
HOUSE BILL 3199

State of Washington 58th Legislature 2004 Regular Session

By Representatives Boldt, McMahan and Ahern

Read first time 02/14/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to reckless driving; amending RCW 46.61.500,
2 7.68.035, 9.94A.030, 10.31.100, 46.01.260, 46.20.285, 46.20.342,
3 46.25.010, 46.61.5055, 46.61.513, 46.61.530, 46.61.535, 46.61.665,
4 46.63.020, and 46.65.020; reenacting and amending RCW 13.40.0357;
5 adding a new section to chapter 46.61 RCW; prescribing penalties; and
6 providing an effective date.

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

8 **Sec. 1.** RCW 46.61.500 and 1990 c 291 s 1 are each amended to read
9 as follows:

10 (1) ~~((Any))~~ A person ~~((who))~~ is guilty of reckless driving in the
11 first degree if he or she drives any vehicle in willful or wanton
12 disregard for the safety of persons or property ~~((is guilty of reckless~~
13 ~~driving))~~ and exhibits the effects of having consumed liquor or an
14 illegal drug. Violation of ~~((the provisions of))~~ this section is a
15 gross misdemeanor punishable by imprisonment of not more than one year
16 and by a fine of not more than five thousand dollars.

17 (2) The license or permit to drive or any nonresident privilege of
18 any person convicted of reckless driving shall be suspended by the
19 department for not less than ~~((thirty))~~ sixty days.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.61 RCW
2 to read as follows:

3 (1) A person is guilty of reckless driving in the second degree if,
4 under circumstances not constituting reckless driving in the first
5 degree, he or she drives any vehicle in willful or wanton disregard for
6 the safety of persons or property. Violation of this section is a
7 gross misdemeanor punishable by imprisonment of not more than one year
8 and by a fine of not more than five thousand dollars.

9 (2) The license or permit to drive or any nonresident privilege of
10 any person convicted of reckless driving shall be suspended by the
11 department for not less than thirty days.

12 **Sec. 3.** RCW 7.68.035 and 2000 c 71 s 3 are each amended to read as
13 follows:

14 (1)(a) When any person is found guilty in any superior court of
15 having committed a crime, except as provided in subsection (2) of this
16 section, there shall be imposed by the court upon such convicted person
17 a penalty assessment. The assessment shall be in addition to any other
18 penalty or fine imposed by law and shall be five hundred dollars for
19 each case or cause of action that includes one or more convictions of
20 a felony or gross misdemeanor and two hundred fifty dollars for any
21 case or cause of action that includes convictions of only one or more
22 misdemeanors.

23 (b) When any juvenile is adjudicated of any offense in any juvenile
24 offense disposition under Title 13 RCW, except as provided in
25 subsection (2) of this section, there shall be imposed upon the
26 juvenile offender a penalty assessment. The assessment shall be in
27 addition to any other penalty or fine imposed by law and shall be one
28 hundred dollars for each case or cause of action that includes one or
29 more adjudications for a felony or gross misdemeanor and seventy-five
30 dollars for each case or cause of action that includes adjudications of
31 only one or more misdemeanors.

32 (2) The assessment imposed by subsection (1) of this section shall
33 not apply to motor vehicle crimes defined in Title 46 RCW except those
34 defined in the following sections: RCW 46.61.520, 46.61.522,
35 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.101,
36 46.20.410, 46.52.020, 46.10.130, 46.09.130, 46.61.5249, 46.61.525,

1 46.61.685, 46.61.530, 46.61.500, section 2 of this act, 46.61.015,
2 46.52.010, 46.44.180, 46.10.090(2), and 46.09.120(2).

3 (3) When any person accused of having committed a crime posts bail
4 in superior court pursuant to the provisions of chapter 10.19 RCW and
5 such bail is forfeited, there shall be deducted from the proceeds of
6 such forfeited bail a penalty assessment, in addition to any other
7 penalty or fine imposed by law, equal to the assessment which would be
8 applicable under subsection (1) of this section if the person had been
9 convicted of the crime.

10 (4) Such penalty assessments shall be paid by the clerk of the
11 superior court to the county treasurer who shall monthly transmit the
12 money as provided in RCW 10.82.070. Each county shall deposit fifty
13 percent of the money it receives per case or cause of action under
14 subsection (1) of this section and retains under RCW 10.82.070, not
15 less than one and seventy-five one-hundredths percent of the remaining
16 money it retains under RCW 10.82.070 and the money it retains under
17 chapter 3.62 RCW, and all money it receives under subsection (7) of
18 this section into a fund maintained exclusively for the support of
19 comprehensive programs to encourage and facilitate testimony by the
20 victims of crimes and witnesses to crimes. A program shall be
21 considered "comprehensive" only after approval of the department upon
22 application by the county prosecuting attorney. The department shall
23 approve as comprehensive only programs which:

24 (a) Provide comprehensive services to victims and witnesses of all
25 types of crime with particular emphasis on serious crimes against
26 persons and property. It is the intent of the legislature to make
27 funds available only to programs which do not restrict services to
28 victims or witnesses of a particular type or types of crime and that
29 such funds supplement, not supplant, existing local funding levels;

30 (b) Are administered by the county prosecuting attorney either
31 directly through the prosecuting attorney's office or by contract
32 between the county and agencies providing services to victims of crime;

33 (c) Make a reasonable effort to inform the known victim or his
34 surviving dependents of the existence of this chapter and the procedure
35 for making application for benefits;

36 (d) Assist victims in the restitution and adjudication process; and

37 (e) Assist victims of violent crimes in the preparation and

1 presentation of their claims to the department of labor and industries
2 under this chapter.

3 Before a program in any county west of the Cascade mountains is
4 submitted to the department for approval, it shall be submitted for
5 review and comment to each city within the county with a population of
6 more than one hundred fifty thousand. The department will consider if
7 the county's proposed comprehensive plan meets the needs of crime
8 victims in cases adjudicated in municipal, district or superior courts
9 and of crime victims located within the city and county.

10 (5) Upon submission to the department of a letter of intent to
11 adopt a comprehensive program, the prosecuting attorney shall retain
12 the money deposited by the county under subsection (4) of this section
13 until such time as the county prosecuting attorney has obtained
14 approval of a program from the department. Approval of the
15 comprehensive plan by the department must be obtained within one year
16 of the date of the letter of intent to adopt a comprehensive program.
17 The county prosecuting attorney shall not make any expenditures from
18 the money deposited under subsection (4) of this section until approval
19 of a comprehensive plan by the department. If a county prosecuting
20 attorney has failed to obtain approval of a program from the department
21 under subsection (4) of this section or failed to obtain approval of a
22 comprehensive program within one year after submission of a letter of
23 intent under this section, the county treasurer shall monthly transmit
24 one hundred percent of the money deposited by the county under
25 subsection (4) of this section to the state treasurer for deposit in
26 the public safety and education account established under RCW
27 43.08.250.

28 (6) County prosecuting attorneys are responsible to make every
29 reasonable effort to insure that the penalty assessments of this
30 chapter are imposed and collected.

31 (7) Every city and town shall transmit monthly one and seventy-five
32 one-hundredths percent of all money, other than money received for
33 parking infractions, retained under RCW 3.46.120, 3.50.100, and
34 35.20.220 to the county treasurer for deposit as provided in subsection
35 (4) of this section.

36 **Sec. 4.** RCW 9.94A.030 and 2003 c 53 s 55 are each amended to read
37 as follows:

1 Unless the context clearly requires otherwise, the definitions in
2 this section apply throughout this chapter.

3 (1) "Board" means the indeterminate sentence review board created
4 under chapter 9.95 RCW.

5 (2) "Collect," or any derivative thereof, "collect and remit," or
6 "collect and deliver," when used with reference to the department,
7 means that the department, either directly or through a collection
8 agreement authorized by RCW 9.94A.760, is responsible for monitoring
9 and enforcing the offender's sentence with regard to the legal
10 financial obligation, receiving payment thereof from the offender, and,
11 consistent with current law, delivering daily the entire payment to the
12 superior court clerk without depositing it in a departmental account.

13 (3) "Commission" means the sentencing guidelines commission.

14 (4) "Community corrections officer" means an employee of the
15 department who is responsible for carrying out specific duties in
16 supervision of sentenced offenders and monitoring of sentence
17 conditions.

18 (5) "Community custody" means that portion of an offender's
19 sentence of confinement in lieu of earned release time or imposed
20 pursuant to RCW 9.94A.505(2)(b), 9.94A.650 through 9.94A.670,
21 9.94A.690, 9.94A.700 through 9.94A.715, or 9.94A.545, served in the
22 community subject to controls placed on the offender's movement and
23 activities by the department. For offenders placed on community
24 custody for crimes committed on or after July 1, 2000, the department
25 shall assess the offender's risk of reoffense and may establish and
26 modify conditions of community custody, in addition to those imposed by
27 the court, based upon the risk to community safety.

28 (6) "Community custody range" means the minimum and maximum period
29 of community custody included as part of a sentence under RCW
30 9.94A.715, as established by the commission or the legislature under
31 RCW 9.94A.850, for crimes committed on or after July 1, 2000.

32 (7) "Community placement" means that period during which the
33 offender is subject to the conditions of community custody and/or
34 postrelease supervision, which begins either upon completion of the
35 term of confinement (postrelease supervision) or at such time as the
36 offender is transferred to community custody in lieu of earned release.
37 Community placement may consist of entirely community custody, entirely
38 postrelease supervision, or a combination of the two.

