11 (c) Mark the person's Washington state driver's license or permit
12 to drive, if any, in a manner authorized by the department;

13 (d) Serve notice in writing that the marked license or permit, if
14 any, is a temporary license that is valid for sixty days from the date
15 of arrest or from the date notice has been given in the event notice is
16 given by the department following a blood test, or until the
17 suspension, revocation, or denial of the person's license, permit, or
18 privilege to drive is sustained at a hearing pursuant to subsection (8)
19 of this section, whichever occurs first. No temporary license is valid
20 to any greater degree than the license or permit that it replaces; and

21 (e) Immediately notify the department of the arrest and transmit to
22 the department within seventy-two hours, except as delayed as the
23 result of a blood test, a sworn report or report under a declaration
24 authorized by RCW 9A.72.085 that states:

25 (i) That the officer had reasonable grounds to believe the arrested
26 person had been driving or was in actual physical control of a motor
27 vehicle within this state while under the influence of intoxicating
28 liquor or drugs, or both, or was under the age of twenty-one years and
29 had been driving or was in actual physical control of a motor vehicle
30 while having an alcohol concentration of 0.02 or more;

31 (ii) That after receipt of the warnings required by subsection (2)
32 of this section the person refused to submit to a test of his or her
33 blood or breath, or a test was administered and the results indicated
34 that the alcohol concentration of the person's breath or blood was 0.10
35 or more if the person is age twenty-one or over, or was 0.02 or more if
36 the person is under the age of twenty-one; and

37 (iii) Any other information that the director may require by rule.

38 (7) The department of licensing, upon the receipt of a sworn report
39 or report under a declaration authorized by RCW 9A.72.085 under

1 subsection (6)(e) of this section, shall suspend, revoke, deny, or
2 place in probationary status the person's license, permit, or privilege
3 to drive or any nonresident operating privilege, as provided in RCW
4 46.20.3101, such suspension, revocation, denial, or placement in
5 probationary status to be effective beginning sixty days from the date
6 of arrest or from the date notice has been given in the event notice is
7 given by the department following a blood test, or when sustained at a
8 hearing pursuant to subsection (8) of this section, whichever occurs
9 first.

10 (8) A person receiving notification under subsection (6)(b) of this
11 section may, within thirty days after the notice has been given,
12 request in writing a formal hearing before the department. The person
13 shall pay a fee of one hundred dollars as part of the request. If the
14 request is mailed, it must be postmarked within thirty days after
15 receipt of the notification. Upon timely receipt of such a request for
16 a formal hearing, including receipt of the required one hundred dollar
17 fee, the department shall afford the person an opportunity for a
18 hearing. Except as otherwise provided in this section, the hearing is
19 subject to and shall be scheduled and conducted in accordance with RCW
20 46.20.329 and 46.20.332. The hearing shall be conducted in the county
21 of the arrest, except that all or part of the hearing may, at the
22 discretion of the department, be conducted by telephone or other
23 electronic means. The hearing shall be held within sixty days
24 following the arrest or following the date notice has been given in the
25 event notice is given by the department following a blood test, unless
26 otherwise agreed to by the department and the person, in which case the
27 action by the department shall be stayed, and any valid temporary
28 license marked under subsection (6)(c) of this section extended, if the
29 person is otherwise eligible for licensing. For the purposes of this
30 section, the scope of the hearing shall cover the issues of whether a
31 law enforcement officer had reasonable grounds to believe the person
32 had been driving or was in actual physical control of a motor vehicle
33 within this state while under the influence of intoxicating liquor or
34 any drug or had been driving or was in actual physical control of a
35 motor vehicle within this state while having alcohol in his or her
36 system in a concentration of 0.02 or more and was under the age of
37 twenty-one, whether the person was placed under arrest, and (a) whether
38 the person refused to submit to the test or tests upon request of the
39 officer after having been informed that such refusal would result in

1 the revocation of the person's license, permit, or privilege to drive,
2 or (b) if a test or tests were administered, whether the applicable
3 requirements of this section were satisfied before the administration
4 of the test or tests, whether the person submitted to the test or
5 tests, or whether a test was administered without express consent as
6 permitted under this section, and whether the test or tests indicated
7 that the alcohol concentration of the person's breath or blood was 0.10
8 or more if the person was age twenty-one or over at the time of the
9 arrest, or was 0.02 or more if the person was under the age of twenty-
10 one at the time of the arrest. The sworn report or report under a
11 declaration authorized by RCW 9A.72.085 submitted by a law enforcement
12 officer is prima facie evidence that the officer had reasonable grounds
13 to believe the person had been driving or was in actual physical
14 control of a motor vehicle within this state while under the influence
15 of intoxicating liquor or drugs, or both, or the person had been
16 driving or was in actual physical control of a motor vehicle within
17 this state while having alcohol in his or her system in a concentration
18 of 0.02 or more and was under the age of twenty-one and that the
19 officer complied with the requirements of this section.

