

2SSB 5912 - S AMD 369  
By Senator Padden

ADOPTED AS AMENDED 06/26/2013

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 10.21 RCW  
4 to read as follows:

5 (1) When any person charged with or arrested for a violation of RCW  
6 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in which the person has  
7 a prior offense as defined in RCW 46.61.5055 and the current offense  
8 involves alcohol, is released from custody before arraignment or trial  
9 on bail or personal recognizance, the court authorizing the release  
10 shall require, as a condition of release, that person to (a) have a  
11 functioning ignition interlock device installed on all motor vehicles  
12 operated by the person, with proof of installation filed with the court  
13 by the person or the certified interlock provider within five business  
14 days of the date of release from custody or as soon thereafter as  
15 determined by the court based on availability within the jurisdiction;  
16 or (b) comply with 24/7 sobriety program monitoring, as defined in  
17 section 26 of this act; or both.

18 (2) Upon acquittal or dismissal of all pending or current charges  
19 relating to a violation of RCW 46.61.502, 46.61.504, 46.61.520, or  
20 46.61.522, or equivalent local ordinance, the court shall authorize  
21 removal of the ignition interlock device and lift any requirement to  
22 comply with electronic alcohol/drug monitoring imposed under subsection  
23 (1) of this section. Nothing in this section limits the authority of  
24 the court or department under RCW 46.20.720.

25 **Sec. 2.** RCW 2.28.175 and 2013 c 257 s 6 are each amended to read  
26 as follows:

27 (1) Jurisdictions and municipalities may establish and operate DUI  
28 courts. Municipalities may enter into cooperative agreements with

1 counties or other municipalities that have DUI courts to provide DUI  
2 court services.

3 (2) For the purposes of this section, "DUI court" means a court  
4 that has special calendars or dockets designed to achieve a reduction  
5 in recidivism of impaired driving among nonviolent, alcohol abusing  
6 offenders, whether adult or juvenile, by increasing their likelihood  
7 for successful rehabilitation through early, continuous, and intense  
8 judicially supervised treatment; mandatory periodic testing for alcohol  
9 use and, if applicable, drug use; and the use of appropriate sanctions  
10 and other rehabilitation services.

11 (3)(a) Any jurisdiction that seeks a state appropriation to fund a  
12 DUI court program must first:

13 (i) Exhaust all federal funding that is available to support the  
14 operations of its DUI court and associated services; and

15 (ii) Match, on a dollar-for-dollar basis, state moneys allocated  
16 for DUI court programs with local cash or in-kind resources. Moneys  
17 allocated by the state must be used to supplement, not supplant, other  
18 federal, state, and local funds for DUI court operations and associated  
19 services. However, until June 30, 2014, no match is required for state  
20 moneys expended for the administrative and overhead costs associated  
21 with the operation of a DUI court established as of January 1, 2011.

22 (b) Any jurisdiction that establishes a DUI court pursuant to this  
23 section shall establish minimum requirements for the participation of  
24 offenders in the program. The DUI court may adopt local requirements  
25 that are more stringent than the minimum. The minimum requirements  
26 are:

27 (i) The offender would benefit from alcohol treatment;

28 (ii) The offender has not previously been convicted of a serious  
29 violent offense or sex offense as defined in RCW 9.94A.030, vehicular  
30 homicide under RCW 46.61.520, vehicular assault under RCW 46.61.522, or  
31 an equivalent out-of-state offense; and

32 (iii) Without regard to whether proof of any of these elements is  
33 required to convict, the offender is not currently charged with or  
34 convicted of an offense:

- 35 (A) That is a sex offense;
- 36 (B) That is a serious violent offense;
- 37 (C) That is vehicular homicide or vehicular assault;
- 38 (D) During which the defendant used a firearm; or

1 (E) During which the defendant caused substantial or great bodily  
2 harm or death to another person.

3 **Sec. 3.** RCW 3.66.067 and 2001 c 94 s 1 are each amended to read as  
4 follows:

5 After a conviction, the court may impose sentence by suspending all  
6 or a portion of the defendant's sentence or by deferring the sentence  
7 of the defendant and may place the defendant on probation for a period  
8 of no longer than two years and prescribe the conditions thereof. A  
9 defendant who has been sentenced, or whose sentence has been deferred,  
10 and who then fails to appear for any hearing to address the defendant's  
11 compliance with the terms of probation when ordered to do so by the  
12 court, shall have the term of probation tolled until such time as the  
13 defendant makes his or her presence known to the court on the record.  
14 During the time of the deferral, the court may, for good cause shown,  
15 permit a defendant to withdraw the plea of guilty and to enter a plea  
16 of not guilty, and the court may dismiss the charges. A court shall  
17 not defer sentence for an offense sentenced under RCW 46.61.5055.

18 **Sec. 4.** RCW 3.66.068 and 2010 c 274 s 405 are each amended to read  
19 as follows:

20 (1) A court has continuing jurisdiction and authority to suspend  
21 the execution of all or any part of its sentence upon stated terms,  
22 including installment payment of fines for a period not to exceed:

23 (a) Five years after imposition of sentence for a defendant  
24 sentenced for a domestic violence offense or under RCW 46.61.5055; and

25 (b) Two years after imposition of sentence for all other  
26 offenses(~~(, the)~~).

27 (2)(a) Except as provided in (b) of this subsection, a court has  
28 continuing jurisdiction and authority to (~~suspend or~~) defer the  
29 execution of all or any part of its sentence upon stated terms,  
30 including installment payment of fines for a period not to exceed:

31 (i) Five years after imposition of sentence for a defendant  
32 sentenced for a domestic violence offense; and

33 (ii) Two years after imposition of sentence for all other offenses.

34 (b) A court shall not defer sentence for an offense sentenced under  
35 RCW 46.61.5055.

1       (3) A defendant who has been sentenced, or whose sentence has been  
2 deferred, and who then fails to appear for any hearing to address the  
3 defendant's compliance with the terms of probation when ordered to do  
4 so by the court, shall have the term of probation tolled until such  
5 time as the defendant makes his or her presence known to the court on  
6 the record.

7       (4) However, the court's jurisdiction period in this section does  
8 not apply to the enforcement of orders issued under RCW 46.20.720.

9       (5) For the purposes of this section, "domestic violence offense"  
10 means a crime listed in RCW 10.99.020 that is not a felony offense.

11       **Sec. 5.** RCW 3.50.320 and 2001 c 94 s 4 are each amended to read as  
12 follows:

13       After a conviction, the court may impose sentence by suspending all  
14 or a portion of the defendant's sentence or by deferring the sentence  
15 of the defendant and may place the defendant on probation for a period  
16 of no longer than two years and prescribe the conditions thereof. A  
17 defendant who has been sentenced, or whose sentence has been deferred,  
18 and who then fails to appear for any hearing to address the defendant's  
19 compliance with the terms of probation when ordered to do so by the  
20 court, shall have the term of probation tolled until such time as the  
21 defendant makes his or her presence known to the court on the record.  
22 During the time of the deferral, the court may, for good cause shown,  
23 permit a defendant to withdraw the plea of guilty, permit the defendant  
24 to enter a plea of not guilty, and dismiss the charges. A court shall  
25 not defer sentence for an offense sentenced under RCW 46.61.5055.

26       **Sec. 6.** RCW 3.50.330 and 2010 c 274 s 406 are each amended to read  
27 as follows:

28       (1) A court has continuing jurisdiction and authority to suspend  
29 the execution of all or any part of its sentence upon stated terms,  
30 including installment payment of fines for a period not to exceed:

31       (a) Five years after imposition of sentence for a defendant  
32 sentenced for a domestic violence offense or under RCW 46.61.5055; and

33       (b) Two years after imposition of sentence for all other  
34 offenses(~~(, the)~~).

35       (2)(a) Except as provided in (b) of this subsection, a court shall

1 have continuing jurisdiction and authority to (~~suspend or~~) defer the  
2 execution of all or any part of the sentence upon stated terms,  
3 including installment payment of fines for a period not to exceed:

4 (i) Five years after imposition of sentence for a defendant  
5 sentenced for a domestic violence offense; and

6 (ii) Two years after imposition of sentence for all other offenses.

7 (b) A court shall not defer sentence for an offense sentenced under  
8 RCW 46.61.5055.

9 (3) A defendant who has been sentenced, or whose sentence has been  
10 deferred, and who then fails to appear for any hearing to address the  
11 defendant's compliance with the terms of probation when ordered to do  
12 so by the court, shall have the term of probation tolled until such  
13 time as the defendant makes his or her presence known to the court on  
14 the record.

15 (4) However, the court's jurisdiction period in this section does  
16 not apply to the enforcement of orders issued under RCW 46.20.720.

17 (5) Any time before entering an order terminating probation, the  
18 court may modify or revoke its order suspending or deferring the  
19 imposition or execution of the sentence.

20 (6) For the purposes of this section, "domestic violence offense"  
21 means a crime listed in RCW 10.99.020 that is not a felony offense.

22 **Sec. 7.** RCW 35.20.255 and 2010 c 274 s 407 are each amended to  
23 read as follows:

24 (1) Except as provided in subsection (3) of this section, judges of  
25 the municipal court, in their discretion, shall have the power in all  
26 criminal proceedings within their jurisdiction including violations of  
27 city ordinances, to defer imposition of any sentence, suspend all or  
28 part of any sentence including installment payment of fines, fix the  
29 terms of any such deferral or suspension, and provide for such  
30 probation as in their opinion is reasonable and necessary under the  
31 circumstances of the case, but in no case shall it extend for more than  
32 five years from the date of conviction for a defendant to be sentenced  
33 for a domestic violence offense or under RCW 46.61.5055 and two years  
34 from the date of conviction for all other offenses. A defendant who  
35 has been sentenced, or whose sentence has been deferred, and who then  
36 fails to appear for any hearing to address the defendant's compliance  
37 with the terms of probation when ordered to do so by the court, shall

1 have the term of probation tolled until such time as the defendant  
2 makes his or her presence known to the court on the record. However,  
3 the jurisdiction period in this section does not apply to the  
4 enforcement of orders issued under RCW 46.20.720. Any time before  
5 entering an order terminating probation, the court may modify or revoke  
6 its order suspending or deferring the imposition or execution of the  
7 sentence. For the purposes of this subsection, "domestic violence  
8 offense" means a crime listed in RCW 10.99.020 that is not a felony  
9 offense.

10 (2)(a) If a defendant whose sentence has been deferred requests  
11 permission to travel or transfer to another state, the director of  
12 probation services or a designee thereof shall determine whether such  
13 request is subject to RCW 9.94A.745, the interstate compact for adult  
14 offender supervision. If such request is subject to the compact, the  
15 director or designee shall:

16 (i) Notify the department of corrections of the defendant's  
17 request;

18 (ii) Provide the department of corrections with the supporting  
19 documentation it requests for processing an application for transfer;

20 (iii) Notify the defendant of the fee due to the department of  
21 corrections for processing an application under the compact;

22 (iv) Cease supervision of the defendant while another state  
23 supervises the defendant pursuant to the compact;

24 (v) Resume supervision if the defendant returns to this state  
25 before the period of deferral expires.

26 (b) The defendant shall receive credit for time served while being  
27 supervised by another state.

28 (c) If the probationer is returned to the state at the request of  
29 the receiving state under rules of the interstate compact for adult  
30 offender supervision, the department of corrections is responsible for  
31 the cost of returning the probationer.

32 (d) The state of Washington, the department of corrections and its  
33 employees, and any city and its employees are not liable for civil  
34 damages resulting from any act or omission authorized or required under  
35 this section unless the act or omission constitutes gross negligence.

36 (3) Judges of the municipal court shall not defer sentence for an  
37 offense sentenced under RCW 46.61.5055.

1       **Sec. 8.** RCW 9.94A.525 and 2011 c 166 s 3 are each amended to read  
2 as follows:

3       The offender score is measured on the horizontal axis of the  
4 sentencing grid. The offender score rules are as follows:

5       The offender score is the sum of points accrued under this section  
6 rounded down to the nearest whole number.

7       (1) A prior conviction is a conviction which exists before the date  
8 of sentencing for the offense for which the offender score is being  
9 computed. Convictions entered or sentenced on the same date as the  
10 conviction for which the offender score is being computed shall be  
11 deemed "other current offenses" within the meaning of RCW 9.94A.589.

12       (2)(a) Class A and sex prior felony convictions shall always be  
13 included in the offender score.

14       (b) Class B prior felony convictions other than sex offenses shall  
15 not be included in the offender score, if since the last date of  
16 release from confinement (including full-time residential treatment)  
17 pursuant to a felony conviction, if any, or entry of judgment and  
18 sentence, the offender had spent ten consecutive years in the community  
19 without committing any crime that subsequently results in a conviction.

20       (c) Except as provided in (e) of this subsection, class C prior  
21 felony convictions other than sex offenses shall not be included in the  
22 offender score if, since the last date of release from confinement  
23 (including full-time residential treatment) pursuant to a felony  
24 conviction, if any, or entry of judgment and sentence, the offender had  
25 spent five consecutive years in the community without committing any  
26 crime that subsequently results in a conviction.