1 (8) "Community restitution" means compulsory service, without
2 compensation, performed for the benefit of the community by the
3 offender.

4 (9) "Community supervision" means a period of time during which a
5 convicted offender is subject to crime-related prohibitions and other
6 sentence conditions imposed by a court pursuant to this chapter or RCW
7 16.52.200(6) or 46.61.524. Where the court finds that any offender has
8 a chemical dependency that has contributed to his or her offense, the
9 conditions of supervision may, subject to available resources, include
10 treatment. For purposes of the interstate compact for out-of-state
11 supervision of parolees and probationers, RCW 9.95.270, community
12 supervision is the functional equivalent of probation and should be
13 considered the same as probation by other states.

14 (10) "Confinement" means total or partial confinement.

15 (11) "Conviction" means an adjudication of guilt pursuant to Titles
16 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and
17 acceptance of a plea of guilty.

18 (12) "Crime-related prohibition" means an order of a court
19 prohibiting conduct that directly relates to the circumstances of the
20 crime for which the offender has been convicted, and shall not be
21 construed to mean orders directing an offender affirmatively to
22 participate in rehabilitative programs or to otherwise perform
23 affirmative conduct. However, affirmative acts necessary to monitor
24 compliance with the order of a court may be required by the department.

25 (13) "Criminal history" means the list of a defendant's prior
26 convictions and juvenile adjudications, whether in this state, in
27 federal court, or elsewhere.

28 (a) The history shall include, where known, for each conviction (i)
29 whether the defendant has been placed on probation and the length and
30 terms thereof; and (ii) whether the defendant has been incarcerated and
31 the length of incarceration.

32 (b) A conviction may be removed from a defendant's criminal history
33 only if it is vacated pursuant to RCW 9.96.060, 9.94A.640, 9.95.240, or
34 a similar out-of-state statute, or if the conviction has been vacated
35 pursuant to a governor's pardon.

36 (c) The determination of a defendant's criminal history is distinct
37 from the determination of an offender score. A prior conviction that

1 was not included in an offender score calculated pursuant to a former
2 version of the sentencing reform act remains part of the defendant's
3 criminal history.

4 (14) "Day fine" means a fine imposed by the sentencing court that
5 equals the difference between the offender's net daily income and the
6 reasonable obligations that the offender has for the support of the
7 offender and any dependents.

8 (15) "Day reporting" means a program of enhanced supervision
9 designed to monitor the offender's daily activities and compliance with
10 sentence conditions, and in which the offender is required to report
11 daily to a specific location designated by the department or the
12 sentencing court.

13 (16) "Department" means the department of corrections.

14 (17) "Determinate sentence" means a sentence that states with
15 exactitude the number of actual years, months, or days of total
16 confinement, of partial confinement, of community supervision, the
17 number of actual hours or days of community restitution work, or
18 dollars or terms of a legal financial obligation. The fact that an
19 offender through earned release can reduce the actual period of
20 confinement shall not affect the classification of the sentence as a
21 determinate sentence.

22 (18) "Disposable earnings" means that part of the earnings of an
23 offender remaining after the deduction from those earnings of any
24 amount required by law to be withheld. For the purposes of this
25 definition, "earnings" means compensation paid or payable for personal
26 services, whether denominated as wages, salary, commission, bonuses, or
27 otherwise, and, notwithstanding any other provision of law making the
28 payments exempt from garnishment, attachment, or other process to
29 satisfy a court-ordered legal financial obligation, specifically
30 includes periodic payments pursuant to pension or retirement programs,
31 or insurance policies of any type, but does not include payments made
32 under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050,
33 or Title 74 RCW.

34 (19) "Drug offender sentencing alternative" is a sentencing option
35 available to persons convicted of a felony offense other than a violent
36 offense or a sex offense and who are eligible for the option under RCW
37 9.94A.660.

38 (20) "Drug offense" means:

1 (a) Any felony violation of chapter 69.50 RCW except possession of
2 a controlled substance (RCW 69.50.4013) or forged prescription for a
3 controlled substance (RCW 69.50.403);

4 (b) Any offense defined as a felony under federal law that relates
5 to the possession, manufacture, distribution, or transportation of a
6 controlled substance; or

7 (c) Any out-of-state conviction for an offense that under the laws
8 of this state would be a felony classified as a drug offense under (a)
9 of this subsection.

10 (21) "Earned release" means earned release from confinement as
11 provided in RCW 9.94A.728.

12 (22) "Escape" means:

13 (a) Sexually violent predator escape (RCW 9A.76.115), escape in the
14 first degree (RCW 9A.76.110), escape in the second degree (RCW
15 9A.76.120), willful failure to return from furlough (RCW 72.66.060),
16 willful failure to return from work release (RCW 72.65.070), or willful
17 failure to be available for supervision by the department while in
18 community custody (RCW 72.09.310); or

19 (b) Any federal or out-of-state conviction for an offense that
20 under the laws of this state would be a felony classified as an escape
21 under (a) of this subsection.

22 (23) "Felony traffic offense" means:

23 (a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW
24 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-
25 and-run injury-accident (RCW 46.52.020(4)); or

26 (b) Any federal or out-of-state conviction for an offense that
27 under the laws of this state would be a felony classified as a felony
28 traffic offense under (a) of this subsection.

29 (24) "Fine" means a specific sum of money ordered by the sentencing
30 court to be paid by the offender to the court over a specific period of
31 time.

32 (25) "First-time offender" means any person who has no prior
33 convictions for a felony and is eligible for the first-time offender
34 waiver under RCW 9.94A.650.

35 (26) "Home detention" means a program of partial confinement
36 available to offenders wherein the offender is confined in a private
37 residence subject to electronic surveillance.

1 (27) "Legal financial obligation" means a sum of money that is
2 ordered by a superior court of the state of Washington for legal
3 financial obligations which may include restitution to the victim,
4 statutorily imposed crime victims' compensation fees as assessed
5 pursuant to RCW 7.68.035, court costs, county or interlocal drug funds,
6 court-appointed attorneys' fees, and costs of defense, fines, and any
7 other financial obligation that is assessed to the offender as a result
8 of a felony conviction. Upon conviction for vehicular assault while
9 under the influence of intoxicating liquor or any drug, RCW
10 46.61.522(1)(b), or vehicular homicide while under the influence of
11 intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial
12 obligations may also include payment to a public agency of the expense
13 of an emergency response to the incident resulting in the conviction,
14 subject to RCW 38.52.430.

15 (28) "Most serious offense" means any of the following felonies or
16 a felony attempt to commit any of the following felonies:

17 (a) Any felony defined under any law as a class A felony or
18 criminal solicitation of or criminal conspiracy to commit a class A
19 felony;

20 (b) Assault in the second degree;

21 (c) Assault of a child in the second degree;

22 (d) Child molestation in the second degree;

23 (e) Controlled substance homicide;

24 (f) Extortion in the first degree;

25 (g) Incest when committed against a child under age fourteen;

26 (h) Indecent liberties;

27 (i) Kidnapping in the second degree;

28 (j) Leading organized crime;

29 (k) Manslaughter in the first degree;

30 (l) Manslaughter in the second degree;

31 (m) Promoting prostitution in the first degree;

32 (n) Rape in the third degree;

33 (o) Robbery in the second degree;

34 (p) Sexual exploitation;

35 (q) Vehicular assault, when caused by the operation or driving of
36 a vehicle by a person while under the influence of intoxicating liquor
37 or any drug or by the operation or driving of a vehicle in a reckless
38 manner;

1 (r) Vehicular homicide, when proximately caused by the driving of
2 any vehicle by any person while under the influence of intoxicating
3 liquor or any drug as defined by RCW 46.61.502, or by the operation of
4 any vehicle in a reckless manner;

5 (s) Any other class B felony offense with a finding of sexual
6 motivation;

7 (t) Any other felony with a deadly weapon verdict under RCW
8 9.94A.602;

9 (u) Any felony offense in effect at any time prior to December 2,
10 1993, that is comparable to a most serious offense under this
11 subsection, or any federal or out-of-state conviction for an offense
12 that under the laws of this state would be a felony classified as a
13 most serious offense under this subsection;

14 (v)(i) A prior conviction for indecent liberties under RCW
15 9A.88.100(1) (a), (b), and (c), chapter 260, Laws of 1975 1st ex. sess.
16 as it existed until July 1, 1979, RCW 9A.44.100(1) (a), (b), and (c) as
17 it existed from July 1, 1979, until June 11, 1986, and RCW 9A.44.100(1)
18 (a), (b), and (d) as it existed from June 11, 1986, until July 1, 1988;

19 (ii) A prior conviction for indecent liberties under RCW
20 9A.44.100(1)(c) as it existed from June 11, 1986, until July 1, 1988,
21 if: (A) The crime was committed against a child under the age of
22 fourteen; or (B) the relationship between the victim and perpetrator is
23 included in the definition of indecent liberties under RCW
24 9A.44.100(1)(c) as it existed from July 1, 1988, through July 27, 1997,
25 or RCW 9A.44.100(1) (d) or (e) as it existed from July 25, 1993,
26 through July 27, 1997.

27 (29) "Nonviolent offense" means an offense which is not a violent
28 offense.