20 A hearing officer shall conduct the hearing, may issue subpoenas
21 for the attendance of witnesses and the production of documents, and
22 shall administer oaths to witnesses. The hearing officer shall not
23 issue a subpoena for the attendance of a witness at the request of the
24 person unless the request is accompanied by the fee required by RCW
25 5.56.010 for a witness in district court. The sworn report or report
26 under a declaration authorized by RCW 9A.72.085 of the law enforcement
27 officer and any other evidence accompanying the report shall be
28 admissible without further evidentiary foundation and the
29 certifications authorized by the criminal rules for courts of limited
30 jurisdiction shall be admissible without further evidentiary
31 foundation. The person may be represented by counsel, may question
32 witnesses, may present evidence, and may testify. The department shall
33 order that the suspension, revocation, denial, or placement in
34 probationary status either be rescinded or sustained.

35 (9) If the suspension, revocation, denial, or placement in
36 probationary status is sustained after such a hearing, the person whose
37 license, privilege, or permit is suspended, revoked, denied, or placed
38 in probationary status has the right to file a petition in the superior
39 court of the county of arrest to review the final order of revocation

1 by the department in the same manner as an appeal from a decision of a
2 court of limited jurisdiction. Notice of appeal must be filed within
3 thirty days after the date the final order is served or the right to
4 appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other
5 statutes or rules referencing de novo review, the appeal must be
6 limited to a review of the record of the administrative hearing. The
7 appellant must pay the costs associated with obtaining the record of
8 the hearing before the hearing officer. The filing of the appeal does
9 not stay the effective date of the suspension, revocation, denial, or
10 placement in probationary status. A petition filed under this
11 subsection must include the petitioner's grounds for requesting review.
12 Upon granting petitioner's request for review, the court shall review
13 the department's final order of suspension, revocation, denial, or
14 placement in probationary status as expeditiously as possible. The
15 review must be limited to a determination of whether the department has
16 committed any errors of law. The superior court shall accept those
17 factual determinations supported by substantial evidence in the record:
18 (a) That were expressly made by the department; or (b) that may
19 reasonably be inferred from the final order of the department. The
20 superior court may reverse, affirm, or modify the decision of the
21 department or remand the case back to the department for further
22 proceedings. The decision of the superior court must be in writing and
23 filed in the clerk's office with the other papers in the case. The
24 court shall state the reasons for the decision. If judicial relief is
25 sought for a stay or other temporary remedy from the department's
26 action, the court shall not grant such relief unless the court finds
27 that the appellant is likely to prevail in the appeal and that without
28 a stay the appellant will suffer irreparable injury. If the court
29 stays the suspension, revocation, denial, or placement in probationary
30 status it may impose conditions on such stay.

31 (10) If a person whose driver's license, permit, or privilege to
32 drive has been or will be suspended, revoked, denied, or placed in
33 probationary status under subsection (7) of this section, other than as
34 a result of a breath or blood test refusal, and who has not committed
35 an offense within the last five years for which he or she was granted
36 a deferred prosecution under chapter 10.05 RCW, petitions a court for
37 a deferred prosecution on criminal charges arising out of the arrest
38 for which action has been or will be taken under subsection (7) of this
39 section, the court may direct the department to stay any actual or

1 proposed suspension, revocation, denial, or placement in probationary
2 status for at least forty-five days but not more than ninety days. If
3 the court stays the suspension, revocation, denial, or placement in
4 probationary status, it may impose conditions on such stay. If the
5 person is otherwise eligible for licensing, the department shall issue
6 a temporary license, or extend any valid temporary license marked under
7 subsection (6) of this section, for the period of the stay. If a
8 deferred prosecution treatment plan is not recommended in the report
9 made under RCW 10.05.050, or if treatment is rejected by the court, or
10 if the person declines to accept an offered treatment plan, or if the
11 person violates any condition imposed by the court, then the court
12 shall immediately direct the department to cancel the stay and any
13 temporary marked license or extension of a temporary license issued
14 under this subsection.