27       (d) Except as provided in (e) of this subsection, serious traffic  
28 convictions shall not be included in the offender score if, since the  
29 last date of release from confinement (including full-time residential  
30 treatment) pursuant to a ((felony)) conviction, if any, or entry of  
31 judgment and sentence, the offender spent five years in the community  
32 without committing any crime that subsequently results in a conviction.

33       (e) If the present conviction is felony driving while under the  
34 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or  
35 felony physical control of a vehicle while under the influence of  
36 intoxicating liquor or any drug (RCW 46.61.504(6)), (~~prior convictions~~  
37 ~~of felony driving while under the influence of intoxicating liquor or~~  
38 ~~any drug, felony physical control of a vehicle while under the~~

1 ~~influence of intoxicating liquor or any drug, and serious traffic~~  
2 ~~offenses shall be included in the offender score if: (i) The prior~~  
3 ~~convictions were committed within five years since the last date of~~  
4 ~~release from confinement (including full-time residential treatment) or~~  
5 ~~entry of judgment and sentence; or (ii) the prior convictions would be~~  
6 ~~considered "prior offenses within ten years" as defined in RCW~~  
7 ~~46.61.5055))~~ all predicate crimes for the offense as defined by RCW  
8 46.61.5055(14) shall be included in the offender score, and prior  
9 convictions for felony driving while under the influence of  
10 intoxicating liquor or any drug (RCW 46.61.502(6)) or felony physical  
11 control of a vehicle while under the influence of intoxicating liquor  
12 or any drug (RCW 46.61.504(6)) shall always be included in the offender  
13 score. All other convictions of the defendant shall be scored  
14 according to this section.

15 (f) Prior convictions for a repetitive domestic violence offense,  
16 as defined in RCW 9.94A.030, shall not be included in the offender  
17 score if, since the last date of release from confinement or entry of  
18 judgment and sentence, the offender had spent ten consecutive years in  
19 the community without committing any crime that subsequently results in  
20 a conviction.

21 (g) This subsection applies to both adult and juvenile prior  
22 convictions.

23 (3) Out-of-state convictions for offenses shall be classified  
24 according to the comparable offense definitions and sentences provided  
25 by Washington law. Federal convictions for offenses shall be  
26 classified according to the comparable offense definitions and  
27 sentences provided by Washington law. If there is no clearly  
28 comparable offense under Washington law or the offense is one that is  
29 usually considered subject to exclusive federal jurisdiction, the  
30 offense shall be scored as a class C felony equivalent if it was a  
31 felony under the relevant federal statute.

32 (4) Score prior convictions for felony anticipatory offenses  
33 (attempts, criminal solicitations, and criminal conspiracies) the same  
34 as if they were convictions for completed offenses.

35 (5)(a) In the case of multiple prior convictions, for the purpose  
36 of computing the offender score, count all convictions separately,  
37 except:



1 (i) Prior offenses which were found, under RCW 9.94A.589(1)(a), to  
2 encompass the same criminal conduct, shall be counted as one offense,  
3 the offense that yields the highest offender score. The current  
4 sentencing court shall determine with respect to other prior adult  
5 offenses for which sentences were served concurrently or prior juvenile  
6 offenses for which sentences were served consecutively, whether those  
7 offenses shall be counted as one offense or as separate offenses using  
8 the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), and  
9 if the court finds that they shall be counted as one offense, then the  
10 offense that yields the highest offender score shall be used. The  
11 current sentencing court may presume that such other prior offenses  
12 were not the same criminal conduct from sentences imposed on separate  
13 dates, or in separate counties or jurisdictions, or in separate  
14 complaints, indictments, or informations;

15 (ii) In the case of multiple prior convictions for offenses  
16 committed before July 1, 1986, for the purpose of computing the  
17 offender score, count all adult convictions served concurrently as one  
18 offense, and count all juvenile convictions entered on the same date as  
19 one offense. Use the conviction for the offense that yields the  
20 highest offender score.

21 (b) As used in this subsection (5), "served concurrently" means  
22 that: (i) The latter sentence was imposed with specific reference to  
23 the former; (ii) the concurrent relationship of the sentences was  
24 judicially imposed; and (iii) the concurrent timing of the sentences  
25 was not the result of a probation or parole revocation on the former  
26 offense.

27 (6) If the present conviction is one of the anticipatory offenses  
28 of criminal attempt, solicitation, or conspiracy, count each prior  
29 conviction as if the present conviction were for a completed offense.  
30 When these convictions are used as criminal history, score them the  
31 same as a completed crime.

32 (7) If the present conviction is for a nonviolent offense and not  
33 covered by subsection (11), (12), or (13) of this section, count one  
34 point for each adult prior felony conviction and one point for each  
35 juvenile prior violent felony conviction and 1/2 point for each  
36 juvenile prior nonviolent felony conviction.

37 (8) If the present conviction is for a violent offense and not  
38 covered in subsection (9), (10), (11), (12), or (13) of this section,

1 count two points for each prior adult and juvenile violent felony  
2 conviction, one point for each prior adult nonviolent felony  
3 conviction, and 1/2 point for each prior juvenile nonviolent felony  
4 conviction.

5 (9) If the present conviction is for a serious violent offense,  
6 count three points for prior adult and juvenile convictions for crimes  
7 in this category, two points for each prior adult and juvenile violent  
8 conviction (not already counted), one point for each prior adult  
9 nonviolent felony conviction, and 1/2 point for each prior juvenile  
10 nonviolent felony conviction.

11 (10) If the present conviction is for Burglary 1, count prior  
12 convictions as in subsection (8) of this section; however count two  
13 points for each prior adult Burglary 2 or residential burglary  
14 conviction, and one point for each prior juvenile Burglary 2 or  
15 residential burglary conviction.

16 (11) If the present conviction is for a felony traffic offense  
17 count two points for each adult or juvenile prior conviction for  
18 Vehicular Homicide or Vehicular Assault; for each felony offense count  
19 one point for each adult and 1/2 point for each juvenile prior  
20 conviction; for each serious traffic offense, other than those used for  
21 an enhancement pursuant to RCW 46.61.520(2), count one point for each  
22 adult and 1/2 point for each juvenile prior conviction; count one point  
23 for each adult and 1/2 point for each juvenile prior conviction for  
24 operation of a vessel while under the influence of intoxicating liquor  
25 or any drug.

26 (12) If the present conviction is for homicide by watercraft or  
27 assault by watercraft count two points for each adult or juvenile prior  
28 conviction for homicide by watercraft or assault by watercraft; for  
29 each felony offense count one point for each adult and 1/2 point for  
30 each juvenile prior conviction; count one point for each adult and 1/2  
31 point for each juvenile prior conviction for driving under the  
32 influence of intoxicating liquor or any drug, actual physical control  
33 of a motor vehicle while under the influence of intoxicating liquor or  
34 any drug, or operation of a vessel while under the influence of  
35 intoxicating liquor or any drug.

36 (13) If the present conviction is for manufacture of  
37 methamphetamine count three points for each adult prior manufacture of  
38 methamphetamine conviction and two points for each juvenile manufacture

1 of methamphetamine offense. If the present conviction is for a drug  
2 offense and the offender has a criminal history that includes a sex  
3 offense or serious violent offense, count three points for each adult  
4 prior felony drug offense conviction and two points for each juvenile  
5 drug offense. All other adult and juvenile felonies are scored as in  
6 subsection (8) of this section if the current drug offense is violent,  
7 or as in subsection (7) of this section if the current drug offense is  
8 nonviolent.

9 (14) If the present conviction is for Escape from Community  
10 Custody, RCW 72.09.310, count only prior escape convictions in the  
11 offender score. Count adult prior escape convictions as one point and  
12 juvenile prior escape convictions as 1/2 point.

13 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
14 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
15 juvenile prior convictions as 1/2 point.

16 (16) If the present conviction is for Burglary 2 or residential  
17 burglary, count priors as in subsection (7) of this section; however,  
18 count two points for each adult and juvenile prior Burglary 1  
19 conviction, two points for each adult prior Burglary 2 or residential  
20 burglary conviction, and one point for each juvenile prior Burglary 2  
21 or residential burglary conviction.

22 (17) If the present conviction is for a sex offense, count priors  
23 as in subsections (7) through (11) and (13) through (16) of this  
24 section; however count three points for each adult and juvenile prior  
25 sex offense conviction.

26 (18) If the present conviction is for failure to register as a sex  
27 offender under RCW 9A.44.130 or 9A.44.132, count priors as in  
28 subsections (7) through (11) and (13) through (16) of this section;  
29 however count three points for each adult and juvenile prior sex  
30 offense conviction, excluding prior convictions for failure to register  
31 as a sex offender under RCW 9A.44.130 or 9A.44.132, which shall count  
32 as one point.

33 (19) If the present conviction is for an offense committed while  
34 the offender was under community custody, add one point. For purposes  
35 of this subsection, community custody includes community placement or  
36 postrelease supervision, as defined in chapter 9.94B RCW.

37 (20) If the present conviction is for Theft of a Motor Vehicle,  
38 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without

1 Permission 1, or Taking a Motor Vehicle Without Permission 2, count  
2 priors as in subsections (7) through (18) of this section; however  
3 count one point for prior convictions of Vehicle Prowling 2, and three  
4 points for each adult and juvenile prior Theft 1 (of a motor vehicle),  
5 Theft 2 (of a motor vehicle), Possession of Stolen Property 1 (of a  
6 motor vehicle), Possession of Stolen Property 2 (of a motor vehicle),  
7 Theft of a Motor Vehicle, Possession of a Stolen Vehicle, Taking a  
8 Motor Vehicle Without Permission 1, or Taking a Motor Vehicle Without  
9 Permission 2 conviction.

10 (21) If the present conviction is for a felony domestic violence  
11 offense where domestic violence as defined in RCW 9.94A.030 was plead  
12 and proven, count priors as in subsections (7) through (20) of this  
13 section; however, count points as follows:

14 (a) Count two points for each adult prior conviction where domestic  
15 violence as defined in RCW 9.94A.030 was plead and proven after August  
16 1, 2011, for the following offenses: A violation of a no-contact order  
17 that is a felony offense, a violation of a protection order that is a  
18 felony offense, a felony domestic violence harassment offense, a felony  
19 domestic violence stalking offense, a domestic violence Burglary 1  
20 offense, a domestic violence Kidnapping 1 offense, a domestic violence  
21 Kidnapping 2 offense, a domestic violence unlawful imprisonment  
22 offense, a domestic violence Robbery 1 offense, a domestic violence  
23 Robbery 2 offense, a domestic violence Assault 1 offense, a domestic  
24 violence Assault 2 offense, a domestic violence Assault 3 offense, a  
25 domestic violence Arson 1 offense, or a domestic violence Arson 2  
26 offense;

27 (b) Count one point for each second and subsequent juvenile  
28 conviction where domestic violence as defined in RCW 9.94A.030 was  
29 plead and proven after August 1, 2011, for the offenses listed in (a)  
30 of this subsection; and

31 (c) Count one point for each adult prior conviction for a  
32 repetitive domestic violence offense as defined in RCW 9.94A.030, where  
33 domestic violence as defined in RCW 9.94A.030, was plead and proven  
34 after August 1, 2011.

35 (22) The fact that a prior conviction was not included in an  
36 offender's offender score or criminal history at a previous sentencing  
37 shall have no bearing on whether it is included in the criminal history  
38 or offender score for the current offense. Prior convictions that were

1 not counted in the offender score or included in criminal history under  
2 repealed or previous versions of the sentencing reform act shall be  
3 included in criminal history and shall count in the offender score if  
4 the current version of the sentencing reform act requires including or  
5 counting those convictions. Prior convictions that were not included  
6 in criminal history or in the offender score shall be included upon any  
7 resentencing to ensure imposition of an accurate sentence.

8 **Sec. 9.** RCW 43.43.395 and 2012 c 183 s 16 are each amended to read  
9 as follows:

10 (1) The state patrol shall by rule provide standards for the  
11 certification, installation, repair, maintenance, monitoring,  
12 inspection, and removal of ignition interlock devices, as defined under  
13 RCW 46.04.215, and equipment as outlined under this section, and may  
14 inspect the records and equipment of manufacturers and vendors during  
15 regular business hours for compliance with statutes and rules and may  
16 suspend or revoke certification for any noncompliance. ((The state  
17 patrol may only inspect ignition interlock devices in the vehicles of  
18 customers for proper installation and functioning when installation is  
19 being done at the vendors' place of business.))

20 (2)(a) When a certified service provider or individual installer of  
21 ignition interlock devices is found to be out of compliance, the  
22 installation privileges of that certified service provider or  
23 individual installer may be suspended or revoked until the certified  
24 service provider or individual installer comes into compliance. During  
25 any suspension or revocation period, the certified service provider or  
26 individual installer is responsible for notifying affected customers of  
27 any changes in their service agreement.

28 (b) A certified service provider or individual installer whose  
29 certification is suspended or revoked for noncompliance has a right to  
30 an administrative hearing under chapter 34.05 RCW to contest the  
31 suspension or revocation, or both. For the administrative hearing, the  
32 procedure and rules of evidence are as specified in chapter 34.05 RCW,  
33 except as otherwise provided in this chapter. Any request for an  
34 administrative hearing must be made in writing and must be received by  
35 the state patrol within twenty days after the receipt of the notice of  
36 suspension or revocation.

