
SUBSTITUTE HOUSE BILL 2660

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives G. Simpson, Carrell, McMahan, Lovick, Kenney and Wallace; by request of Office of the Lieutenant Governor)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to alcohol-related offenses; amending RCW
2 10.05.140, 46.20.311, 46.20.342, 46.20.380, 46.20.394, 46.20.400,
3 46.20.410, 46.20.720, 46.20.740, 46.61.5055, 46.63.020, 46.68.041, and
4 46.68.260; and reenacting and amending RCW 46.20.3101 and 46.20.391.

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

6 **Sec. 1.** RCW 10.05.140 and 2003 c 220 s 2 are each amended to read
7 as follows:

8 As a condition of granting a deferred prosecution petition, the
9 court shall order that the petitioner shall not operate a motor vehicle
10 upon the public highways without a valid operator's license and proof
11 of liability insurance. The amount of liability insurance shall be
12 established by the court at not less than that established by RCW
13 46.29.490. As a condition of granting a deferred prosecution petition
14 on any alcohol-related case, the court shall also order the
15 installation of an ignition interlock (~~((or other device))~~) under RCW
16 46.20.720 (~~((for a petitioner who has previously been convicted of a~~
17 ~~violation of RCW 46.61.502 or 46.61.504 or an equivalent local~~
18 ~~ordinance or a petitioner who has been charged with such an offense and~~
19 ~~had an alcohol concentration of at least .15, or by reason of the~~

1 ~~person's refusal to take a test offered pursuant to RCW 46.20.308 there~~
2 ~~is no test result indicating the person's alcohol concentration. For~~
3 ~~any other petitioner, the court may order the installation of an~~
4 ~~interlock device under RCW 46.20.720(1) as a condition of granting a~~
5 ~~deferred prosecution petition)). The required periods of use of the~~
6 ~~interlock shall be not less than the periods provided for in RCW~~
7 ~~46.20.720(2) (a), (b), and (c). As a condition of granting a deferred~~
8 prosecution petition, the court may order the petitioner to make
9 restitution and to pay costs as defined in RCW 10.01.160. To help
10 ensure continued sobriety and reduce the likelihood of reoffense, the
11 court may order reasonable conditions during the period of the deferred
12 prosecution including, but not limited to, attendance at self-help
13 recovery support groups for alcoholism or drugs, complete abstinence
14 from alcohol and all nonprescribed mind-altering drugs, periodic
15 urinalysis or breath analysis, and maintaining law-abiding behavior.
16 The court may terminate the deferred prosecution program upon violation
17 of the deferred prosecution order.

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

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

24 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
25 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or driving
26 privilege of any person is suspended by reason of a conviction, a
27 finding that a traffic infraction has been committed, pursuant to
28 chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the
29 suspension shall remain in effect until the person gives and thereafter
30 maintains proof of financial responsibility for the future as provided
31 in chapter 46.29 RCW.

32 (c) If the suspension is the result of a violation of RCW 46.61.502
33 or 46.61.504, the department shall determine the person's eligibility
34 for licensing based upon the reports provided by the alcoholism agency
35 or probation department designated under RCW 46.61.5056 and shall deny
36 reinstatement until enrollment and participation in an approved program
37 has been established and the person is otherwise qualified. If the

1 suspension is the result of a violation of RCW 46.61.502 or 46.61.504,
2 and the person is required pursuant to RCW 46.20.720 to drive only a
3 motor vehicle equipped with a functioning ignition interlock (~~(or other~~
4 ~~biological or technical device)~~), the department shall determine the
5 person's eligibility for licensing based upon written verification by
6 a company doing business in the state that it has installed the
7 required device on a vehicle owned (~~(and/or)~~) or operated by the person
8 seeking reinstatement. If, based upon notification from the interlock
9 provider or otherwise, the department determines that an interlock
10 required under RCW 46.20.720 is no longer installed or functioning as
11 required, the department shall suspend the person's license or
12 privilege to drive. Whenever the license or driving privilege of any
13 person is suspended or revoked as a result of noncompliance with an
14 ignition interlock requirement, the suspension shall remain in effect
15 until the person provides notice issued by a company doing business in
16 the state that a vehicle owned or operated by the person is equipped
17 with a functioning ignition interlock device.

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

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

27 (ii) If the suspension is the result of a violation of RCW
28 46.61.502 or 46.61.504, or is the result of administrative action under
29 RCW 46.20.308, the reissue fee shall be one hundred fifty dollars.