29 (30) "Offender" means a person who has committed a felony
30 established by state law and is eighteen years of age or older or is
31 less than eighteen years of age but whose case is under superior court
32 jurisdiction under RCW 13.04.030 or has been transferred by the
33 appropriate juvenile court to a criminal court pursuant to RCW
34 13.40.110. Throughout this chapter, the terms "offender" and
35 "defendant" are used interchangeably.

36 (31) "Partial confinement" means confinement for no more than one
37 year in a facility or institution operated or utilized under contract
38 by the state or any other unit of government, or, if home detention or

1 work crew has been ordered by the court, in an approved residence, for
2 a substantial portion of each day with the balance of the day spent in
3 the community. Partial confinement includes work release, home
4 detention, work crew, and a combination of work crew and home
5 detention.

6 (32) "Persistent offender" is an offender who:

7 (a)(i) Has been convicted in this state of any felony considered a
8 most serious offense; and

9 (ii) Has, before the commission of the offense under (a) of this
10 subsection, been convicted as an offender on at least two separate
11 occasions, whether in this state or elsewhere, of felonies that under
12 the laws of this state would be considered most serious offenses and
13 would be included in the offender score under RCW 9.94A.525; provided
14 that of the two or more previous convictions, at least one conviction
15 must have occurred before the commission of any of the other most
16 serious offenses for which the offender was previously convicted; or

17 (b)(i) Has been convicted of: (A) Rape in the first degree, rape
18 of a child in the first degree, child molestation in the first degree,
19 rape in the second degree, rape of a child in the second degree, or
20 indecent liberties by forcible compulsion; (B) any of the following
21 offenses with a finding of sexual motivation: Murder in the first
22 degree, murder in the second degree, homicide by abuse, kidnapping in
23 the first degree, kidnapping in the second degree, assault in the first
24 degree, assault in the second degree, assault of a child in the first
25 degree, or burglary in the first degree; or (C) an attempt to commit
26 any crime listed in this subsection (32)(b)(i); and

27 (ii) Has, before the commission of the offense under (b)(i) of this
28 subsection, been convicted as an offender on at least one occasion,
29 whether in this state or elsewhere, of an offense listed in (b)(i) of
30 this subsection or any federal or out-of-state offense or offense under
31 prior Washington law that is comparable to the offenses listed in
32 (b)(i) of this subsection. A conviction for rape of a child in the
33 first degree constitutes a conviction under (b)(i) of this subsection
34 only when the offender was sixteen years of age or older when the
35 offender committed the offense. A conviction for rape of a child in
36 the second degree constitutes a conviction under (b)(i) of this
37 subsection only when the offender was eighteen years of age or older
38 when the offender committed the offense.

1 (33) "Postrelease supervision" is that portion of an offender's
2 community placement that is not community custody.

3 (34) "Restitution" means a specific sum of money ordered by the
4 sentencing court to be paid by the offender to the court over a
5 specified period of time as payment of damages. The sum may include
6 both public and private costs.

7 (35) "Risk assessment" means the application of an objective
8 instrument supported by research and adopted by the department for the
9 purpose of assessing an offender's risk of reoffense, taking into
10 consideration the nature of the harm done by the offender, place and
11 circumstances of the offender related to risk, the offender's
12 relationship to any victim, and any information provided to the
13 department by victims. The results of a risk assessment shall not be
14 based on unconfirmed or unconfirmable allegations.

15 (36) "Serious traffic offense" means:

16 (a) Driving while under the influence of intoxicating liquor or any
17 drug (RCW 46.61.502), actual physical control while under the influence
18 of intoxicating liquor or any drug (RCW 46.61.504), reckless driving in
19 the first degree (RCW 46.61.500), reckless driving in the second degree
20 (section 2 of this act), or hit-and-run an attended vehicle (RCW
21 46.52.020(5)); or

22 (b) Any federal, out-of-state, county, or municipal conviction for
23 an offense that under the laws of this state would be classified as a
24 serious traffic offense under (a) of this subsection.

25 (37) "Serious violent offense" is a subcategory of violent offense
26 and means:

27 (a)(i) Murder in the first degree;

28 (ii) Homicide by abuse;

29 (iii) Murder in the second degree;

30 (iv) Manslaughter in the first degree;

31 (v) Assault in the first degree;

32 (vi) Kidnapping in the first degree;

33 (vii) Rape in the first degree;

34 (viii) Assault of a child in the first degree; or

35 (ix) An attempt, criminal solicitation, or criminal conspiracy to
36 commit one of these felonies; or

37 (b) Any federal or out-of-state conviction for an offense that

1 under the laws of this state would be a felony classified as a serious
2 violent offense under (a) of this subsection.

3 (38) "Sex offense" means:

4 (a)(i) A felony that is a violation of chapter 9A.44 RCW other than
5 RCW 9A.44.130(11);

6 (ii) A violation of RCW 9A.64.020;

7 (iii) A felony that is a violation of chapter 9.68A RCW other than
8 RCW 9.68A.070 or 9.68A.080; or

9 (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt,
10 criminal solicitation, or criminal conspiracy to commit such crimes;

11 (b) Any conviction for a felony offense in effect at any time prior
12 to July 1, 1976, that is comparable to a felony classified as a sex
13 offense in (a) of this subsection;

14 (c) A felony with a finding of sexual motivation under RCW
15 9.94A.835 or 13.40.135; or

16 (d) Any federal or out-of-state conviction for an offense that
17 under the laws of this state would be a felony classified as a sex
18 offense under (a) of this subsection.

19 (39) "Sexual motivation" means that one of the purposes for which
20 the defendant committed the crime was for the purpose of his or her
21 sexual gratification.

22 (40) "Standard sentence range" means the sentencing court's
23 discretionary range in imposing a nonappealable sentence.

24 (41) "Statutory maximum sentence" means the maximum length of time
25 for which an offender may be confined as punishment for a crime as
26 prescribed in chapter 9A.20 RCW, RCW 9.92.010, the statute defining the
27 crime, or other statute defining the maximum penalty for a crime.

28 (42) "Total confinement" means confinement inside the physical
29 boundaries of a facility or institution operated or utilized under
30 contract by the state or any other unit of government for twenty-four
31 hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

32 (43) "Transition training" means written and verbal instructions
33 and assistance provided by the department to the offender during the
34 two weeks prior to the offender's successful completion of the work
35 ethic camp program. The transition training shall include instructions
36 in the offender's requirements and obligations during the offender's
37 period of community custody.

1 (44) "Victim" means any person who has sustained emotional,
2 psychological, physical, or financial injury to person or property as
3 a direct result of the crime charged.

4 (45) "Violent offense" means:

5 (a) Any of the following felonies:

6 (i) Any felony defined under any law as a class A felony or an
7 attempt to commit a class A felony;

8 (ii) Criminal solicitation of or criminal conspiracy to commit a
9 class A felony;

10 (iii) Manslaughter in the first degree;

11 (iv) Manslaughter in the second degree;

12 (v) Indecent liberties if committed by forcible compulsion;

13 (vi) Kidnapping in the second degree;

14 (vii) Arson in the second degree;

15 (viii) Assault in the second degree;

16 (ix) Assault of a child in the second degree;

17 (x) Extortion in the first degree;

18 (xi) Robbery in the second degree;

19 (xii) Drive-by shooting;

20 (xiii) Vehicular assault, when caused by the operation or driving
21 of a vehicle by a person while under the influence of intoxicating
22 liquor or any drug or by the operation or driving of a vehicle in a
23 reckless manner; and

24 (xiv) Vehicular homicide, when proximately caused by the driving of
25 any vehicle by any person while under the influence of intoxicating
26 liquor or any drug as defined by RCW 46.61.502, or by the operation of
27 any vehicle in a reckless manner;

28 (b) Any conviction for a felony offense in effect at any time prior
29 to July 1, 1976, that is comparable to a felony classified as a violent
30 offense in (a) of this subsection; and

31 (c) Any federal or out-of-state conviction for an offense that
32 under the laws of this state would be a felony classified as a violent
33 offense under (a) or (b) of this subsection.

34 (46) "Work crew" means a program of partial confinement consisting
35 of civic improvement tasks for the benefit of the community that
36 complies with RCW 9.94A.725.

37 (47) "Work ethic camp" means an alternative incarceration program
38 as provided in RCW 9.94A.690 designed to reduce recidivism and lower

1 the cost of corrections by requiring offenders to complete a
2 comprehensive array of real-world job and vocational experiences,
3 character-building work ethics training, life management skills
4 development, substance abuse rehabilitation, counseling, literacy
5 training, and basic adult education.

6 (48) "Work release" means a program of partial confinement
7 available to offenders who are employed or engaged as a student in a
8 regular course of study at school.

9 **Sec. 5.** RCW 10.31.100 and 2000 c 119 s 4 are each amended to read
10 as follows:

11 A police officer having probable cause to believe that a person has
12 committed or is committing a felony shall have the authority to arrest
13 the person without a warrant. A police officer may arrest a person
14 without a warrant for committing a misdemeanor or gross misdemeanor
15 only when the offense is committed in the presence of the officer,
16 except as provided in subsections (1) through (10) of this section.