1 (3)(a) An ignition interlock device must employ fuel cell  
2 technology. For the purposes of this subsection, "fuel cell  
3 technology" consists of the following electrochemical method: An  
4 electrolyte designed to oxidize the alcohol and release electrons to be  
5 collected by an active electrode; a current flow is generated within  
6 the electrode proportional to the amount of alcohol oxidized on the  
7 fuel cell surface; and the electrical current is measured and reported  
8 as breath alcohol concentration. Fuel cell technology is highly  
9 specific for alcohols.

10 (b) When reasonably available in the area, as determined by the  
11 state patrol, an ignition interlock device must employ technology  
12 capable of taking a photo identification of the user giving the breath  
13 sample and recording on the photo the time the breath sample was given.

14 (c) To be certified, an ignition interlock device must:

15 (i) Meet or exceed the minimum test standards according to rules  
16 adopted by the state patrol. Only a notarized statement from a  
17 laboratory that is certified by the international organization of  
18 standardization and is capable of performing the tests specified will  
19 be accepted as proof of meeting or exceeding the standards. The  
20 notarized statement must include the name and signature of the person  
21 in charge of the tests under the (~~following statement:~~

22 ~~"Two samples of (model name), manufactured by (manufacturer)~~  
23 ~~were tested by (laboratory) certified by the International Organization of~~  
24 ~~Standardization. They do meet or exceed all specifications listed in~~  
25 ~~the Federal Register, Volume 71, Number 31 (57 FR 11772), Breath~~  
26 ~~Alcohol Ignition Interlock Devices (BAIID), NHTSA 2005-23470.")~~  
27 certification statement. The state patrol must adopt by rule the  
28 required language of the certification statement that must, at a  
29 minimum, outline that the testing meets or exceeds all specifications  
30 listed in the federal register adopted in rule by the state patrol; and

31  
32 (ii) Be maintained in accordance with the rules and standards  
33 adopted by the state patrol.

34 **Sec. 10.** RCW 46.25.090 and 2011 c 227 s 4 are each amended to read  
35 as follows:

36 (1) A person is disqualified from driving a commercial motor  
37 vehicle for a period of not less than one year if a report has been

1 received by the department pursuant to RCW 46.20.308 or 46.25.120, or  
2 if the person has been convicted of a first violation, within this or  
3 any other jurisdiction, of:

4 (a) Driving a motor vehicle under the influence of alcohol or any  
5 drug;

6 (b) Driving a commercial motor vehicle while the alcohol  
7 concentration in the person's system is 0.04 or more or any measurable  
8 amount of THC concentration, or driving a noncommercial motor vehicle  
9 while the alcohol concentration in the person's system is 0.08 or more,  
10 or is 0.02 or more if the person is under age twenty-one, or with a THC  
11 concentration of 5.00 nanograms per milliliter of whole blood or more,  
12 or a THC concentration above 0.00 if the person is under the age of  
13 twenty-one, as determined by any testing methods approved by law in  
14 this state or any other state or jurisdiction;

15 (c) Leaving the scene of an accident involving a motor vehicle  
16 driven by the person;

17 (d) Using a motor vehicle in the commission of a felony;

18 (e) Refusing to submit to a test or tests to determine the driver's  
19 alcohol concentration or the presence of any drug while driving a motor  
20 vehicle;

21 (f) Driving a commercial motor vehicle when, as a result of prior  
22 violations committed while operating a commercial motor vehicle, the  
23 driver's commercial driver's license is revoked, suspended, or  
24 canceled, or the driver is disqualified from operating a commercial  
25 motor vehicle;

26 (g) Causing a fatality through the negligent operation of a  
27 commercial motor vehicle, including but not limited to the crimes of  
28 vehicular homicide and negligent homicide.

29 If any of the violations set forth in this subsection occurred  
30 while transporting hazardous material, the person is disqualified for  
31 a period of not less than three years.

32 (2) A person is disqualified for life if it has been determined  
33 that the person has committed or has been convicted of two or more  
34 violations of any of the offenses specified in subsection (1) of this  
35 section, or any combination of those offenses, arising from two or more  
36 separate incidents.

37 (3) The department may adopt rules, in accordance with federal

1 regulations, establishing guidelines, including conditions, under which  
2 a disqualification for life under subsection (2) of this section may be  
3 reduced to a period of not less than ten years.

4 (4) A person is disqualified from driving a commercial motor  
5 vehicle for life who uses a motor vehicle in the commission of a felony  
6 involving the manufacture, distribution, or dispensing of a controlled  
7 substance, as defined by chapter 69.50 RCW, or possession with intent  
8 to manufacture, distribute, or dispense a controlled substance, as  
9 defined by chapter 69.50 RCW.

10 (5)(a) A person is disqualified from driving a commercial motor  
11 vehicle for a period of:

12 (i) Not less than sixty days if:

13 (A) Convicted of or found to have committed a second serious  
14 traffic violation while driving a commercial motor vehicle; or

15 (B) Convicted of reckless driving, where there has been a prior  
16 serious traffic violation; or

17 (ii) Not less than one hundred twenty days if:

18 (A) Convicted of or found to have committed a third or subsequent  
19 serious traffic violation while driving a commercial motor vehicle; or

20 (B) Convicted of reckless driving, where there has been two or more  
21 prior serious traffic violations.

22 (b) The disqualification period under (a)(ii) of this subsection  
23 must be in addition to any other previous period of disqualification.

24 (c) For purposes of determining prior serious traffic violations  
25 under this subsection, each conviction of or finding that a driver has  
26 committed a serious traffic violation while driving a commercial motor  
27 vehicle or noncommercial motor vehicle, arising from a separate  
28 incident occurring within a three-year period, must be counted.

29 (6) A person is disqualified from driving a commercial motor  
30 vehicle for a period of:

31 (a) Not less than one hundred eighty days nor more than one year if  
32 convicted of or found to have committed a first violation of an out-of-  
33 service order while driving a commercial vehicle;

34 (b) Not less than two years nor more than five years if, during a  
35 ten-year period, the person is convicted of or is found to have  
36 committed two violations of out-of-service orders while driving a  
37 commercial motor vehicle in separate incidents;



1 (c) Not less than three years nor more than five years if, during  
2 a ten-year period, the person is convicted of or is found to have  
3 committed three or more violations of out-of-service orders while  
4 driving commercial motor vehicles in separate incidents;

5 (d) Not less than one hundred eighty days nor more than two years  
6 if the person is convicted of or is found to have committed a first  
7 violation of an out-of-service order while transporting hazardous  
8 materials, or while operating motor vehicles designed to transport  
9 sixteen or more passengers, including the driver. A person is  
10 disqualified for a period of not less than three years nor more than  
11 five years if, during a ten-year period, the person is convicted of or  
12 is found to have committed subsequent violations of out-of-service  
13 orders, in separate incidents, while transporting hazardous materials,  
14 or while operating motor vehicles designed to transport sixteen or more  
15 passengers, including the driver.

16 (7) A person is disqualified from driving a commercial motor  
17 vehicle if a report has been received by the department under RCW  
18 46.25.125 that the person has received a verified positive drug test or  
19 positive alcohol confirmation test as part of the testing program  
20 conducted under 49 C.F.R. 40. A disqualification under this subsection  
21 remains in effect until the person undergoes a drug and alcohol  
22 assessment by a substance abuse professional meeting the requirements  
23 of 49 C.F.R. 40, and the person presents evidence of satisfactory  
24 participation in or successful completion of a drug or alcohol  
25 treatment and/or education program as recommended by the substance  
26 abuse professional, and until the person has met the requirements of  
27 RCW 46.25.100. The substance abuse professional shall forward a  
28 diagnostic evaluation and treatment recommendation to the department of  
29 licensing for use in determining the person's eligibility for driving  
30 a commercial motor vehicle. Persons who are disqualified under this  
31 subsection more than twice in a five-year period are disqualified for  
32 life.

33 (8)(a) A person is disqualified from driving a commercial motor  
34 vehicle for the period of time specified in (b) of this subsection if  
35 he or she is convicted of or is found to have committed one of the  
36 following six offenses at a railroad-highway grade crossing while  
37 operating a commercial motor vehicle in violation of a federal, state,  
38 or local law or regulation:

1 (i) For drivers who are not required to always stop, failing to  
2 slow down and check that the tracks are clear of an approaching train;

3 (ii) For drivers who are not required to always stop, failing to  
4 stop before reaching the crossing, if the tracks are not clear;

5 (iii) For drivers who are always required to stop, failing to stop  
6 before driving onto the crossing;

7 (iv) For all drivers, failing to have sufficient space to drive  
8 completely through the crossing without stopping;

9 (v) For all drivers, failing to obey a traffic control device or  
10 the directions of an enforcement officer at the crossing;

11 (vi) For all drivers, failing to negotiate a crossing because of  
12 insufficient undercarriage clearance.

13 (b) A person is disqualified from driving a commercial motor  
14 vehicle for a period of:

15 (i) Not less than sixty days if the driver is convicted of or is  
16 found to have committed a first violation of a railroad-highway grade  
17 crossing violation;

18 (ii) Not less than one hundred twenty days if the driver is  
19 convicted of or is found to have committed a second railroad-highway  
20 grade crossing violation in separate incidents within a three-year  
21 period;

22 (iii) Not less than one year if the driver is convicted of or is  
23 found to have committed a third or subsequent railroad-highway grade  
24 crossing violation in separate incidents within a three-year period.

25 (9) A person is disqualified from driving a commercial motor  
26 vehicle for not more than one year if a report has been received by the  
27 department from the federal motor carrier safety administration that  
28 the person's driving has been determined to constitute an imminent  
29 hazard as defined by 49 C.F.R. 383.5. A person who is simultaneously  
30 disqualified from driving a commercial motor vehicle under this  
31 subsection and under other provisions of this chapter, or under 49  
32 C.F.R. 383.52, shall serve those disqualification periods concurrently.

33 (10) Within ten days after suspending, revoking, or canceling a  
34 commercial driver's license or disqualifying a driver from operating a  
35 commercial motor vehicle, the department shall update its records to  
36 reflect that action.

1       **Sec. 11.** RCW 46.25.110 and 1989 c 178 s 13 are each amended to  
2 read as follows:

3       (1) Notwithstanding any other provision of Title 46 RCW, a person  
4 may not drive, operate, or be in physical control of a commercial motor  
5 vehicle while having alcohol or THC in his or her system.

6       (2) Law enforcement or appropriate officials shall issue an out-of-  
7 service order valid for twenty-four hours against a person who drives,  
8 operates, or is in physical control of a commercial motor vehicle while  
9 having alcohol or THC in his or her system or who refuses to take a  
10 test to determine his or her alcohol content or THC concentration as  
11 provided by RCW 46.25.120.

12       **Sec. 12.** RCW 46.25.120 and 2006 c 327 s 5 are each amended to read  
13 as follows:

14       (1) A person who drives a commercial motor vehicle within this  
15 state is deemed to have given consent, subject to RCW 46.61.506, to  
16 take a test or tests of that person's blood or breath for the purpose  
17 of determining that person's alcohol concentration or the presence of  
18 other drugs.

19       (2) A test or tests may be administered at the direction of a law  
20 enforcement officer, who after stopping or detaining the commercial  
21 motor vehicle driver, has probable cause to believe that driver was  
22 driving a commercial motor vehicle while having alcohol in his or her  
23 system or while under the influence of any drug.

24       (3) The law enforcement officer requesting the test under  
25 subsection (1) of this section shall warn the person requested to  
26 submit to the test that a refusal to submit will result in that person  
27 being disqualified from operating a commercial motor vehicle under RCW  
28 46.25.090.

29       (4) If the person refuses testing, or submits to a test that  
30 discloses an alcohol concentration of 0.04 or more or any measurable  
31 amount of THC concentration, the law enforcement officer shall submit  
32 a sworn report to the department certifying that the test was requested  
33 pursuant to subsection (1) of this section and that the person refused  
34 to submit to testing, or submitted to a test that disclosed an alcohol  
35 concentration of 0.04 or more or any measurable amount of THC  
36 concentration.

1 (5) Upon receipt of the sworn report of a law enforcement officer  
2 under subsection (4) of this section, the department shall disqualify  
3 the driver from driving a commercial motor vehicle under RCW 46.25.090,  
4 subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The  
5 hearing shall be conducted in the county of the arrest. For the  
6 purposes of this section, the hearing shall cover the issues of whether  
7 a law enforcement officer had reasonable grounds to believe the person  
8 had been driving or was in actual physical control of a commercial  
9 motor vehicle within this state while having alcohol in the person's  
10 system or while under the influence of any drug, whether the person  
11 refused to submit to the test or tests upon request of the officer  
12 after having been informed that the refusal would result in the  
13 disqualification of the person from driving a commercial motor vehicle,  
14 and, if the test was administered, whether the results indicated an  
15 alcohol concentration of 0.04 percent or more or any measurable amount  
16 of THC concentration. The department shall order that the  
17 disqualification of the person either be rescinded or sustained. Any  
18 decision by the department disqualifying a person from driving a  
19 commercial motor vehicle is stayed and does not take effect while a  
20 formal hearing is pending under this section or during the pendency of  
21 a subsequent appeal to superior court so long as there is no conviction  
22 for a moving violation or no finding that the person has committed a  
23 traffic infraction that is a moving violation during the pendency of  
24 the hearing and appeal. If the disqualification of the person is  
25 sustained after the hearing, the person who is disqualified may file a  
26 petition in the superior court of the county of arrest to review the  
27 final order of disqualification by the department in the manner  
28 provided in RCW 46.20.334.

