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HOUSE BILL 1940

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By Representatives Robertson, Appelwick, Sheahan, Regala, Scott, O'Brien, Ogden, Cooper, Blalock, Costa, Cole, Conway, Cody, Wolfe and Cooke

Read first time 02/14/97. Referred to Committee on Law & Justice.

1 AN ACT Relating to driving while under the influence of liquor or  
2 drugs; amending RCW 10.05.090, 46.20.3101, 46.20.380, 46.20.391,  
3 46.20.394, 46.20.400, 46.20.720, 46.20.730, 46.20.740, 46.61.5055, and  
4 46.61.5056; reenacting and amending RCW 46.63.020; adding a new section  
5 to chapter 46.04 RCW; recodifying RCW 46.20.730; prescribing penalties;  
6 and providing an effective date.

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

8 **Sec. 1.** RCW 10.05.090 and 1994 c 275 s 18 are each amended to read  
9 as follows:

10 If a petitioner, who has been accepted for a deferred prosecution,  
11 fails or neglects to carry out and fulfill any term or condition of the  
12 petitioner's treatment plan, the facility, center, institution, or  
13 agency administering the treatment shall immediately report such breach  
14 to the court, the prosecutor, and the petitioner or petitioner's  
15 attorney of record, together with its recommendation. The court upon  
16 receiving such a report shall hold a hearing to determine whether the  
17 petitioner should be removed from the deferred prosecution program or  
18 given the option of having an ignition interlock or other biological or  
19 technical device installed on his or her vehicle if such a device has

1 not already been ordered under RCW 46.20.720. At the hearing, evidence  
2 shall be taken of the petitioner's alleged failure to comply with the  
3 treatment plan and the petitioner shall have the right to present  
4 evidence on his or her own behalf. The court shall either order that  
5 the petitioner continue on the treatment plan or be removed from  
6 deferred prosecution. The court may modify the treatment plan to  
7 include the requirement that the petitioner have an ignition interlock  
8 or other biological or technical device installed on his or her vehicle  
9 and operate no other motor vehicle for the term of deferred prosecution  
10 if such a device has not already been ordered under RCW 46.20.720. The  
11 court shall notify the department of any modification to the treatment  
12 plan. If removed from deferred prosecution, the court shall enter  
13 judgment pursuant to RCW 10.05.020 and, if the charge for which the  
14 deferred prosecution was granted was a misdemeanor or gross misdemeanor  
15 under Title 46 RCW, shall notify the department of licensing of the  
16 removal and entry of judgment.

17 **Sec. 2.** RCW 46.20.3101 and 1995 c 332 s 3 are each amended to read  
18 as follows:

19 Pursuant to RCW 46.20.308, the department shall suspend, revoke, or  
20 deny the arrested person's license, permit, or privilege to drive as  
21 follows:

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

23 (a) For a first refusal within five years, where there has not been  
24 a previous incident within five years that resulted in administrative  
25 action under this section, revocation or denial for ~~((one year))~~ five  
26 hundred forty days;

27 (b) For a second ~~((or subsequent))~~ refusal within five years, or  
28 for a first refusal where there has been one or more previous incidents  
29 within five years that have resulted in administrative action under  
30 this section, revocation or denial for ~~((two))~~ three years or until the  
31 person reaches age twenty-one, whichever is longer. A revocation  
32 imposed under this subsection (1)(b) shall run consecutively to the  
33 period of any suspension, revocation, or denial imposed pursuant to a  
34 criminal conviction arising out of the same incident;

35 (c) For a third or subsequent refusal within five years, or for a  
36 second refusal where there has been two or more previous incidents  
37 within five years that have resulted in administrative action under  
38 this section, revocation or denial for four years or until the person

1 reaches age twenty-one, whichever is longer. A revocation imposed  
2 under this subsection (1)(c) runs consecutively to the period of any  
3 suspension, revocation, or denial imposed under a criminal conviction  
4 arising out of the same incident.