17 (1) Any police officer having probable cause to believe that a
18 person has committed or is committing a misdemeanor or gross
19 misdemeanor, involving physical harm or threats of harm to any person
20 or property or the unlawful taking of property or involving the use or
21 possession of cannabis, or involving the acquisition, possession, or
22 consumption of alcohol by a person under the age of twenty-one years
23 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
24 or 9A.52.080, shall have the authority to arrest the person.

25 (2) A police officer shall arrest and take into custody, pending
26 release on bail, personal recognizance, or court order, a person
27 without a warrant when the officer has probable cause to believe that:

28 (a) An order has been issued of which the person has knowledge
29 under RCW 26.44.063, or chapter 10.99, 26.09, 26.10, 26.26, 26.50, or
30 74.34 RCW restraining the person and the person has violated the terms
31 of the order restraining the person from acts or threats of violence,
32 or restraining the person from going onto the grounds of or entering a
33 residence, workplace, school, or day care, or prohibiting the person
34 from knowingly coming within, or knowingly remaining within, a
35 specified distance of a location or, in the case of an order issued
36 under RCW 26.44.063, imposing any other restrictions or conditions upon
37 the person; or

1 (b) A foreign protection order, as defined in RCW 26.52.010, has
2 been issued of which the person under restraint has knowledge and the
3 person under restraint has violated a provision of the foreign
4 protection order prohibiting the person under restraint from contacting
5 or communicating with another person, or excluding the person under
6 restraint from a residence, workplace, school, or day care, or
7 prohibiting the person from knowingly coming within, or knowingly
8 remaining within, a specified distance of a location, or a violation of
9 any provision for which the foreign protection order specifically
10 indicates that a violation will be a crime; or

11 (c) The person is sixteen years or older and within the preceding
12 four hours has assaulted a family or household member as defined in RCW
13 10.99.020 and the officer believes: (i) A felonious assault has
14 occurred; (ii) an assault has occurred which has resulted in bodily
15 injury to the victim, whether the injury is observable by the
16 responding officer or not; or (iii) that any physical action has
17 occurred which was intended to cause another person reasonably to fear
18 imminent serious bodily injury or death. Bodily injury means physical
19 pain, illness, or an impairment of physical condition. When the
20 officer has probable cause to believe that family or household members
21 have assaulted each other, the officer is not required to arrest both
22 persons. The officer shall arrest the person whom the officer believes
23 to be the primary physical aggressor. In making this determination,
24 the officer shall make every reasonable effort to consider: (i) The
25 intent to protect victims of domestic violence under RCW 10.99.010;
26 (ii) the comparative extent of injuries inflicted or serious threats
27 creating fear of physical injury; and (iii) the history of domestic
28 violence between the persons involved.

29 (3) Any police officer having probable cause to believe that a
30 person has committed or is committing a violation of any of the
31 following traffic laws shall have the authority to arrest the person:

32 (a) RCW 46.52.010, relating to duty on striking an unattended car
33 or other property;

34 (b) RCW 46.52.020, relating to duty in case of injury to or death
35 of a person or damage to an attended vehicle;

36 (c) RCW 46.61.500, section 2 of this act, or 46.61.530, relating to
37 reckless driving in the first or second degree or racing of vehicles;

1 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
2 influence of intoxicating liquor or drugs;

3 (e) RCW 46.20.342, relating to driving a motor vehicle while
4 operator's license is suspended or revoked;

5 (f) RCW 46.61.5249, relating to operating a motor vehicle in a
6 negligent manner.

7 (4) A law enforcement officer investigating at the scene of a motor
8 vehicle accident may arrest the driver of a motor vehicle involved in
9 the accident if the officer has probable cause to believe that the
10 driver has committed in connection with the accident a violation of any
11 traffic law or regulation.

12 (5) Any police officer having probable cause to believe that a
13 person has committed or is committing a violation of RCW 79A.60.040
14 shall have the authority to arrest the person.

15 (6) An officer may act upon the request of a law enforcement
16 officer in whose presence a traffic infraction was committed, to stop,
17 detain, arrest, or issue a notice of traffic infraction to the driver
18 who is believed to have committed the infraction. The request by the
19 witnessing officer shall give an officer the authority to take
20 appropriate action under the laws of the state of Washington.

21 (7) Any police officer having probable cause to believe that a
22 person has committed or is committing any act of indecent exposure, as
23 defined in RCW 9A.88.010, may arrest the person.

24 (8) A police officer may arrest and take into custody, pending
25 release on bail, personal recognizance, or court order, a person
26 without a warrant when the officer has probable cause to believe that
27 an order has been issued of which the person has knowledge under
28 chapter 10.14 RCW and the person has violated the terms of that order.

29 (9) Any police officer having probable cause to believe that a
30 person has, within twenty-four hours of the alleged violation,
31 committed a violation of RCW 9A.50.020 may arrest such person.

32 (10) A police officer having probable cause to believe that a
33 person illegally possesses or illegally has possessed a firearm or
34 other dangerous weapon on private or public elementary or secondary
35 school premises shall have the authority to arrest the person.

36 For purposes of this subsection, the term "firearm" has the meaning
37 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
38 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

1 (11) Except as specifically provided in subsections (2), (3), (4),
 2 and (6) of this section, nothing in this section extends or otherwise
 3 affects the powers of arrest prescribed in Title 46 RCW.

4 (12) No police officer may be held criminally or civilly liable for
 5 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police
 6 officer acts in good faith and without malice.

7 **Sec. 6.** RCW 13.40.0357 and 2003 c 378 s 2, 2003 c 335 s 6, and
 8 2003 c 53 s 97 are each reenacted and amended to read as follows:

9 **DESCRIPTION AND OFFENSE CATEGORY**

10			JUVENILE DISPOSITION
11	JUVENILE		CATEGORY FOR
12	DISPOSITION		ATTEMPT, BAILJUMP,
13	OFFENSE		CONSPIRACY, OR
14	CATEGORY	DESCRIPTION (RCW CITATION)	SOLICITATION
15		

16 **Arson and Malicious Mischief**

17	A	Arson 1 (9A.48.020)	B+
18	B	Arson 2 (9A.48.030)	C
19	C	Reckless Burning 1 (9A.48.040)	D
20	D	Reckless Burning 2 (9A.48.050)	E
21	B	Malicious Mischief 1 (9A.48.070)	C
22	C	Malicious Mischief 2 (9A.48.080)	D
23	D	Malicious Mischief 3 (9A.48.090(2) (a)	
24		and (c))	E
25	E	Malicious Mischief 3 (9A.48.090(2)(b))	E
26	E	Tampering with Fire Alarm Apparatus	
27		(9.40.100)	E
28	E	Tampering with Fire Alarm Apparatus	
29		with Intent to Commit Arson (9.40.105)	E
30	A	Possession of Incendiary Device (9.40.120)	B+

31 **Assault and Other Crimes Involving**

32 **Physical Harm**

33	A	Assault 1 (9A.36.011)	B+
34	B+	Assault 2 (9A.36.021)	C+
35	C+	Assault 3 (9A.36.031)	D+

1	D+	Assault 4 (9A.36.041)	E
2	B+	Drive-By Shooting (9A.36.045)	C+
3	D+	Reckless Endangerment (9A.36.050)	E
4	C+	Promoting Suicide Attempt (9A.36.060)	D+
5	D+	Coercion (9A.36.070)	E
6	C+	Custodial Assault (9A.36.100)	D+
7		Burglary and Trespass	
8	B+	Burglary 1 (9A.52.020)	C+
9	B	Residential Burglary (9A.52.025)	C
10	B	Burglary 2 (9A.52.030)	C
11	D	Burglary Tools (Possession of) (9A.52.060)	E
12	D	Criminal Trespass 1 (9A.52.070)	E
13	E	Criminal Trespass 2 (9A.52.080)	E
14	C	Mineral Trespass (78.44.330)	C
15	C	Vehicle Prowling 1 (9A.52.095)	D
16	D	Vehicle Prowling 2 (9A.52.100)	E
17		Drugs	
18	E	Possession/Consumption of Alcohol	
19		(66.44.270)	E
20	C	Illegally Obtaining Legend Drug	
21		(69.41.020)	D
22	C+	Sale, Delivery, Possession of Legend Drug	
23		with Intent to Sell (69.41.030(2)(a))	D+
24	E	Possession of Legend Drug	
25		(69.41.030(2)(b))	E
26	B+	Violation of Uniform Controlled	
27		Substances Act - Narcotic,	
28		Methamphetamine, or Flunitrazepam Sale	
29		(69.50.401(2) (a) or (b))	B+
30	C	Violation of Uniform Controlled	
31		Substances Act - Nonnarcotic Sale	
32		(69.50.401(2)(c))	C
33	E	Possession of Marihuana <40 grams	
34		(69.50.4014)	E
35	C	Fraudulently Obtaining Controlled	
36		Substance (69.50.403)	C

