

ESSB 6150 - CONF REPT

By Conference Committee

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

3 "Sec. 1. RCW 46.20.037 and 2006 c 292 s 1 are each amended to read
4 as follows:

5 (1) ~~((No later than two years after full implementation of the
6 provisions of Title II of P.L. 109-13, improved security for driver's
7 licenses and personal identification cards (Real ID), as passed by
8 Congress May 10, 2005,))~~ The department ~~((shall))~~ may implement a
9 ~~((voluntary biometric))~~ facial recognition matching system for
10 ~~((driver's))~~ drivers' licenses, permits, and identicards. ~~((A
11 biometric))~~ Any facial recognition matching system ~~((shall))~~ selected
12 by the department must be used only to verify the identity of an
13 applicant for or holder of a ~~((renewal or duplicate))~~ driver's license,
14 permit, or identicard ~~((by matching a biometric identifier submitted by
15 the applicant against the biometric identifier submitted when the
16 license was last issued. This project requires a full review by the
17 information services board using the criteria for projects of the
18 highest visibility and risk))~~ to determine whether the person has been
19 issued a driver's license, permit, or identicard under a different name
20 or names.

21 (2) Any ~~((biometric))~~ facial recognition matching system selected
22 by the department ~~((shall))~~ must be capable of highly accurate
23 matching, and ~~((shall))~~ must be compliant with ~~((biometric))~~
24 appropriate standards established by the American association of motor
25 vehicle administrators that exist on the effective date of this
26 section, or such subsequent date as may be provided by the department
27 by rule, consistent with the purposes of this section.

28 (3) ~~((The biometric matching system selected by the department must
29 incorporate a process that allows the owner of a driver's license or
30 identicard to present a personal identification number or other code~~

1 along with the driver's license or identicard before the information
2 may be verified by a third party, including a governmental entity.

3 (4) Upon the establishment of a biometric driver's license and
4 identicard system as described in this section, the department shall
5 allow every person applying for an original, renewal, or duplicate
6 driver's license or identicard to voluntarily submit a biometric
7 identifier. Each applicant shall be informed of all ways in which the
8 biometric identifier may be used, all parties to whom the identifier
9 may be disclosed and the conditions of disclosure, the expected error
10 rates for the biometric matching system which shall be regularly
11 updated as the technology changes or empirical data is collected, and
12 the potential consequences of those errors. The department shall adopt
13 rules to allow applicants to verify the accuracy of the system at the
14 time that biometric information is submitted, including the use of at
15 least two separate devices.

16 (5) The department may not disclose biometric information to the
17 public or any governmental entity except when authorized by court
18 order.

19 (6)) The department shall post notices in conspicuous locations at
20 all department driver licensing offices, make written information
21 available to all applicants at department driver licensing offices, and
22 provide information on the department's web site regarding the facial
23 recognition matching system. The notices, written information, and
24 information on the web site must address how the facial recognition
25 matching system works, all ways in which the department may use results
26 from the facial recognition matching system, how an investigation based
27 on results from the facial recognition matching system would be
28 conducted, and a person's right to appeal any determinations made under
29 this chapter.

30 (4) Results from the facial recognition matching system:

31 (a) Are not available for public inspection and copying under
32 chapter 42.56 RCW;

33 (b) May only be disclosed when authorized by a court order;

34 (c) May only be disclosed to a federal government agency if
35 specifically required under federal law; and

36 (d) May only be disclosed by the department to a government agency,
37 including a court or law enforcement agency, for use in carrying out
38 its functions if the department has determined that person has

1 committed one of the prohibited practices listed in RCW 46.20.0921 and
2 this determination has been confirmed by a hearings examiner under this
3 chapter or the person declined a hearing or did not attend a scheduled
4 hearing.

5 (5) All ((biometric)) personally identifying information ((shall))
6 derived from the facial recognition matching system must be stored with
7 appropriate security safeguards((, including but not limited to
8 encryption)). The office of the chief information officer shall
9 develop the appropriate security standards for the department's use of
10 the facial recognition matching system, subject to approval and
11 oversight by the technology services board.

12 ~~((+7))~~ (6) The department shall develop procedures to handle
13 instances in which the ((biometric)) facial recognition matching system
14 fails to verify the identity of an applicant for a renewal or duplicate
15 driver's license, permit, or identicard. These procedures ((shall))
16 must allow an applicant to prove identity without using ((a biometric
17 identifier.