5 (2) In the case of an incident where a person has submitted to or  
6 been administered a test or tests indicating that the alcohol  
7 concentration of the person's breath or blood was 0.10 or more:

8 (a) For a first incident within five years, where there has not  
9 been a previous incident within five years that resulted in  
10 administrative action under this section, placement in probationary  
11 status as provided in RCW 46.20.355;

12 (b) For a second or subsequent incident within five years,  
13 revocation or denial for two years.

14 (3) In the case of an incident where a person under age twenty-one  
15 has submitted to or been administered a test or tests indicating that  
16 the alcohol concentration of the person's breath or blood was 0.02 or  
17 more:

18 (a) For a first incident within five years, suspension or denial  
19 for ninety days;

20 (b) For a second or subsequent incident within five years,  
21 revocation or denial for one year or until the person reaches age  
22 twenty-one, whichever is longer.

23 (4) Ninety days after revocation or denial under subsection (1)(a)  
24 or (2)(b) of this section, or one year after revocation or denial under  
25 subsection (1)(b) or (c) of this section, the person whose license or  
26 privilege has been revoked or denied may apply to the department for  
27 issuance of a temporary restricted license under RCW 46.20.391 with the  
28 requirement that the person have an ignition interlock or other  
29 biological or technical device installed on his or her vehicle and  
30 operate no other motor vehicle for the remainder of the term of  
31 revocation or denial. A temporary restricted license granted as the  
32 result of an application under this section extends through the period  
33 of any suspension, revocation, or denial imposed under a criminal  
34 conviction arising out of the same incident.

35 **Sec. 3.** RCW 46.20.380 and 1985 ex.s. c 1 s 6 are each amended to  
36 read as follows:

37 No person may file an application for ~~((an occupational))~~ a  
38 temporary restricted driver's license as provided in RCW 46.20.391

1 unless he or she first pays to the director or other person authorized  
2 to accept applications and fees for driver's licenses a fee of twenty-  
3 five dollars. The applicant shall receive upon payment an official  
4 receipt for the payment of such fee. All such fees shall be forwarded  
5 to the director who shall transmit such fees to the state treasurer in  
6 the same manner as other driver's license fees.

7 **Sec. 4.** RCW 46.20.391 and 1995 c 332 s 12 are each amended to read  
8 as follows:

9 (1) Any person licensed under this chapter who is convicted of an  
10 offense relating to motor vehicles for which suspension or revocation  
11 of the driver's license is mandatory, other than vehicular homicide or  
12 vehicular assault, or any person authorized to apply under RCW  
13 46.20.3101, may submit to the department an application for ~~((an~~  
14 ~~occupational))~~ a temporary restricted driver's license. The  
15 department, upon receipt of the prescribed fee and upon determining  
16 that the petitioner is ~~((engaged in an occupation or trade that makes~~  
17 ~~it essential that the petitioner operate a motor vehicle))~~ eligible to  
18 receive the license under subsection (3) of this section, may issue  
19 ~~((an occupational))~~ a temporary restricted driver's license and may set  
20 definite restrictions as provided in RCW 46.20.394. No person may  
21 petition for, and the department shall not issue, ~~((an occupational))~~  
22 a temporary restricted driver's license that is effective during the  
23 first:

24 (a) Thirty days of any suspension ((or revocation)) imposed ((for  
25 a violation of RCW 46.61.502 or 46.61.504)) under RCW 46.61.5055(1)(a);

26 (b) Thirty days of a revocation imposed under RCW 46.61.5055(1)(b);

27 (c) Ninety days of a revocation imposed under RCW 46.20.3101(1)(a)  
28 or (2)(b);

29 (d) One year of a revocation imposed under RCW 46.61.5055 (2) or  
30 (3) or 46.20.3101(1) (b) or (c).

31 A petitioner under (b), (c), or (d) of this subsection must also  
32 agree to have an ignition interlock or other biological or technical  
33 device installed on his or her vehicle and operate no other motor  
34 vehicle during the term of revocation. A temporary restricted license  
35 issued after a suspension or revocation under RCW 46.61.5055 or  
36 46.20.3101 extends through the entire period of any concurrent or  
37 consecutive suspensions or revocations that may be imposed as the

1 result of both administrative action and criminal conviction arising  
2 out of the same incident.