1	C+	Sale of Controlled Substance for Profit	
2		(69.50.410)	C+
3	E	Unlawful Inhalation (9.47A.020)	E
4	B	Violation of Uniform Controlled	
5		Substances Act - Narcotic,	
6		Methamphetamine, or Flunitrazepam	
7		Counterfeit Substances (69.50.4011(2) (a)	
8		or (b))	B
9	C	Violation of Uniform Controlled	
10		Substances Act - Nonnarcotic Counterfeit	
11		Substances (69.50.4011(2) (c), (d), or (e))	C
12	C	Violation of Uniform Controlled	
13		Substances Act - Possession of a Controlled	
14		Substance (69.50.4013)	C
15	C	Violation of Uniform Controlled	
16		Substances Act - Possession of a Controlled	
17		Substance (69.50.4012)	C
18		Firearms and Weapons	
19	B	Theft of Firearm (9A.56.300)	C
20	B	Possession of Stolen Firearm (9A.56.310)	C
21	E	Carrying Loaded Pistol Without Permit	
22		(9.41.050)	E
23	C	Possession of Firearms by Minor (<18)	
24		(9.41.040(2)(a)(iii))	C
25	D+	Possession of Dangerous Weapon	
26		(9.41.250)	E
27	D	Intimidating Another Person by use of	
28		Weapon (9.41.270)	E
29		Homicide	
30	A+	Murder 1 (9A.32.030)	A
31	A+	Murder 2 (9A.32.050)	B+
32	B+	Manslaughter 1 (9A.32.060)	C+
33	C+	Manslaughter 2 (9A.32.070)	D+
34	B+	Vehicular Homicide (46.61.520)	C+
35		Kidnapping	
36	A	Kidnap 1 (9A.40.020)	B+

1	B+	Kidnap 2 (9A.40.030)	C+
2	C+	Unlawful Imprisonment (9A.40.040)	D+
3		Obstructing Governmental Operation	
4	D	Obstructing a Law Enforcement Officer	
5		(9A.76.020)	E
6	E	Resisting Arrest (9A.76.040)	E
7	B	Introducing Contraband 1 (9A.76.140)	C
8	C	Introducing Contraband 2 (9A.76.150)	D
9	E	Introducing Contraband 3 (9A.76.160)	E
10	B+	Intimidating a Public Servant (9A.76.180)	C+
11	B+	Intimidating a Witness (9A.72.110)	C+
12		Public Disturbance	
13	C+	Riot with Weapon (9A.84.010(2)(b))	D+
14	D+	Riot Without Weapon (9A.84.010(2)(a))	E
15	E	Failure to Disperse (9A.84.020)	E
16	E	Disorderly Conduct (9A.84.030)	E
17		Sex Crimes	
18	A	Rape 1 (9A.44.040)	B+
19	A-	Rape 2 (9A.44.050)	B+
20	C+	Rape 3 (9A.44.060)	D+
21	A-	Rape of a Child 1 (9A.44.073)	B+
22	B+	Rape of a Child 2 (9A.44.076)	C+
23	B	Incest 1 (9A.64.020(1))	C
24	C	Incest 2 (9A.64.020(2))	D
25	D+	Indecent Exposure (Victim <14)	
26		(9A.88.010)	E
27	E	Indecent Exposure (Victim 14 or over)	
28		(9A.88.010)	E
29	B+	Promoting Prostitution 1 (9A.88.070)	C+
30	C+	Promoting Prostitution 2 (9A.88.080)	D+
31	E	O & A (Prostitution) (9A.88.030)	E
32	B+	Indecent Liberties (9A.44.100)	C+
33	A-	Child Molestation 1 (9A.44.083)	B+
34	B	Child Molestation 2 (9A.44.086)	C+
35		Theft, Robbery, Extortion, and Forgery	
36	B	Theft 1 (9A.56.030)	C

1	C	Theft 2 (9A.56.040)	D
2	D	Theft 3 (9A.56.050)	E
3	B	Theft of Livestock 1 and 2 (9A.56.080 and	
4		9A.56.083)	C
5	C	Forgery (9A.60.020)	D
6	A	Robbery 1 (9A.56.200)	B+
7	B+	Robbery 2 (9A.56.210)	C+
8	B+	Extortion 1 (9A.56.120)	C+
9	C+	Extortion 2 (9A.56.130)	D+
10	C	Identity Theft 1 (9.35.020(2))	D
11	D	Identity Theft 2 (9.35.020(3))	E
12	D	Improperly Obtaining Financial	
13		Information (9.35.010)	E
14	B	Possession of Stolen Property 1	
15		(9A.56.150)	C
16	C	Possession of Stolen Property 2	
17		(9A.56.160)	D
18	D	Possession of Stolen Property 3	
19		(9A.56.170)	E
20	C	Taking Motor Vehicle Without Permission	
21		1 and 2 (9A.56.070 and 9A.56.075)	D
22		Motor Vehicle Related Crimes	
23	E	Driving Without a License (46.20.005)	E
24	B+	Hit and Run - Death (46.52.020(4)(a))	C+
25	C	Hit and Run - Injury (46.52.020(4)(b))	D
26	D	Hit and Run-Attended (46.52.020(5))	E
27	E	Hit and Run-Unattended (46.52.010)	E
28	C	Vehicular Assault (46.61.522)	D
29	C	Attempting to Elude Pursuing Police	
30		Vehicle (46.61.024)	D
31	(E)		
32	<u>D</u>	Reckless Driving <u>1</u> (46.61.500)	E
33	<u>E</u>	<u>Reckless Driving 2 (section 2 of this act)</u>	<u>E</u>
34	D	Driving While Under the Influence	
35		(46.61.502 and 46.61.504)	E
36		Other	
37	B	Bomb Threat (9.61.160)	C

1	C	Escape 1 ¹ (9A.76.110)	C
2	C	Escape 2 ¹ (9A.76.120)	C
3	D	Escape 3 (9A.76.130)	E
4	E	Obscene, Harassing, Etc., Phone Calls	
5		(9.61.230)	E
6	A	Other Offense Equivalent to an Adult Class	
7		A Felony	B+
8	B	Other Offense Equivalent to an Adult Class	
9		B Felony	C
10	C	Other Offense Equivalent to an Adult Class	
11		C Felony	D
12	D	Other Offense Equivalent to an Adult	
13		Gross Misdemeanor	E
14	E	Other Offense Equivalent to an Adult	
15		Misdemeanor	E
16	V	Violation of Order of Restitution,	
17		Community Supervision, or Confinement	
18		(13.40.200) ²	V

19 ¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
20 and the standard range is established as follows:

21 1st escape or attempted escape during 12-month period - 4 weeks
22 confinement

23 2nd escape or attempted escape during 12-month period - 8 weeks
24 confinement

25 3rd and subsequent escape or attempted escape during 12-month
26 period - 12 weeks confinement

27 ²If the court finds that a respondent has violated terms of an order,
28 it may impose a penalty of up to 30 days of confinement.

29 **JUVENILE SENTENCING STANDARDS**

30 This schedule must be used for juvenile offenders. The court may
31 select sentencing option A, B, C, D, or RCW 13.40.167.

32 **OPTION A**
33 **JUVENILE OFFENDER SENTENCING GRID**
34 **STANDARD RANGE**

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A+ 180 WEEKS TO AGE 21 YEARS

A 103 WEEKS TO 129 WEEKS

A-	15-36	52-65	80-100	103-129
	WEEKS	WEEKS	WEEKS	WEEKS
	EXCEPT			
	30-40			
	WEEKS FOR			
	15-17			
	YEAR OLDS			

Current	B+	15-36	52-65	80-100	103-129
Offense		WEEKS	WEEKS	WEEKS	WEEKS
Category					

B	LOCAL			52-65
	SANCTIONS (LS)		15-36 WEEKS	WEEKS

C+	LS			15-36 WEEKS
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C	LS			15-36 WEEKS
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Local Sanctions:
0 to 30 Days
0 to 12 Months Community Supervision
0 to 150 Hours Community Restitution

D+	LS			
D	LS			\$0 to \$500 Fine

E	LS			
---	----	--	--	--

0 1 2 3 4
or more

PRIOR ADJUDICATIONS

34 NOTE: References in the grid to days or weeks mean periods of
35 confinement.

36 (1) The vertical axis of the grid is the current offense category.
37 The current offense category is determined by the offense of
38 adjudication.

39 (2) The horizontal axis of the grid is the number of prior
40 adjudications included in the juvenile's criminal history. Each prior
41 felony adjudication shall count as one point. Each prior violation,
42 misdemeanor, and gross misdemeanor adjudication shall count as 1/4
43 point. Fractional points shall be rounded down.

1 (3) The standard range disposition for each offense is determined
2 by the intersection of the column defined by the prior adjudications
3 and the row defined by the current offense category.

4 (4) RCW 13.40.180 applies if the offender is being sentenced for
5 more than one offense.

6 (5) A current offense that is a violation is equivalent to an
7 offense category of E. However, a disposition for a violation shall
8 not include confinement.

9 OR

10 **OPTION B**

11 **SUSPENDED DISPOSITION ALTERNATIVE**

12 (1) If the offender is subject to a standard range disposition
13 involving confinement by the department, the court may impose the
14 standard range and suspend the disposition on condition that the
15 offender comply with one or more local sanctions and any educational or
16 treatment requirement. The treatment programs provided to the offender
17 must be research-based best practice programs as identified by the
18 Washington state institute for public policy or the joint legislative
19 audit and review committee.

20 (2) If the offender fails to comply with the suspended disposition,
21 the court may impose sanctions pursuant to RCW 13.40.200 or may revoke
22 the suspended disposition and order the disposition's execution.

