

SHB 2660 - S COMM AMD  
By Committee on Judiciary

NOT ADOPTED 03/05/2004

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 10.05.140 and 2003 c 220 s 2 are each amended to read  
4 as follows:

5 As a condition of granting a deferred prosecution petition, the  
6 court shall order that the petitioner shall not operate a motor vehicle  
7 upon the public highways without a valid operator's license and proof  
8 of liability insurance. The amount of liability insurance shall be  
9 established by the court at not less than that established by RCW  
10 46.29.490. As a condition of granting a deferred prosecution petition  
11 on any alcohol-dependency based case, the court shall also order the  
12 installation of an ignition interlock (~~((or other device))~~) under RCW  
13 46.20.720 (~~((for a petitioner who has previously been convicted of a  
14 violation of RCW 46.61.502 or 46.61.504 or an equivalent local  
15 ordinance or a petitioner who has been charged with such an offense and  
16 had an alcohol concentration of at least .15, or by reason of the  
17 person's refusal to take a test offered pursuant to RCW 46.20.308 there  
18 is no test result indicating the person's alcohol concentration. For  
19 any other petitioner, the court may order the installation of an  
20 interlock device under RCW 46.20.720(1) as a condition of granting a  
21 deferred prosecution petition))~~). The required periods of use of the  
22 interlock shall be not less than the periods provided for in RCW  
23 46.20.720(2) (a), (b), and (c). As a condition of granting a deferred  
24 prosecution petition, the court may order the petitioner to make  
25 restitution and to pay costs as defined in RCW 10.01.160. To help  
26 ensure continued sobriety and reduce the likelihood of reoffense, the  
27 court may order reasonable conditions during the period of the deferred  
28 prosecution including, but not limited to, attendance at self-help  
29 recovery support groups for alcoholism or drugs, complete abstinence  
30 from alcohol and all nonprescribed mind-altering drugs, periodic

1 urinalysis or breath analysis, and maintaining law-abiding behavior.  
2 The court may terminate the deferred prosecution program upon violation  
3 of the deferred prosecution order.

4 **Sec. 2.** RCW 46.20.311 and 2003 c 366 s 2 are each amended to read  
5 as follows:

6 (1)(a) The department shall not suspend a driver's license or  
7 privilege to drive a motor vehicle on the public highways for a fixed  
8 period of more than one year, except as specifically permitted under  
9 RCW 46.20.267, 46.20.342, or other provision of law.

10 (b) Except for a suspension under RCW 46.20.267, 46.20.289,  
11 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving  
12 privilege of any person is suspended by reason of a conviction, a  
13 finding that a traffic infraction has been committed, pursuant to  
14 chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the  
15 suspension shall remain in effect until the person gives and thereafter  
16 maintains proof of financial responsibility for the future as provided  
17 in chapter 46.29 RCW.

18 (c) If the suspension is the result of a violation of RCW 46.61.502  
19 or 46.61.504, the department shall determine the person's eligibility  
20 for licensing based upon the reports provided by the alcoholism agency  
21 or probation department designated under RCW 46.61.5056 and shall deny  
22 reinstatement until enrollment and participation in an approved program  
23 has been established and the person is otherwise qualified. If the  
24 suspension is the result of a violation of RCW 46.61.502 or 46.61.504,  
25 and the person is required pursuant to RCW 46.20.720 to drive only a  
26 motor vehicle equipped with a functioning ignition interlock (~~(or other~~  
27 ~~biological or technical device)~~), the department shall determine the  
28 person's eligibility for licensing based upon written verification by  
29 a company doing business in the state that it has installed the  
30 required device on a vehicle owned (~~(and/or)~~) or operated by the person  
31 seeking reinstatement. If, based upon notification from the interlock  
32 provider or otherwise, the department determines that an interlock  
33 required under RCW 46.20.720 is no longer installed or functioning as  
34 required, the department shall suspend the person's license or  
35 privilege to drive. Whenever the license or driving privilege of any  
36 person is suspended or revoked as a result of noncompliance with an

1 ignition interlock requirement, the suspension shall remain in effect  
2 until the person provides notice issued by a company doing business in  
3 the state that a vehicle owned or operated by the person is equipped  
4 with a functioning ignition interlock device.

5 (d) Whenever the license or driving privilege of any person is  
6 suspended as a result of certification of noncompliance with a child  
7 support order under chapter 74.20A RCW or a residential or visitation  
8 order, the suspension shall remain in effect until the person provides  
9 a release issued by the department of social and health services  
10 stating that the person is in compliance with the order.

11 ((~~b~~)) (e)(i) The department shall not issue to the person a new,  
12 duplicate, or renewal license until the person pays a reissue fee of  
13 twenty dollars.

14 (ii) If the suspension is the result of a violation of RCW  
15 46.61.502 or 46.61.504, or is the result of administrative action under  
16 RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

17 (2)(a) Any person whose license or privilege to drive a motor  
18 vehicle on the public highways has been revoked, unless the revocation  
19 was for a cause which has been removed, is not entitled to have the  
20 license or privilege renewed or restored until: (i) After the  
21 expiration of one year from the date the license or privilege to drive  
22 was revoked; (ii) after the expiration of the applicable revocation  
23 period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the  
24 expiration of two years for persons convicted of vehicular homicide; or  
25 (iv) after the expiration of the applicable revocation period provided  
26 by RCW 46.20.265.

27 (b)(i) After the expiration of the appropriate period, the person  
28 may make application for a new license as provided by law together with  
29 a reissue fee in the amount of twenty dollars.

30 (ii) If the revocation is the result of a violation of RCW  
31 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one  
32 hundred fifty dollars. If the revocation is the result of a violation  
33 of RCW 46.61.502 or 46.61.504, the department shall determine the  
34 person's eligibility for licensing based upon the reports provided by  
35 the alcoholism agency or probation department designated under RCW  
36 46.61.5056 and shall deny reissuance of a license, permit, or privilege  
37 to drive until enrollment and participation in an approved program has

1 been established and the person is otherwise qualified. If the  
2 revocation is the result of a violation of RCW 46.61.502 or 46.61.504,  
3 and the person is required pursuant to RCW 46.20.720 to drive only a  
4 motor vehicle equipped with a functioning ignition interlock or other  
5 biological or technical device, the department shall determine the  
6 person's eligibility for licensing based upon written verification by  
7 a company doing business in the state that it has installed the  
8 required device on a vehicle owned (~~and/or~~) or operated by the person  
9 applying for a new license. If, following issuance of a new license,  
10 the department determines, based upon notification from the interlock  
11 provider or otherwise, that an interlock required under RCW 46.20.720  
12 is no longer functioning, the department shall suspend the person's  
13 license or privilege to drive until the department has received written  
14 verification from an interlock provider that a functioning interlock is  
15 installed.