29 (6) If a motor carrier or employer who is required to have a  
30 testing program under 49 C.F.R. 382 knows that a commercial driver in  
31 his or her employ has refused to submit to testing under this section  
32 and has not been disqualified from driving a commercial motor vehicle,  
33 the employer may notify law enforcement or his or her medical review  
34 officer or breath alcohol technician that the driver has refused to  
35 submit to the required testing.

36 (7) The hearing provisions of this section do not apply to those  
37 persons disqualified from driving a commercial motor vehicle under RCW  
38 46.25.090(7).

1       **Sec. 13.** RCW 46.61.5055 and 2012 c 183 s 12, 2012 c 42 s 2, and  
2 2012 c 28 s 1 are each reenacted and amended to read as follows:

3       (1) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a  
4 person who is convicted of a violation of RCW 46.61.502 or 46.61.504  
5 and who has no prior offense within seven years shall be punished as  
6 follows:

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

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

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

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

37       (i) By imprisonment for not less than two days nor more than three  
38 hundred sixty-four days. (~~Two consecutive days~~) Forty-eight

1 consecutive hours of the imprisonment may not be suspended (~~or~~  
2 ~~deferred~~) unless the court finds that the imposition of this mandatory  
3 minimum sentence would impose a substantial risk to the offender's  
4 physical or mental well-being. Whenever the mandatory minimum sentence  
5 is suspended (~~or deferred~~), the court shall state in writing the  
6 reason for granting the suspension (~~or deferral~~) and the facts upon  
7 which the suspension (~~or deferral~~) is based. In lieu of the  
8 mandatory minimum term of imprisonment required under this subsection  
9 (1)(b)(i), the court may order not less than thirty days of electronic  
10 home monitoring. The offender shall pay the cost of electronic home  
11 monitoring. The county or municipality in which the penalty is being  
12 imposed shall determine the cost. The court may also require the  
13 offender's electronic home monitoring device to include an alcohol  
14 detection breathalyzer or other separate alcohol monitoring device, and  
15 the court may restrict the amount of alcohol the offender may consume  
16 during the time the offender is on electronic home monitoring; and

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

21 (2) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a  
22 person who is convicted of a violation of RCW 46.61.502 or 46.61.504  
23 and who has one prior offense within seven years shall be punished as  
24 follows:

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

29 (i) By imprisonment for not less than thirty days nor more than  
30 three hundred sixty-four days and sixty days of electronic home  
31 monitoring. In lieu of the mandatory minimum term of sixty days  
32 electronic home monitoring, the court may order at least an additional  
33 four days in jail or, if available in that county or city, a six-month  
34 period of 24/7 sobriety program monitoring pursuant to sections 23  
35 through 32 of this act, and the court shall order an expanded alcohol  
36 assessment and treatment, if deemed appropriate by the assessment. The  
37 offender shall pay for the cost of the electronic monitoring. The  
38 county or municipality where the penalty is being imposed shall

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

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

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

21 (i) By imprisonment for not less than forty-five days nor more than  
22 three hundred sixty-four days and ninety days of electronic home  
23 monitoring. In lieu of the mandatory minimum term of ninety days  
24 electronic home monitoring, the court may order at least an additional  
25 six days in jail or, if available in that county or city, a six-month  
26 period of 24/7 sobriety program monitoring pursuant to sections 23  
27 through 32 of this act, and the court shall order an expanded alcohol  
28 assessment and treatment, if deemed appropriate by the assessment. The  
29 offender shall pay for the cost of the electronic monitoring. The  
30 county or municipality where the penalty is being imposed shall  
31 determine the cost. The court may also require the offender's  
32 electronic home monitoring device include an alcohol detection  
33 breathalyzer or other separate alcohol monitoring device, and may  
34 restrict the amount of alcohol the offender may consume during the time  
35 the offender is on electronic home monitoring. Forty-five days of  
36 imprisonment and ninety days of electronic home monitoring may not be  
37 suspended (~~or deferred~~) unless the court finds that the imposition of  
38 this mandatory minimum sentence would impose a substantial risk to the

1 offender's physical or mental well-being. Whenever the mandatory  
2 minimum sentence is suspended (~~(or deferred)~~), the court shall state in  
3 writing the reason for granting the suspension (~~(or deferral)~~) and the  
4 facts upon which the suspension (~~(or deferral)~~) is based; and

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

9 (3) Except as provided in RCW 46.61.502(6) or 46.61.504(6), a  
10 person who is convicted of a violation of RCW 46.61.502 or 46.61.504  
11 and who has two or three prior offenses within seven years shall be  
12 punished as follows:

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

17 (i) By imprisonment for not less than ninety days nor more than  
18 three hundred sixty-four days, if available in that county or city, a  
19 six-month period of 24/7 sobriety program monitoring pursuant to  
20 sections 23 through 32 of this act, and one hundred twenty days of  
21 electronic home monitoring. In lieu of the mandatory minimum term of  
22 one hundred twenty days of electronic home monitoring, the court may  
23 order at least an additional eight days in jail. The court shall order  
24 an expanded alcohol assessment and treatment, if deemed appropriate by  
25 the assessment. The offender shall pay for the cost of the electronic  
26 monitoring. The county or municipality where the penalty is being  
27 imposed shall determine the cost. The court may also require the  
28 offender's electronic home monitoring device include an alcohol  
29 detection breathalyzer or other separate alcohol monitoring device, and  
30 may restrict the amount of alcohol the offender may consume during the  
31 time the offender is on electronic home monitoring. (~~(Ninety)~~) One  
32 hundred days of imprisonment and one hundred twenty days of electronic  
33 home monitoring may not be suspended (~~(or deferred)~~) unless the court  
34 finds that the imposition of this mandatory minimum sentence would  
35 impose a substantial risk to the offender's physical or mental well-  
36 being. Whenever the mandatory minimum sentence is suspended (~~(or~~  
37 ~~deferred)~~), the court shall state in writing the reason for granting



1 the suspension (~~(or deferral)~~) and the facts upon which the suspension  
2 (~~(or deferral)~~) is based; and

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

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

11 (i) By imprisonment for not less than one hundred twenty days nor  
12 more than three hundred sixty-four days, if available in that county or  
13 city, a six-month period of 24/7 sobriety program monitoring pursuant  
14 to sections 23 through 32 of this act, and one hundred fifty days of  
15 electronic home monitoring. In lieu of the mandatory minimum term of  
16 one hundred fifty days of electronic home monitoring, the court may  
17 order at least an additional ten days in jail. The offender shall pay  
18 for the cost of the electronic monitoring. The court shall order an  
19 expanded alcohol assessment and treatment, if deemed appropriate by the  
20 assessment. The county or municipality where the penalty is being  
21 imposed shall determine the cost. The court may also require the  
22 offender's electronic home monitoring device include an alcohol  
23 detection breathalyzer or other separate alcohol monitoring device, and  
24 may restrict the amount of alcohol the offender may consume during the  
25 time the offender is on electronic home monitoring. One hundred twenty  
26 days of imprisonment and one hundred fifty days of electronic home  
27 monitoring may not be suspended (~~(or deferred)~~) unless the court finds  
28 that the imposition of this mandatory minimum sentence would impose a  
29 substantial risk to the offender's physical or mental well-being.  
30 Whenever the mandatory minimum sentence is suspended (~~(or deferred)~~),  
31 the court shall state in writing the reason for granting the suspension  
32 (~~(or deferral)~~) and the facts upon which the suspension (~~(or deferral)~~)  
33 is based; and

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

1 (4) A person who is convicted of a violation of RCW 46.61.502 or  
2 46.61.504 shall be punished under chapter 9.94A RCW if:

3 (a) The person has four or more prior offenses within ten years; or

4 (b) The person has ever previously been convicted of:

5 (i) A violation of RCW 46.61.520 committed while under the  
6 influence of intoxicating liquor or any drug;

7 (ii) A violation of RCW 46.61.522 committed while under the  
8 influence of intoxicating liquor or any drug;

9 (iii) An out-of-state offense comparable to the offense specified  
10 in (b)(i) or (ii) of this subsection; or

11 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

12 (5)(a) The court shall require any person convicted of a violation  
13 of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to  
14 comply with the rules and requirements of the department regarding the  
15 installation and use of a functioning ignition interlock device  
16 installed on all motor vehicles operated by the person.

17 (b) If the court orders that a person refrain from consuming any  
18 alcohol, the court may order the person to submit to alcohol monitoring  
19 through an alcohol detection breathalyzer device, transdermal sensor  
20 device, or other technology designed to detect alcohol in a person's  
21 system. The person shall pay for the cost of the monitoring, unless  
22 the court specifies that the cost of monitoring will be paid with funds  
23 that are available from an alternative source identified by the court.  
24 The county or municipality where the penalty is being imposed shall  
25 determine the cost.

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

29 (a) Order the use of an ignition interlock or other device for an  
30 additional six months;

31 (b) In any case in which the person has no prior offenses within  
32 seven years, and except as provided in RCW 46.61.502(6) or  
33 46.61.504(6), order ~~((a penalty by))~~ an additional twenty-four hours of  
34 imprisonment and a fine of not less than one thousand dollars and not  
35 more than five thousand dollars. One thousand dollars of the fine may  
36 not be suspended ~~((or deferred))~~ unless the court finds the offender to  
37 be indigent;

1 (c) In any case in which the person has one prior offense within  
2 seven years, and except as provided in RCW 46.61.502(6) or  
3 46.61.504(6), order ~~((a penalty by))~~ an additional five days of  
4 imprisonment and a fine of not less than two thousand dollars and not  
5 more than five thousand dollars. One thousand dollars of the fine may  
6 not be suspended ~~((or deferred))~~ unless the court finds the offender to  
7 be indigent;

8 (d) In any case in which the person has two or three prior offenses  
9 within seven years, and except as provided in RCW 46.61.502(6) or  
10 46.61.504(6), order ~~((a penalty by))~~ an additional ten days of  
11 imprisonment and a fine of not less than three thousand dollars and not  
12 more than ten thousand dollars. One thousand dollars of the fine may  
13 not be suspended ~~((or deferred))~~ unless the court finds the offender to  
14 be indigent.

15 (7) In exercising its discretion in setting penalties within the  
16 limits allowed by this section, the court shall particularly consider  
17 the following:

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

21 (b) Whether at the time of the offense the person was driving or in  
22 physical control of a vehicle with one or more passengers;

23 (c) Whether the driver was driving in the opposite direction of the  
24 normal flow of traffic on a multiple lane highway, as defined by RCW  
25 46.04.350, with a posted speed limit of forty-five miles per hour or  
26 greater; and

27 (d) Whether a child passenger under the age of sixteen was an  
28 occupant in the driver's vehicle.

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

31 (9) The license, permit, or nonresident privilege of a person  
32 convicted of driving or being in physical control of a motor vehicle  
33 while under the influence of intoxicating liquor or drugs must:

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

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

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

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

7 (b) If the person's alcohol concentration was at least 0.15:

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

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

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

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

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

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

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

23 The department shall grant credit on a day-for-day basis for any  
24 portion of a suspension, revocation, or denial already served under  
25 this subsection for a suspension, revocation, or denial imposed under  
26 RCW 46.20.3101 arising out of the same incident.

27 Upon its own motion or upon motion by a person, a court may find,  
28 on the record, that notice to the department under RCW 46.20.270 has  
29 been delayed for three years or more as a result of a clerical or court  
30 error. If so, the court may order that the person's license, permit,  
31 or nonresident privilege shall not be revoked, suspended, or denied for  
32 that offense. The court shall send notice of the finding and order to  
33 the department and to the person. Upon receipt of the notice from the  
34 court, the department shall not revoke, suspend, or deny the license,  
35 permit, or nonresident privilege of the person for that offense.

36 For purposes of this subsection (9), the department shall refer to  
37 the driver's record maintained under RCW 46.52.120 when determining the  
38 existence of prior offenses.