3 (2) A person aggrieved by the decision of the department on the  
4 application for ~~((an occupational))~~ a temporary restricted driver's  
5 license may request a hearing as provided by rule of the department.

6 ~~((+2))~~ (3) An applicant for ~~((an occupational))~~ a temporary  
7 restricted driver's license is eligible to receive such license only  
8 if:

9 (a) Within one year immediately preceding the date of the offense  
10 that gave rise to the present conviction, the applicant has not  
11 committed any offense relating to motor vehicles for which suspension  
12 or revocation of a driver's license is mandatory; and

13 (b) Within five years immediately preceding the date of the offense  
14 that gave rise to the present conviction, the applicant has not  
15 committed ~~((any of the following offenses: (i) Driving or being in~~  
16 ~~actual physical control of a motor vehicle while under the influence of~~  
17 ~~intoxicating liquor; (ii))~~ vehicular homicide under RCW 46.61.520~~((+))~~  
18 or ~~((+iii))~~ vehicular assault under RCW 46.61.522; and

19 (c) The applicant meets at least one of the following qualifying  
20 circumstances: (i) Is engaged in an occupation or trade that makes it  
21 essential that he or she operate a motor vehicle; (ii) is undergoing  
22 continuing health care or providing continuing health care to another  
23 who is dependent upon the applicant; (iii) is enrolled in an  
24 educational institution and pursuing a course of study leading to a  
25 diploma, degree, or other certification of successful educational  
26 completion; (iv) is undergoing substance abuse treatment; or (v) is  
27 fulfilling court-ordered community service responsibilities; and

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

30 ~~((+3))~~ (4) The director shall cancel ~~((an occupational))~~ a  
31 temporary restricted driver's license upon receipt of notice that the  
32 holder thereof has been convicted of operating a motor vehicle in  
33 violation of its restrictions, or of an offense that pursuant to  
34 chapter 46.20 RCW would warrant suspension or revocation of a regular  
35 driver's license. The cancellation is effective as of the date of the  
36 conviction, and continues with the same force and effect as any  
37 suspension or revocation under this title.

1       **Sec. 5.** RCW 46.20.394 and 1983 c 165 s 26 are each amended to read  
2 as follows:

3       In issuing ~~((an occupational))~~ a temporary restricted driver's  
4 license under RCW 46.20.391, the department shall describe the ~~((type~~  
5 ~~of occupation permitted))~~ qualifying circumstances and shall set forth  
6 in detail the specific hours of the day during which the person may  
7 drive to and from his ~~((place of work))~~ or her home, which may not  
8 exceed twelve hours in any one day; the days of the week during which  
9 the license may be used; and the general routes over which the person  
10 may travel. These restrictions shall be prepared in written form by  
11 the department, which document shall be carried in the vehicle at all  
12 times and presented to a law enforcement officer under the same terms  
13 as the ~~((occupational))~~ temporary restricted driver's license. Any  
14 violation of the restrictions constitutes a violation of RCW 46.20.342  
15 and subjects the person to all procedures and penalties therefor.

16       **Sec. 6.** RCW 46.20.400 and 1967 c 32 s 33 are each amended to read  
17 as follows:

18       If ~~((an occupational))~~ a temporary restricted driver's license is  
19 issued and is not revoked during the period for which issued the  
20 licensee may obtain a new driver's license at the end of such period,  
21 but no new driver's ~~((permit shall))~~ license may be issued to such  
22 person until he or she surrenders his ~~((occupational))~~ or her temporary  
23 restricted driver's license and his or her copy of the order and the  
24 director is satisfied that he or she complies with all other provisions  
25 of law relative to the issuance of a driver's license.

26       **Sec. 7.** RCW 46.20.720 and 1994 c 275 s 22 are each amended to read  
27 as follows:

28       The court may order that after a period of suspension, revocation,  
29 or denial of driving privileges, and for up to as long as the court has  
30 jurisdiction, any person convicted of any offense involving the use,  
31 consumption, or possession of alcohol while operating a motor vehicle  
32 ~~((to))~~ may drive only a motor vehicle equipped with a functioning  
33 ignition interlock or other biological or technical device~~((, and the~~  
34 ~~restriction shall be for a period of not less than six months))~~.