16 (c) Except for a revocation under RCW 46.20.265, the department  
17 shall not then issue a new license unless it is satisfied after  
18 investigation of the driving ability of the person that it will be safe  
19 to grant the privilege of driving a motor vehicle on the public  
20 highways, and until the person gives and thereafter maintains proof of  
21 financial responsibility for the future as provided in chapter 46.29  
22 RCW. For a revocation under RCW 46.20.265, the department shall not  
23 issue a new license unless it is satisfied after investigation of the  
24 driving ability of the person that it will be safe to grant that person  
25 the privilege of driving a motor vehicle on the public highways.

26 (3)(a) Whenever the driver's license of any person is suspended  
27 pursuant to Article IV of the nonresident violators compact or RCW  
28 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue  
29 to the person any new or renewal license until the person pays a  
30 reissue fee of twenty dollars.

31 (b) If the suspension is the result of a violation of the laws of  
32 this or any other state, province, or other jurisdiction involving (i)  
33 the operation or physical control of a motor vehicle upon the public  
34 highways while under the influence of intoxicating liquor or drugs, or  
35 (ii) the refusal to submit to a chemical test of the driver's blood  
36 alcohol content, the reissue fee shall be one hundred fifty dollars.

1       **Sec. 3.** RCW 46.20.3101 and 1998 c 213 s 2, 1998 c 209 s 2, and  
2 1998 c 207 s 8 are each reenacted and amended to read as follows:

3       Pursuant to RCW 46.20.308, the department shall suspend, revoke, or  
4 deny the arrested person's license, permit, or privilege to drive as  
5 follows:

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

7       (a) For a first refusal within seven years, where there has not  
8 been a previous incident within seven years that resulted in  
9 administrative action under this section, revocation or denial for one  
10 year. A revocation or denial imposed under this subsection (1)(a)  
11 shall run concurrently with the period of any suspension, revocation,  
12 or denial imposed for a criminal conviction arising out of the same  
13 incident;

14       (b) For a second or subsequent refusal within seven years, or for  
15 a first refusal where there has been one or more previous incidents  
16 within seven years that have resulted in administrative action under  
17 this section, revocation or denial for two years or until the person  
18 reaches age twenty-one, whichever is longer. A revocation imposed  
19 under this subsection (1)(b) shall run ~~((consecutively to))~~  
20 concurrently with the period of any suspension, revocation, or denial  
21 imposed pursuant to a criminal conviction arising out of the same  
22 incident.

23       (2) In the case of an incident where a person has submitted to or  
24 been administered a test or tests indicating that the alcohol  
25 concentration of the person's breath or blood was 0.08 or more:

26       (a) For a first incident within seven years, where there has not  
27 been a previous incident within seven years that resulted in  
28 administrative action under this section, suspension for ninety days.  
29 A suspension or denial imposed under this subsection (2)(a) shall run  
30 concurrently with the period of any suspension, revocation, or denial  
31 imposed for a criminal conviction arising out of the same incident;

32       (b) For a second or subsequent incident within seven years,  
33 revocation or denial for two years. A suspension or denial imposed  
34 under this subsection (2)(b) shall run concurrently with the period of  
35 any suspension, revocation, or denial imposed for a criminal conviction  
36 arising out of the same incident.

1 (3) In the case of an incident where a person under age twenty-one  
2 has submitted to or been administered a test or tests indicating that  
3 the alcohol concentration of the person's breath or blood was in  
4 violation of RCW 46.61.502, 46.61.503, or 46.61.504:

5 (a) For a first incident within seven years, suspension or denial  
6 for ninety days. A suspension or denial imposed under this subsection  
7 (3)(a) shall run concurrently with the period of any suspension,  
8 revocation, or denial imposed for a criminal conviction arising out of  
9 the same incident;

10 (b) For a second or subsequent incident within seven years,  
11 revocation or denial for one year or until the person reaches age  
12 twenty-one, whichever is longer. A suspension or denial imposed under  
13 this subsection (3)(b) shall run concurrently with the period of any  
14 suspension, revocation, or denial imposed for a criminal conviction  
15 arising out of the same incident.

16 (4) The department, after considering the requirements of federal  
17 law regarding state eligibility for grants or other funding, shall  
18 provide by rule that a person whose license, permit, or privilege to  
19 drive has been suspended, revoked, or denied under this section may  
20 apply for a temporary restricted driver's license under RCW 46.20.391.

21 (a) The department shall establish as the minimum portions of the  
22 periods of suspension, revocation, or denial set forth in this section  
23 after which a person may apply for such a temporary restricted driver's  
24 license, the minimum periods established by federal law under which the  
25 state will maintain its eligibility, or establish eligibility to obtain  
26 incentive grants or any other federal funding.

27 (b) A person applying for such a temporary restricted driver's  
28 license shall provide proof to the satisfaction of the department that  
29 a functioning ignition interlock device has been installed on a vehicle  
30 owned or operated by the person.

31 (i) The department shall require the person to maintain such a  
32 device on a vehicle owned or operated by the person and shall restrict  
33 the person to operating only vehicles equipped with such a device, for  
34 the remainder of the period of suspension, revocation, or denial.

35 (ii) Subject to any periodic renewal requirements established by  
36 the department pursuant to this section and subject to any applicable  
37 compliance requirements under this chapter or other law, a temporary

1 restricted driver's license granted as the result of an application  
2 under this section extends through the remaining portion of any  
3 suspension, revocation, or denial under this section and also through  
4 the period of any suspension, revocation, or denial imposed under a  
5 criminal conviction arising out of the same incident.

6 **Sec. 4.** RCW 46.20.342 and 2001 c 325 s 3 are each amended to read  
7 as follows:

8 (1) It is unlawful for any person to drive a motor vehicle in this  
9 state while that person is in a suspended or revoked status or when his  
10 or her privilege to drive is suspended or revoked in this or any other  
11 state. Any person who has a valid Washington driver's license is not  
12 guilty of a violation of this section.

13 (a) A person found to be an habitual offender under chapter 46.65  
14 RCW, who violates this section while an order of revocation issued  
15 under chapter 46.65 RCW prohibiting such operation is in effect, is  
16 guilty of driving while license suspended or revoked in the first  
17 degree, a gross misdemeanor. Upon the first such conviction, the  
18 person shall be punished by imprisonment for not less than ten days.  
19 Upon the second conviction, the person shall be punished by  
20 imprisonment for not less than ninety days. Upon the third or  
21 subsequent conviction, the person shall be punished by imprisonment for  
22 not less than one hundred eighty days. If the person is also convicted  
23 of the offense defined in RCW 46.61.502 or 46.61.504, when both  
24 convictions arise from the same event, the minimum sentence of  
25 confinement shall be not less than ninety days. The minimum sentence  
26 of confinement required shall not be suspended or deferred. A  
27 conviction under this subsection does not prevent a person from  
28 petitioning for reinstatement as provided by RCW 46.65.080.