30 (2)(a) Any person whose license or privilege to drive a motor
31 vehicle on the public highways has been revoked, unless the revocation
32 was for a cause which has been removed, is not entitled to have the
33 license or privilege renewed or restored until: (i) After the
34 expiration of one year from the date the license or privilege to drive
35 was revoked; (ii) after the expiration of the applicable revocation
36 period provided by RCW 46.20.3101 or 46.61.5055; (iii) after the
37 expiration of two years for persons convicted of vehicular homicide; or

1 (iv) after the expiration of the applicable revocation period provided
2 by RCW 46.20.265.

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

6 (ii) If the revocation is the result of a violation of RCW
7 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
8 hundred fifty dollars. If the revocation is the result of a violation
9 of RCW 46.61.502 or 46.61.504, the department shall determine the
10 person's eligibility for licensing based upon the reports provided by
11 the alcoholism agency or probation department designated under RCW
12 46.61.5056 and shall deny reissuance of a license, permit, or privilege
13 to drive until enrollment and participation in an approved program has
14 been established and the person is otherwise qualified. If the
15 revocation is the result of a violation of RCW 46.61.502 or 46.61.504,
16 and the person is required pursuant to RCW 46.20.720 to drive only a
17 motor vehicle equipped with a functioning ignition interlock or other
18 biological or technical device, the department shall determine the
19 person's eligibility for licensing based upon written verification by
20 a company doing business in the state that it has installed the
21 required device on a vehicle owned (~~(and/or)~~) or operated by the person
22 applying for a new license. If, following issuance of a new license,
23 the department determines, based upon notification from the interlock
24 provider or otherwise, that an interlock required under RCW 46.20.720
25 is no longer functioning, the department shall suspend the person's
26 license or privilege to drive until the department has received written
27 verification from an interlock provider that a functioning interlock is
28 installed.

29 (c) Except for a revocation under RCW 46.20.265, the department
30 shall not then issue a new license unless it is satisfied after
31 investigation of the driving ability of the person that it will be safe
32 to grant the privilege of driving a motor vehicle on the public
33 highways, and until the person gives and thereafter maintains proof of
34 financial responsibility for the future as provided in chapter 46.29
35 RCW. For a revocation under RCW 46.20.265, the department shall not
36 issue a new license unless it is satisfied after investigation of the
37 driving ability of the person that it will be safe to grant that person
38 the privilege of driving a motor vehicle on the public highways.

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

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

12 **Sec. 3.** RCW 46.20.3101 and 1998 c 213 s 2, 1998 c 209 s 2, and
13 1998 c 207 s 8 are each reenacted and amended to read as follows:

14 Pursuant to RCW 46.20.308, the department shall suspend, revoke, or
15 deny the arrested person's license, permit, or privilege to drive as
16 follows:

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

18 (a) For a first refusal within seven years, where there has not
19 been a previous incident within seven years that resulted in
20 administrative action under this section, revocation or denial for one
21 year. A revocation or denial imposed under this subsection (1)(a)
22 shall run concurrently with the period of any suspension, revocation,
23 or denial imposed for a criminal conviction arising out of the same
24 incident;

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

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

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

7 (b) For a second or subsequent incident within seven years,
8 revocation or denial for two years. A suspension or denial imposed
9 under this subsection (2)(b) shall run concurrently with the period of
10 any suspension, revocation, or denial imposed for a criminal conviction
11 arising out of the same incident.

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

16 (a) For a first incident within seven years, suspension or denial
17 for ninety days. A suspension or denial imposed under this subsection
18 (3)(a) shall run concurrently with the period of any suspension,
19 revocation, or denial imposed for a criminal conviction arising out of
20 the same incident;

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

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

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

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

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

9 (ii) Subject to any periodic renewal requirements established by
10 the department pursuant to this section and subject to any applicable
11 compliance requirements under this chapter or other law, a temporary
12 restricted driver's license granted as the result of an application
13 under this section extends through the remaining portion of any
14 suspension, revocation, or denial under this section and also through
15 the period of any suspension, revocation, or denial imposed under a
16 criminal conviction arising out of the same incident.