35       The court shall establish a specific calibration setting at which  
36 the ignition interlock or other biological or technical device will

1 prevent the motor vehicle from being started and the period of time  
2 that the person shall be subject to the restriction.

3 For purposes of this section, "convicted" means being found guilty  
4 of an offense or being placed on a deferred prosecution program under  
5 chapter 10.05 RCW.

6 **Sec. 8.** RCW 46.20.730 and 1994 c 275 s 23 are each amended to read  
7 as follows:

8 ((For the purposes of RCW 46.20.720, 46.20.740, and 46.20.750,))  
9 "Ignition interlock device" means breath alcohol ((analyzed)) analyzing  
10 ignition equipment, certified by the state ((commission on equipment))  
11 patrol, designed to prevent a motor vehicle from being operated by a  
12 person who has consumed an alcoholic beverage, and "other biological or  
13 technical device" means any device meeting the standards of the  
14 National Highway Traffic Safety Administration or the state  
15 ((commission on equipment)) patrol, designed to prevent the operation  
16 of a motor vehicle by a person who is impaired by alcohol or drugs.  
17 The ((commission)) state patrol shall by rule provide standards for the  
18 certification, installation, repair, and removal of the devices.

19 **Sec. 9.** RCW 46.20.740 and 1994 c 275 s 24 are each amended to read  
20 as follows:

21 (1) The department shall attach or imprint a notation on the  
22 driver's license of any person restricted under RCW 46.20.720 stating  
23 that the person may operate only a motor vehicle equipped with an  
24 ignition interlock or other biological or technical device.

25 (2) It is a misdemeanor for a person with such a notation on his or  
26 her driver's license to operate a motor vehicle that is not so  
27 equipped.

28 **Sec. 10.** RCW 46.61.5055 and 1996 c 307 s 3 are each amended to  
29 read as follows:

30 (1) A person who is convicted of a violation of RCW 46.61.502 or  
31 46.61.504 and who has no prior offense within five years shall be  
32 punished as follows:

33 (a) In the case of a person whose alcohol concentration was less  
34 than 0.15, or for whom for reasons other than the person's refusal to  
35 take a test offered pursuant to RCW 46.20.308 there is no test result  
36 indicating the person's alcohol concentration:

1 (i) By imprisonment for not less than one day nor more than one  
2 year. Twenty-four consecutive hours of the imprisonment may not be  
3 suspended or deferred unless the court finds that the imposition of  
4 this mandatory minimum sentence would impose a substantial risk to the  
5 offender's physical or mental well-being. Whenever the mandatory  
6 minimum sentence is suspended or deferred, the court shall state in  
7 writing the reason for granting the suspension or deferral and the  
8 facts upon which the suspension or deferral is based; and

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

13 (iii) By suspension of the offender's license or permit to drive,  
14 or suspension of any nonresident privilege to drive, for a period of  
15 ninety days. The period of license, permit, or privilege suspension  
16 may not be suspended. The court shall notify the department of  
17 licensing of the conviction, and upon receiving notification of the  
18 conviction the department shall suspend the offender's license, permit,  
19 or privilege; or

20 (b) In the case of a person whose alcohol concentration was at  
21 least 0.15, or for whom by reason of the person's refusal to take a  
22 test offered pursuant to RCW 46.20.308 there is no test result  
23 indicating the person's alcohol concentration:

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

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

36 (iii) By ~~((suspension))~~ revocation of the offender's license or  
37 permit to drive, or suspension of any nonresident privilege to drive,  
38 for a period of one ~~((hundred twenty days))~~ year. The period of  
39 license, permit, or privilege suspension may not be suspended. The



1 court shall notify the department of licensing of the conviction, and  
2 upon receiving notification of the conviction the department shall  
3 suspend the offender's license, permit, or privilege.