23 (3) An offender is ineligible for the suspended disposition option
24 under this section if the offender is:

25 (a) Adjudicated of an A+ offense;

26 (b) Fourteen years of age or older and is adjudicated of one or
27 more of the following offenses:

28 (i) A class A offense, or an attempt, conspiracy, or solicitation
29 to commit a class A offense;

30 (ii) Manslaughter in the first degree (RCW 9A.32.060); or

31 (iii) Assault in the second degree (RCW 9A.36.021), extortion in
32 the first degree (RCW 9A.56.120), kidnapping in the second degree (RCW
33 9A.40.030), robbery in the second degree (RCW 9A.56.210), residential
34 burglary (RCW 9A.52.025), burglary in the second degree (RCW
35 9A.52.030), drive-by shooting (RCW 9A.36.045), vehicular homicide (RCW
36 46.61.520), hit and run death (RCW 46.52.020(4)(a)), intimidating a
37 witness (RCW 9A.72.110), violation of the uniform controlled substances

1 act (RCW 69.50.401(~~((a)(1) (i) or (ii))~~ (2) (a) and (b)), or
2 manslaughter 2 (RCW 9A.32.070), when the offense includes infliction of
3 bodily harm upon another or when during the commission or immediate
4 withdrawal from the offense the respondent was armed with a deadly
5 weapon;

6 (c) Ordered to serve a disposition for a firearm violation under
7 RCW 13.40.193; or

8 (d) Adjudicated of a sex offense as defined in RCW 9.94A.030.

9 OR

10 OPTION C

11 CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

12 If the juvenile offender is subject to a standard range disposition
13 of local sanctions or 15 to 36 weeks of confinement and has not
14 committed an A- or B+ offense, the court may impose a disposition
15 under RCW 13.40.160(4) and 13.40.165.

16 OR

17 OPTION D

18 MANIFEST INJUSTICE

19 If the court determines that a disposition under option A, B, or C
20 would effectuate a manifest injustice, the court shall impose a
21 disposition outside the standard range under RCW 13.40.160(2).

22 **Sec. 7.** RCW 46.01.260 and 1999 c 86 s 2 are each amended to read
23 as follows:

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

33 (2)(a) The director shall not destroy records of convictions or
34 adjudications of RCW 46.61.520 and 46.61.522 or records of deferred

1 prosecutions granted under RCW 10.05.120 and shall maintain such
2 records permanently on file.

3 (b) The director shall not, within fifteen years from the date of
4 conviction or adjudication, destroy records of the following:

5 (i) Convictions or adjudications of the following offenses: RCW
6 46.61.502 or 46.61.504; or

7 (ii) If the offense was originally charged as one of the offenses
8 designated in (a) or (b)(i) of this subsection, convictions or
9 adjudications of the following offenses: RCW 46.61.500, section 2 of
10 this act, or 46.61.5249 or any other violation that was originally
11 charged as one of the offenses designated in (a) or (b)(i) of this
12 subsection.

13 (c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject
14 to this subsection shall be considered "alcohol-related" offenses.

15 **Sec. 8.** RCW 46.20.285 and 2001 c 64 s 6 are each amended to read
16 as follows:

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

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

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

26 (3) Driving a motor vehicle while under the influence of
27 intoxicating liquor or a narcotic drug, or under the influence of any
28 other drug to a degree which renders the driver incapable of safely
29 driving a motor vehicle, for the period prescribed in RCW 46.61.5055;

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

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

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

1 (7) Reckless driving of any degree upon a showing by the
2 department's records that the conviction is the third such conviction
3 for the driver within a period of two years.

4 **Sec. 9.** RCW 46.20.342 and 2001 c 325 s 3 are each amended to read
5 as follows:

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

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

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

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

37 (ii) A previous conviction under this section;

1 (iii) A notice received by the department from a court or diversion
2 unit as provided by RCW 46.20.265, relating to a minor who has
3 committed, or who has entered a diversion unit concerning an offense
4 relating to alcohol, legend drugs, controlled substances, or imitation
5 controlled substances;

6 (iv) A conviction of RCW 46.20.410, relating to the violation of
7 restrictions of an occupational driver's license;

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

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

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

14 (viii) A conviction of RCW 46.61.500, relating to reckless driving
15 in the first degree;

16 (ix) A conviction of section 2 of this act, relating to reckless
17 driving in the second degree;

18 (x) A conviction of RCW 46.61.502 or 46.61.504, relating to a
19 person under the influence of intoxicating liquor or drugs;

20 (~~(x)~~) (xi) A conviction of RCW 46.61.520, relating to vehicular
21 homicide;

22 (~~(xi)~~) (xii) A conviction of RCW 46.61.522, relating to vehicular
23 assault;

24 (~~(xii)~~) (xiii) A conviction of RCW 46.61.527(4), relating to
25 reckless endangerment of roadway workers;

26 (~~(xiii)~~) (xiv) A conviction of RCW 46.61.530, relating to racing
27 of vehicles on highways;

28 (~~(xiv)~~) (xv) A conviction of RCW 46.61.685, relating to leaving
29 children in an unattended vehicle with motor running;

30 (~~(xv)~~) (xvi) A conviction of RCW 46.61.740, relating to theft of
31 motor vehicle fuel;

32 (~~(xvi)~~) (xvii) A conviction of RCW 46.64.048, relating to
33 attempting, aiding, abetting, coercing, and committing crimes;

34 (~~(xvii)~~) (xviii) An administrative action taken by the department
35 under chapter 46.20 RCW; or

36 (~~(xviii)~~) (xix) A conviction of a local law, ordinance,
37 regulation, or resolution of a political subdivision of this state, the

1 federal government, or any other state, of an offense substantially
2 similar to 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. 10.** RCW 46.25.010 and 1996 c 30 s 1 are each amended to read
11 as follows:

12 The definitions set forth in this section apply throughout this
13 chapter.

14 (1) "Alcohol" means any substance containing any form of alcohol,
15 including but not limited to ethanol, methanol, propanol, and
16 isopropanol.

17 (2) "Alcohol concentration" means:

18 (a) The number of grams of alcohol per one hundred milliliters of
19 blood; or

20 (b) The number of grams of alcohol per two hundred ten liters of
21 breath.

22 (3) "Commercial driver's license" (CDL) means a license issued in
23 accordance with the requirements of this chapter to an individual that
24 authorizes the individual to drive a class of commercial motor vehicle.

25 (4) The "commercial driver's license information system" (CDLIS) is
26 the information system established pursuant to the CMVSA to serve as a
27 clearinghouse for locating information related to the licensing and
28 identification of commercial motor vehicle drivers.

29 (5) "Commercial driver's instruction permit" means a permit issued
30 under RCW 46.25.060(4).

31 (6) "Commercial motor vehicle" means a motor vehicle designed or
32 used to transport passengers or property:

33 (a) If the vehicle has a gross weight rating of 26,001 or more
34 pounds;

35 (b) If the vehicle is designed to transport sixteen or more
36 passengers, including the driver;

1 (c) If the vehicle is transporting hazardous materials and is
2 required to be identified by a placard in accordance with 49 C.F.R.
3 part 172, subpart F; or

4 (d) If the vehicle is a school bus as defined in RCW 46.04.521
5 regardless of weight or size.

6 (7) "Conviction" has the definition set forth in RCW 46.20.270.

7 (8) "Disqualification" means a prohibition against driving a
8 commercial motor vehicle.

9 (9) "Drive" means to drive, operate, or be in physical control of
10 a motor vehicle in any place open to the general public for purposes of
11 vehicular traffic. For purposes of RCW 46.25.100, 46.25.110, and
12 46.25.120, "drive" includes operation or physical control of a motor
13 vehicle anywhere in the state.

14 (10) "Drugs" are those substances as defined by RCW 69.04.009.

15 (11) "Employer" means any person, including the United States, a
16 state, or a political subdivision of a state, who owns or leases a
17 commercial motor vehicle, or assigns a person to drive a commercial
18 motor vehicle.

19 (12) "Gross vehicle weight rating" (GVWR) means the value specified
20 by the manufacturer as the maximum loaded weight of a single or a
21 combination or articulated vehicle, or the registered gross weight,
22 where this value cannot be determined. The GVWR of a combination or
23 articulated vehicle, commonly referred to as the "gross combined weight
24 rating" or GCWR, is the GVWR of the power unit plus the GVWR of the
25 towed unit or units.

26 (13) "Hazardous materials" has the same meaning found in Section
27 103 of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801
28 et seq.).

29 (14) "Motor vehicle" means a vehicle, machine, tractor, trailer, or
30 semitrailer propelled or drawn by mechanical power used on highways, or
31 any other vehicle required to be registered under the laws of this
32 state, but does not include a vehicle, machine, tractor, trailer, or
33 semitrailer operated exclusively on a rail.

34 (15) "Out-of-service order" means a temporary prohibition against
35 driving a commercial motor vehicle.

36 (16) "Serious traffic violation" means:

37 (a) Excessive speeding, defined as fifteen miles per hour or more
38 in excess of the posted limit;

1 (b) Reckless driving of any degree, as defined under state or local
2 law;

3 (c) A violation of a state or local law relating to motor vehicle
4 traffic control, other than a parking violation, arising in connection
5 with an accident or collision resulting in death to any person; and

6 (d) Any other violation of a state or local law relating to motor
7 vehicle traffic control, other than a parking violation, that the
8 department determines by rule to be serious.

9 (17) "State" means a state of the United States and the District of
10 Columbia.