29 (b) A person who violates this section while an order of suspension  
30 or revocation prohibiting such operation is in effect and while the  
31 person is not eligible to reinstate his or her driver's license or  
32 driving privilege, other than for a suspension for the reasons  
33 described in (c) of this subsection, is guilty of driving while license  
34 suspended or revoked in the second degree, a gross misdemeanor. This  
35 subsection applies when a person's driver's license or driving  
36 privilege has been suspended or revoked by reason of:

- 1 (i) A conviction of a felony in the commission of which a motor  
2 vehicle was used;
- 3 (ii) A previous conviction under this section;
- 4 (iii) A notice received by the department from a court or diversion  
5 unit as provided by RCW 46.20.265, relating to a minor who has  
6 committed, or who has entered a diversion unit concerning an offense  
7 relating to alcohol, legend drugs, controlled substances, or imitation  
8 controlled substances;
- 9 (iv) A conviction of RCW 46.20.410, relating to the violation of  
10 restrictions of an occupational or a temporary restricted driver's  
11 license;
- 12 (v) A conviction of RCW 46.20.345, relating to the operation of a  
13 motor vehicle with a suspended or revoked license;
- 14 (vi) A conviction of RCW 46.52.020, relating to duty in case of  
15 injury to or death of a person or damage to an attended vehicle;
- 16 (vii) A conviction of RCW 46.61.024, relating to attempting to  
17 elude pursuing police vehicles;
- 18 (viii) A conviction of RCW 46.61.500, relating to reckless driving;
- 19 (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a  
20 person under the influence of intoxicating liquor or drugs;
- 21 (x) A conviction of RCW 46.61.520, relating to vehicular homicide;
- 22 (xi) A conviction of RCW 46.61.522, relating to vehicular assault;
- 23 (xii) A conviction of RCW 46.61.527(4), relating to reckless  
24 endangerment of roadway workers;
- 25 (xiii) A conviction of RCW 46.61.530, relating to racing of  
26 vehicles on highways;
- 27 (xiv) A conviction of RCW 46.61.685, relating to leaving children  
28 in an unattended vehicle with motor running;
- 29 (xv) A conviction of RCW 46.61.740, relating to theft of motor  
30 vehicle fuel;
- 31 (xvi) A conviction of RCW 46.64.048, relating to attempting,  
32 aiding, abetting, coercing, and committing crimes;
- 33 (xvii) An administrative action taken by the department under  
34 chapter 46.20 RCW; or
- 35 (xviii) A conviction of a local law, ordinance, regulation, or  
36 resolution of a political subdivision of this state, the federal



1 government, or any other state, of an offense substantially similar to  
2 a violation included in this subsection.

3 (c) A person who violates this section when his or her driver's  
4 license or driving privilege is, at the time of the violation,  
5 suspended or revoked solely because (i) the person must furnish proof  
6 of satisfactory progress in a required alcoholism or drug treatment  
7 program, (ii) the person must furnish proof of financial responsibility  
8 for the future as provided by chapter 46.29 RCW, (iii) the person has  
9 failed to comply with the provisions of chapter 46.29 RCW relating to  
10 uninsured accidents, (iv) the person has failed to respond to a notice  
11 of traffic infraction, failed to appear at a requested hearing,  
12 violated a written promise to appear in court, or has failed to comply  
13 with the terms of a notice of traffic infraction or citation, as  
14 provided in RCW 46.20.289, (v) the person has committed an offense in  
15 another state that, if committed in this state, would not be grounds  
16 for the suspension or revocation of the person's driver's license, (vi)  
17 the person has been suspended or revoked by reason of one or more of  
18 the items listed in (b) of this subsection, but was eligible to  
19 reinstate his or her driver's license or driving privilege at the time  
20 of the violation, or (vii) the person has received traffic citations or  
21 notices of traffic infraction that have resulted in a suspension under  
22 RCW 46.20.267 relating to intermediate drivers' licenses, or any  
23 combination of (i) through (vii), is guilty of driving while license  
24 suspended or revoked in the third degree, a misdemeanor.

25 (2) Upon receiving a record of conviction of any person or upon  
26 receiving an order by any juvenile court or any duly authorized court  
27 officer of the conviction of any juvenile under this section, the  
28 department shall:

29 (a) For a conviction of driving while suspended or revoked in the  
30 first degree, as provided by subsection (1)(a) of this section, extend  
31 the period of administrative revocation imposed under chapter 46.65 RCW  
32 for an additional period of one year from and after the date the person  
33 would otherwise have been entitled to apply for a new license or have  
34 his or her driving privilege restored; or

35 (b) For a conviction of driving while suspended or revoked in the  
36 second degree, as provided by subsection (1)(b) of this section, not  
37 issue a new license or restore the driving privilege for an additional

1 period of one year from and after the date the person would otherwise  
2 have been entitled to apply for a new license or have his or her  
3 driving privilege restored; or

4 (c) Not extend the period of suspension or revocation if the  
5 conviction was under subsection (1)(c) of this section. If the  
6 conviction was under subsection (1)(a) or (b) of this section and the  
7 court recommends against the extension and the convicted person has  
8 obtained a valid driver's license, the period of suspension or  
9 revocation shall not be extended.

10 **Sec. 5.** RCW 46.20.380 and 1985 ex.s. c 1 s 6 are each amended to  
11 read as follows:

12 No person may file an application for an occupational or a  
13 temporary restricted driver's license as provided in RCW 46.20.391  
14 unless he or she first pays to the director or other person authorized  
15 to accept applications and fees for driver's licenses a fee of twenty-  
16 five dollars. The applicant shall receive upon payment an official  
17 receipt for the payment of such fee. All such fees shall be forwarded  
18 to the director who shall transmit such fees to the state treasurer in  
19 the same manner as other driver's license fees.

20 **Sec. 6.** RCW 46.20.391 and 1999 c 274 s 4 and 1999 c 272 s 1 are  
21 each reenacted and amended to read as follows:

22 (1)(a) Any person licensed under this chapter who is convicted of  
23 an offense relating to motor vehicles for which suspension or  
24 revocation of the driver's license is mandatory, other than vehicular  
25 homicide or vehicular assault, or who (~~has had his or her license~~  
26 ~~suspended under RCW 46.20.3101 (2)(a) or (3)(a))~~ is authorized under  
27 RCW 46.20.3101(4), may submit to the department an application for (~~an~~  
28 ~~occupational~~) a temporary restricted driver's license. The  
29 department, upon receipt of the prescribed fee and upon determining  
30 that the petitioner is (~~engaged in an occupation or trade that makes~~  
31 ~~it essential that the petitioner operate a motor vehicle~~) eligible to  
32 receive the license, may issue (~~an occupational~~) a temporary  
33 restricted driver's license and may set definite restrictions as  
34 provided in RCW 46.20.394. No person may petition for, and the  
35 department shall not issue, (~~an occupational~~) a temporary restricted

1 driver's license that is effective during the first thirty days of any  
2 suspension or revocation imposed either for a violation of RCW  
3 46.61.502 or 46.61.504 or (~~under RCW 46.20.3101 (2)(a) or (3)(a), or~~  
4 ~~for both a violation of RCW 46.61.502 or 46.61.504 and under RCW~~  
5 ~~46.20.3101 (2)(a) or (3)(a) where the action arises from the same~~  
6 ~~incident. A person aggrieved by the decision of the department on the~~  
7 ~~application for an occupational driver's license may request a hearing~~  
8 ~~as provided by rule of the department)) during the required minimum  
9 periods of suspension, revocation, or denial established under RCW  
10 46.20.3101(4).~~

11 (b) An applicant under this subsection whose driver's license is  
12 suspended or revoked for an alcohol-related offense shall provide proof  
13 to the satisfaction of the department that a functioning ignition  
14 interlock device has been installed on a vehicle owned or operated by  
15 the person.