4 (2) A person who is convicted of a violation of RCW 46.61.502 or  
5 46.61.504 and who has one prior offense within five years shall be  
6 punished as follows:

7 (a) In the case of a person whose alcohol concentration was less  
8 than 0.15, or for whom for reasons other than the person's refusal to  
9 take a test offered pursuant to RCW 46.20.308 there is no test result  
10 indicating the person's alcohol concentration:

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

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

23 (iii) By revocation of the offender's license or permit to drive,  
24 or suspension of any nonresident privilege to drive, for a period of  
25 ~~((one))~~ two years. The period of license, permit, or privilege  
26 revocation may not be suspended. The court shall notify the department  
27 of licensing of the conviction, and upon receiving notification of the  
28 conviction the department shall revoke the offender's license, permit,  
29 or privilege; or

30 (b) In the case of a person whose alcohol concentration was at  
31 least 0.15, or for whom by reason of the person's refusal to take a  
32 test offered pursuant to RCW 46.20.308 there is no test result  
33 indicating the person's alcohol concentration:

34 (i) By imprisonment for not less than forty-five days nor more than  
35 one year. Forty-five days of the imprisonment may not be suspended or  
36 deferred unless the court finds that the imposition of this mandatory  
37 minimum sentence would impose a substantial risk to the offender's  
38 physical or mental well-being. Whenever the mandatory minimum sentence  
39 is suspended or deferred, the court shall state in writing the reason

1 for granting the suspension or deferral and the facts upon which the  
2 suspension or deferral is based; and

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

7 (iii) By revocation of the offender's license or permit to drive,  
8 or suspension of any nonresident privilege to drive, for a period of  
9 (~~four hundred fifty~~) nine hundred days. The period of license,  
10 permit, or privilege revocation may not be suspended. The court shall  
11 notify the department of licensing of the conviction, and upon  
12 receiving notification of the conviction the department shall revoke  
13 the offender's license, permit, or privilege.

14 (3) A person who is convicted of a violation of RCW 46.61.502 or  
15 46.61.504 and who has two or more prior offenses within five years  
16 shall be punished as follows:

17 (a) In the case of a person whose alcohol concentration was less  
18 than 0.15, or for whom for reasons other than the person's refusal to  
19 take a test offered pursuant to RCW 46.20.308 there is no test result  
20 indicating the person's alcohol concentration:

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

29 (ii) By a fine of not less than one thousand dollars nor more than  
30 five thousand dollars. One thousand dollars of the fine may not be  
31 suspended or deferred unless the court finds the offender to be  
32 indigent; and

33 (iii) By revocation of the offender's license or permit to drive,  
34 or suspension of any nonresident privilege to drive, for a period of  
35 (~~two~~) three years. The period of license, permit, or privilege  
36 revocation may not be suspended. The court shall notify the department  
37 of licensing of the conviction, and upon receiving notification of the  
38 conviction the department shall revoke the offender's license, permit,  
39 or privilege; or

1 (b) In the case of a person whose alcohol concentration was at  
2 least 0.15, or for whom by reason of the person's refusal to take a  
3 test offered pursuant to RCW 46.20.308 there is no test result  
4 indicating the person's alcohol concentration:

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

13 (ii) By a fine of not less than one thousand five hundred dollars  
14 nor more than five thousand dollars. One thousand five hundred dollars  
15 of the fine may not be suspended or deferred unless the court finds the  
16 offender to be indigent; and

17 (iii) By revocation of the offender's license or permit to drive,  
18 or suspension of any nonresident privilege to drive, for a period of  
19 (~~three~~) four years. The period of license, permit, or privilege  
20 revocation may not be suspended. The court shall notify the department  
21 of licensing of the conviction, and upon receiving notification of the  
22 conviction the department shall revoke the offender's license, permit,  
23 or privilege.

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 RCW 46.61.5056.

30 (6) After expiration of any period of suspension or revocation of  
31 the offender's license, permit, or privilege to drive required by this  
32 section, the department shall place the offender's driving privilege in  
33 probationary status pursuant to RCW 46.20.355.