18 ~~(8) Any person who has voluntarily submitted a biometric identifier~~
19 ~~may choose to discontinue participation in the biometric matching~~
20 ~~program at any time, provided that the department utilizes a secure~~
21 ~~procedure to prevent fraudulent requests for a renewal or duplicate~~
22 ~~driver's license or identicard. When the person discontinues~~
23 ~~participation, any previously collected biometric information shall be~~
24 ~~destroyed.~~

25 ~~(9) This section does not apply when an applicant renews his or her~~
26 ~~driver's license or identicard by mail or electronic commerce)) the~~
27 facial recognition matching system.

28 NEW SECTION. Sec. 2. A new section is added to chapter 46.20 RCW
29 to read as follows:

30 (1) The department shall report to the governor and the legislature
31 by October 1st of each year, beginning October 1, 2012, on the
32 following numbers during the previous fiscal year: The number of
33 investigations initiated by the department based on results from the
34 facial recognition matching system; the number of determinations made
35 that a person has committed one of the prohibited practices in RCW
36 46.20.0921 after the completion of an investigation; the number of
37 determinations that were confirmed by a hearings examiner and the

1 number that were overturned by a hearings examiner; the number of cases
2 where a person declined a hearing or did not attend a scheduled
3 hearing; and the number of determinations that were referred to law
4 enforcement.

5 (2) This section expires June 30, 2017.

6 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.04 RCW
7 to read as follows:

8 "Facial recognition matching system" means a system that compares
9 the biometric template derived from an image of an applicant or holder
10 of a driver's license, permit, or identicard with the biometric
11 templates derived from the images in the department's negative file.

12 NEW SECTION. **Sec. 4.** RCW 46.20.038 (Biometric matching system--
13 Funding) and 2004 c 273 s 4 are each repealed.

14 **Sec. 5.** RCW 46.20.055 and 2010 c 223 s 1 are each amended to read
15 as follows:

16 (1) **Driver's instruction permit.** The department may issue a
17 driver's instruction permit with or without a photograph to an
18 applicant who has successfully passed all parts of the examination
19 other than the driving test, provided the information required by RCW
20 46.20.091, paid ((a)) an application fee of twenty-five dollars, and
21 meets the following requirements:

22 (a) Is at least fifteen and one-half years of age; or

23 (b) Is at least fifteen years of age and:

24 (i) Has submitted a proper application; and

25 (ii) Is enrolled in a traffic safety education program offered,
26 approved, and accredited by the superintendent of public instruction or
27 offered by a driver training school licensed and inspected by the
28 department of licensing under chapter 46.82 RCW, that includes practice
29 driving.

30 (2) **Waiver of written examination for instruction permit.** The
31 department may waive the written examination, if, at the time of
32 application, an applicant is enrolled in:

33 (a) A traffic safety education course as defined by RCW
34 28A.220.020(2); or

1 (b) A course of instruction offered by a licensed driver training
2 school as defined by RCW 46.82.280.

3 The department may require proof of registration in such a course
4 as it deems necessary.

5 (3) **Effect of instruction permit.** A person holding a driver's
6 instruction permit may drive a motor vehicle, other than a motorcycle,
7 upon the public highways if:

8 (a) The person has immediate possession of the permit;

9 (b) The person is not using a wireless communications device,
10 unless the person is using the device to report illegal activity,
11 summon medical or other emergency help, or prevent injury to a person
12 or property; and

13 (c) An approved instructor, or a licensed driver with at least five
14 years of driving experience, occupies the seat beside the driver.

15 (4) **Term of instruction permit.** A driver's instruction permit is
16 valid for one year from the date of issue.

17 (a) The department may issue one additional one-year permit.

18 (b) The department may issue a third driver's permit if it finds
19 after an investigation that the permittee is diligently seeking to
20 improve driving proficiency.

21 (c) A person applying (~~to renew~~) for an additional instruction
22 permit must submit the application to the department in person and pay
23 an application fee of twenty-five dollars for each issuance.

24 **Sec. 6.** RCW 46.20.117 and 2005 c 314 s 305 are each amended to
25 read as follows:

26 (1) **Issuance.** The department shall issue an identicard, containing
27 a picture, if the applicant:

28 (a) Does not hold a valid Washington driver's license;

29 (b) Proves his or her identity as required by RCW 46.20.035; and

30 (c) Pays the required fee. Except as provided in subsection (5) of
31 this section, the fee is (~~twenty~~) forty-five dollars from October 1,
32 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013,
33 unless an applicant is a recipient of continuing public assistance
34 grants under Title 74 RCW, who is referred in writing by the secretary
35 of social and health services. For those persons the fee must be the
36 actual cost of production of the identicard.