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

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

24 (a) A person found to be an habitual offender under chapter 46.65
25 RCW, who violates this section while an order of revocation issued
26 under chapter 46.65 RCW prohibiting such operation is in effect, is
27 guilty of driving while license suspended or revoked in the first
28 degree, a gross misdemeanor. Upon the first such conviction, the
29 person shall be punished by imprisonment for not less than ten days.
30 Upon the second conviction, the person shall be punished by
31 imprisonment for not less than ninety days. Upon the third or
32 subsequent conviction, the person shall be punished by imprisonment for
33 not less than one hundred eighty days. If the person is also convicted
34 of the offense defined in RCW 46.61.502 or 46.61.504, when both
35 convictions arise from the same event, the minimum sentence of
36 confinement shall be not less than ninety days. The minimum sentence

1 of confinement required shall not be suspended or deferred. A
2 conviction under this subsection does not prevent a person from
3 petitioning for reinstatement as provided by RCW 46.65.080.

4 (b) A person who violates this section while an order of suspension
5 or revocation prohibiting such operation is in effect and while the
6 person is not eligible to reinstate his or her driver's license or
7 driving privilege, other than for a suspension for the reasons
8 described in (c) of this subsection, is guilty of driving while license
9 suspended or revoked in the second degree, a gross misdemeanor. This
10 subsection applies when a person's driver's license or driving
11 privilege has been suspended or revoked by reason of:

12 (i) A conviction of a felony in the commission of which a motor
13 vehicle was used;

14 (ii) A previous conviction under this section;

15 (iii) A notice received by the department from a court or diversion
16 unit as provided by RCW 46.20.265, relating to a minor who has
17 committed, or who has entered a diversion unit concerning an offense
18 relating to alcohol, legend drugs, controlled substances, or imitation
19 controlled substances;

20 (iv) A conviction of RCW 46.20.410, relating to the violation of
21 restrictions of an occupational or a temporary restricted driver's
22 license;

23 (v) A conviction of RCW 46.20.345, relating to the operation of a
24 motor vehicle with a suspended or revoked license;

25 (vi) A conviction of RCW 46.52.020, relating to duty in case of
26 injury to or death of a person or damage to an attended vehicle;

27 (vii) A conviction of RCW 46.61.024, relating to attempting to
28 elude pursuing police vehicles;

29 (viii) A conviction of RCW 46.61.500, relating to reckless driving;

30 (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a
31 person under the influence of intoxicating liquor or drugs;

32 (x) A conviction of RCW 46.61.520, relating to vehicular homicide;

33 (xi) A conviction of RCW 46.61.522, relating to vehicular assault;

34 (xii) A conviction of RCW 46.61.527(4), relating to reckless
35 endangerment of roadway workers;

36 (xiii) A conviction of RCW 46.61.530, relating to racing of
37 vehicles on highways;

1 (xiv) A conviction of RCW 46.61.685, relating to leaving children
2 in an unattended vehicle with motor running;

3 (xv) A conviction of RCW 46.61.740, relating to theft of motor
4 vehicle fuel;

5 (xvi) A conviction of RCW 46.64.048, relating to attempting,
6 aiding, abetting, coercing, and committing crimes;

7 (xvii) An administrative action taken by the department under
8 chapter 46.20 RCW; or

9 (xviii) A conviction of a local law, ordinance, regulation, or
10 resolution of a political subdivision of this state, the federal
11 government, or any other state, of an offense substantially similar to
12 a violation included in this subsection.

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

35 (2) Upon receiving a record of conviction of any person or upon
36 receiving an order by any juvenile court or any duly authorized court
37 officer of the conviction of any juvenile under this section, the
38 department shall:

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

7 (b) For a conviction of driving while suspended or revoked in the
8 second degree, as provided by subsection (1)(b) of this section, not
9 issue a new license or restore the driving privilege for an additional
10 period of one year from and after the date the person would otherwise
11 have been entitled to apply for a new license or have his or her
12 driving privilege restored; or

13 (c) Not extend the period of suspension or revocation if the
14 conviction was under subsection (1)(c) of this section. If the
15 conviction was under subsection (1)(a) or (b) of this section and the
16 court recommends against the extension and the convicted person has
17 obtained a valid driver's license, the period of suspension or
18 revocation shall not be extended.

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

21 No person may file an application for an occupational or a
22 temporary restricted driver's license as provided in RCW 46.20.391
23 unless he or she first pays to the director or other person authorized
24 to accept applications and fees for driver's licenses a fee of twenty-
25 five dollars. The applicant shall receive upon payment an official
26 receipt for the payment of such fee. All such fees shall be forwarded
27 to the director who shall transmit such fees to the state treasurer in
28 the same manner as other driver's license fees.