34 (7)(a) In addition to any nonsuspendable and nondeferrable jail  
35 sentence required by this section, whenever the court imposes less than  
36 one year in jail, the court shall also suspend but shall not defer a  
37 period of confinement for a period not exceeding two years. The court  
38 shall impose conditions of probation that include: (i) Not driving a  
39 motor vehicle within this state without a valid license to drive and

1 proof of financial responsibility for the future; (ii) not driving a  
2 motor vehicle within this state while having an alcohol concentration  
3 of 0.08 or more within two hours after driving; and (iii) not refusing  
4 to submit to a test of his or her breath or blood to determine alcohol  
5 concentration upon request of a law enforcement officer who has  
6 reasonable grounds to believe the person was driving or was in actual  
7 physical control of a motor vehicle within this state while under the  
8 influence of intoxicating liquor. The court may impose conditions of  
9 probation that include nonrepetition, installation of an ignition  
10 interlock or other biological or technical device on the probationer's  
11 motor vehicle, alcohol or drug treatment, supervised probation, or  
12 other conditions that may be appropriate. The sentence may be imposed  
13 in whole or in part upon violation of a condition of probation during  
14 the suspension period.

15 (b) For each violation of mandatory conditions of probation under  
16 (a)(i) and (ii) or (a)(i) and (iii) of this subsection, the court shall  
17 order the convicted person to be confined for thirty days, which shall  
18 not be suspended or deferred.

19 (c) For each incident involving a violation of a mandatory  
20 condition of probation imposed under this subsection, the license,  
21 permit, or privilege to drive of the person shall be suspended by the  
22 court for thirty days or, if such license, permit, or privilege to  
23 drive already is suspended, revoked, or denied at the time the finding  
24 of probation violation is made, the suspension, revocation, or denial  
25 then in effect shall be extended by thirty days. The court shall  
26 notify the department of any suspension, revocation, or denial or any  
27 extension of a suspension, revocation, or denial imposed under this  
28 subsection.

29 (8)(a) A "prior offense" means any of the following:

30 (i) A conviction for a violation of RCW 46.61.502 or an equivalent  
31 local ordinance;

32 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent  
33 local ordinance;

34 (iii) A conviction for a violation of RCW 46.61.520 committed while  
35 under the influence of intoxicating liquor or any drug;

36 (iv) A conviction for a violation of RCW 46.61.522 committed while  
37 under the influence of intoxicating liquor or any drug;

38 (v) A conviction for a violation of RCW 46.61.525(1) or an  
39 equivalent local ordinance, if the conviction is the result of a charge

1 that was originally filed as a violation of RCW 46.61.502 or 46.61.504,  
2 or an equivalent local ordinance, or of RCW 46.61.520 or 46.61.522;

3 (vi) An out-of-state conviction for a violation that would have  
4 been a violation of (a)(i), (ii), (iii), (iv), or (v) of this  
5 subsection if committed in this state;

6 (vii) A deferred prosecution under chapter 10.05 RCW granted in a  
7 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
8 equivalent local ordinance; or

9 (viii) A deferred prosecution under chapter 10.05 RCW granted in a  
10 prosecution for a violation of RCW 46.61.525(1), or an equivalent local  
11 ordinance, if the charge under which the deferred prosecution was  
12 granted was originally filed as a violation of RCW 46.61.502 or  
13 (~~46.61.502~~) 46.61.504, or an equivalent local ordinance, or of RCW  
14 46.61.520 or 46.61.522.

15 (b) "Within five years" means that the arrest for a prior offense  
16 occurred within five years of the arrest for the current offense.

17 **Sec. 11.** RCW 46.61.5056 and 1995 c 332 s 14 are each amended to  
18 read as follows:

19 (1) A person subject to alcohol assessment and treatment under RCW  
20 46.61.5055 shall be required by the court to complete a course in an  
21 alcohol information school approved by the department of social and  
22 health services or to complete more intensive treatment in a program  
23 approved by the department of social and health services, as determined  
24 by the court. The court shall notify the department of licensing  
25 whenever it orders a person to complete a course or treatment program  
26 under this section.

27 (2) A diagnostic evaluation and treatment recommendation shall be  
28 prepared under the direction of the court by an alcoholism agency  
29 approved by the department of social and health services or a qualified  
30 probation department approved by the department of social and health  
31 services. The agency shall consider and make a recommendation  
32 concerning installation of an ignition interlock or other biological or  
33 technical device on the offender's motor vehicle. A copy of the report  
34 shall be forwarded to the department of licensing. Based on the  
35 diagnostic evaluation, the court shall determine (a) whether the person  
36 shall be required to complete a course in an alcohol information school  
37 approved by the department of social and health services or more  
38 intensive treatment in a program approved by the department of social

1 and health services and (b) whether the person must have an ignition  
2 interlock or other biological or technical device installed on his or  
3 her vehicle.