15 A suspension, revocation, or denial imposed under this section,
16 other than as a result of a breath or blood test refusal, shall be
17 stayed if the person is accepted for deferred prosecution as provided
18 in chapter 10.05 RCW for the incident upon which the suspension,
19 revocation, or denial is based. If the deferred prosecution is
20 terminated, the stay shall be lifted and the suspension, revocation, or
21 denial reinstated. If the deferred prosecution is completed, the stay
22 shall be lifted and the suspension, revocation, or denial canceled.

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

29 **Sec. 5.** RCW 46.20.355 and 1995 1st sp.s. c 17 s 1 are each amended
30 to read as follows:

31 (1) Upon placing a license, permit, or privilege to drive in
32 probationary status under RCW 46.20.3101(2)(a), or upon receipt of an
33 abstract indicating a deferred prosecution has been granted under RCW
34 10.05.060, or upon receipt of a notice of conviction of RCW 46.61.502
35 or 46.61.504, the department of licensing shall order the person to
36 surrender any nonprobationary Washington state driver's license that
37 may be in his or her possession. The department shall revoke the
38 license, permit, or privilege to drive of any person who fails to

1 surrender it as required by this section for one year, unless the
2 license has been previously surrendered to the department, a law
3 enforcement officer, or a court, or the person has completed an
4 affidavit of lost, stolen, destroyed, or previously surrendered
5 license, such revocation to take effect thirty days after notice is
6 given of the requirement for license surrender.

7 (2) The department shall place a person's driving privilege in
8 probationary status as required by RCW 10.05.060, 46.20.308, or
9 46.61.5055 for a period of five years from the date the probationary
10 status is required to go into effect.

11 (3) Following receipt of an abstract indicating a deferred
12 prosecution has been granted under RCW 10.05.060, or following receipt
13 of a sworn report under RCW 46.20.308 that requires immediate placement
14 in probationary status under RCW 46.20.3101(2)(a), or upon
15 reinstatement or reissuance of a driver's license suspended or revoked
16 as the result of a conviction of RCW 46.61.502 or 46.61.504, the
17 department shall require the person to obtain a probationary license in
18 order to operate a motor vehicle in the state of Washington, except as
19 otherwise exempt under RCW 46.20.025. The department shall not issue
20 the probationary license unless the person is otherwise qualified for
21 licensing, and the person must renew the probationary license on the
22 same cycle as the person's regular license would have been renewed
23 until the expiration of the five-year probationary status period
24 imposed under subsection (2) of this section.

25 (4) For each original issue or renewal of a probationary license
26 under this section, the department shall charge a fee of fifty dollars
27 in addition to any other licensing fees required. Except for when
28 renewing a probationary license, the department shall waive the
29 requirement to obtain an additional probationary license and the fifty-
30 dollar fee if the person has a probationary license in his or her
31 possession at the time a new probationary license is required.

32 (5) A probationary license shall enable the department and law
33 enforcement personnel to determine that the person is on probationary
34 status. The fact that a person's driving privilege is in probationary
35 status or that the person has been issued a probationary license shall
36 not be a part of the person's record that is available to insurance
37 companies.

1 **Sec. 6.** RCW 46.29.040 and 1963 c 169 s 4 are each amended to read
2 as follows:

3 Any order of the director under the provisions of this chapter
4 shall be subject to review, at the instance of any party in interest,
5 by appeal to the superior court of Thurston county, or at his option to
6 the superior court of the county of his residence. The scope of such
7 review shall be limited to that prescribed by RCW 7.16.120 governing
8 review by certiorari. Notice of appeal must be filed within (~~ten~~)
9 thirty days after (~~receipt~~) service of the notice of such order. The
10 court shall determine whether the filing of the appeal shall operate as
11 a stay of any such order of the director. Upon the filing the notice
12 of appeal the court shall issue an order to the director to show cause
13 why the order should not be reversed or modified. The order to show
14 cause shall be returnable not less than ten nor more than thirty days
15 after the date of service thereof upon the director. The court after
16 hearing the matter may modify, affirm or reverse the order of the
17 director in whole or in part.