16 (i) The department shall require the person to maintain such a  
17 device on a vehicle owned or operated by the person and shall restrict  
18 the person to operating only vehicles equipped with such a device, for  
19 the remainder of the period of suspension, revocation, or denial.

20 (ii) Subject to any periodic renewal requirements established by  
21 the department pursuant to this section and subject to any applicable  
22 compliance requirements under this chapter or other law, a temporary  
23 restricted driver's license granted after a suspension or revocation  
24 under RCW 46.61.5055 or 46.20.3101 extends through the remaining  
25 portion of any concurrent or consecutive suspension or revocation that  
26 may be imposed as the result of administrative action and criminal  
27 conviction arising out of the same incident.

28 (iii) The time period during which the person is licensed under  
29 this section shall apply on a day-for-day basis toward satisfying the  
30 period of time the ignition interlock device restriction is required  
31 under RCW 46.20.720 (1) and (2) (a), (b), and (c).

32 (2)(a) A person licensed under this chapter whose driver's license  
33 is suspended administratively due to failure to appear or pay a traffic  
34 ticket under RCW 46.20.289; a violation of the financial responsibility  
35 laws under chapter 46.29 RCW; or for multiple violations within a  
36 specified period of time under RCW 46.20.291, may apply to the

1 department for an occupational driver's license (~~((if the applicant~~  
2 ~~demonstrates to the satisfaction of the department that one of the~~  
3 ~~following additional conditions are met:~~

4 ~~(i) The applicant is in an apprenticeship program or an on the job~~  
5 ~~training program for which a driver's license is required;~~

6 ~~(ii) The applicant presents evidence that he or she has applied for~~  
7 ~~a position in an apprenticeship or on the job training program and the~~  
8 ~~program has certified that a driver's license is required to begin the~~  
9 ~~program, provided that a license granted under this provision shall be~~  
10 ~~in effect no longer than fourteen days;~~

11 ~~(iii) The applicant is in a program that assists persons who are~~  
12 ~~enrolled in a WorkFirst program pursuant to chapter 74.08A RCW to~~  
13 ~~become gainfully employed and the program requires a driver's license;~~  
14 ~~or~~

15 ~~(iv) The applicant is undergoing substance abuse treatment or is~~  
16 ~~participating in meetings of a twelve step group such as alcoholics~~  
17 ~~anonymous)).~~

18 (b) If the suspension is for failure to respond, pay, or comply  
19 with a notice of traffic infraction or conviction, the applicant must  
20 enter into a payment plan with the court.

21 (c) An occupational driver's license issued to an applicant  
22 described in (a) of this subsection shall be valid for the period of  
23 the suspension or revocation (~~((but not more than two years))~~).

24 (~~((d) Upon receipt of evidence that a holder of an occupational~~  
25 ~~driver's license granted under this subsection is no longer enrolled in~~  
26 ~~an apprenticeship or on the job training program, the director shall~~  
27 ~~give written notice by first class mail to the driver that the~~  
28 ~~occupational driver's license shall be canceled. The effective date of~~  
29 ~~cancellation shall be fifteen days from the date of mailing the notice.~~  
30 ~~If at any time before the cancellation goes into effect the driver~~  
31 ~~submits evidence of continued enrollment in the program, the~~  
32 ~~cancellation shall be stayed. If the cancellation becomes effective,~~  
33 ~~the driver may obtain, at no additional charge, a new occupational~~  
34 ~~driver's license upon submittal of evidence of enrollment in another~~  
35 ~~program that meets the criteria set forth in this subsection.~~

36 (e) The department shall not issue an occupational driver's license

1 ~~under (a)(iv) of this subsection if the applicant is able to receive~~  
2 ~~transit services sufficient to allow for the applicant's participation~~  
3 ~~in the programs referenced under (a)(iv) of this subsection.)~~

4 (3) An applicant for an occupational or temporary restricted  
5 driver's license who qualifies under subsection (1) or (2) of this  
6 section is eligible to receive such license only if:

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

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

18 ~~((+e))~~ (b) The applicant demonstrates that it is necessary for him  
19 or her to operate a motor vehicle because he or she:

20 (i) Is engaged in an occupation or trade that makes it essential  
21 that he or she operate a motor vehicle~~((, except as allowed under~~  
22 ~~subsection (2)(a) of this section))~~;

23 (ii) Is undergoing continuing health care or providing continuing  
24 care to another who is dependent upon the applicant;

25 (iii) Is enrolled in an educational institution and pursuing a  
26 course of study leading to a diploma, degree, or other certification of  
27 successful educational completion;

28 (iv) Is undergoing substance abuse treatment or is participating in  
29 meetings of a twelve-step group such as Alcoholics Anonymous that  
30 requires the petitioner to drive to or from the treatment or meetings;

31 (v) Is fulfilling court-ordered community service responsibilities;

32 (vi) Is in a program that assists persons who are enrolled in a  
33 WorkFirst program pursuant to chapter 74.08A RCW to become gainfully  
34 employed and the program requires a driver's license;

35 (vii) Is in an apprenticeship, on-the-job training, or welfare-to-  
36 work program; or

1 (viii) Presents evidence that he or she has applied for a position  
2 in an apprenticeship or on-the-job training program for which a  
3 driver's license is required to begin the program, provided that a  
4 license granted under this provision shall be in effect for no longer  
5 than fourteen days; and

6 ~~((d))~~ (c) The applicant files satisfactory proof of financial  
7 responsibility under chapter 46.29 RCW; and

8 (d) Upon receipt of evidence that a holder of an occupational  
9 driver's license granted under this subsection is no longer enrolled in  
10 an apprenticeship or on-the-job training program, the director shall  
11 give written notice by first class mail to the driver that the  
12 occupational driver's license shall be canceled. The effective date of  
13 cancellation shall be fifteen days from the date of mailing the notice.  
14 If at any time before the cancellation goes into effect the driver  
15 submits evidence of continued enrollment in the program, the  
16 cancellation shall be stayed. If the cancellation becomes effective,  
17 the driver may obtain, at no additional charge, a new occupational  
18 driver's license upon submittal of evidence of enrollment in another  
19 program that meets the criteria set forth in this subsection; and

20 (e) The department shall not issue an occupational driver's license  
21 under (b)(iv) of this subsection if the applicant is able to receive  
22 transit services sufficient to allow for the applicant's participation  
23 in the programs referenced under (b)(iv) of this subsection.

24 (4) A person aggrieved by the decision of the department on the  
25 application for an occupational or temporary restricted driver's  
26 license may request a hearing as provided by rule of the department.