1 (10) 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 (11)(a) In addition to any nonsuspendable and nondeferrable jail  
6 sentence required by this section, whenever the court imposes up to  
7 three hundred sixty-four days in jail, the court shall also suspend but  
8 shall not defer a period of confinement for a period not exceeding five  
9 years. The court shall impose conditions of probation that include:

10 (i) Not driving a motor vehicle within this state without a valid  
11 license to drive and proof of liability insurance or other financial  
12 responsibility for the future pursuant to RCW 46.30.020; (ii) not  
13 driving or being in physical control of a motor vehicle within this  
14 state while having an alcohol concentration of 0.08 or more or a THC  
15 concentration of 5.00 nanograms per milliliter of whole blood or  
16 higher, within two hours after driving; and (iii) not refusing to  
17 submit to a test of his or her breath or blood to determine alcohol or  
18 drug concentration upon request of a law enforcement officer who has  
19 reasonable grounds to believe the person was driving or was in actual  
20 physical control of a motor vehicle within this state while under the  
21 influence of intoxicating liquor or drug. The court may impose  
22 conditions of probation that include nonrepetition, installation of an  
23 ignition interlock device on the probationer's motor vehicle, alcohol  
24 or drug treatment, supervised probation, or other conditions that may  
25 be appropriate. The sentence may be imposed in whole or in part upon  
26 violation of a condition of probation during the suspension period.

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

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

1 notify the department of any suspension, revocation, or denial or any  
2 extension of a suspension, revocation, or denial imposed under this  
3 subsection.

4 (12) A court may waive the electronic home monitoring requirements  
5 of this chapter when:

6 (a) The offender does not have a dwelling, telephone service, or  
7 any other necessity to operate an electronic home monitoring system.  
8 However, if a court determines that an alcohol monitoring device  
9 utilizing wireless reporting technology is reasonably available, the  
10 court may require the person to obtain such a device during the period  
11 of required electronic home monitoring;

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

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

16 Whenever the mandatory minimum term of electronic home monitoring  
17 is waived, the court shall state in writing the reason for granting the  
18 waiver and the facts upon which the waiver is based, and shall impose  
19 an alternative sentence with similar punitive consequences. The  
20 alternative sentence may include, but is not limited to, use of an  
21 ignition interlock device, the 24/7 sobriety program monitoring,  
22 additional jail time, work crew, or work camp.

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

29 (13) An offender serving a sentence under this section, whether or  
30 not a mandatory minimum term has expired, may be granted an  
31 extraordinary medical placement by the jail administrator subject to  
32 the standards and limitations set forth in RCW 9.94A.728(3).

33 (14) For purposes of this section and RCW 46.61.502 and 46.61.504:

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

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

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

1 (iii) A conviction for a violation of RCW 46.61.520 committed while  
2 under the influence of intoxicating liquor or any drug, or a conviction  
3 for a violation of RCW 46.61.520 committed in a reckless manner or with  
4 the disregard for the safety of others if the conviction is the result  
5 of a charge that was originally filed as a violation of RCW 46.61.520  
6 committed while under the influence of intoxicating liquor or any drug;

7 (iv) A conviction for a violation of RCW 46.61.522 committed while  
8 under the influence of intoxicating liquor or any drug, or a conviction  
9 for a violation of RCW 46.61.522 committed in a reckless manner or with  
10 the disregard for the safety of others if the conviction is the result  
11 of a charge that was originally filed as a violation of RCW 46.61.522  
12 committed while under the influence of intoxicating liquor or any drug;

13 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or  
14 9A.36.050 or an equivalent local ordinance, if the conviction is the  
15 result of a charge that was originally filed as a violation of RCW  
16 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW  
17 46.61.520 or 46.61.522;

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

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

24 (viii) A deferred prosecution under chapter 10.05 RCW granted in a  
25 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
26 ordinance, if the charge under which the deferred prosecution was  
27 granted was originally filed as a violation of RCW 46.61.502 or  
28 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
29 46.61.522; (~~(ix)~~)

30 (ix) A deferred prosecution granted in another state for a  
31 violation of driving or having physical control of a vehicle while  
32 under the influence of intoxicating liquor or any drug if the out-of-  
33 state deferred prosecution is equivalent to the deferred prosecution  
34 under chapter 10.05 RCW, including a requirement that the defendant  
35 participate in a chemical dependency treatment program; or

36 (x) A deferred sentence imposed in a prosecution for a violation of  
37 RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent local  
38 ordinance, if the charge under which the deferred sentence was imposed

1 was originally filed as a violation of RCW 46.61.502 or 46.61.504, or  
2 an equivalent local ordinance, or a violation of RCW 46.61.520 or  
3 46.61.522;

4 If a deferred prosecution is revoked based on a subsequent  
5 conviction for an offense listed in this subsection (14)(a), the  
6 subsequent conviction shall not be treated as a prior offense of the  
7 revoked deferred prosecution for the purposes of sentencing;

8 (b) "Treatment" means alcohol or drug treatment approved by the  
9 department of social and health services;

10 (c) "Within seven years" means that the arrest for a prior offense  
11 occurred within seven years before or after the arrest for the current  
12 offense; and

13 ((+e)) (d) "Within ten years" means that the arrest for a prior  
14 offense occurred within ten years before or after the arrest for the  
15 current offense.

16 NEW SECTION. Sec. 14. Funds from the ignition interlock device  
17 revolving account may, subject to appropriation, be used for effective  
18 strategies to reduce motor vehicle-related deaths and serious injuries,  
19 such as those found in the Washington state strategic highway safety  
20 plan: Target Zero.

21 **Sec. 15.** RCW 9.94A.501 and 2011 1st sp.s. c 40 s 2 are each  
22 amended to read as follows:

23 (1) The department shall supervise the following offenders who are  
24 sentenced to probation in superior court, pursuant to RCW 9.92.060,  
25 9.95.204, or 9.95.210:

26 (a) Offenders convicted of:

27 (i) Sexual misconduct with a minor second degree;

28 (ii) Custodial sexual misconduct second degree;

29 (iii) Communication with a minor for immoral purposes; and

30 (iv) Violation of RCW 9A.44.132(2) (failure to register); and

31 (b) Offenders who have:

32 (i) A current conviction for a repetitive domestic violence offense  
33 where domestic violence has been plead and proven after August 1, 2011;  
34 and

35 (ii) A prior conviction for a repetitive domestic violence offense



1 or domestic violence felony offense where domestic violence has been  
2 plead and proven after August 1, 2011.

3 (2) Misdemeanor and gross misdemeanor offenders supervised by the  
4 department pursuant to this section shall be placed on community  
5 custody.

6 (3) The department shall supervise every felony offender sentenced  
7 to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk  
8 assessment classifies the offender as one who is at a high risk to  
9 reoffend.

10 (4) Notwithstanding any other provision of this section, the  
11 department shall supervise an offender sentenced to community custody  
12 regardless of risk classification if the offender:

13 (a) Has a current conviction for a sex offense or a serious violent  
14 offense and was sentenced to a term of community custody pursuant to  
15 RCW 9.94A.701, 9.94A.702, or 9.94A.507;

16 (b) Has been identified by the department as a dangerous mentally  
17 ill offender pursuant to RCW 72.09.370;

18 (c) Has an indeterminate sentence and is subject to parole pursuant  
19 to RCW 9.95.017;

20 (d) Has a current conviction for violating RCW 9A.44.132(1)  
21 (failure to register) and was sentenced to a term of community custody  
22 pursuant to RCW 9.94A.701;

23 (e) Has a current conviction for a domestic violence felony offense  
24 where domestic violence has been plead and proven after August 1, 2011,  
25 and a prior conviction for a repetitive domestic violence offense or  
26 domestic violence felony offense where domestic violence has been plead  
27 and proven after August 1, 2011;

28 (f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or  
29 9.94A.670; (~~(or)~~)

30 (g) Is subject to supervision pursuant to RCW 9.94A.745; or

31 (h) Was convicted and sentenced under RCW 46.61.520 (vehicular  
32 homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony  
33 DUI), or RCW 46.61.504(6) (felony physical control).

34 (5) The department is not authorized to, and may not, supervise any  
35 offender sentenced to a term of community custody or any probationer  
36 unless the offender or probationer is one for whom supervision is  
37 required under this section or RCW 9.94A.5011.

1 (6) The department shall conduct a risk assessment for every felony  
2 offender sentenced to a term of community custody who may be subject to  
3 supervision under this section or RCW 9.94A.5011.

4 **Sec. 16.** RCW 46.61.5249 and 2012 c 183 s 13 are each amended to  
5 read as follows:

6 (1)(a) A person is guilty of negligent driving in the first degree  
7 if he or she operates a motor vehicle in a manner that is both  
8 negligent and endangers or is likely to endanger any person or  
9 property, and exhibits the effects of having consumed liquor or  
10 marijuana or (~~an illegal~~) any drug or exhibits the effects of having  
11 inhaled or ingested any chemical, whether or not a legal substance, for  
12 its intoxicating or hallucinatory effects.

13 (b) It is an affirmative defense to negligent driving in the first  
14 degree by means of exhibiting the effects of having consumed (~~an~~  
15 ~~illegal~~) any drug that must be proved by the defendant by a  
16 preponderance of the evidence, that the driver has a valid prescription  
17 for the drug consumed, and has been consuming it according to the  
18 prescription directions and warnings.

19 (c) Negligent driving in the first degree is a misdemeanor.

20 (2) For the purposes of this section:

21 (a) "Negligent" means the failure to exercise ordinary care, and is  
22 the doing of some act that a reasonably careful person would not do  
23 under the same or similar circumstances or the failure to do something  
24 that a reasonably careful person would do under the same or similar  
25 circumstances.

26 (b) "Exhibiting the effects of having consumed liquor, marijuana,  
27 or any drug" means that a person has the odor of liquor, marijuana, or  
28 any drug on his or her breath, or that by speech, manner, appearance,  
29 behavior, lack of coordination, or otherwise exhibits that he or she  
30 has consumed liquor, marijuana, or any drug, and either:

31 (i) Is in possession of or in close proximity to a container that  
32 has or recently had liquor, marijuana, or any drug in it; or

33 (ii) Is shown by other evidence to have recently consumed liquor,  
34 marijuana, or any drug.

35 (c) (~~"Exhibiting the effects of having consumed an illegal drug"~~  
36 ~~means that a person by speech, manner, appearance, behavior, lack of~~

1 coordination, or otherwise exhibits that he or she has consumed an  
2 illegal drug and either:

3 (i) Is in possession of an illegal drug; or

4 (ii) Is shown by other evidence to have recently consumed an  
5 illegal drug.

6 (d)) "Exhibiting the effects of having inhaled or ingested any  
7 chemical, whether or not a legal substance, for its intoxicating or  
8 hallucinatory effects" means that a person by speech, manner,  
9 appearance, behavior, or lack of coordination or otherwise exhibits  
10 that he or she has inhaled or ingested a chemical and either:

11 (i) Is in possession of the canister or container from which the  
12 chemical came; or

13 (ii) Is shown by other evidence to have recently inhaled or  
14 ingested a chemical for its intoxicating or hallucinatory effects.

15 ((e) "Illegal drug" means a controlled substance under chapter  
16 69.50 RCW for which the driver does not have a valid prescription or  
17 that is not being consumed in accordance with the prescription  
18 directions and warnings, or a legend drug under chapter 69.41 RCW for  
19 which the driver does not have a valid prescription or that is not  
20 being consumed in accordance with the prescription directions and  
21 warnings.))

22 (3) Any act prohibited by this section that also constitutes a  
23 crime under any other law of this state may be the basis of prosecution  
24 under such other law notwithstanding that it may also be the basis for  
25 prosecution under this section.

26 (4) A person convicted of negligent driving in the first degree who  
27 has one or more prior offenses as defined in RCW 46.61.5055(14) within  
28 seven years shall be required, under RCW 46.20.720, to install an  
29 ignition interlock device on all vehicles operated by the person.

30 **Sec. 17.** RCW 46.20.270 and 2010 c 249 s 11 are each amended to  
31 read as follows:

32 (1) ((Whenever any person is convicted of any offense for which  
33 this title makes mandatory the withholding of the driving privilege of  
34 such person by the department, the court in which such conviction is  
35 had shall forthwith mark the person's Washington state driver's license  
36 or permit to drive, if any, in a manner authorized by the department.  
37 A valid driver's license or permit to drive marked under this

1 ~~subsection shall remain in effect until the person's driving privilege~~  
2 ~~is withheld by the department pursuant to notice given under RCW~~  
3 ~~46.20.245, unless the license or permit expires or otherwise becomes~~  
4 ~~invalid prior to the effective date of this action. Perfection of~~  
5 ~~notice of appeal shall stay the execution of sentence including the~~  
6 ~~withholding of the driving privilege.~~

7 (2)) Every court having jurisdiction over offenses committed under  
8 this chapter, or any other act of this state or municipal ordinance  
9 adopted by a local authority regulating the operation of motor vehicles  
10 on highways, or any federal authority having jurisdiction over offenses  
11 substantially the same as those set forth in this title which occur on  
12 federal installations within this state, shall immediately forward to  
13 the department a forfeiture of bail or collateral deposited to secure  
14 the defendant's appearance in court, a payment of a fine, penalty, or  
15 court cost, a plea of guilty or nolo contendere or a finding of guilt,  
16 or a finding that any person has committed a traffic infraction an  
17 abstract of the court record in the form prescribed by rule of the  
18 supreme court, showing the conviction of any person or the finding that  
19 any person has committed a traffic infraction in said court for a  
20 violation of any said laws other than regulations governing standing,  
21 stopping, parking, and pedestrian offenses.