37 (2) **Design and term.** The identicard must:

1 (a) Be distinctly designed so that it will not be confused with the
2 official driver's license; and

3 (b) Except as provided in subsection (5) of this section, expire on
4 the ((fifth)) sixth anniversary of the applicant's birthdate after
5 issuance.

6 (3) **Renewal.** An application for identicard renewal may be
7 submitted by means of:

8 (a) Personal appearance before the department; or

9 (b) Mail or electronic commerce, if permitted by rule of the
10 department and if the applicant did not renew his or her identicard by
11 mail or by electronic commerce when it last expired. ~~((However, the~~
12 ~~department may accept an application for renewal of an identicard~~
13 ~~submitted by means of mail or electronic commerce only if specific~~
14 ~~authority and funding is provided for this purpose by June 30, 2004, in~~
15 ~~the omnibus transportation appropriations act.))~~

16 An identicard may not be renewed by mail or by electronic commerce
17 unless the renewal issued by the department includes a photograph of
18 the identicard holder.

19 (4) **Cancellation.** The department may cancel an identicard if the
20 holder of the identicard used the card or allowed others to use the
21 card in violation of RCW 46.20.0921.

22 (5) **Alternative issuance/renewal/extension.** The department may
23 issue or renew an identicard for a period other than five years from
24 October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or
25 may extend by mail or electronic commerce an identicard that has
26 already been issued, in order to evenly distribute, as nearly as
27 possible, the yearly renewal rate of identicard holders. The fee for
28 an identicard issued or renewed for a period other than five years from
29 October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or
30 that has been extended by mail or electronic commerce, is nine dollars
31 for each year that the identicard is issued, renewed, or extended. The
32 department may adopt any rules as are necessary to carry out this
33 subsection.

34 **Sec. 7.** RCW 46.20.120 and 2011 c 370 s 4 are each amended to read
35 as follows:

36 An applicant for a new or renewed driver's license must
37 successfully pass a driver licensing examination to qualify for a

1 driver's license. The department must ensure that examinations are
2 given at places and times reasonably available to the people of this
3 state. If the department does not administer driver licensing
4 examinations as a routine part of its licensing services within a
5 department region because adequate testing sites are provided by driver
6 training schools or school districts within that region, the department
7 shall, at a minimum, administer driver licensing examinations by
8 appointment to applicants eighteen years of age and older in at least
9 one licensing office within that region.

10 (1) **Waiver.** The department may waive:

11 (a) All or any part of the examination of any person applying for
12 the renewal of a driver's license unless the department determines that
13 the applicant is not qualified to hold a driver's license under this
14 title; or

15 (b) All or any part of the examination involving operating a motor
16 vehicle if the applicant:

17 (i) Surrenders a valid driver's license issued by the person's
18 previous home state; or

19 (ii) Provides for verification a valid driver's license issued by
20 a foreign driver licensing jurisdiction with which the department has
21 an informal agreement under RCW 46.20.125; and

22 (iii) Is otherwise qualified to be licensed.

23 (2) **Fee.** Each applicant for a new license must pay an examination
24 fee of (~~twenty~~) thirty-five dollars.

25 (a) The examination fee is in addition to the fee charged for
26 issuance of the license.

27 (b) "New license" means a license issued to a driver:

28 (i) Who has not been previously licensed in this state; or

29 (ii) Whose last previous Washington license has been expired for
30 more than (~~five~~) six years.

31 (3) An application for driver's license renewal may be submitted by
32 means of:

33 (a) Personal appearance before the department; or

34 (b) Mail or electronic commerce, if permitted by rule of the
35 department and if the applicant did not renew his or her license by
36 mail or by electronic commerce when it last expired.