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

8 (4) Any agency that provides treatment ordered under RCW  
9 46.61.5055, shall immediately report to the appropriate probation  
10 department where applicable, otherwise to the court, and to the  
11 department of licensing any noncompliance by a person with the  
12 conditions of his or her ordered treatment. The court shall notify the  
13 department of licensing and the department of social and health  
14 services of any failure by an agency to so report noncompliance. Any  
15 agency with knowledge of noncompliance that fails to so report shall be  
16 fined two hundred fifty dollars by the department of social and health  
17 services. Upon three such failures by an agency within one year, the  
18 department of social and health services shall revoke the agency's  
19 approval under this section.

20 (5) The department of licensing and the department of social and  
21 health services may adopt such rules as are necessary to carry out this  
22 section.

23 **Sec. 12.** RCW 46.63.020 and 1996 c 307 s 6, 1996 c 287 s 7, 1996 c  
24 93 s 3, 1996 c 87 s 21, and 1996 c 31 s 3 are each reenacted and  
25 amended to read as follows:

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

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

37 (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  
3 habit-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 and markings indicating that a vehicle has been destroyed  
7 or declared a total loss;  
8 (6) RCW 46.16.010 relating to initial registration of motor  
9 vehicles;  
10 (7) RCW 46.16.011 relating to permitting unauthorized persons to  
11 drive;  
12 (8) RCW 46.16.160 relating to vehicle trip permits;  
13 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or  
14 acquisition of a special placard or license plate for disabled persons'  
15 parking;  
16 (10) RCW 46.20.021 relating to driving without a valid driver's  
17 license, unless the person cited for the violation provided the citing  
18 officer with an expired driver's license or other valid identifying  
19 documentation under RCW 46.20.035 at the time of the stop and was not  
20 in violation of RCW 46.20.342(1) or 46.20.420, in which case the  
21 violation is an infraction;  
22 (11) RCW 46.20.091 relating to false statements regarding a  
23 driver's license or instruction permit;  
24 (12) RCW 46.20.336 relating to the unlawful possession and use of  
25 a driver's license;  
26 (13) RCW 46.20.342 relating to driving with a suspended or revoked  
27 license or status;  
28 (14) RCW 46.20.410 relating to the violation of restrictions of an  
29 occupational driver's license;  
30 (15) RCW 46.20.420 relating to the operation of a motor vehicle  
31 with a suspended or revoked license;  
32 (16) RCW 46.20.740 relating to operation of a motor vehicle without  
33 an ignition interlock device in violation of a license notation that  
34 the device is required;  
35 (17) RCW 46.20.750 relating to assisting another person to start a  
36 vehicle equipped with an ignition interlock device;  
37 ((+17)) (18) RCW 46.25.170 relating to commercial driver's  
38 licenses;

1       (~~(18)~~) (19) Chapter 46.29 RCW relating to financial  
2 responsibility;

3       (~~(19)~~) (20) RCW 46.30.040 relating to providing false evidence of  
4 financial responsibility;

5       (~~(20)~~) (21) RCW 46.37.435 relating to wrongful installation of  
6 sunscreening material;

7       (~~(21)~~) (22) RCW 46.44.180 relating to operation of mobile home  
8 pilot vehicles;

9       (~~(22)~~) (23) RCW 46.48.175 relating to the transportation of  
10 dangerous articles;

11       (~~(23)~~) (24) RCW 46.52.010 relating to duty on striking an  
12 unattended car or other property;

13       (~~(24)~~) (25) RCW 46.52.020 relating to duty in case of injury to  
14 or death of a person or damage to an attended vehicle;

15       (~~(25)~~) (26) RCW 46.52.090 relating to reports by repairmen,  
16 storagemen, and appraisers;