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

31 (1)(a) Any person licensed under this chapter who is convicted of
32 an offense relating to motor vehicles for which suspension or
33 revocation of the driver's license is mandatory, other than vehicular
34 homicide or vehicular assault, or who (~~has had his or her license~~
35 ~~suspended under RCW 46.20.3101 (2)(a) or (3)(a))~~ is authorized under
36 RCW 46.20.3101(4), may submit to the department an application for ((an

1 ~~occupational~~) a temporary restricted driver's license. The
2 department, upon receipt of the prescribed fee and upon determining
3 that the petitioner is ~~((engaged in an occupation or trade that makes~~
4 ~~it essential that the petitioner operate a motor vehicle))~~ eligible to
5 receive the license, may issue ~~((an occupational~~) a temporary
6 restricted driver's license and may set definite restrictions as
7 provided in RCW 46.20.394. No person may petition for, and the
8 department shall not issue, ~~((an occupational~~) a temporary restricted
9 driver's license that is effective during the first thirty days of any
10 suspension or revocation imposed either for a violation of RCW
11 46.61.502 or 46.61.504 or ~~((under RCW 46.20.3101 (2)(a) or (3)(a), or~~
12 ~~for both a violation of RCW 46.61.502 or 46.61.504 and under RCW~~
13 ~~46.20.3101 (2)(a) or (3)(a) where the action arises from the same~~
14 ~~incident. A person aggrieved by the decision of the department on the~~
15 ~~application for an occupational driver's license may request a hearing~~
16 ~~as provided by rule of the department))~~ during the required minimum
17 periods of suspension, revocation, or denial established under RCW
18 46.20.3101(4).

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

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

28 (ii) Subject to any periodic renewal requirements established by
29 the department pursuant to this section and subject to any applicable
30 compliance requirements under this chapter or other law, a temporary
31 restricted driver's license granted after a suspension or revocation
32 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
33 portion of any concurrent or consecutive suspension or revocation that
34 may be imposed as the result of administrative action and criminal
35 conviction arising out of the same incident.

36 (iii) The time period during which the person is licensed under
37 this section shall apply on a day-for-day basis toward satisfying the

1 period of time the ignition interlock device restriction is required
2 under RCW 46.20.720 (1) and (2) (a), (b), and (c).

3 (2)(a) A person licensed under this chapter whose driver's license
4 is suspended administratively due to failure to appear or pay a traffic
5 ticket under RCW 46.20.289; a violation of the financial responsibility
6 laws under chapter 46.29 RCW; or for multiple violations within a
7 specified period of time under RCW 46.20.291, may apply to the
8 department for an occupational driver's license (~~((if the applicant~~
9 ~~demonstrates to the satisfaction of the department that one of the~~
10 ~~following additional conditions are met:~~

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

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

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

22 ~~(iv) The applicant is undergoing substance abuse treatment or is~~
23 ~~participating in meetings of a twelve-step group such as alcoholics~~
24 ~~anonymous)).~~

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

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

31 ~~((d) Upon receipt of evidence that a holder of an occupational~~
32 ~~driver's license granted under this subsection is no longer enrolled in~~
33 ~~an apprenticeship or on the job training program, the director shall~~
34 ~~give written notice by first class mail to the driver that the~~
35 ~~occupational driver's license shall be canceled. The effective date of~~
36 ~~cancellation shall be fifteen days from the date of mailing the notice.~~
37 ~~If at any time before the cancellation goes into effect the driver~~
38 ~~submits evidence of continued enrollment in the program, the~~

1 ~~cancellation shall be stayed. If the cancellation becomes effective,~~
2 ~~the driver may obtain, at no additional charge, a new occupational~~
3 ~~driver's license upon submittal of evidence of enrollment in another~~
4 ~~program that meets the criteria set forth in this subsection.~~

5 ~~(e) The department shall not issue an occupational driver's license~~
6 ~~under (a)(iv) of this subsection if the applicant is able to receive~~
7 ~~transit services sufficient to allow for the applicant's participation~~
8 ~~in the programs referenced under (a)(iv) of this subsection.)~~

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

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

16 (b) Within seven years immediately preceding the date of the
17 offense that gave rise to the present conviction or incident, the
18 applicant has not committed (~~(any of the following offenses: (i)~~
19 ~~Driving or being in actual physical control of a motor vehicle while~~
20 ~~under the influence of intoxicating liquor; (ii))~~) vehicular homicide
21 under RCW 46.61.520(~~(+)~~) or (~~((+iii))~~) vehicular assault under RCW
22 46.61.522; and

23 (c) The applicant demonstrates that it is necessary for him or her
24 to operate a motor vehicle because he or she:

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

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

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

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

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

37 (vi) Is in a program that assists persons who are enrolled in a

1 WorkFirst program pursuant to chapter 74.08A RCW to become gainfully
2 employed and the program requires a driver's license;

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

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

10 (d) The applicant files satisfactory proof of financial
11 responsibility under chapter 46.29 RCW; and

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

24 (f) The department shall not issue an occupational driver's license
25 under (c)(iv) of this subsection if the applicant is able to receive
26 transit services sufficient to allow for the applicant's participation
27 in the programs referenced under (c)(iv) of this subsection.