37 (4) A person whose license expired or will expire while he or she
38 is living outside the state, may:

1 (a) Apply to the department to extend the validity of his or her
2 license for no more than twelve months. If the person establishes to
3 the department's satisfaction that he or she is unable to return to
4 Washington before the date his or her license expires, the department
5 shall extend the person's license. The department may grant
6 consecutive extensions, but in no event may the cumulative total of
7 extensions exceed twelve months. An extension granted under this
8 section does not change the expiration date of the license for purposes
9 of RCW 46.20.181. The department shall charge a fee of five dollars
10 for each license extension;

11 (b) Apply to the department to renew his or her license by mail or,
12 if permitted by rule of the department, by electronic commerce even if
13 subsection (3)(b) of this section would not otherwise allow renewal by
14 that means. If the person establishes to the department's satisfaction
15 that he or she is unable to return to Washington within twelve months
16 of the date that his or her license expires, the department shall renew
17 the person's license by mail or, if permitted by rule of the
18 department, by electronic commerce.

19 (5) If a qualified person submits an application for renewal under
20 subsection (3)(b) or (4)(b) of this section, he or she is not required
21 to pass an examination nor provide an updated photograph. A license
22 renewed by mail or by electronic commerce that does not include a
23 photograph of the licensee must be labeled "not valid for
24 identification purposes."

25 (6) Driver training schools licensed by the department under
26 chapter 46.82 RCW may administer the portions of the driver licensing
27 examination that test the applicant's knowledge of traffic laws and
28 ability to safely operate a motor vehicle.

29 (7) School districts that offer a traffic safety education program
30 under chapter 28A.220 RCW may administer the portions of the driver
31 licensing examination that test the applicant's knowledge of traffic
32 laws and ability to safely operate a motor vehicle.

33 **Sec. 8.** RCW 46.20.161 and 2000 c 115 s 6 are each amended to read
34 as follows:

35 The department, upon receipt of a fee of (~~twenty-five~~) forty-five
36 dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars
37 after June 30, 2013, unless the driver's license is issued for a period

1 other than five years from October 1, 2012, to June 30, 2013, or six
2 years after June 30, 2013, in which case the fee shall be (~~five~~) nine
3 dollars for each year that the license is issued, which includes the
4 fee for the required photograph, shall issue to every qualifying
5 applicant a driver's license. A driver's license issued to a person
6 under the age of eighteen is an intermediate license, subject to the
7 restrictions imposed under RCW 46.20.075, until the person reaches the
8 age of eighteen. The license must include a distinguishing number
9 assigned to the licensee, the name of record, date of birth, Washington
10 residence address, photograph, a brief description of the licensee, and
11 either a facsimile of the signature of the licensee or a space upon
12 which the licensee shall write his or her usual signature with pen and
13 ink immediately upon receipt of the license. No license is valid until
14 it has been so signed by the licensee.

15 **Sec. 9.** RCW 46.20.181 and 1999 c 308 s 3 are each amended to read
16 as follows:

17 (1) Except as provided in subsection (4) or (5) of this section,
18 every driver's license expires on the (~~fifth~~) sixth anniversary of
19 the licensee's birthdate following the issuance of the license.

20 (2) A person may renew his or her license on or before the
21 expiration date by submitting an application as prescribed by the
22 department and paying a fee of (~~twenty-five~~) forty-five dollars from
23 October 1, 2012, to June 30, 2013, and fifty-four dollars after June
24 30, 2013. This fee includes the fee for the required photograph.

25 (3) A person renewing his or her driver's license more than sixty
26 days after the license has expired shall pay a penalty fee of ten
27 dollars in addition to the renewal fee, unless his or her license
28 expired when:

29 (a) The person was outside the state and he or she renews the
30 license within sixty days after returning to this state; or

31 (b) The person was incapacitated and he or she renews the license
32 within sixty days after the termination of the incapacity.

33 (4) (~~During the period from July 1, 2000, to July 1, 2006,~~) The
34 department may issue or renew a driver's license for a period other
35 than five years from October 1, 2012, to June 30, 2013, or six years
36 after June 30, 2013, or may extend by mail or electronic commerce a
37 license that has already been issued, in order to evenly distribute, as

1 nearly as possible, the yearly renewal rate of licensed drivers. The
2 fee for a driver's license issued or renewed for a period other than
3 five years from October 1, 2012, to June 30, 2013, or six years after
4 June 30, 2013, or that has been extended by mail or electronic
5 commerce, is ((five)) nine dollars for each year that the license is
6 issued, renewed, or extended. The department may adopt any rules as
7 are necessary to carry out this subsection.