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

35 **Sec. 7.** RCW 46.20.394 and 1999 c 272 s 2 are each amended to read  
36 as follows:

1 In issuing an occupational or a temporary restricted driver's  
2 license under RCW 46.20.391, the department shall describe the type of  
3 (~~occupation permitted~~) qualifying circumstances for the license and  
4 shall set forth in detail the specific hours of the day during which  
5 the person may drive to and from his (~~place of work~~) or her  
6 residence, which may not exceed twelve hours in any one day; the days  
7 of the week during which the license may be used; and the general  
8 routes over which the person may travel. In issuing an occupational or  
9 temporary restricted driver's license that meets the qualifying  
10 circumstance under RCW 46.20.391 (~~((2)(a)(iv))~~) (3)(b)(iv), the  
11 department shall set forth in detail the specific hours during which  
12 the person may drive to and from substance abuse treatment or meetings  
13 of a twelve-step group such as alcoholics anonymous, the days of the  
14 week during which the license may be used, and the general routes over  
15 which the person may travel. These restrictions shall be prepared in  
16 written form by the department, which document shall be carried in the  
17 vehicle at all times and presented to a law enforcement officer under  
18 the same terms as the occupational or temporary restricted driver's  
19 license. Any violation of the restrictions constitutes a violation of  
20 RCW 46.20.342 and subjects the person to all procedures and penalties  
21 therefor.

22 **Sec. 8.** RCW 46.20.400 and 1967 c 32 s 33 are each amended to read  
23 as follows:

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

32 **Sec. 9.** RCW 46.20.410 and 1967 c 32 s 34 are each amended to read  
33 as follows:

34 Any person convicted for violation of any restriction of an  
35 occupational or a temporary restricted driver's license shall in

1 addition to the immediate revocation of such license and any other  
2 penalties provided by law be fined not less than fifty nor more than  
3 two hundred dollars or imprisoned for not more than six months or both  
4 such fine and imprisonment.

5 **Sec. 10.** RCW 46.20.720 and 2003 c 366 s 1 are each amended to read  
6 as follows:

7 (1) The court may order that after a period of suspension,  
8 revocation, or denial of driving privileges, and for up to as long as  
9 the court has jurisdiction, any person convicted of any offense  
10 involving the use, consumption, or possession of alcohol while  
11 operating a motor vehicle may drive only a motor vehicle equipped with  
12 a functioning ignition interlock (~~(or other biological or technical~~  
13 ~~device)). The court shall establish a specific calibration setting at  
14 which the interlock will prevent the vehicle from being started. The  
15 court shall also establish the period of time for which interlock use  
16 will be required.~~

17 (2)(~~(a)~~) The department shall require that, after any applicable  
18 period of suspension, revocation, or denial of driving privileges, a  
19 person may drive only a motor vehicle equipped with a functioning  
20 ignition interlock or other biological or technical device if the  
21 person is convicted of (~~(a)~~) an alcohol-related violation of RCW  
22 46.61.502 or 46.61.504 or an equivalent local ordinance (~~and it is:~~

23 ~~(i) The person's first conviction or a deferred prosecution under~~  
24 ~~chapter 10.05 RCW and his or her alcohol concentration was at least~~  
25 ~~0.15, or by reason of the person's refusal to take a test offered~~  
26 ~~pursuant to RCW 46.20.308 there is no test result indicating the~~  
27 ~~person's alcohol concentration;~~

28 ~~(ii) The person's second or subsequent conviction; or~~

29 ~~(iii) The person's first conviction and the person has a previous~~  
30 ~~deferred prosecution under chapter 10.05 RCW or it is a deferred~~  
31 ~~prosecution under chapter 10.05 RCW and the person has a previous~~  
32 ~~conviction)).~~

33 (~~(b)~~) The department may waive the requirement for the use of  
34 such a device if it concludes that such devices are not reasonably  
35 available in the local area. (~~Nothing in this section may be~~



1 interpreted as entitling a person to more than one deferred  
2 prosecution.

3 ~~(3) In the case of a person under subsection (1) of this section,~~  
4 ~~the court shall establish a specific calibration setting at which the~~  
5 ~~ignition interlock or other biological or technical device will prevent~~  
6 ~~the motor vehicle from being started and the period of time that the~~  
7 ~~person shall be subject to the restriction. In the case of a person~~  
8 ~~under subsection (2) of this section,)~~ The device is not necessary on  
9 vehicles owned by a person's employer and driven as a requirement of  
10 employment during working hours.

11 The ignition interlock or other biological or technical device  
12 shall be calibrated to prevent the motor vehicle from being started  
13 when the breath sample provided has an alcohol concentration of 0.025  
14 or more(, and)). The period of time of the restriction will be as  
15 follows:

16 (a) For a person (~~((i) who is subject to RCW 46.61.5055 (1)(b),~~  
17 ~~(2), or (3), or who is subject to a deferred prosecution program under~~  
18 ~~chapter 10.05 RCW; and (ii))~~) who has not previously been restricted  
19 under this section, a period of one year;

20 (b) For a person who has previously been restricted under (a) of  
21 this subsection, a period of five years;

22 (c) For a person who has previously been restricted under (b) of  
23 this subsection, a period of ten years.

24 (~~For purposes of this section, "convicted" means being found~~  
25 ~~guilty of an offense or being placed on a deferred prosecution program~~  
26 ~~under chapter 10.05 RCW.))~~

27 **Sec. 11.** RCW 46.20.740 and 2001 c 55 s 1 are each amended to read  
28 as follows:

29 (1) The department shall attach or imprint a notation on the  
30 driving record of any person restricted under RCW 46.20.720 stating  
31 that the person may operate only a motor vehicle equipped with ~~((an))~~  
32 a functioning ignition interlock ((or other biological or technical))  
33 device. The department shall determine the person's eligibility for  
34 licensing based upon written verification by a company doing business  
35 in the state that it has installed the required device on a vehicle  
36 owned or operated by the person seeking reinstatement. If, based upon

1 notification from the interlock provider or otherwise, the department  
2 determines that an ignition interlock required under this section is no  
3 longer installed or functioning as required, the department shall  
4 suspend the person's license or privilege to drive. Whenever the  
5 license or driving privilege of any person is suspended or revoked as  
6 a result of noncompliance with an ignition interlock requirement, the  
7 suspension shall remain in effect until the person provides notice  
8 issued by a company doing business in the state that a vehicle owned or  
9 operated by the person is equipped with a functioning ignition  
10 interlock device.

11 (2) It is a misdemeanor for a person with such a notation on his or  
12 her driving record to operate a motor vehicle that is not so equipped.