11 (18) "Tank vehicle" means a vehicle that is designed to transport
12 a liquid or gaseous material within a tank that is either permanently
13 or temporarily attached to the vehicle or the chassis. Tank vehicles
14 include, but are not limited to cargo tanks and portable tanks.
15 However, this definition does not include portable tanks having a rated
16 capacity under one thousand gallons.

17 (19) "United States" means the fifty states and the District of
18 Columbia.

19 **Sec. 11.** RCW 46.61.5055 and 2003 c 103 s 1 are each amended to
20 read as follows:

21 (1) A person who is convicted of a violation of RCW 46.61.502 or
22 46.61.504 and who has no prior offense within seven years shall be
23 punished as follows:

24 (a) In the case of a person whose alcohol concentration was less
25 than 0.15, or for whom for reasons other than the person's refusal to
26 take a 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 one day nor more than one
29 year. Twenty-four consecutive hours of the imprisonment 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. In lieu of the
36 mandatory minimum term of imprisonment required under this subsection
37 (1)(a)(i), the court may order not less than fifteen days of electronic

1 home monitoring. The offender shall pay the cost of electronic home
2 monitoring. The county or municipality in which the penalty is being
3 imposed shall determine the cost. The court may also require the
4 offender's electronic home monitoring device to include an alcohol
5 detection breathalyzer, and the court may restrict the amount of
6 alcohol the offender may consume during the time the offender is on
7 electronic home monitoring; and

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

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

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

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

36 (iii) By a court-ordered restriction under RCW 46.20.720.

37 (2) A person who is convicted of a violation of RCW 46.61.502 or

1 46.61.504 and who has one prior offense within seven years shall be
2 punished as follows:

3 (a) In the case of a person whose alcohol concentration was less
4 than 0.15, or for whom for reasons other than the person's refusal to
5 take a 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 thirty days nor more than one
8 year and sixty days of electronic home monitoring. The offender shall
9 pay for the cost of the electronic monitoring. The county or
10 municipality where the penalty is being imposed shall determine the
11 cost. The court may also require the offender's electronic home
12 monitoring device include an alcohol detection breathalyzer, and may
13 restrict the amount of alcohol the offender may consume during the time
14 the offender is on electronic home monitoring. Thirty days of
15 imprisonment and sixty days of electronic home monitoring may not be
16 suspended or deferred unless the court finds that the imposition of
17 this mandatory minimum sentence would impose a substantial risk to the
18 offender's physical or mental well-being. Whenever the mandatory
19 minimum sentence is suspended or deferred, the court shall state in
20 writing the reason for granting the suspension or deferral and the
21 facts upon which the suspension or deferral is based; and

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

26 (iii) By a court-ordered restriction under RCW 46.20.720; or

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

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

1 imprisonment and ninety days of electronic home monitoring may not be
2 suspended or deferred unless the court finds that the imposition of
3 this mandatory minimum sentence would impose a substantial risk to the
4 offender's physical or mental well-being. Whenever the mandatory
5 minimum sentence is suspended or deferred, the court shall state in
6 writing the reason for granting the suspension or deferral and the
7 facts upon which the suspension or deferral is based; and

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

12 (iii) By a court-ordered restriction under RCW 46.20.720.

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

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

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

36 (ii) By a fine of not less than one thousand dollars nor more than
37 five thousand dollars. One thousand dollars of the fine may not be

1 suspended or deferred unless the court finds the offender to be
2 indigent; and

3 (iii) By a court-ordered restriction under RCW 46.20.720; or

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

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

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

28 (iii) By a court-ordered restriction under RCW 46.20.720.

29 (4) If a person who is convicted of a violation of RCW 46.61.502 or
30 46.61.504 committed the offense while a passenger under the age of
31 sixteen was in the vehicle, the court shall:

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

37 (b) In any case in which the installation and use of such a device

1 is otherwise mandatory, order the use of such a device for an
2 additional sixty days.

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

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

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

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

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

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

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

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

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

25 (b) If the person's alcohol concentration was at least 0.15, or if
26 by reason of the person's refusal to take a test offered under RCW
27 46.20.308 there is no test result indicating the person's alcohol
28 concentration:

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

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

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

35 For purposes of this subsection, the department shall refer to the
36 driver's record maintained under RCW 46.52.120 when determining the
37 existence of prior offenses.

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

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

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

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

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

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

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

6 (c) The court determines that there is reason to believe that the
7 offender would violate the conditions of the electronic home monitoring
8 penalty.

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

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

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

25 (12) For purposes of this section:

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

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

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

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

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

35 (v) A conviction for a violation of RCW 46.61.500 or 46.61.5249 or
36 an equivalent local ordinance;

37 (vi) A conviction for a violation of RCW ((46.61.5249, 46.61.500,
38 or)) 9A.36.050 or section 2 of this act or an equivalent local

1 ordinance, if (~~the conviction is the result of a charge that was~~
2 ~~originally filed as a violation of RCW 46.61.502 or 46.61.504, or an~~
3 ~~equivalent local ordinance, or of RCW 46.61.520 or 46.61.522)) at the
4 time of the prior offense, the person exhibited the effects of having
5 consumed liquor or an illegal drug;~~

6 (~~(vi)~~) (vii) An out-of-state conviction for a violation that
7 would have been a violation of (a)(i), (ii), (iii), (iv), (~~(v)~~) (v),
8 or (vi) of this subsection if committed in this state;

9 (~~(vii)~~) (viii) A deferred prosecution under chapter 10.05 RCW
10 granted in a prosecution for a violation of RCW 46.61.502, 46.61.504,
11 or an equivalent local ordinance; or

12 (~~(viii)~~) (ix) A deferred prosecution under chapter 10.05 RCW
13 granted in a prosecution for a violation of RCW 46.61.500 or
14 46.61.5249(~~(vii)~~) or an equivalent local ordinance(~~(vii)~~, ~~if the charge under~~
15 ~~which the deferred prosecution was granted was originally filed as a~~
16 ~~violation of RCW 46.61.502 or 46.61.504, or an equivalent local~~
17 ~~ordinance, or of RCW 46.61.520 or 46.61.522)); and~~

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

20 **Sec. 12.** RCW 46.61.513 and 1998 c 211 s 5 are each amended to read
21 as follows:

22 (1) Immediately before the court defers prosecution under RCW
23 10.05.020, dismisses a charge, or orders a sentence for any offense
24 listed in subsection (2) of this section, the court and prosecutor
25 shall verify the defendant's criminal history and driving record. The
26 order shall include specific findings as to the criminal history and
27 driving record. For purposes of this section, the criminal history
28 shall include all previous convictions and orders of deferred
29 prosecution, as reported through the judicial information system or
30 otherwise available to the court or prosecutor, current to within the
31 period specified in subsection (3) of this section before the date of
32 the order. For purposes of this section, the driving record shall
33 include all information reported to the court by the department of
34 licensing.

35 (2) The offenses to which this section applies are violations of:

36 (a) RCW 46.61.502 or an equivalent local ordinance; (b) RCW 46.61.504
37 or an equivalent local ordinance; (c) RCW 46.61.520 committed while

1 under the influence of intoxicating liquor or any drug; (d) RCW
2 46.61.522 committed while under the influence of intoxicating liquor or
3 any drug; and (e) RCW 46.61.5249, 46.61.500, section 2 of this act, or
4 9A.36.050, or an equivalent local ordinance, if the conviction is the
5 result of a charge that was originally filed as a violation of RCW
6 46.61.502 or 46.61.504 or an equivalent local ordinance, or of RCW
7 46.61.520 or 46.61.522.

8 (3) The periods applicable to previous convictions and orders of
9 deferred prosecution are: (a) One working day, in the case of previous
10 actions of courts that fully participate in the state judicial
11 information system; and (b) seven calendar days, in the case of
12 previous actions of courts that do not fully participate in the
13 judicial information system. For purposes of this subsection, "fully
14 participate" means regularly providing records to and receiving records
15 from the system by electronic means on a daily basis.

16 **Sec. 13.** RCW 46.61.530 and 1979 ex.s. c 136 s 87 are each amended
17 to read as follows:

18 No person or persons may race any motor vehicle or motor vehicles
19 upon any public highway of this state. Any person or persons who
20 willfully compare or contest relative speeds by operation of one or
21 more motor vehicles shall be guilty of racing, which shall constitute
22 reckless driving in the second degree under ((RCW 46.61.500)) section
23 2 of this act, whether or not such speed is in excess of the maximum
24 speed prescribed by law: PROVIDED HOWEVER, That any comparison or
25 contest of the accuracy with which motor vehicles may be operated in
26 terms of relative speeds not in excess of the posted maximum speed does
27 not constitute racing.

28 **Sec. 14.** RCW 46.61.535 and 1979 ex.s. c 136 s 88 are each amended
29 to read as follows:

30 It shall be unlawful for any manufacturer, dealer, distributor, or
31 any person, firm, or corporation to publish or advertise or offer for
32 publication or advertisement, or to consent or cause to be published or
33 advertised, the time consumed or speed attained by a vehicle between
34 given points or over given or designated distances upon any public
35 highways of this state when such published or advertised time consumed
36 or speed attained shall indicate an average rate of speed between given

1 points or over a given or designated distance in excess of the maximum
2 rate of speed allowed between such points or at a rate of speed which
3 would constitute reckless driving in the second degree between such
4 points. Violation of any of the provisions of this section shall be
5 prima facie evidence of reckless driving in the second degree and shall
6 subject such person, firm, or corporation to the penalties in such
7 cases provided.