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

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

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

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

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

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

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

36 Any person convicted for violation of any restriction of an

1 occupational or a temporary restricted driver's license shall in
2 addition to the immediate revocation of such license and any other
3 penalties provided by law be fined not less than fifty nor more than
4 two hundred dollars or imprisoned for not more than six months or both
5 such fine and imprisonment.

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

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

18 (2)~~((a))~~ The department shall require that, after any applicable
19 period of suspension, revocation, or denial of driving privileges, a
20 person may drive only a motor vehicle equipped with a functioning
21 ignition interlock or other biological or technical device if the
22 person is convicted of a violation of RCW 46.61.502 ~~((or))~~, 46.61.504,
23 or 46.61.5249 or an equivalent local ordinance ~~((and it is:~~

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

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

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

34 ~~((b))~~ The department may waive the requirement for the use of
35 such a device if it concludes that such devices are not reasonably
36 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 ignition interlock or other
9 biological or technical device shall be calibrated to prevent the motor
10 vehicle from being started when the breath sample provided has an
11 alcohol concentration of 0.025 or more(~~(, and)~~). The period of time of
12 the restriction will be as follows:

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

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

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

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

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

26 (1) The department shall attach or imprint a notation on the
27 driving record of any person restricted under RCW 46.20.720 stating
28 that the person may operate only a motor vehicle equipped with (~~(an)~~)
29 a functioning ignition interlock ((~~or other biological or technical~~))
30 device. The department shall determine the person's eligibility for
31 licensing based upon written verification by a company doing business
32 in the state that it has installed the required device on a vehicle
33 owned or operated by the person seeking reinstatement. If, based upon
34 notification from the interlock provider or otherwise, the department
35 determines that an ignition interlock required under this section is no
36 longer installed or functioning as required, the department shall
37 suspend the person's license or privilege to drive. Whenever the

1 license or driving privilege of any person is suspended or revoked as
2 a result of noncompliance with an ignition interlock requirement, the
3 suspension shall remain in effect until the person provides notice
4 issued by a company doing business in the state that a vehicle owned or
5 operated by the person is equipped with a functioning ignition
6 interlock device.

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

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

11 (1) A person who is convicted of a violation of RCW 46.61.502 or
12 46.61.504 and who has no prior offense within seven years shall be
13 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 one day nor more than one
19 year. Twenty-four consecutive hours of the imprisonment may not be
20 suspended or deferred unless the court finds that the imposition of
21 this mandatory minimum sentence would impose a substantial risk to the
22 offender's physical or mental well-being. Whenever the mandatory
23 minimum sentence is suspended or deferred, the court shall state in
24 writing the reason for granting the suspension or deferral and the
25 facts upon which the suspension or deferral is based. In lieu of the
26 mandatory minimum term of imprisonment required under this subsection
27 (1)(a)(i), the court may order not less than fifteen days of electronic
28 home monitoring. The offender shall pay the cost of electronic home
29 monitoring. The county or municipality in which the penalty is being
30 imposed shall determine the cost. The court may also require the
31 offender's electronic home monitoring device to include an alcohol
32 detection breathalyzer, and the court may restrict the amount of
33 alcohol the offender may consume during the time the offender is on
34 electronic home monitoring; and

35 (ii) By a fine of not less than three hundred fifty dollars nor
36 more than five thousand dollars. Three hundred fifty dollars of the

1 fine may not be suspended or deferred unless the court finds the
2 offender to be indigent; or

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

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

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

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

28 (2) A person who is convicted of a violation of RCW 46.61.502 or
29 46.61.504 and who has one prior offense within seven years shall be
30 punished as follows:

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

35 (i) By imprisonment for not less than thirty days nor more than one
36 year and sixty days of electronic home monitoring. The offender shall
37 pay for the cost of the electronic monitoring. The county or
38 municipality where the penalty is being imposed shall determine the