18 **Sec. 7.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read
19 as follows:

20 (1) Notwithstanding any other provision of this title, a person is
21 guilty of driving or being in physical control of a motor vehicle after
22 consuming alcohol if the person operates or is in physical control of
23 a motor vehicle within this state and the person:

24 (a) Is under the age of twenty-one;

25 (b) Has, within two hours after operating or being in physical
26 control of the motor vehicle, an alcohol concentration of 0.02 or more,
27 as shown by analysis of the person's breath or blood made under RCW
28 46.61.506.

29 (2) It is an affirmative defense to a violation of subsection (1)
30 of this section which the defendant must prove by a preponderance of
31 the evidence that the defendant consumed a sufficient quantity of
32 alcohol after the time of driving or being in physical control and
33 before the administration of an analysis of the person's breath or
34 blood to cause the defendant's alcohol concentration to be 0.02 or more
35 within two hours after driving or being in physical control. The court
36 shall not admit evidence of this defense unless the defendant notifies
37 the prosecution prior to the earlier of: (a) Seven days prior to

1 trial; or (b) the omnibus or pretrial hearing in the case of the
2 defendant's intent to assert the affirmative defense.

3 (3) Analyses of blood or breath samples obtained more than two
4 hours after the alleged driving or being in physical control may be
5 used as evidence that within two hours of the alleged driving or being
6 in physical control, a person had an alcohol concentration of 0.02 or
7 more in violation of subsection (1) of this section.

8 (4) A violation of this section is a misdemeanor.

9 **Sec. 8.** RCW 46.61.5152 and 1994 c 275 s 40 are each amended to
10 read as follows:

11 In addition to penalties that may be imposed under RCW
12 (~~46.61.5051, 46.61.5052, or 46.61.5053~~) 46.61.5055, the court may
13 require a person who is convicted of a violation of RCW 46.61.502 or
14 46.61.504 or who enters a deferred prosecution program under RCW
15 10.05.020 based on a violation of RCW 46.61.502 or 46.61.504, to attend
16 an educational program focusing on the emotional, physical, and
17 financial suffering of victims who were injured by persons convicted of
18 driving while under the influence of intoxicants.

19 NEW SECTION. **Sec. 9.** A new section is added to chapter 46.20 RCW
20 to read as follows:

21 In accordance with the recommendations issued in the feasibility
22 study of driver's license technologies, as required by chapter 287,
23 Laws of 1996, by February 1, 1998, the department shall enter into a
24 contract for the procurement of a new state driver's license and
25 identicard. Under the study recommendations, the contract shall, at a
26 minimum, provide for incorporation of the following features:

27 (1) A central issuance system. A central issuance system requires
28 issuance of permanent licenses and identicards from one central, secure
29 location. Upon verification of eligibility, the license or identicard
30 will be mailed to the resident.

31 (2) A digital imaging system. A digital imaging system permits a
32 person's photograph and signature to be stored and displayed by
33 computer, which allows for improved file management, flexibility,
34 responsiveness, and fraud protection.

35 (3) Machine-readable technologies, including a one-dimensional bar
36 code, two-dimensional bar code, and a magnetic stripe. The primary
37 purpose of these machine-readable technologies is to provide for rapid

1 and accurate verification that the license or identicard is genuine.
2 Through encryption, both the magnetic stripe and two-dimensional bar
3 code offer additional levels of security against alteration and
4 counterfeiting.

5 (4) An optical variable device that is not readily available to the
6 general public. The image or color change of an optical variable
7 device helps to prevent fraudulent duplication because attempts at
8 alteration are apparent by distortion or destruction of the license or
9 identicard. Furthermore, the optical variable device prevents the
10 license or identicard from being accurately copied by color photography
11 or a color copier. The optical variable device selected by the
12 department of licensing shall utilize the most secure technology
13 available to prevent tampering, fraudulent duplication, separation, and
14 alteration.

15 Additionally, the department may provide for a second picture of
16 the card holder printed on the license or identicard in ultraviolet
17 ink. Digital printing enables the applicant's ultraviolet picture to
18 be added to the license or identicard at the time of issuance for
19 presentation of information that is uniquely tied to the card holder.