8 **Sec. 15.** RCW 46.61.665 and 1979 ex.s. c 136 s 89 are each amended
9 to read as follows:

10 It shall be unlawful for any person to operate a motor vehicle upon
11 the highways of this state when such person has in his or her embrace
12 another person which prevents the free and unhampered operation of such
13 vehicle. Operation of a motor vehicle in violation of this section is
14 prima facie evidence of reckless driving in the second degree.

15 **Sec. 16.** 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;

1 (6) RCW 46.16.010 relating to initial registration of motor
2 vehicles;

3 (7) RCW 46.16.011 relating to permitting unauthorized persons to
4 drive;

5 (8) RCW 46.16.160 relating to vehicle trip permits;

6 (9) RCW 46.16.381(2) relating to knowingly providing false
7 information in conjunction with an application for a special placard or
8 license plate for disabled persons' parking;

9 (10) RCW 46.20.005 relating to driving without a valid driver's
10 license;

11 (11) RCW 46.20.091 relating to false statements regarding a
12 driver's license or instruction permit;

13 (12) RCW 46.20.0921 relating to the unlawful possession and use of
14 a driver's license;

15 (13) RCW 46.20.342 relating to driving with a suspended or revoked
16 license or status;

17 (14) RCW 46.20.345 relating to the operation of a motor vehicle
18 with a suspended or revoked license;

19 (15) RCW 46.20.410 relating to the violation of restrictions of an
20 occupational driver's license;

21 (16) RCW 46.20.740 relating to operation of a motor vehicle without
22 an ignition interlock device in violation of a license notation that
23 the device is required;

24 (17) RCW 46.20.750 relating to assisting another person to start a
25 vehicle equipped with an ignition interlock device;

26 (18) RCW 46.25.170 relating to commercial driver's licenses;

27 (19) Chapter 46.29 RCW relating to financial responsibility;

28 (20) RCW 46.30.040 relating to providing false evidence of
29 financial responsibility;

30 (21) RCW 46.37.435 relating to wrongful installation of
31 sunscreening material;

32 (22) RCW 46.37.650 relating to the sale, resale, distribution, or
33 installation of a previously deployed air bag;

34 (23) RCW 46.44.180 relating to operation of mobile home pilot
35 vehicles;

36 (24) RCW 46.48.175 relating to the transportation of dangerous
37 articles;

1 (25) RCW 46.52.010 relating to duty on striking an unattended car
2 or other property;

3 (26) RCW 46.52.020 relating to duty in case of injury to or death
4 of a person or damage to an attended vehicle;

5 (27) RCW 46.52.090 relating to reports by repairmen, storagemen,
6 and appraisers;

7 (28) RCW 46.52.130 relating to confidentiality of the driving
8 record to be furnished to an insurance company, an employer, and an
9 alcohol/drug assessment or treatment agency;

10 (29) RCW 46.55.020 relating to engaging in the activities of a
11 registered tow truck operator without a registration certificate;

12 (30) RCW 46.55.035 relating to prohibited practices by tow truck
13 operators;

14 (31) RCW 46.61.015 relating to obedience to police officers,
15 flaggers, or fire fighters;

16 (32) RCW 46.61.020 relating to refusal to give information to or
17 cooperate with an officer;

18 (33) RCW 46.61.022 relating to failure to stop and give
19 identification to an officer;

20 (34) RCW 46.61.024 relating to attempting to elude pursuing police
21 vehicles;

22 (35) RCW 46.61.500 relating to reckless driving in the first
23 degree;

24 (36) Section 2 of this act relating to reckless driving in the
25 second degree;

26 (37) RCW 46.61.502 and 46.61.504 relating to persons under the
27 influence of intoxicating liquor or drugs;

28 ~~((37))~~ (38) RCW 46.61.503 relating to a person under age twenty-
29 one driving a motor vehicle after consuming alcohol;

30 ~~((38))~~ (39) RCW 46.61.520 relating to vehicular homicide by motor
31 vehicle;

32 ~~((39))~~ (40) RCW 46.61.522 relating to vehicular assault;

33 ~~((40))~~ (41) RCW 46.61.5249 relating to first degree negligent
34 driving;

35 ~~((41))~~ (42) RCW 46.61.527(4) relating to reckless endangerment of
36 roadway workers;

37 ~~((42))~~ (43) RCW 46.61.530 relating to racing of vehicles on
38 highways;

1 ~~((43))~~ (44) RCW 46.61.685 relating to leaving children in an
2 unattended vehicle with the motor running;
3 ~~((44))~~ (45) RCW 46.61.740 relating to theft of motor vehicle
4 fuel;
5 ~~((45))~~ (46) RCW 46.64.010 relating to unlawful cancellation of or
6 attempt to cancel a traffic citation;
7 ~~((46))~~ (47) RCW 46.64.048 relating to attempting, aiding,
8 abetting, coercing, and committing crimes;
9 ~~((47))~~ (48) Chapter 46.65 RCW relating to habitual traffic
10 offenders;
11 ~~((48))~~ (49) RCW 46.68.010 relating to false statements made to
12 obtain a refund;
13 ~~((49))~~ (50) Chapter 46.70 RCW relating to unfair motor vehicle
14 business practices, except where that chapter provides for the
15 assessment of monetary penalties of a civil nature;
16 ~~((50))~~ (51) Chapter 46.72 RCW relating to the transportation of
17 passengers in for hire vehicles;
18 ~~((51))~~ (52) RCW 46.72A.060 relating to limousine carrier
19 insurance;
20 ~~((52))~~ (53) RCW 46.72A.070 relating to operation of a limousine
21 without a vehicle certificate;
22 ~~((53))~~ (54) RCW 46.72A.080 relating to false advertising by a
23 limousine carrier;
24 ~~((54))~~ (55) Chapter 46.80 RCW relating to motor vehicle wreckers;
25 ~~((55))~~ (56) Chapter 46.82 RCW relating to driver's training
26 schools;
27 ~~((56))~~ (57) RCW 46.87.260 relating to alteration or forgery of a
28 cab card, letter of authority, or other temporary authority issued
29 under chapter 46.87 RCW;
30 ~~((57))~~ (58) RCW 46.87.290 relating to operation of an
31 unregistered or unlicensed vehicle under chapter 46.87 RCW.

32 **Sec. 17.** RCW 46.65.020 and 1991 c 293 s 7 are each amended to read
33 as follows:

34 As used in this chapter, unless a different meaning is plainly
35 required by the context, an habitual offender means any person,
36 resident or nonresident, who has accumulated convictions or findings
37 that the person committed a traffic infraction as defined in RCW

1 46.20.270, or, if a minor, has violations recorded with the department
2 of licensing, for separate and distinct offenses as described in either
3 subsection (1) or (2) below committed within a five-year period, as
4 evidenced by the records maintained in the department of licensing:
5 PROVIDED, That where more than one described offense is committed
6 within a six-hour period such multiple offenses shall, on the first
7 such occasion, be treated as one offense for the purposes of this
8 chapter:

9 (1) Three or more convictions, singularly or in combination, of the
10 following offenses:

11 (a) Vehicular homicide as defined in RCW 46.61.520;

12 (b) Vehicular assault as defined in RCW 46.61.522;

13 (c) Driving or operating a motor vehicle while under the influence
14 of intoxicants or drugs;

15 (d) Driving a motor vehicle while his or her license, permit, or
16 privilege to drive has been suspended or revoked as defined in RCW
17 46.20.342(1)(b);

18 (e) Failure of the driver of any vehicle involved in an accident
19 resulting in the injury or death of any person or damage to any vehicle
20 which is driven or attended by any person to immediately stop such
21 vehicle at the scene of such accident or as close thereto as possible
22 and to forthwith return to and in every event remain at, the scene of
23 such accident until he has fulfilled the requirements of RCW 46.52.020;

24 (f) Reckless driving in the first degree as defined in RCW
25 46.61.500;

26 (g) Reckless driving in the second degree as defined in section 2
27 of this act;

28 (h) Being in physical control of a motor vehicle while under the
29 influence of intoxicating liquor or any drug as defined in RCW
30 46.61.504; or

31 (~~(h)~~) (i) Attempting to elude a pursuing police vehicle as
32 defined in RCW 46.61.024;

33 (2) Twenty or more convictions or findings that the person
34 committed a traffic infraction for separate and distinct offenses,
35 singularly or in combination, in the operation of a motor vehicle that
36 are required to be reported to the department of licensing other than
37 the offenses of driving with an expired driver's license and not having
38 a driver's license in the operator's immediate possession. Such

1 convictions or findings shall include those for offenses enumerated in
2 subsection (1) of this section when taken with and added to those
3 offenses described herein but shall not include convictions or findings
4 for any nonmoving violation. No person may be considered an habitual
5 offender under this subsection unless at least three convictions have
6 occurred within the three hundred sixty-five days immediately preceding
7 the last conviction.

8 The offenses included in subsections (1) and (2) of this section
9 are deemed to include offenses under any valid town, city, or county
10 ordinance substantially conforming to the provisions cited in
11 subsections (1) and (2) or amendments thereto, and any federal law, or
12 any law of another state, including subdivisions thereof, substantially
13 conforming to the aforesaid state statutory provisions.

14 NEW SECTION. **Sec. 18.** This act takes effect July 1, 2004.

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