22 ((3)) (2) Every state agency or municipality having jurisdiction  
23 over offenses committed under this chapter, or under any other act of  
24 this state or municipal ordinance adopted by a state or local authority  
25 regulating the operation of motor vehicles on highways, may forward to  
26 the department within ten days of failure to respond, failure to pay a  
27 penalty, failure to appear at a hearing to contest the determination  
28 that a violation of any statute, ordinance, or regulation relating to  
29 standing, stopping, parking, or civil penalties issued under RCW  
30 46.63.160 has been committed, or failure to appear at a hearing to  
31 explain mitigating circumstances, an abstract of the citation record in  
32 the form prescribed by rule of the department, showing the finding by  
33 such municipality that two or more violations of laws governing  
34 standing, stopping, and parking or one or more civil penalties issued  
35 under RCW 46.63.160 have been committed and indicating the nature of  
36 the defendant's failure to act. Such violations or infractions may not  
37 have occurred while the vehicle is stolen from the registered owner or  
38 is leased or rented under a bona fide commercial vehicle lease or

1 rental agreement between a lessor engaged in the business of leasing  
2 vehicles and a lessee who is not the vehicle's registered owner. The  
3 department may enter into agreements of reciprocity with the duly  
4 authorized representatives of the states for reporting to each other  
5 violations of laws governing standing, stopping, and parking.

6 ~~((+4))~~ (3) For the purposes of this title and except as defined in  
7 RCW 46.25.010, "conviction" means a final conviction in a state or  
8 municipal court or by any federal authority having jurisdiction over  
9 offenses substantially the same as those set forth in this title which  
10 occur on federal installations in this state, an unvacated forfeiture  
11 of bail or collateral deposited to secure a defendant's appearance in  
12 court, the payment of a fine or court cost, a plea of guilty or nolo  
13 contendere, or a finding of guilt on a traffic law violation charge,  
14 regardless of whether the imposition of sentence or sanctions are  
15 deferred or the penalty is suspended, but not including entry into a  
16 deferred prosecution agreement under chapter 10.05 RCW.

17 (4) Perfection of a notice of appeal shall stay the execution of  
18 the sentence pertaining to the withholding of the driving privilege.

19 (5) For the purposes of this title, "finding that a traffic  
20 infraction has been committed" means a failure to respond to a notice  
21 of infraction or a determination made by a court pursuant to this  
22 chapter. Payment of a monetary penalty made pursuant to RCW  
23 46.63.070(2) is deemed equivalent to such a finding.

24 **Sec. 18.** RCW 46.61.5058 and 2009 c 479 s 38 are each amended to  
25 read as follows:

26 (1) Upon the arrest of a person or upon the filing of a complaint,  
27 citation, or information in a court of competent jurisdiction, based  
28 upon probable cause to believe that a person has violated RCW  
29 46.20.740, 46.61.502, or 46.61.504 or any similar municipal ordinance,  
30 if such person has a prior offense within seven years as defined in RCW  
31 46.61.5055, and where the person has been provided written notice that  
32 any transfer, sale, or encumbrance of such person's interest in the  
33 vehicle over which that person was actually driving or had physical  
34 control when the violation occurred, is unlawful pending either  
35 acquittal, dismissal, sixty days after conviction, or other termination  
36 of the charge, such person shall be prohibited from encumbering,  
37 selling, or transferring his or her interest in such vehicle, except as

1 otherwise provided in (a), (b), and (c) of this subsection, until  
2 either acquittal, dismissal, sixty days after conviction, or other  
3 termination of the charge. The prohibition against transfer of title  
4 shall not be stayed pending the determination of an appeal from the  
5 conviction.

6 (a) A vehicle encumbered by a bona fide security interest may be  
7 transferred to the secured party or to a person designated by the  
8 secured party;

9 (b) A leased or rented vehicle may be transferred to the lessor,  
10 rental agency, or to a person designated by the lessor or rental  
11 agency; and

12 (c) A vehicle may be transferred to a third party or a vehicle  
13 dealer who is a bona fide purchaser or may be subject to a bona fide  
14 security interest in the vehicle unless it is established that (i) in  
15 the case of a purchase by a third party or vehicle dealer, such party  
16 or dealer had actual notice that the vehicle was subject to the  
17 prohibition prior to the purchase, or (ii) in the case of a security  
18 interest, the holder of the security interest had actual notice that  
19 the vehicle was subject to the prohibition prior to the encumbrance of  
20 title.

21 (2) On conviction for a violation of either RCW 46.20.740,  
22 46.61.502, or 46.61.504 or any similar municipal ordinance where the  
23 person convicted has a prior offense within seven years as defined in  
24 RCW 46.61.5055, the motor vehicle the person was driving or over which  
25 the person had actual physical control at the time of the offense, if  
26 the person has a financial interest in the vehicle, (~~is subject to~~  
27 ~~seizure and forfeiture pursuant to this section~~) the court shall  
28 consider at sentencing whether the vehicle shall be seized and  
29 forfeited pursuant to this section if a seizure or forfeiture has not  
30 yet occurred.

31 (3) A vehicle subject to forfeiture under this chapter may be  
32 seized by a law enforcement officer of this state upon process issued  
33 by a court of competent jurisdiction. Seizure of a vehicle may be made  
34 without process if the vehicle subject to seizure has been the subject  
35 of a prior judgment in favor of the state in a forfeiture proceeding  
36 based upon this section.

37 (4) Seizure under subsection (3) of this section automatically  
38 commences proceedings for forfeiture. The law enforcement agency under

1 whose authority the seizure was made shall cause notice of the seizure  
2 and intended forfeiture of the seized vehicle to be served within  
3 fifteen days after the seizure on the owner of the vehicle seized, on  
4 the person in charge of the vehicle, and on any person having a known  
5 right or interest in the vehicle, including a community property  
6 interest. The notice of seizure may be served by any method authorized  
7 by law or court rule, including but not limited to service by certified  
8 mail with return receipt requested. Service by mail is complete upon  
9 mailing within the fifteen-day period after the seizure. Notice of  
10 seizure in the case of property subject to a security interest that has  
11 been perfected on a certificate of title shall be made by service upon  
12 the secured party or the secured party's assignee at the address shown  
13 on the financing statement or the certificate of title.

14 (5) If no person notifies the seizing law enforcement agency in  
15 writing of the person's claim of ownership or right to possession of  
16 the seized vehicle within forty-five days of the seizure, the vehicle  
17 is deemed forfeited.

18 (6) If a person notifies the seizing law enforcement agency in  
19 writing of the person's claim of ownership or right to possession of  
20 the seized vehicle within forty-five days of the seizure, the law  
21 enforcement agency shall give the person or persons a reasonable  
22 opportunity to be heard as to the claim or right. The hearing shall be  
23 before the chief law enforcement officer of the seizing agency or the  
24 chief law enforcement officer's designee, except where the seizing  
25 agency is a state agency as defined in RCW 34.12.020, the hearing shall  
26 be before the chief law enforcement officer of the seizing agency or an  
27 administrative law judge appointed under chapter 34.12 RCW, except that  
28 any person asserting a claim or right may remove the matter to a court  
29 of competent jurisdiction. Removal may only be accomplished according  
30 to the rules of civil procedure. The person seeking removal of the  
31 matter must serve process against the state, county, political  
32 subdivision, or municipality that operates the seizing agency, and any  
33 other party of interest, in accordance with RCW 4.28.080 or 4.92.020,  
34 within forty-five days after the person seeking removal has notified  
35 the seizing law enforcement agency of the person's claim of ownership  
36 or right to possession. The court to which the matter is to be removed  
37 shall be the district court when the aggregate value of the vehicle is  
38 within the jurisdictional limit set forth in RCW 3.66.020. A hearing

1 before the seizing agency and any appeal therefrom shall be under Title  
2 34 RCW. In a court hearing between two or more claimants to the  
3 vehicle involved, the prevailing party shall be entitled to a judgment  
4 for costs and reasonable attorneys' fees. The burden of producing  
5 evidence shall be upon the person claiming to be the legal owner or the  
6 person claiming to have the lawful right to possession of the vehicle.  
7 The seizing law enforcement agency shall promptly return the vehicle to  
8 the claimant upon a determination by the administrative law judge or  
9 court that the claimant is the present legal owner under this title  
10 ((~~46-RCW~~)) or is lawfully entitled to possession of the vehicle.

11 (7) When a vehicle is forfeited under this chapter the seizing law  
12 enforcement agency may sell the vehicle, retain it for official use, or  
13 upon application by a law enforcement agency of this state release the  
14 vehicle to that agency for the exclusive use of enforcing this title;  
15 provided, however, that the agency shall first satisfy any bona fide  
16 security interest to which the vehicle is subject under subsection  
17 (1)(a) or (c) of this section.

18 (8) When a vehicle is forfeited, the seizing agency shall keep a  
19 record indicating the identity of the prior owner, if known, a  
20 description of the vehicle, the disposition of the vehicle, the value  
21 of the vehicle at the time of seizure, and the amount of proceeds  
22 realized from disposition of the vehicle.

23 (9) Each seizing agency shall retain records of forfeited vehicles  
24 for at least seven years.

25 (10) Each seizing agency shall file a report including a copy of  
26 the records of forfeited vehicles with the state treasurer each  
27 calendar quarter.

28 (11) The quarterly report need not include a record of a forfeited  
29 vehicle that is still being held for use as evidence during the  
30 investigation or prosecution of a case or during the appeal from a  
31 conviction.

32 (12) By January 31st of each year, each seizing agency shall remit  
33 to the state treasurer an amount equal to ten percent of the net  
34 proceeds of vehicles forfeited during the preceding calendar year.  
35 Money remitted shall be deposited in the state general fund.

36 (13) The net proceeds of a forfeited vehicle is the value of the  
37 forfeitable interest in the vehicle after deducting the cost of  
38 satisfying a bona fide security interest to which the vehicle is



1 subject at the time of seizure; and in the case of a sold vehicle,  
2 after deducting the cost of sale, including reasonable fees or  
3 commissions paid to independent selling agents.

4 (14) The value of a sold forfeited vehicle is the sale price. The  
5 value of a retained forfeited vehicle is the fair market value of the  
6 vehicle at the time of seizure, determined when possible by reference  
7 to an applicable commonly used index, such as the index used by the  
8 department of licensing. A seizing agency may, but need not, use an  
9 independent qualified appraiser to determine the value of retained  
10 vehicles. If an appraiser is used, the value of the vehicle appraised  
11 is net of the cost of the appraisal.

12 **Sec. 19.** RCW 46.20.720 and 2012 c 183 s 9 are each amended to read  
13 as follows:

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

23 (2) Under RCW 46.61.5055 and subject to the exceptions listed in  
24 that statute, the court shall order any person convicted of a violation  
25 of RCW 46.61.502 or 46.61.504 or an equivalent local ordinance to  
26 comply with the rules and requirements of the department regarding the  
27 installation and use of a functioning ignition interlock device  
28 installed on all motor vehicles operated by the person. The court  
29 shall order any person participating in a deferred prosecution program  
30 under RCW 10.05.020 for a violation of RCW 46.61.502 or 46.61.504 or an  
31 equivalent local ordinance to have a functioning ignition interlock  
32 device installed on all motor vehicles operated by the person.

33 (3)(a) The department shall require that, after any applicable  
34 period of suspension, revocation, or denial of driving privileges, a  
35 person may drive only a motor vehicle equipped with a functioning  
36 ignition interlock device if the person is convicted of a violation of  
37 RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state

1 statute or ordinance. The department shall require that a person may  
2 drive only a motor vehicle equipped with a functioning ignition  
3 interlock device if the person is convicted of a violation of RCW  
4 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or  
5 46.61.500(3) (a) or (b) to install an ignition interlock device on all  
6 vehicles operated by the person.

7 ~~((The department may waive the requirement for the use of such a  
8 device if it concludes that such devices are not reasonably available  
9 in the local area.))~~

10 (b)(i) Except as provided in (b)(ii) of this subsection, the  
11 installation of an ignition interlock device is not necessary on  
12 vehicles owned, leased, or rented by a person's employer and on those  
13 vehicles whose care and/or maintenance is the temporary responsibility  
14 of the employer, and driven at the direction of a person's employer as  
15 a requirement of employment during working hours. The person must  
16 provide the department with a declaration pursuant to RCW 9A.72.085  
17 from his or her employer stating that the person's employment requires  
18 the person to operate a vehicle owned by the employer or other persons  
19 during working hours. ((However,))

20 (ii) The employer exemption does not apply:

21 (A) When the employer's vehicle is assigned exclusively to the  
22 restricted driver and used solely for commuting to and from  
23 employment((, the employer exemption does not apply));

24 (B) For the first thirty days after an ignition interlock device  
25 has been installed as the result of a first conviction of a violation  
26 of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state  
27 statute or ordinance; or

28 (C) For the first three hundred sixty-five days after an ignition  
29 interlock device has been installed as the result of a second or  
30 subsequent conviction of a violation of RCW 46.61.502 or 46.61.504 or  
31 an equivalent local or out-of-state statute or ordinance.