8 (5) A driver's license that includes a hazardous materials
9 endorsement under chapter 46.25 RCW may expire on an anniversary of the
10 licensee's birthdate other than the sixth year following issuance or
11 renewal of the license in order to match, as nearly as possible, the
12 validity of certification from the federal transportation security
13 administration that the licensee has been determined not to pose a
14 security risk. The fee for a driver's license issued or renewed for a
15 period other than five years from October 1, 2012, to June 30, 2013, or
16 six years after June 30, 2013, is nine dollars for each year that the
17 license is issued or renewed, not including any endorsement fees. The
18 department may adjust the expiration date of a driver's license that
19 has previously been issued to conform to the provisions of this
20 subsection if a hazardous materials endorsement is added to the license
21 subsequent to its issuance. If the validity of the driver's license is
22 extended, the licensee must pay a fee of nine dollars for each year
23 that the license is extended.

24 (6) The department may adopt any rules as are necessary to carry
25 out this section.

26 **Sec. 10.** RCW 46.20.200 and 2002 c 352 s 14 are each amended to
27 read as follows:

28 (1) If an instruction permit, identicard, or a driver's license is
29 lost or destroyed, the person to whom it was issued may obtain a
30 duplicate of it upon furnishing proof of such fact satisfactory to the
31 department and payment of a fee of ((fifteen)) twenty dollars to the
32 department.

33 (2) A replacement permit, identicard, or driver's license may be
34 obtained to change or correct material information upon payment of a
35 fee of ten dollars and surrender of the permit, identicard, or driver's
36 license being replaced.

1 **Sec. 11.** RCW 46.20.049 and 2011 c 227 s 6 are each amended to read
2 as follows:

3 There shall be an additional fee for issuing any class of
4 commercial driver's license in addition to the prescribed fee required
5 for the issuance of the original driver's license. The additional fee
6 for each class shall be (~~(sixty-one)~~) eighty-five dollars from October
7 1, 2012, to June 30, 2013, and one hundred two dollars after June 30,
8 2013, for the original commercial driver's license or subsequent
9 renewals. If the commercial driver's license is issued, renewed, or
10 extended for a period other than five years from October 1, 2012, to
11 June 30, 2013, or six years after June 30, 2013, the fee for each class
12 shall be (~~(twelve)~~) seventeen dollars (~~(and twenty cents)~~) for each
13 year that the commercial driver's license is issued, renewed, or
14 extended. The fee shall be deposited in the highway safety fund.

15 **Sec. 12.** RCW 46.20.308 and 2008 c 282 s 2 are each amended to read
16 as follows:

17 (1) Any person who operates a motor vehicle within this state is
18 deemed to have given consent, subject to the provisions of RCW
19 46.61.506, to a test or tests of his or her breath or blood for the
20 purpose of determining the alcohol concentration or presence of any
21 drug in his or her breath or blood if arrested for any offense where,
22 at the time of the arrest, the arresting officer has reasonable grounds
23 to believe the person had been driving or was in actual physical
24 control of a motor vehicle while under the influence of intoxicating
25 liquor or any drug or was in violation of RCW 46.61.503. Neither
26 consent nor this section precludes a police officer from obtaining a
27 search warrant for a person's breath or blood.

28 (2) The test or tests of breath shall be administered at the
29 direction of a law enforcement officer having reasonable grounds to
30 believe the person to have been driving or in actual physical control
31 of a motor vehicle within this state while under the influence of
32 intoxicating liquor or any drug or the person to have been driving or
33 in actual physical control of a motor vehicle while having alcohol in
34 a concentration in violation of RCW 46.61.503 in his or her system and
35 being under the age of twenty-one. However, in those instances where
36 the person is incapable due to physical injury, physical incapacity, or
37 other physical limitation, of providing a breath sample or where the

1 person is being treated in a hospital, clinic, doctor's office,
2 emergency medical vehicle, ambulance, or other similar facility or
3 where the officer has reasonable grounds to believe that the person is
4 under the influence of a drug, a blood test shall be administered by a
5 qualified person as provided in RCW 46.61.506(5). The officer shall
6 inform the person of his or her right to refuse the breath or blood
7 test, and of his or her right to have additional tests administered by
8 any qualified person of his or her choosing as provided in RCW
9 46.61.506. The officer shall warn the driver, in substantially the
10 following language, that:

11 (a) If the driver refuses to take the test, the driver's license,
12 permit, or privilege to drive will be revoked or denied for at least
13 one year; and

14 (b) If the driver refuses to take the test, the driver's refusal to
15 take the test may be used in a criminal trial; and

16 (c) If the driver submits to the test and the test is administered,
17 the driver's license, permit, or privilege to drive will be suspended,
18 revoked, or denied for at least ninety days if the driver is age
19 twenty-one or over and the test indicates the alcohol concentration of
20 the driver's breath or blood is 0.08 or more, or if the driver is under
21 age twenty-one and the test indicates the alcohol concentration of the
22 driver's breath or blood is 0.02 or more, or if the driver is under age
23 twenty-one and the driver is in violation of RCW 46.61.502 or
24 46.61.504; and

25 (d) If the driver's license, permit, or privilege to drive is
26 suspended, revoked, or denied the driver may be eligible to immediately
27 apply for an ignition interlock driver's license.