13 **Sec. 12.** RCW 46.61.5055 and 2003 c 103 s 1 are each amended to  
14 read as follows:

15 (1) A person who is convicted of a violation of RCW 46.61.502 or  
16 46.61.504 and who has no prior offense within seven years shall be  
17 punished as follows:

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

22 (i) By imprisonment for not less than one day nor more than one  
23 year. Twenty-four consecutive hours of the imprisonment may not be  
24 suspended or deferred unless the court finds that the imposition of  
25 this mandatory minimum sentence would impose a substantial risk to the  
26 offender's physical or mental well-being. Whenever the mandatory  
27 minimum sentence is suspended or deferred, the court shall state in  
28 writing the reason for granting the suspension or deferral and the  
29 facts upon which the suspension or deferral is based. In lieu of the  
30 mandatory minimum term of imprisonment required under this subsection  
31 (1)(a)(i), the court may order not less than fifteen days of electronic  
32 home monitoring. The offender shall pay the cost of electronic home  
33 monitoring. The county or municipality in which the penalty is being  
34 imposed shall determine the cost. The court may also require the  
35 offender's electronic home monitoring device to include an alcohol

1 detection breathalyzer, and the court may restrict the amount of  
2 alcohol the offender may consume during the time the offender is on  
3 electronic home monitoring; and

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

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

12 (i) By imprisonment for not less than two days nor more than one  
13 year. Two consecutive days of the imprisonment may not be suspended or  
14 deferred unless the court finds that the imposition of this mandatory  
15 minimum sentence would impose a substantial risk to the offender's  
16 physical or mental well-being. Whenever the mandatory minimum sentence  
17 is suspended or deferred, the court shall state in writing the reason  
18 for granting the suspension or deferral and the facts upon which the  
19 suspension or deferral is based. In lieu of the mandatory minimum term  
20 of imprisonment required under this subsection (1)(b)(i), the court may  
21 order not less than thirty days of electronic home monitoring. The  
22 offender shall pay the cost of electronic home monitoring. The county  
23 or municipality in which the penalty is being imposed shall determine  
24 the cost. The court may also require the offender's electronic home  
25 monitoring device to include an alcohol detection breathalyzer, and the  
26 court may restrict the amount of alcohol the offender may consume  
27 during the time the offender is on electronic home monitoring; and

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

32 ~~(iii) By a court ordered restriction under RCW 46.20.720)).~~

33 (2) A person who is convicted of a violation of RCW 46.61.502 or  
34 46.61.504 and who has one prior offense within seven years shall be  
35 punished as follows:

36 (a) In the case of a person whose alcohol concentration was less

1 than 0.15, or for whom for reasons other than the person's refusal to  
2 take a test offered pursuant to RCW 46.20.308 there is no test result  
3 indicating the person's alcohol concentration:

4 (i) By imprisonment for not less than thirty days nor more than one  
5 year and sixty days of electronic home monitoring. The offender shall  
6 pay for the cost of the electronic monitoring. The county or  
7 municipality where the penalty is being imposed shall determine the  
8 cost. The court may also require the offender's electronic home  
9 monitoring device include an alcohol detection breathalyzer, and may  
10 restrict the amount of alcohol the offender may consume during the time  
11 the offender is on electronic home monitoring. Thirty days of  
12 imprisonment and sixty days of electronic home monitoring may not be  
13 suspended or deferred unless the court finds that the imposition of  
14 this mandatory minimum sentence would impose a substantial risk to the  
15 offender's physical or mental well-being. Whenever the mandatory  
16 minimum sentence is suspended or deferred, the court shall state in  
17 writing the reason for granting the suspension or deferral and the  
18 facts upon which the 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 a court ordered restriction under RCW 46.20.720;~~) or

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

28 (i) By imprisonment for not less than forty-five days nor more than  
29 one year and ninety days of electronic home monitoring. The offender  
30 shall pay for the cost of the electronic monitoring. The county or  
31 municipality where the penalty is being imposed shall determine the  
32 cost. The court may also require the offender's electronic home  
33 monitoring device include an alcohol detection breathalyzer, and may  
34 restrict the amount of alcohol the offender may consume during the time  
35 the offender is on electronic home monitoring. Forty-five days of  
36 imprisonment and ninety days of electronic home monitoring may not be  
37 suspended or deferred unless the court finds that the imposition of

1 this mandatory minimum sentence would impose a substantial risk to the  
2 offender's physical or mental well-being. Whenever the mandatory  
3 minimum sentence is suspended or deferred, the court shall state in  
4 writing the reason for granting the suspension or deferral and the  
5 facts upon which the suspension or deferral is based; and

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

10 ~~(iii) By a court ordered restriction under RCW 46.20.720)).~~

11 (3) A person who is convicted of a violation of RCW 46.61.502 or  
12 46.61.504 and who has two or more prior offenses within seven years  
13 shall be punished as follows:

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

18 (i) By imprisonment for not less than ninety days nor more than one  
19 year and one hundred twenty days of electronic home monitoring. The  
20 offender shall pay for the cost of the electronic monitoring. The  
21 county or municipality where the penalty is being imposed shall  
22 determine the cost. The court may also require the offender's  
23 electronic home monitoring device include an alcohol detection  
24 breathalyzer, and may restrict the amount of alcohol the offender may  
25 consume during the time the offender is on electronic home monitoring.  
26 Ninety days of imprisonment and one hundred twenty days of electronic  
27 home monitoring may not be suspended or deferred unless the court finds  
28 that the imposition of this mandatory minimum sentence would impose a  
29 substantial risk to the offender's physical or mental well-being.  
30 Whenever the mandatory minimum sentence is suspended or deferred, the  
31 court shall state in writing the reason for granting the suspension or  
32 deferral and the facts upon which the suspension or deferral is based;  
33 and

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

1 ~~(iii) By a court ordered restriction under RCW 46.20.720)); or~~

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

6 (i) By imprisonment for not less than one hundred twenty days nor  
7 more than one year and one hundred fifty days of electronic home  
8 monitoring. The offender shall pay for the cost of the electronic  
9 monitoring. The county or municipality where the penalty is being  
10 imposed shall determine the cost. The court may also require the  
11 offender's electronic home monitoring device include an alcohol  
12 detection breathalyzer, and may restrict the amount of alcohol the  
13 offender may consume during the time the offender is on electronic home  
14 monitoring. One hundred twenty days of imprisonment and one hundred  
15 fifty days of electronic home monitoring may not be suspended or  
16 deferred unless the court finds that the imposition of this mandatory  
17 minimum sentence would impose a substantial risk to the offender's  
18 physical or mental well-being. Whenever the mandatory minimum sentence  
19 is suspended or deferred, the court shall state in writing the reason  
20 for granting the suspension or deferral and the facts upon which the  
21 suspension or deferral is based; and

22 (ii) By a fine of not less than one thousand five hundred dollars  
23 nor more than five thousand dollars. One thousand five hundred dollars  
24 of the fine may not be suspended or deferred unless the court finds the  
25 offender to be indigent(~~(; and~~

26 ~~(iii) By a court ordered restriction under RCW 46.20.720)).~~

27 (4) If a person who is convicted of a violation of RCW 46.61.502 or  
28 46.61.504 committed the offense while a passenger under the age of  
29 sixteen was in the vehicle, the court shall:

30 (a) In any case in which the installation and use of an interlock  
31 or other device is not mandatory under RCW 46.20.720 or other law,  
32 order the use of such a device for not less than sixty days following  
33 the restoration of the person's license, permit, or nonresident driving  
34 privileges; and

35 (b) In any case in which the installation and use of such a device  
36 is otherwise mandatory, order the use of such a device for an  
37 additional sixty days.