1 cost. The court may also require the offender's electronic home
2 monitoring device include an alcohol detection breathalyzer, and may
3 restrict the amount of alcohol the offender may consume during the time
4 the offender is on electronic home monitoring. Thirty days of
5 imprisonment and sixty days of electronic home monitoring may not be
6 suspended or deferred unless the court finds that the imposition of
7 this mandatory minimum sentence would impose a substantial risk to the
8 offender's physical or mental well-being. Whenever the mandatory
9 minimum sentence is suspended or deferred, the court shall state in
10 writing the reason for granting the suspension or deferral and the
11 facts upon which the suspension or deferral is based; and

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

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

17 (b) In the case of a person whose alcohol concentration was at
18 least 0.15, or for whom by reason of the person's refusal to take a
19 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 forty-five days nor more than
22 one year and ninety days of electronic home monitoring. The offender
23 shall pay for the cost of the electronic monitoring. The county or
24 municipality where the penalty is being imposed shall determine the
25 cost. The court may also require the offender's electronic home
26 monitoring device include an alcohol detection breathalyzer, and may
27 restrict the amount of alcohol the offender may consume during the time
28 the offender is on electronic home monitoring. Forty-five days of
29 imprisonment and ninety days of electronic home monitoring may not be
30 suspended or deferred unless the court finds that the imposition of
31 this mandatory minimum sentence would impose a substantial risk to the
32 offender's physical or mental well-being. Whenever the mandatory
33 minimum sentence is suspended or deferred, the court shall state in
34 writing the reason for granting the suspension or deferral and the
35 facts upon which the suspension or deferral is based; and

36 (ii) By a fine of not less than seven hundred fifty dollars nor
37 more than five thousand dollars. Seven hundred fifty dollars of the

1 fine may not be suspended or deferred unless the court finds the
2 offender to be indigent(~~(; and~~

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

4 (3) A person who is convicted of a violation of RCW 46.61.502 or
5 46.61.504 and who has two or more prior offenses within seven years
6 shall be 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 ninety days nor more than one
12 year and one hundred twenty days of electronic home monitoring. The
13 offender shall pay for the cost of the electronic monitoring. The
14 county or municipality where the penalty is being imposed shall
15 determine the cost. The court may also require the offender's
16 electronic home monitoring device include an alcohol detection
17 breathalyzer, and may restrict the amount of alcohol the offender may
18 consume during the time the offender is on electronic home monitoring.
19 Ninety days of imprisonment and one hundred twenty days of electronic
20 home monitoring may not be suspended or deferred unless the court finds
21 that the imposition of this mandatory minimum sentence would impose a
22 substantial risk to the offender's physical or mental well-being.
23 Whenever the mandatory minimum sentence is suspended or deferred, the
24 court shall state in writing the reason for granting the suspension or
25 deferral and the facts upon which the suspension or deferral is based;
26 and

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

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

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

36 (i) By imprisonment for not less than one hundred twenty days nor
37 more than one year and one hundred fifty days of electronic home
38 monitoring. The offender shall pay for the cost of the electronic

1 monitoring. The county or municipality where the penalty is being
2 imposed shall determine the cost. The court may also require the
3 offender's electronic home monitoring device include an alcohol
4 detection breathalyzer, and may restrict the amount of alcohol the
5 offender may consume during the time the offender is on electronic home
6 monitoring. One hundred twenty days of imprisonment and one hundred
7 fifty days of electronic home monitoring may not be suspended or
8 deferred unless the court finds that the imposition of this mandatory
9 minimum sentence would impose a substantial risk to the offender's
10 physical or mental well-being. Whenever the mandatory minimum sentence
11 is suspended or deferred, the court shall state in writing the reason
12 for granting the suspension or deferral and the facts upon which the
13 suspension or deferral is based; and

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

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

19 (4) If a person who is convicted of a violation of RCW 46.61.502 or
20 46.61.504 committed the offense while a passenger under the age of
21 sixteen was in the vehicle, the court shall:

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

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

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

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

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

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

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

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

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

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

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

14 (b) If the person's alcohol concentration was at least 0.15 (~~or~~
15 ~~if by reason of the person's refusal to take a test offered under RCW~~
16 ~~46.20.308 there is no test result indicating the person's alcohol~~
17 ~~concentration~~)):

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

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

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

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

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

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

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

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

36 (8) After expiration of any period of suspension, revocation, or
37 denial of the offender's license, permit, or privilege to drive

1 required by this section, the department shall place the offender's
2 driving privilege in probationary status pursuant to RCW 46.20.355.