28 (3) Except as provided in this section, the test administered shall
29 be of the breath only. If an individual is unconscious or is under
30 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
31 or vehicular assault as provided in RCW 46.61.522, or if an individual
32 is under arrest for the crime of driving while under the influence of
33 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest
34 results from an accident in which there has been serious bodily injury
35 to another person, a breath or blood test may be administered without
36 the consent of the individual so arrested.

37 (4) Any person who is dead, unconscious, or who is otherwise in a
38 condition rendering him or her incapable of refusal, shall be deemed

1 not to have withdrawn the consent provided by subsection (1) of this
2 section and the test or tests may be administered, subject to the
3 provisions of RCW 46.61.506, and the person shall be deemed to have
4 received the warnings required under subsection (2) of this section.

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

10 (6) If, after arrest and after the other applicable conditions and
11 requirements of this section have been satisfied, a test or tests of
12 the person's blood or breath is administered and the test results
13 indicate that the alcohol concentration of the person's breath or blood
14 is 0.08 or more if the person is age twenty-one or over, or 0.02 or
15 more if the person is under the age of twenty-one, or the person
16 refuses to submit to a test, the arresting officer or other law
17 enforcement officer at whose direction any test has been given, or the
18 department, where applicable, if the arrest results in a test of the
19 person's blood, shall:

20 (a) Serve notice in writing on the person on behalf of the
21 department of its intention to suspend, revoke, or deny the person's
22 license, permit, or privilege to drive as required by subsection (7) of
23 this section;

24 (b) Serve notice in writing on the person on behalf of the
25 department of his or her right to a hearing, specifying the steps he or
26 she must take to obtain a hearing as provided by subsection (8) of this
27 section and that the person waives the right to a hearing if he or she
28 receives an ignition interlock driver's license;

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

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

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

5 (i) That the officer had reasonable grounds to believe the arrested
6 person had been driving or was in actual physical control of a motor
7 vehicle within this state while under the influence of intoxicating
8 liquor or drugs, or both, or was under the age of twenty-one years and
9 had been driving or was in actual physical control of a motor vehicle
10 while having an alcohol concentration in violation of RCW 46.61.503;

11 (ii) That after receipt of the warnings required by subsection (2)
12 of this section the person refused to submit to a test of his or her
13 blood or breath, or a test was administered and the results indicated
14 that the alcohol concentration of the person's breath or blood was 0.08
15 or more if the person is age twenty-one or over, or was 0.02 or more if
16 the person is under the age of twenty-one; and

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

18 (7) The department of licensing, upon the receipt of a sworn report
19 or report under a declaration authorized by RCW 9A.72.085 under
20 subsection (6)(e) of this section, shall suspend, revoke, or deny the
21 person's license, permit, or privilege to drive or any nonresident
22 operating privilege, as provided in RCW 46.20.3101, such suspension,
23 revocation, or denial to be effective beginning sixty days from the
24 date of arrest or from the date notice has been given in the event
25 notice is given by the department following a blood test, or when
26 sustained at a hearing pursuant to subsection (8) of this section,
27 whichever occurs first.

28 (8) A person receiving notification under subsection (6)(b) of this
29 section may, within twenty days after the notice has been given,
30 request in writing a formal hearing before the department. The person
31 shall pay a fee of (~~two~~) three hundred seventy-five dollars as part
32 of the request. If the request is mailed, it must be postmarked within
33 twenty days after receipt of the notification. Upon timely receipt of
34 such a request for a formal hearing, including receipt of the required
35 (~~two~~) three hundred seventy-five dollar fee, the department shall
36 afford the person an opportunity for a hearing. The department may
37 waive the required (~~two~~) three hundred seventy-five dollar fee if the
38 person is an indigent as defined in RCW 10.101.010. Except as