1 (5) In exercising its discretion in setting penalties within the  
2 limits allowed by this section, the court shall particularly consider  
3 the following:

4 (a) Whether the person's driving at the time of the offense was  
5 responsible for injury or damage to another or another's property; and

6 (b) Whether at the time of the offense the person was driving or in  
7 physical control of a vehicle with one or more passengers.

8 (6) An offender punishable under this section is subject to the  
9 alcohol assessment and treatment provisions of RCW 46.61.5056.

10 (7) The license, permit, or nonresident privilege of a person  
11 convicted of driving or being in physical control of a motor vehicle  
12 while under the influence of intoxicating liquor or drugs must:

13 (a) If the person's alcohol concentration was less than 0.15, or if  
14 for reasons other than the person's refusal to take a test offered  
15 under RCW 46.20.308 there is no test result indicating the person's  
16 alcohol concentration:

17 (i) Where there has been no prior offense within seven years, be  
18 suspended or denied by the department for ninety days;

19 (ii) Where there has been one prior offense within seven years, be  
20 revoked or denied by the department for two years; or

21 (iii) Where there have been two or more prior offenses within seven  
22 years, be revoked or denied by the department for three years;

23 (b) If the person's alcohol concentration was at least 0.15 (~~(, or~~  
24 ~~if by reason of the person's refusal to take a test offered under RCW~~  
25 ~~46.20.308 there is no test result indicating the person's alcohol~~  
26 ~~concentration))):~~

27 (i) Where there has been no prior offense within seven years, be  
28 revoked or denied by the department for one year;

29 (ii) Where there has been one prior offense within seven years, be  
30 revoked or denied by the department for nine hundred days; or

31 (iii) Where there have been two or more prior offenses within seven  
32 years, be revoked or denied by the department for four years; or

33 (c) If by reason of the person's refusal to take a test offered  
34 under RCW 46.20.308, there is no test result indicating the person's  
35 alcohol concentration:

36 (i) Where there have been no prior offenses within seven years, be  
37 revoked or denied by the department for two years;

1        (ii) Where there has been one prior offense within seven years, be  
2 revoked or denied by the department for three years; or

3        (iii) Where there have been two or more previous offenses within  
4 seven years, be revoked or denied by the department for four years.

5        For purposes of this subsection (7), the department shall refer to  
6 the driver's record maintained under RCW 46.52.120 when determining the  
7 existence of prior offenses.

8        (8) After expiration of any period of suspension, revocation, or  
9 denial of the offender's license, permit, or privilege to drive  
10 required by this section, the department shall place the offender's  
11 driving privilege in probationary status pursuant to RCW 46.20.355.

12        (9)(a) In addition to any nonsuspendable and nondeferrable jail  
13 sentence required by this section, whenever the court imposes less than  
14 one year in jail, the court shall also suspend but shall not defer a  
15 period of confinement for a period not exceeding five years. The court  
16 shall impose conditions of probation that include: (i) Not driving a  
17 motor vehicle within this state without a valid license to drive and  
18 proof of financial responsibility for the future; (ii) not driving a  
19 motor vehicle within this state while having an alcohol concentration  
20 of 0.08 or more within two hours after driving; and (iii) not refusing  
21 to submit to a test of his or her breath or blood to determine alcohol  
22 concentration upon request of a law enforcement officer who has  
23 reasonable grounds to believe the person was driving or was in actual  
24 physical control of a motor vehicle within this state while under the  
25 influence of intoxicating liquor. The court may impose conditions of  
26 probation that include nonrepetition, installation of an ignition  
27 interlock or other biological or technical device on the probationer's  
28 motor vehicle, alcohol or drug treatment, supervised probation, or  
29 other conditions that may be appropriate. The sentence may be imposed  
30 in whole or in part upon violation of a condition of probation during  
31 the suspension period.

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

36        (c) For each incident involving a violation of a mandatory  
37 condition of probation imposed under this subsection, the license,



1 permit, or privilege to drive of the person shall be suspended by the  
2 court for thirty days or, if such license, permit, or privilege to  
3 drive already is suspended, revoked, or denied at the time the finding  
4 of probation violation is made, the suspension, revocation, or denial  
5 then in effect shall be extended by thirty days. The court shall  
6 notify the department of any suspension, revocation, or denial or any  
7 extension of a suspension, revocation, or denial imposed under this  
8 subsection.

9 (10) A court may waive the electronic home monitoring requirements  
10 of this chapter when:

11 (a) The offender does not have a dwelling, telephone service, or  
12 any other necessity to operate an electronic home monitoring system;

13 (b) The offender does not reside in the state of Washington; or

14 (c) The court determines that there is reason to believe that the  
15 offender would violate the conditions of the electronic home monitoring  
16 penalty.

17 Whenever the mandatory minimum term of electronic home monitoring  
18 is waived, the court shall state in writing the reason for granting the  
19 waiver and the facts upon which the waiver is based, and shall impose  
20 an alternative sentence with similar punitive consequences. The  
21 alternative sentence may include, but is not limited to, additional  
22 jail time, work crew, or work camp.

23 Whenever the combination of jail time and electronic home  
24 monitoring or alternative sentence would exceed three hundred sixty-  
25 five days, the offender shall serve the jail portion of the sentence  
26 first, and the electronic home monitoring or alternative portion of the  
27 sentence shall be reduced so that the combination does not exceed three  
28 hundred sixty-five days.

29 (11) An offender serving a sentence under this section, whether or  
30 not a mandatory minimum term has expired, may be granted an  
31 extraordinary medical placement by the jail administrator subject to  
32 the standards and limitations set forth in RCW 9.94A.728(4).

33 (12) For purposes of this section:

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

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

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

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

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

7 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or  
8 9A.36.050 or an equivalent local ordinance, if the conviction is the  
9 result of a charge that was originally filed as a violation of RCW  
10 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW  
11 46.61.520 or 46.61.522;

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

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

18 (viii) A deferred prosecution under chapter 10.05 RCW granted in a  
19 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
20 ordinance, if the charge under which the deferred prosecution was  
21 granted was originally filed as a violation of RCW 46.61.502 or  
22 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
23 46.61.522; and

24 (b) "Within seven years" means that the arrest for a prior offense  
25 occurred within seven years of the arrest for the current offense.