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

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

27 (c) For each incident involving a violation of a mandatory
28 condition of probation imposed under this subsection, the license,
29 permit, or privilege to drive of the person shall be suspended by the
30 court for thirty days or, if such license, permit, or privilege to
31 drive already is suspended, revoked, or denied at the time the finding
32 of probation violation is made, the suspension, revocation, or denial
33 then in effect shall be extended by thirty days. The court shall
34 notify the department of any suspension, revocation, or denial or any
35 extension of a suspension, revocation, or denial imposed under this
36 subsection.

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

- 1 (a) The offender does not have a dwelling, telephone service, or
2 any other necessity to operate an electronic home monitoring system;
3 (b) The offender does not reside in the state of Washington; or
4 (c) The court determines that there is reason to believe that the
5 offender would violate the conditions of the electronic home monitoring
6 penalty.

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

13 Whenever the combination of jail time and electronic home
14 monitoring or alternative sentence would exceed three hundred sixty-
15 five days, the offender shall serve the jail portion of the sentence
16 first, and the electronic home monitoring or alternative portion of the
17 sentence shall be reduced so that the combination does not exceed three
18 hundred sixty-five days.

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

23 (12) For purposes of this section:

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

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

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

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

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

33 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or
34 9A.36.050 or an equivalent local ordinance, if the conviction is the
35 result of a charge that was originally filed as a violation of RCW
36 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
37 46.61.520 or 46.61.522;

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

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

7 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
8 prosecution for a violation of RCW 46.61.5249, or an equivalent local
9 ordinance, if the charge under which the deferred prosecution was
10 granted was originally filed as a violation of RCW 46.61.502 or
11 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
12 46.61.522; and

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

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

17 Failure to perform any act required or the performance of any act
18 prohibited by this title or an equivalent administrative regulation or
19 local law, ordinance, regulation, or resolution relating to traffic
20 including parking, standing, stopping, and pedestrian offenses, is
21 designated as a traffic infraction and may not be classified as a
22 criminal offense, except for an offense contained in the following
23 provisions of this title or a violation of an equivalent administrative
24 regulation or local law, ordinance, regulation, or resolution:

25 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
26 vehicle while under the influence of intoxicating liquor or a
27 controlled substance;

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

29 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
30 while under the influence of intoxicating liquor or narcotics or habit-
31 forming drugs or in a manner endangering the person of another;

32 (4) RCW 46.10.130 relating to the operation of snowmobiles;

33 (5) Chapter 46.12 RCW relating to certificates of ownership and
34 registration and markings indicating that a vehicle has been destroyed
35 or declared a total loss;

36 (6) RCW 46.16.010 relating to initial registration of motor
37 vehicles;

- 1 (7) RCW 46.16.011 relating to permitting unauthorized persons to
2 drive;
- 3 (8) RCW 46.16.160 relating to vehicle trip permits;
- 4 (9) RCW 46.16.381(2) relating to knowingly providing false
5 information in conjunction with an application for a special placard or
6 license plate for disabled persons' parking;
- 7 (10) RCW 46.20.005 relating to driving without a valid driver's
8 license;
- 9 (11) RCW 46.20.091 relating to false statements regarding a
10 driver's license or instruction permit;
- 11 (12) RCW 46.20.0921 relating to the unlawful possession and use of
12 a driver's license;
- 13 (13) RCW 46.20.342 relating to driving with a suspended or revoked
14 license or status;
- 15 (14) RCW 46.20.345 relating to the operation of a motor vehicle
16 with a suspended or revoked license;
- 17 (15) RCW 46.20.410 relating to the violation of restrictions of an
18 occupational or temporary restricted driver's license;
- 19 (16) RCW 46.20.740 relating to operation of a motor vehicle without
20 an ignition interlock device in violation of a license notation that
21 the device is required;
- 22 (17) RCW 46.20.750 relating to assisting another person to start a
23 vehicle equipped with an ignition interlock device;
- 24 (18) RCW 46.25.170 relating to commercial driver's licenses;
- 25 (19) Chapter 46.29 RCW relating to financial responsibility;
- 26 (20) RCW 46.30.040 relating to providing false evidence of
27 financial responsibility;
- 28 (21) RCW 46.37.435 relating to wrongful installation of
29 sunscreening material;
- 30 (22) RCW 46.37.650 relating to the sale, resale, distribution, or
31 installation of a previously deployed air bag;
- 32 (23) RCW 46.44.180 relating to operation of mobile home pilot
33 vehicles;
- 34 (24) RCW 46.48.175 relating to the transportation of dangerous
35 articles;
- 36 (25) RCW 46.52.010 relating to duty on striking an unattended car
37 or other property;