17       (~~(26)~~) (27) RCW 46.52.100 relating to driving under the influence  
18 of liquor or drugs;

19       (~~(27)~~) (28) RCW 46.52.130 relating to confidentiality of the  
20 driving record to be furnished to an insurance company, an employer,  
21 and an alcohol/drug assessment or treatment agency;

22       (~~(28)~~) (29) RCW 46.55.020 relating to engaging in the activities  
23 of a registered tow truck operator without a registration certificate;

24       (~~(29)~~) (30) RCW 46.55.035 relating to prohibited practices by tow  
25 truck operators;

26       (~~(30)~~) (31) RCW 46.61.015 relating to obedience to police  
27 officers, flagmen, or fire fighters;

28       (~~(31)~~) (32) RCW 46.61.020 relating to refusal to give information  
29 to or cooperate with an officer;

30       (~~(32)~~) (33) (RCW 46.61.022 relating to failure to stop and give  
31 identification to an officer;

32       (~~(33)~~) (34) RCW 46.61.024 relating to attempting to elude  
33 pursuing police vehicles;

34       (~~(34)~~) (35) RCW 46.61.500 relating to reckless driving;

35       (~~(35)~~) (36) RCW 46.61.502 and 46.61.504 relating to persons under  
36 the influence of intoxicating liquor or drugs;

37       (~~(36)~~) (37) RCW 46.61.503 relating to a person under age twenty-  
38 one driving a motor vehicle after consuming alcohol;



1       (~~(37)~~) (38) RCW 46.61.520 relating to vehicular homicide by motor  
2 vehicle;  
3       (~~(38)~~) (39) RCW 46.61.522 relating to vehicular assault;  
4       (~~(39)~~) (40) RCW 46.61.525(1) relating to first degree negligent  
5 driving;  
6       (~~(40)~~) (41) RCW 46.61.527(4) relating to reckless endangerment of  
7 roadway workers;  
8       (~~(41)~~) (42) RCW 46.61.530 relating to racing of vehicles on  
9 highways;  
10       (~~(42)~~) (43) RCW 46.61.685 relating to leaving children in an  
11 unattended vehicle with the motor running;  
12       (~~(43)~~) (44) RCW 46.64.010 relating to unlawful cancellation of or  
13 attempt to cancel a traffic citation;  
14       (~~(44)~~) (45) RCW 46.64.048 relating to attempting, aiding,  
15 abetting, coercing, and committing crimes;  
16       (~~(45)~~) (46) Chapter 46.65 RCW relating to habitual traffic  
17 offenders;  
18       (~~(46)~~) (47) RCW 46.68.010 relating to false statements made to  
19 obtain a refund;  
20       (~~(47)~~) (48) Chapter 46.70 RCW relating to unfair motor vehicle  
21 business practices, except where that chapter provides for the  
22 assessment of monetary penalties of a civil nature;  
23       (~~(48)~~) (49) Chapter 46.72 RCW relating to the transportation of  
24 passengers in for hire vehicles;  
25       (~~(49)~~) (50) RCW 46.72A.060 relating to limousine carrier  
26 insurance;  
27       (~~(50)~~) (51) RCW 46.72A.070 relating to operation of a limousine  
28 without a vehicle certificate;  
29       (~~(51)~~) (52) RCW 46.72A.080 relating to false advertising by a  
30 limousine carrier;  
31       (~~(52)~~) (53) Chapter 46.80 RCW relating to motor vehicle wreckers;  
32       (~~(53)~~) (54) Chapter 46.82 RCW relating to driver's training  
33 schools;  
34       (~~(54)~~) (55) RCW 46.87.260 relating to alteration or forgery of a  
35 cab card, letter of authority, or other temporary authority issued  
36 under chapter 46.87 RCW;  
37       (~~(55)~~) (56) RCW 46.87.290 relating to operation of an  
38 unregistered or unlicensed vehicle under chapter 46.87 RCW.

1        NEW SECTION.    **Sec. 13.**    RCW 46.20.730, as amended by this act, is  
2    recodified as a section in chapter 46.04 RCW.

3        NEW SECTION.    **Sec. 14.**    This act takes effect January 1, 1998.

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