32 (c) The ignition interlock device shall be calibrated to prevent  
33 the motor vehicle from being started when the breath sample provided  
34 has an alcohol concentration of 0.025 or more. Subject to the  
35 provisions of subsections (4) and (5) of this section, the period of  
36 time of the restriction will be no less than:

37 ~~((a))~~ (i) For a person who has not previously been restricted  
38 under this section, a period of one year;

1        ~~((b))~~ (ii) For a person who has previously been restricted under  
2 ~~((a))~~ (c)(i) of this subsection, a period of five years;

3        ~~((e))~~ (iii) For a person who has previously been restricted under  
4 ~~((b))~~ (c)(ii) of this subsection, a period of ten years.

5        (4) A restriction imposed under subsection (3) of this section  
6 shall remain in effect until the department receives a declaration from  
7 the person's ignition interlock device vendor, in a form provided or  
8 approved by the department, certifying that there have been none of the  
9 following incidents in the four consecutive months prior to the date of  
10 release:

11        (a) ~~((An))~~ Any attempt to start the vehicle with a breath alcohol  
12 concentration of 0.04 or more unless a subsequent test performed within  
13 ten minutes registers a breath alcohol concentration lower than 0.04  
14 and the digital image confirms the same person provided both samples;

15        (b) Failure to take ~~((or pass))~~ any ~~((required retest))~~ random test  
16 unless a review of the digital image confirms that the vehicle was not  
17 occupied by the driver at the time of the missed test; ~~((or))~~

18        (c) Failure to pass any random retest with a breath alcohol  
19 concentration of 0.025 or lower unless a subsequent test performed  
20 within ten minutes registers a breath alcohol concentration lower than  
21 0.025, and the digital image confirms the same person provided both  
22 samples; or

23        (d) Failure of the person to appear at the ignition interlock  
24 device vendor when required for maintenance, repair, calibration,  
25 monitoring, inspection, or replacement of the device.

26        (5) For a person required to install an ignition interlock device  
27 pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of  
28 the restriction shall be for six months and shall be subject to  
29 subsection (4) of this section.

30        (6) In addition to any other costs associated with the use of an  
31 ignition interlock device imposed on the person restricted under this  
32 section, the person shall pay an additional fee of twenty dollars per  
33 month. Payments must be made directly to the ignition interlock  
34 company. The company shall remit the additional twenty dollar fee to  
35 the department to be deposited into the ignition interlock device  
36 revolving account.

1           **Sec. 20.** RCW 46.20.385 and 2012 c 183 s 8 are each amended to read  
2 as follows:

3           (1)(a) Beginning January 1, 2009, any person licensed under this  
4 chapter who is convicted of a violation of RCW 46.61.502 or 46.61.504  
5 or an equivalent local or out-of-state statute or ordinance, or a  
6 violation of RCW 46.61.520(1)(a) or 46.61.522(1)(b), or who has had or  
7 will have his or her license suspended, revoked, or denied under RCW  
8 46.20.3101, or who is otherwise permitted under subsection (8) of this  
9 section, may submit to the department an application for an ignition  
10 interlock driver's license. The department, upon receipt of the  
11 prescribed fee and upon determining that the petitioner is eligible to  
12 receive the license, may issue an ignition interlock driver's license.

13           (b) A person may apply for an ignition interlock driver's license  
14 anytime, including immediately after receiving the notices under RCW  
15 46.20.308 or after his or her license is suspended, revoked, or denied.  
16 A person receiving an ignition interlock driver's license waives his or  
17 her right to a hearing or appeal under RCW 46.20.308.

18           (c) An applicant under this subsection shall provide proof to the  
19 satisfaction of the department that a functioning ignition interlock  
20 device has been installed on all vehicles operated by the person.

21           (i) The department shall require the person to maintain the device  
22 on all vehicles operated by the person and shall restrict the person to  
23 operating only vehicles equipped with the device, for the remainder of  
24 the period of suspension, revocation, or denial. Subject to the  
25 provisions of RCW 46.20.720(3)(b)(ii), the installation of an ignition  
26 interlock device is not necessary on vehicles owned, leased, or rented  
27 by a person's employer and on those vehicles whose care and/or  
28 maintenance is the temporary responsibility of the employer, and driven  
29 at the direction of a person's employer as a requirement of employment  
30 during working hours. The person must provide the department with a  
31 declaration pursuant to RCW 9A.72.085 from his or her employer stating  
32 that the person's employment requires the person to operate a vehicle  
33 owned by the employer or other persons during working hours.  
34 ~~((However, when the employer's vehicle is assigned exclusively to the~~  
35 ~~restricted driver and used solely for commuting to and from employment,~~  
36 ~~the employer exemption does not apply.))~~

37           (ii) Subject to any periodic renewal requirements established by  
38 the department under this section and subject to any applicable

1 compliance requirements under this chapter or other law, an ignition  
2 interlock driver's license granted upon a suspension or revocation  
3 under RCW 46.61.5055 or 46.20.3101 extends through the remaining  
4 portion of any concurrent or consecutive suspension or revocation that  
5 may be imposed as the result of administrative action and criminal  
6 conviction arising out of the same incident.

7 (iii) The time period during which the person is licensed under  
8 this section shall apply on a day-for-day basis toward satisfying the  
9 period of time the ignition interlock device restriction is required  
10 under RCW 46.20.720 and 46.61.5055. Beginning with incidents occurring  
11 on or after September 1, 2011, when calculating the period of time for  
12 the restriction under RCW 46.20.720(3), the department must also give  
13 the person a day-for-day credit for the time period, beginning from the  
14 date of the incident, during which the person kept an ignition  
15 interlock device installed on all vehicles the person operates. For  
16 the purposes of this subsection (1)(c)(iii), the term "all vehicles"  
17 does not include vehicles that would be subject to the employer  
18 exception under RCW 46.20.720(3).

19 (2) An applicant for an ignition interlock driver's license who  
20 qualifies under subsection (1) of this section is eligible to receive  
21 a license only if the applicant files satisfactory proof of financial  
22 responsibility under chapter 46.29 RCW.

23 (3) Upon receipt of evidence that a holder of an ignition interlock  
24 driver's license granted under this subsection no longer has a  
25 functioning ignition interlock device installed on all vehicles  
26 operated by the driver, the director shall give written notice by  
27 first-class mail to the driver that the ignition interlock driver's  
28 license shall be canceled. If at any time before the cancellation goes  
29 into effect the driver submits evidence that a functioning ignition  
30 interlock device has been installed on all vehicles operated by the  
31 driver, the cancellation shall be stayed. If the cancellation becomes  
32 effective, the driver may obtain, at no additional charge, a new  
33 ignition interlock driver's license upon submittal of evidence that a  
34 functioning ignition interlock device has been installed on all  
35 vehicles operated by the driver.

36 (4) A person aggrieved by the decision of the department on the  
37 application for an ignition interlock driver's license may request a  
38 hearing as provided by rule of the department.

1           (5) The director shall cancel an ignition interlock driver's  
2 license after receiving notice that the holder thereof has been  
3 convicted of operating a motor vehicle in violation of its  
4 restrictions, no longer meets the eligibility requirements, or has been  
5 convicted of or found to have committed a separate offense or any other  
6 act or omission that under this chapter would warrant suspension or  
7 revocation of a regular driver's license. The department must give  
8 notice of the cancellation as provided under RCW 46.20.245. A person  
9 whose ignition interlock driver's license has been canceled under this  
10 section may reapply for a new ignition interlock driver's license if he  
11 or she is otherwise qualified under this section and pays the fee  
12 required under RCW 46.20.380.

13           (6)(a) Unless costs are waived by the ignition interlock company or  
14 the person is indigent under RCW 10.101.010, the applicant shall pay  
15 the cost of installing, removing, and leasing the ignition interlock  
16 device and shall pay an additional fee of twenty dollars per month.  
17 Payments shall be made directly to the ignition interlock company. The  
18 company shall remit the additional twenty dollar fee to the department.

19           (b) The department shall deposit the proceeds of the twenty dollar  
20 fee into the ignition interlock device revolving account. Expenditures  
21 from the account may be used only to administer and operate the  
22 ignition interlock device revolving account program. The department  
23 shall adopt rules to provide monetary assistance according to greatest  
24 need and when funds are available.

25           (7) The department shall adopt rules to implement ignition  
26 interlock licensing. The department shall consult with the  
27 administrative office of the courts, the state patrol, the Washington  
28 association of sheriffs and police chiefs, ignition interlock  
29 companies, and any other organization or entity the department deems  
30 appropriate.

31           (8)(a) Any person licensed under this chapter who is convicted of  
32 a violation of RCW 46.61.500 when the charge was originally filed as a  
33 violation of RCW 46.61.502 or 46.61.504, or an equivalent local  
34 ordinance, may submit to the department an application for an ignition  
35 interlock driver's license under this section.

36           (b) A person who does not have any driver's license under this  
37 chapter, but who would otherwise be eligible under this section to  
38 apply for an ignition interlock license, may submit to the department

1 an application for an ignition interlock license. The department may  
2 require the person to take any driver's licensing examination under  
3 this chapter ((46.20-RCW)) and may require the person to also apply and  
4 qualify for a temporary restricted driver's license under RCW  
5 46.20.391.

6 **Sec. 21.** RCW 10.05.140 and 2011 c 293 s 8 are each amended to read  
7 as follows:

8 As a condition of granting a deferred prosecution petition, the  
9 court shall order that the petitioner shall not operate a motor vehicle  
10 upon the public highways without a valid operator's license and proof  
11 of liability insurance. The amount of liability insurance shall be  
12 established by the court at not less than that established by RCW  
13 46.29.490. As a condition of granting a deferred prosecution petition  
14 on any alcohol-dependency based case, the court shall also order the  
15 installation of an ignition interlock under RCW 46.20.720. The  
16 required periods of use of the interlock shall be not less than the  
17 periods provided for in RCW 46.20.720(3) ((a), (b), and (c))). As a  
18 condition of granting a deferred prosecution petition, the court may  
19 order the petitioner to make restitution and to pay costs as defined in  
20 RCW 10.01.160. To help ensure continued sobriety and reduce the  
21 likelihood of reoffense, the court may order reasonable conditions  
22 during the period of the deferred prosecution including, but not  
23 limited to, attendance at self-help recovery support groups for  
24 alcoholism or drugs, complete abstinence from alcohol and all  
25 nonprescribed mind-altering drugs, periodic urinalysis or breath  
26 analysis, and maintaining law-abiding behavior. The court may  
27 terminate the deferred prosecution program upon violation of the  
28 deferred prosecution order.

29 **Sec. 22.** RCW 10.31.100 and 2013 c 278 s 4 and 2013 c 84 s 32 are  
30 each reenacted and amended to read as follows:

31 A police officer having probable cause to believe that a person has  
32 committed or is committing a felony shall have the authority to arrest  
33 the person without a warrant. A police officer may arrest a person  
34 without a warrant for committing a misdemeanor or gross misdemeanor  
35 only when the offense is committed in the presence of the officer,  
36 except as provided in subsections (1) through (11) of this section.

1 (1) Any police officer having probable cause to believe that a  
2 person has committed or is committing a misdemeanor or gross  
3 misdemeanor, involving physical harm or threats of harm to any person  
4 or property or the unlawful taking of property or involving the use or  
5 possession of cannabis, or involving the acquisition, possession, or  
6 consumption of alcohol by a person under the age of twenty-one years  
7 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070  
8 or 9A.52.080, shall have the authority to arrest the person.

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

12 (a) An order has been issued of which the person has knowledge  
13 under RCW 26.44.063, or chapter 7.-- (the new chapter created in  
14 section 33, chapter 84, Laws of 2013), 7.90, 9A.46, 10.99, 26.09,  
15 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the person  
16 has violated the terms of the order restraining the person from acts or  
17 threats of violence, or restraining the person from going onto the  
18 grounds of or entering a residence, workplace, school, or day care, or  
19 prohibiting the person from knowingly coming within, or knowingly  
20 remaining within, a specified distance of a location or, in the case of  
21 an order issued under RCW 26.44.063, imposing any other restrictions or  
22 conditions upon the person; or

23 (b) A foreign protection order, as defined in RCW 26.52.010, has  
24 been issued of which the person under restraint has knowledge and the  
25 person under restraint has violated a provision of the foreign  
26 protection order prohibiting the person under restraint from contacting  
27 or communicating with another person, or excluding the person under  
28 restraint from a residence, workplace, school, or day care, or  
29 prohibiting the person from knowingly coming within, or knowingly  
30 remaining within, a specified distance of a location, or a violation of  
31 any provision for which the foreign protection order specifically  
32 indicates that a violation will be a crime; or

33 (c) The person is sixteen years or older and within the preceding  
34 four hours has assaulted a family or household member as defined in RCW  
35 10.99.020 and the officer believes: (i) A felonious assault has  
36 occurred; (ii) an assault has occurred which has resulted in bodily  
37 injury to the victim, whether the injury is observable by the  
38 responding officer or not; or (iii) that any physical action has



1 occurred which was intended to cause another person reasonably to fear  
2 imminent serious bodily injury or death. Bodily injury means physical  
3 pain, illness, or an impairment of physical condition. When the  
4 officer has probable cause to believe that family or household members  
5 have assaulted each other, the officer is not required to arrest both  
6 persons. The officer shall arrest the person whom the officer believes  
7 to be the primary physical aggressor. In making this determination,  
8 the officer shall make every reasonable effort to consider: (i) The  
9 intent to protect victims of domestic violence under RCW 10.99.010;  
10 (ii) the comparative extent of injuries inflicted or serious threats  
11 creating fear of physical injury; and (iii) the history of domestic  
12 violence of each person involved, including whether the conduct was  
13 part of an ongoing pattern of abuse; or

14 (d) The person has violated RCW 46.61.502 or 46.61.504 or an  
15 equivalent local ordinance and the police officer has knowledge that  
16 the person has a prior offense as defined in RCW 46.61.5055 within ten  
17 years.