26 **Sec. 13.** RCW 46.63.020 and 2003 c 33 s 4 are each amended to read  
27 as follows:

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

- 1 (1) RCW 46.09.120(2) relating to the operation of a nonhighway  
2 vehicle while under the influence of intoxicating liquor or a  
3 controlled substance;
- 4 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- 5 (3) RCW 46.10.090(2) relating to the operation of a snowmobile  
6 while under the influence of intoxicating liquor or narcotics or habit-  
7 forming drugs or in a manner endangering the person of another;
- 8 (4) RCW 46.10.130 relating to the operation of snowmobiles;
- 9 (5) Chapter 46.12 RCW relating to certificates of ownership and  
10 registration and markings indicating that a vehicle has been destroyed  
11 or declared a total loss;
- 12 (6) RCW 46.16.010 relating to initial registration of motor  
13 vehicles;
- 14 (7) RCW 46.16.011 relating to permitting unauthorized persons to  
15 drive;
- 16 (8) RCW 46.16.160 relating to vehicle trip permits;
- 17 (9) RCW 46.16.381(2) relating to knowingly providing false  
18 information in conjunction with an application for a special placard or  
19 license plate for disabled persons' parking;
- 20 (10) RCW 46.20.005 relating to driving without a valid driver's  
21 license;
- 22 (11) RCW 46.20.091 relating to false statements regarding a  
23 driver's license or instruction permit;
- 24 (12) RCW 46.20.0921 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 46.20.345 relating to the operation of a motor vehicle  
29 with a suspended or revoked license;
- 30 (15) RCW 46.20.410 relating to the violation of restrictions of an  
31 occupational or temporary restricted driver's 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 (18) RCW 46.25.170 relating to commercial driver's licenses;

1 (19) Chapter 46.29 RCW relating to financial responsibility;  
2 (20) RCW 46.30.040 relating to providing false evidence of  
3 financial responsibility;  
4 (21) RCW 46.37.435 relating to wrongful installation of  
5 sunscreening material;  
6 (22) RCW 46.37.650 relating to the sale, resale, distribution, or  
7 installation of a previously deployed air bag;  
8 (23) RCW 46.44.180 relating to operation of mobile home pilot  
9 vehicles;  
10 (24) RCW 46.48.175 relating to the transportation of dangerous  
11 articles;  
12 (25) RCW 46.52.010 relating to duty on striking an unattended car  
13 or other property;  
14 (26) RCW 46.52.020 relating to duty in case of injury to or death  
15 of a person or damage to an attended vehicle;  
16 (27) RCW 46.52.090 relating to reports by repairmen, storagemen,  
17 and appraisers;  
18 (28) RCW 46.52.130 relating to confidentiality of the driving  
19 record to be furnished to an insurance company, an employer, and an  
20 alcohol/drug assessment or treatment agency;  
21 (29) RCW 46.55.020 relating to engaging in the activities of a  
22 registered tow truck operator without a registration certificate;  
23 (30) RCW 46.55.035 relating to prohibited practices by tow truck  
24 operators;  
25 (31) RCW 46.61.015 relating to obedience to police officers,  
26 flaggers, or fire fighters;  
27 (32) RCW 46.61.020 relating to refusal to give information to or  
28 cooperate with an officer;  
29 (33) RCW 46.61.022 relating to failure to stop and give  
30 identification to an officer;  
31 (34) RCW 46.61.024 relating to attempting to elude pursuing police  
32 vehicles;  
33 (35) RCW 46.61.500 relating to reckless driving;  
34 (36) RCW 46.61.502 and 46.61.504 relating to persons under the  
35 influence of intoxicating liquor or drugs;  
36 (37) RCW 46.61.503 relating to a person under age twenty-one  
37 driving a motor vehicle after consuming alcohol;

- 1 (38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;  
2 (39) RCW 46.61.522 relating to vehicular assault;  
3 (40) RCW 46.61.5249 relating to first degree negligent driving;  
4 (41) RCW 46.61.527(4) relating to reckless endangerment of roadway  
5 workers;  
6 (42) RCW 46.61.530 relating to racing of vehicles on highways;  
7 (43) RCW 46.61.685 relating to leaving children in an unattended  
8 vehicle with the motor running;  
9 (44) RCW 46.61.740 relating to theft of motor vehicle fuel;  
10 (45) RCW 46.64.010 relating to unlawful cancellation of or attempt  
11 to cancel a traffic citation;  
12 (46) RCW 46.64.048 relating to attempting, aiding, abetting,  
13 coercing, and committing crimes;  
14 (47) Chapter 46.65 RCW relating to habitual traffic offenders;  
15 (48) RCW 46.68.010 relating to false statements made to obtain a  
16 refund;  
17 (49) Chapter 46.70 RCW relating to unfair motor vehicle business  
18 practices, except where that chapter provides for the assessment of  
19 monetary penalties of a civil nature;  
20 (50) Chapter 46.72 RCW relating to the transportation of passengers  
21 in for hire vehicles;  
22 (51) RCW 46.72A.060 relating to limousine carrier insurance;  
23 (52) RCW 46.72A.070 relating to operation of a limousine without a  
24 vehicle certificate;  
25 (53) RCW 46.72A.080 relating to false advertising by a limousine  
26 carrier;  
27 (54) Chapter 46.80 RCW relating to motor vehicle wreckers;  
28 (55) Chapter 46.82 RCW relating to driver's training schools;  
29 (56) RCW 46.87.260 relating to alteration or forgery of a cab card,  
30 letter of authority, or other temporary authority issued under chapter  
31 46.87 RCW;  
32 (57) RCW 46.87.290 relating to operation of an unregistered or  
33 unlicensed vehicle under chapter 46.87 RCW.

34 **Sec. 14.** RCW 46.68.041 and 1998 c 212 s 3 are each amended to read  
35 as follows:

36 (1) Except as provided in subsection (2) of this section, the

1 department shall forward all funds accruing under the provisions of  
2 chapter 46.20 RCW together with a proper identifying, detailed report  
3 to the state treasurer who shall deposit such moneys to the credit of  
4 the highway safety fund.

5 (2) Sixty-three percent of each fee collected by the department  
6 under RCW 46.20.311 (1)((~~b~~)) (e)(ii), (2)(b)(ii), and (3)(b) shall be  
7 deposited in the impaired driving safety account.

8 **Sec. 15.** RCW 46.68.260 and 1998 c 212 s 2 are each amended to read  
9 as follows:

10 The impaired driving safety account is created in the custody of  
11 the state treasurer. All receipts from fees collected under RCW  
12 46.20.311 (1)((~~b~~)) (e)(ii), (2)(b)(ii), and (3)(b) shall be deposited  
13 according to RCW 46.68.041. Expenditures from this account may be used  
14 only to fund projects to reduce impaired driving and to provide funding  
15 to local governments for costs associated with enforcing laws relating  
16 to driving and boating while under the influence of intoxicating liquor  
17 or any drug. The account is subject to allotment procedures under  
18 chapter 43.88 RCW. Moneys in the account may be spent only after  
19 appropriation."

**SHB 2660** - S COMM AMD  
By Committee on Judiciary

**NOT ADOPTED 03/05/2004**

20 On page 1, line 1 of the title, after "offenses;" strike the  
21 remainder of the title and insert "amending RCW 10.05.140, 46.20.311,  
22 46.20.342, 46.20.380, 46.20.394, 46.20.400, 46.20.410, 46.20.720,  
23 46.20.740, 46.61.5055, 46.63.020, 46.68.041, and 46.68.260; and  
24 reenacting and amending RCW 46.20.3101 and 46.20.391."

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