20 **Sec. 10.** RCW 46.20.117 and 1993 c 452 s 3 are each amended to read
21 as follows:

22 (1) The department shall issue "identicards," containing a picture,
23 to nondrivers for a fee of four dollars. Upon issuance of an
24 identicard incorporating the features in section 9 of this act, the fee
25 is increased to ten dollars. However, the fee shall be the actual cost
26 of production to recipients of continuing public assistance grants
27 under Title 74 RCW who are referred in writing to the department by the
28 secretary of social and health services. The fee shall be deposited in
29 the highway safety fund. To be eligible, each applicant shall produce
30 evidence as required in RCW 46.20.035 that positively proves identity.
31 The "identicard" shall be distinctly designed so that it will not be
32 confused with the official driver's license. The identicard shall
33 expire on the fifth anniversary of the applicant's birthdate after
34 issuance.

35 (2) The department may cancel an "identicard" upon a showing by its
36 records or other evidence that the holder of such "identicard" has
37 committed a violation relating to "identicards" defined in RCW
38 46.20.336.

1 **Sec. 11.** RCW 46.20.118 and 1990 c 250 s 37 are each amended to
2 read as follows:

3 The department shall maintain a negative file and a digital
4 photograph data base. It shall contain negatives of all pictures taken
5 by the department of licensing as authorized by RCW 46.20.070 through
6 46.20.119, and contain digital photographs taken by the department as
7 authorized by section 9 of this act.

8 Negatives in the file and the digital photograph data base shall
9 not be available for public inspection and copying under chapter 42.17
10 RCW.

11 (~~The department may make the file available to official~~
12 ~~governmental enforcement agencies to assist in the investigation by the~~
13 ~~agencies of suspected criminal activity.)) It is the intent of the
14 legislature to limit access to the negative file and digital photograph
15 data base by only allowing access to official governmental enforcement
16 agencies in the investigation of suspected illegal activity. The
17 department may also provide a ((print)) photograph to the driver's next
18 of kin in the event the driver is deceased.~~

19 **Sec. 12.** RCW 46.20.161 and 1990 c 250 s 40 are each amended to
20 read as follows:

21 The department, upon receipt of a fee of fourteen dollars, which
22 includes the fee for the required photograph, shall issue to every
23 applicant qualifying therefor a driver's license, which license shall
24 bear thereon a distinguishing number assigned to the licensee, the full
25 name, date of birth, Washington residence address, and a brief
26 description of the licensee, and either a facsimile of the signature of
27 the licensee or a space upon which the licensee shall write his usual
28 signature with pen and ink immediately upon receipt of the license. No
29 license is valid until it has been so signed by the licensee. Upon
30 issuance of a driver's license incorporating the features in section 9
31 of this act, the fee is increased to twenty dollars.

32 **Sec. 13.** RCW 46.20.181 and 1990 c 250 s 41 are each amended to
33 read as follows:

34 Every driver's license expires on the fourth anniversary of the
35 licensee's birthdate following the issuance of the license. Every such
36 license is renewable on or before its expiration upon application
37 prescribed by the department and the payment of a fee of fourteen

1 dollars. Upon issuance of a driver's license incorporating the
2 features in section 9 of this act, the renewal fee is increased to
3 twenty dollars. This fee includes the fee for the required photograph.

4 NEW SECTION. Sec. 14. RCW 46.61.5057 and 1994 c 275 s 11 are each
5 repealed."

6 **SHB 1501** - S COMM AMD
7 By Committee on Transportation

8

9 In line 1 of the title, after "licenses;" strike the remainder of
10 the title and insert "amending RCW 13.40.265, 46.20.265, 46.20.285,
11 46.20.308, 46.20.355, 46.29.040, 46.61.503, 46.61.5152, 46.20.117,
12 46.20.118, 46.20.161, and 46.20.181; adding a new section to chapter
13 46.20 RCW; and repealing RCW 46.61.5057."

14 EFFECT Provides that by February 1, 1998, DOL shall enter into a
15 contract for the procurement of a new state driver's license and
16 identicard with the following security enhancements: (1) A central
17 issuance system; (2) a digital imaging system; (3) machine-readable
18 technologies (i.e., one-dimensional bar code, two-dimensional bar code,
19 and a magnetic stripe); (4) an optical variable device; and (5) a
20 second picture of the cardholder in ultraviolet ink. Fee increases to
21 pay for the enhancements are also provided. The driver's license fee
22 is raised from \$14 to \$20. The identicard fee is raised from \$4 to
23 \$10.

--- END ---