1 otherwise provided in this section, the hearing is subject to and shall
2 be scheduled and conducted in accordance with RCW 46.20.329 and
3 46.20.332. The hearing shall be conducted in the county of the arrest,
4 except that all or part of the hearing may, at the discretion of the
5 department, be conducted by telephone or other electronic means. The
6 hearing shall be held within sixty days following the arrest or
7 following the date notice has been given in the event notice is given
8 by the department following a blood test, unless otherwise agreed to by
9 the department and the person, in which case the action by the
10 department shall be stayed, and any valid temporary license marked
11 under subsection (6)(c) of this section extended, if the person is
12 otherwise eligible for licensing. For the purposes of this section,
13 the scope of the hearing shall cover the issues of whether a law
14 enforcement officer had reasonable grounds to believe the person had
15 been driving or was in actual physical control of a motor vehicle
16 within this state while under the influence of intoxicating liquor or
17 any drug or had been driving or was in actual physical control of a
18 motor vehicle within this state while having alcohol in his or her
19 system in a concentration of 0.02 or more if the person was under the
20 age of twenty-one, whether the person was placed under arrest, and (a)
21 whether the person refused to submit to the test or tests upon request
22 of the officer after having been informed that such refusal would
23 result in the revocation of the person's license, permit, or privilege
24 to drive, or (b) if a test or tests were administered, whether the
25 applicable requirements of this section were satisfied before the
26 administration of the test or tests, whether the person submitted to
27 the test or tests, or whether a test was administered without express
28 consent as permitted under this section, and whether the test or tests
29 indicated that the alcohol concentration of the person's breath or
30 blood was 0.08 or more if the person was age twenty-one or over at the
31 time of the arrest, or 0.02 or more if the person was under the age of
32 twenty-one at the time of the arrest. The sworn report or report under
33 a declaration authorized by RCW 9A.72.085 submitted by a law
34 enforcement officer is prima facie evidence that the officer had
35 reasonable grounds to believe the person had been driving or was in
36 actual physical control of a motor vehicle within this state while
37 under the influence of intoxicating liquor or drugs, or both, or the
38 person had been driving or was in actual physical control of a motor

1 vehicle within this state while having alcohol in his or her system in
2 a concentration of 0.02 or more and was under the age of twenty-one and
3 that the officer complied with the requirements of this section.

4 A hearing officer shall conduct the hearing, may issue subpoenas
5 for the attendance of witnesses and the production of documents, and
6 shall administer oaths to witnesses. The hearing officer shall not
7 issue a subpoena for the attendance of a witness at the request of the
8 person unless the request is accompanied by the fee required by RCW
9 5.56.010 for a witness in district court. The sworn report or report
10 under a declaration authorized by RCW 9A.72.085 of the law enforcement
11 officer and any other evidence accompanying the report shall be
12 admissible without further evidentiary foundation and the
13 certifications authorized by the criminal rules for courts of limited
14 jurisdiction shall be admissible without further evidentiary
15 foundation. The person may be represented by counsel, may question
16 witnesses, may present evidence, and may testify. The department shall
17 order that the suspension, revocation, or denial either be rescinded or
18 sustained.

19 (9) If the suspension, revocation, or denial is sustained after
20 such a hearing, the person whose license, privilege, or permit is
21 suspended, revoked, or denied has the right to file a petition in the
22 superior court of the county of arrest to review the final order of
23 revocation by the department in the same manner as an appeal from a
24 decision of a court of limited jurisdiction. Notice of appeal must be
25 filed within thirty days after the date the final order is served or
26 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ
27 1.1, or other statutes or rules referencing de novo review, the appeal
28 shall be limited to a review of the record of the administrative
29 hearing. The appellant must pay the costs associated with obtaining
30 the record of the hearing before the hearing officer. The filing of
31 the appeal does not stay the effective date of the suspension,
32 revocation, or denial. A petition filed under this subsection must
33 include the petitioner's grounds for requesting review. Upon granting
34 petitioner's request for review, the court shall review the
35 department's final order of suspension, revocation, or denial as
36 expeditiously as possible. The review must be limited to a
37 determination of whether the department has committed any errors of
38 law. The superior court shall accept those factual determinations

1 supported by substantial evidence in the record: (a) That were
2 expressly made by the department; or (b) that may reasonably be
3 inferred from the final order of the department. The superior court
4 may reverse, affirm, or modify the decision of the department or remand
5 the case back to the department for further proceedings. The decision
6 of the superior court must be in writing and filed in the clerk's
7 office with the other papers in the case. The court shall state the
8 reasons for the decision. If judicial relief is sought for a stay or
9 other temporary remedy from the department's action, the court shall
10 not grant such relief unless the court finds that the appellant is
11 likely to prevail in the appeal and that without a stay the appellant
12 will suffer irreparable injury. If the court stays the suspension,
13 revocation, or denial it may impose conditions on such stay.