- 1 (26) RCW 46.52.020 relating to duty in case of injury to or death
2 of a person or damage to an attended vehicle;
- 3 (27) RCW 46.52.090 relating to reports by repairmen, storagemen,
4 and appraisers;
- 5 (28) RCW 46.52.130 relating to confidentiality of the driving
6 record to be furnished to an insurance company, an employer, and an
7 alcohol/drug assessment or treatment agency;
- 8 (29) RCW 46.55.020 relating to engaging in the activities of a
9 registered tow truck operator without a registration certificate;
- 10 (30) RCW 46.55.035 relating to prohibited practices by tow truck
11 operators;
- 12 (31) RCW 46.61.015 relating to obedience to police officers,
13 flaggers, or fire fighters;
- 14 (32) RCW 46.61.020 relating to refusal to give information to or
15 cooperate with an officer;
- 16 (33) RCW 46.61.022 relating to failure to stop and give
17 identification to an officer;
- 18 (34) RCW 46.61.024 relating to attempting to elude pursuing police
19 vehicles;
- 20 (35) RCW 46.61.500 relating to reckless driving;
- 21 (36) RCW 46.61.502 and 46.61.504 relating to persons under the
22 influence of intoxicating liquor or drugs;
- 23 (37) RCW 46.61.503 relating to a person under age twenty-one
24 driving a motor vehicle after consuming alcohol;
- 25 (38) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- 26 (39) RCW 46.61.522 relating to vehicular assault;
- 27 (40) RCW 46.61.5249 relating to first degree negligent driving;
- 28 (41) RCW 46.61.527(4) relating to reckless endangerment of roadway
29 workers;
- 30 (42) RCW 46.61.530 relating to racing of vehicles on highways;
- 31 (43) RCW 46.61.685 relating to leaving children in an unattended
32 vehicle with the motor running;
- 33 (44) RCW 46.61.740 relating to theft of motor vehicle fuel;
- 34 (45) RCW 46.64.010 relating to unlawful cancellation of or attempt
35 to cancel a traffic citation;
- 36 (46) RCW 46.64.048 relating to attempting, aiding, abetting,
37 coercing, and committing crimes;
- 38 (47) Chapter 46.65 RCW relating to habitual traffic offenders;

- 1 (48) RCW 46.68.010 relating to false statements made to obtain a
2 refund;
- 3 (49) Chapter 46.70 RCW relating to unfair motor vehicle business
4 practices, except where that chapter provides for the assessment of
5 monetary penalties of a civil nature;
- 6 (50) Chapter 46.72 RCW relating to the transportation of passengers
7 in for hire vehicles;
- 8 (51) RCW 46.72A.060 relating to limousine carrier insurance;
- 9 (52) RCW 46.72A.070 relating to operation of a limousine without a
10 vehicle certificate;
- 11 (53) RCW 46.72A.080 relating to false advertising by a limousine
12 carrier;
- 13 (54) Chapter 46.80 RCW relating to motor vehicle wreckers;
- 14 (55) Chapter 46.82 RCW relating to driver's training schools;
- 15 (56) RCW 46.87.260 relating to alteration or forgery of a cab card,
16 letter of authority, or other temporary authority issued under chapter
17 46.87 RCW;
- 18 (57) RCW 46.87.290 relating to operation of an unregistered or
19 unlicensed vehicle under chapter 46.87 RCW.

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

- 22 (1) Except as provided in subsection (2) of this section, the
23 department shall forward all funds accruing under the provisions of
24 chapter 46.20 RCW together with a proper identifying, detailed report
25 to the state treasurer who shall deposit such moneys to the credit of
26 the highway safety fund.
- 27 (2) Sixty-three percent of each fee collected by the department
28 under RCW 46.20.311 (1)((~~b~~)) (e)(ii), (2)(b)(ii), and (3)(b) shall be
29 deposited in the impaired driving safety account.

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

32 The impaired driving safety account is created in the custody of
33 the state treasurer. All receipts from fees collected under RCW
34 46.20.311 (1)((~~b~~)) (e)(ii), (2)(b)(ii), and (3)(b) shall be deposited
35 according to RCW 46.68.041. Expenditures from this account may be used
36 only to fund projects to reduce impaired driving and to provide funding

1 to local governments for costs associated with enforcing laws relating
2 to driving and boating while under the influence of intoxicating liquor
3 or any drug. The account is subject to allotment procedures under
4 chapter 43.88 RCW. Moneys in the account may be spent only after
5 appropriation.

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