14 (10)(a) If a person whose driver's license, permit, or privilege to
15 drive has been or will be suspended, revoked, or denied under
16 subsection (7) of this section, other than as a result of a breath or
17 blood test refusal, and who has not committed an offense for which he
18 or she was granted a deferred prosecution under chapter 10.05 RCW,
19 petitions a court for a deferred prosecution on criminal charges
20 arising out of the arrest for which action has been or will be taken
21 under subsection (7) of this section, or notifies the department of
22 licensing of the intent to seek such a deferred prosecution, then the
23 license suspension or revocation shall be stayed pending entry of the
24 deferred prosecution. The stay shall not be longer than one hundred
25 fifty days after the date charges are filed, or two years after the
26 date of the arrest, whichever time period is shorter. If the court
27 stays the suspension, revocation, or denial, it may impose conditions
28 on such stay. If the person is otherwise eligible for licensing, the
29 department shall issue a temporary license, or extend any valid
30 temporary license marked under subsection (6) of this section, for the
31 period of the stay. If a deferred prosecution treatment plan is not
32 recommended in the report made under RCW 10.05.050, or if treatment is
33 rejected by the court, or if the person declines to accept an offered
34 treatment plan, or if the person violates any condition imposed by the
35 court, then the court shall immediately direct the department to cancel
36 the stay and any temporary marked license or extension of a temporary
37 license issued under this subsection.

1 (b) A suspension, revocation, or denial imposed under this section,
2 other than as a result of a breath or blood test refusal, shall be
3 stayed if the person is accepted for deferred prosecution as provided
4 in chapter 10.05 RCW for the incident upon which the suspension,
5 revocation, or denial is based. If the deferred prosecution is
6 terminated, the stay shall be lifted and the suspension, revocation, or
7 denial reinstated. If the deferred prosecution is completed, the stay
8 shall be lifted and the suspension, revocation, or denial canceled.

9 (c) The provisions of (b) of this subsection relating to a stay of
10 a suspension, revocation, or denial and the cancellation of any
11 suspension, revocation, or denial do not apply to the suspension,
12 revocation, denial, or disqualification of a person's commercial
13 driver's license or privilege to operate a commercial motor vehicle.

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

20 **Sec. 13.** RCW 46.20.505 and 2007 c 97 s 1 are each amended to read
21 as follows:

22 Every person applying for a special endorsement of a driver's
23 license authorizing such person to drive a two or three-wheeled
24 motorcycle or a motor-driven cycle shall pay a fee of five dollars,
25 which is not refundable. In addition, the endorsement fee for the
26 initial motorcycle endorsement shall not exceed ~~((ten))~~ twelve
27 dollars~~((, and))~~, unless the endorsement is issued for a period other
28 than six years, in which case the endorsement fee shall not exceed two
29 dollars for each year the initial motorcycle endorsement is issued.
30 The subsequent renewal endorsement fee shall not exceed ~~((twenty-five))~~
31 thirty dollars, unless the endorsement is renewed or extended for a
32 period other than ~~((five))~~ six years, in which case the subsequent
33 renewal endorsement fee shall not exceed five dollars for each year
34 that the endorsement is renewed or extended. Fees collected under this
35 section shall be deposited in the motorcycle safety education account
36 of the highway safety fund.

1 NEW SECTION. **Sec. 14.** Sections 5 through 13 of this act take
2 effect October 1, 2012."

ESSB 6150 - CONF REPT
By Conference Committee

3 On page 1, line 3 of the title, after "system;" strike the
4 remainder of the title and insert "amending RCW 46.20.037, 46.20.055,
5 46.20.117, 46.20.120, 46.20.161, 46.20.181, 46.20.200, 46.20.049,
6 46.20.308, and 46.20.505; adding a new section to chapter 46.20 RCW;
7 adding a new section to chapter 46.04 RCW; repealing RCW 46.20.038;
8 providing an effective date; and providing an expiration date."

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