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

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

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

25 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or  
26 racing of vehicles;

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

29 (e) RCW 46.61.503 or 46.25.110, relating to persons having alcohol  
30 or THC in their system;

31 (f) RCW 46.20.342, relating to driving a motor vehicle while  
32 operator's license is suspended or revoked;

33 ((+f+)) (g) RCW 46.61.5249, relating to operating a motor vehicle  
34 in a negligent manner.

35 (4) A law enforcement officer investigating at the scene of a motor  
36 vehicle accident may arrest the driver of a motor vehicle involved in  
37 the accident if the officer has probable cause to believe that the

1 driver has committed in connection with the accident a violation of any  
2 traffic law or regulation.

3 (5)(a) A law enforcement officer investigating at the scene of a  
4 motor vessel accident may arrest the operator of a motor vessel  
5 involved in the accident if the officer has probable cause to believe  
6 that the operator has committed, in connection with the accident, a  
7 criminal violation of chapter 79A.60 RCW.

8 (b) A law enforcement officer investigating at the scene of a motor  
9 vessel accident may issue a citation for an infraction to the operator  
10 of a motor vessel involved in the accident if the officer has probable  
11 cause to believe that the operator has committed, in connection with  
12 the accident, a violation of any boating safety law of chapter 79A.60  
13 RCW.

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

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

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

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

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

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

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

4 (12) Except as specifically provided in subsections (2), (3), (4),  
5 and (7) of this section, nothing in this section extends or otherwise  
6 affects the powers of arrest prescribed in Title 46 RCW.

7 (13) No police officer may be held criminally or civilly liable for  
8 making an arrest pursuant to subsection (2) or (9) of this section if  
9 the police officer acts in good faith and without malice.

10 NEW SECTION. **Sec. 23.** There is created a 24/7 sobriety program to  
11 be administered by the Washington traffic safety commission in  
12 conjunction with the Washington association of sheriffs and police  
13 chiefs. The program shall coordinate efforts among various local  
14 government entities for the purpose of implementing alternatives to  
15 incarceration for offenders convicted under RCW 46.61.502 or 46.61.504  
16 with one or more prior convictions under RCW 46.61.502 or 46.61.504.

17 NEW SECTION. **Sec. 24.** The Washington association of sheriffs and  
18 police chiefs shall conduct a 24/7 sobriety program pilot project.

19 (1) Pilot project sites shall be established in no more than three  
20 counties and two cities. Local jurisdictions outside of the pilot  
21 project sites are encouraged to establish a 24/7 sobriety program as  
22 soon as practicable.

23 (2) The Washington association of sheriffs and police chiefs must,  
24 to the greatest extent possible, select pilot project sites from  
25 diverse geographic areas. The cities selected for participation in the  
26 project must not be from within a county selected for the program.

27 (3) The Washington association of sheriffs and police chiefs shall  
28 develop criteria for participation in the 24/7 sobriety program pilot  
29 project including, but not limited to:

30 (a) Geographic diversity;

31 (b) Sufficient volume of eligible participants to provide useable  
32 data for the pilot;

33 (c) County or city commitment to administration of the program; and

34 (d) Capability of the county or city law enforcement agency to  
35 effectively accommodate and administer the program.

1 (4) The Washington association of sheriffs and police chiefs shall  
2 provide a study of the 24/7 sobriety program project measuring changes  
3 in recidivism and related county or city savings or costs.

4 (5) The Washington association of sheriffs and police chiefs shall  
5 report preliminary findings and final results of the study to the  
6 governor and the legislature on an annual basis. It is the intent of  
7 the legislature that the 24/7 sobriety program shall achieve the goal  
8 of implementation statewide by January 1, 2017.

9 NEW SECTION. **Sec. 25.** There is hereby established in the state  
10 treasury the 24/7 sobriety account. The account shall be maintained  
11 and administered by the Washington traffic safety commission to  
12 reimburse the state for costs associated with establishing the program  
13 and the Washington association of sheriffs and police chiefs for  
14 ongoing program administration costs. The Washington traffic safety  
15 commission may accept for deposit in the account money from donations,  
16 gifts, grants, participation fees, and user fees or payments.  
17 Expenditures from the account shall be budgeted through the normal  
18 budget process.

19 NEW SECTION. **Sec. 26.** The definitions in this section apply  
20 throughout sections 23 through 32 of this act unless the context  
21 clearly requires otherwise.

22 (1) "24/7 electronic alcohol/drug monitoring" means the monitoring  
23 by the use of any electronic instrument that is capable of determining  
24 and monitoring the presence of alcohol or drugs in a person's body and  
25 includes any associated equipment a participant needs in order for the  
26 device to properly perform. Monitoring may also include mandatory  
27 urine analysis tests as ordered by the court.

28 (2) "Participant" means a person who has one or more prior  
29 convictions for a violation of RCW 46.61.502 or 46.61.504 and who has  
30 been ordered by a court to participate in the 24/7 sobriety program.

31 (3) "Participating agency" means a sheriff's office or a designated  
32 entity named by a sheriff that has agreed to participate in the 24/7  
33 sobriety program by enrolling participants, administering one or more  
34 of the tests, and submitting reports to the Washington association of  
35 sheriffs and police chiefs.

1 (4) "Participation agreement" means a written document executed by  
2 a participant agreeing to participate in the 24/7 sobriety program in  
3 a form approved by the Washington association of sheriffs and police  
4 chiefs that contains the following information:

5 (a) The type, frequency, and time period of testing;

6 (b) The location of testing;

7 (c) The fees and payment procedures required for testing; and

8 (d) The responsibilities and obligations of the participant under  
9 the 24/7 sobriety program.

10 (5) "24/7 sobriety program" means a twenty-four hour and seven day  
11 a week sobriety program in which a participant submits to the testing  
12 of the participant's blood, breath, urine, or other bodily substances  
13 in order to determine the presence of alcohol, marijuana, or any  
14 controlled substance in the participant's body.

15 NEW SECTION. **Sec. 27.** Each county or city, through its sheriff or  
16 chief, may participate in the 24/7 sobriety program. If a sheriff or  
17 chief is unwilling or unable to participate in the 24/7 sobriety  
18 program, the sheriff or chief may designate an entity willing to  
19 provide the service.

20 NEW SECTION. **Sec. 28.** The court may condition any bond or  
21 pretrial release upon participation in the 24/7 sobriety program and  
22 payment of associated costs and expenses, if available.

23 NEW SECTION. **Sec. 29.** The Washington association of sheriffs and  
24 police chiefs may adopt policies and procedures for the administration  
25 of the 24/7 sobriety program to:

26 (1) Provide for procedures and apparatus for testing;

27 (2) Establish fees and costs for participation in the program to be  
28 paid by the participants;

29 (3) Require the submission of reports and information by law  
30 enforcement agencies within this state.

31 NEW SECTION. **Sec. 30.** (1) Funds in the 24/7 sobriety account  
32 shall be distributed as follows:

33 (a) Any daily user fee, installation fee, deactivation fee,  
34 enrollment fee, or monitoring fee collected under the 24/7 sobriety

1 program shall be collected by the sheriff or chief, or an entity  
2 designated by the sheriff or chief, and deposited with the county or  
3 city treasurer of the proper county or city, the proceeds of which  
4 shall be applied and used only to defray the recurring costs of the  
5 24/7 sobriety program including maintaining equipment, funding support  
6 services, and ensuring compliance; and

7 (b) Any participation fee collected in the administration of  
8 testing under the 24/7 sobriety program to cover program administration  
9 costs incurred by the Washington association of sheriffs and police  
10 chiefs shall be collected by the sheriff or chief, or an entity  
11 designated by the sheriff or chief, and deposited in the 24/7 sobriety  
12 account.

13 (2) All applicable fees shall be paid by the participant  
14 contemporaneously or in advance of the time when the fee becomes due.

15 NEW SECTION. **Sec. 31.** The court shall not waive or reduce fees or  
16 associated costs charged for participation in the 24/7 sobriety  
17 program.

18 NEW SECTION. **Sec. 32.** (1) A participant who violates the terms of  
19 participation in the 24/7 sobriety program or does not pay the required  
20 fees or associated costs shall:

21 (a) Receive a written warning notice for a first violation;

22 (b) Serve a term of two days imprisonment for a second violation;

23 (c) Serve a term of up to five days imprisonment for a third  
24 violation;

25 (d) Serve a term of up to ten days imprisonment for a fourth  
26 violation; and

27 (e) For a fifth violation, the participant shall serve the entire  
28 remaining sentence imposed by the court.

29 (2) A sheriff or chief, or the designee of a sheriff or chief, who  
30 has probable cause to believe that a participant has violated the terms  
31 of participation in the 24/7 sobriety program or has not paid the  
32 required fees or associated costs shall immediately take the  
33 participant into custody and cause him or her to be held until an  
34 appearance before a judge on the next judicial day.

1       **Sec. 33.** RCW 4.24.545 and 2006 c 130 s 3 are each amended to read  
2 as follows:

3       Local governments, their subdivisions and employees, the department  
4 of corrections and its employees, and the Washington association of  
5 sheriffs and police chiefs and its employees are immune from civil  
6 liability for damages arising from incidents involving offenders who  
7 are placed on electronic monitoring or who are participating in the  
8 24/7 sobriety program, unless it is shown that an employee acted with  
9 gross negligence or bad faith.

10       NEW SECTION. **Sec. 34.** (1) Any funding provided during the 2013-  
11 2015 biennium for the ignition interlock program at the Washington  
12 state patrol that is in addition to any funding identified in chapter  
13 306, Laws of 2013 (omnibus transportation appropriations act) may only  
14 be used to provide field officers to work directly with manufacturers,  
15 service centers, technicians, and participants in the program. This  
16 may include up to one full-time equivalent noncommissioned staff to  
17 provide administrative support for the program. Any funding provided  
18 as identified in this section must be used to supplement and not  
19 supplant other funds being used to fund the ignition interlock program.

20       (2) This section expires July 1, 2015.

21       NEW SECTION. **Sec. 35.** A new section is added to chapter 43.43 RCW  
22 to read as follows:

23       (1) Any officer conducting field inspections of ignition interlock  
24 devices under the ignition interlock program shall report violations by  
25 program participants to the court.

26       (2) The Washington state patrol may not be held liable for any  
27 damages resulting from any act or omission in conducting activities  
28 under the ignition interlock program, other than acts or omissions  
29 constituting gross negligence or willful or wanton misconduct.

30       **Sec. 36.** RCW 46.20.308 and 2013 c 3 s 31 (Initiative Measure No.  
31 502), 2012 c 183 s 7, and 2012 c 80 s 12 are each reenacted and amended  
32 to read as follows:

33       (1) Any person who operates a motor vehicle within this state is  
34 deemed to have given consent, subject to the provisions of RCW  
35 46.61.506, to a test or tests of his or her breath (~~or blood~~) for the

1 purpose of determining the alcohol concentration, THC concentration, or  
2 presence of any drug in his or her breath (~~or blood~~) if arrested for  
3 any offense where, at the time of the arrest, the arresting officer has  
4 reasonable grounds to believe the person had been driving or was in  
5 actual physical control of a motor vehicle while under the influence of  
6 intoxicating liquor or any drug or was in violation of RCW 46.61.503.  
7 Neither consent nor this section precludes a police officer from  
8 obtaining a search warrant for a person's breath or blood.

9 (2) The test or tests of breath shall be administered at the  
10 direction of a law enforcement officer having reasonable grounds to  
11 believe the person to have been driving or in actual physical control  
12 of a motor vehicle within this state while under the influence of  
13 intoxicating liquor or any drug or the person to have been driving or  
14 in actual physical control of a motor vehicle while having alcohol or  
15 THC in a concentration in violation of RCW 46.61.503 in his or her  
16 system and being under the age of twenty-one. (~~However, in those  
17 instances where the person is incapable due to physical injury,  
18 physical incapacity, or other physical limitation, of providing a  
19 breath sample or where the person is being treated in a hospital,  
20 clinic, doctor's office, emergency medical vehicle, ambulance, or other  
21 similar facility or where the officer has reasonable grounds to believe  
22 that the person is under the influence of a drug, a blood test shall be  
23 administered by a qualified person as provided in RCW 46.61.506(5).)~~)  
24 The officer shall inform the person of his or her right to refuse the  
25 breath (~~or blood~~) test, and of his or her right to have additional  
26 tests administered by any qualified person of his or her choosing as  
27 provided in RCW 46.61.506. The officer shall warn the driver, in  
28 substantially the following language, that:

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

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

34 (c) If the driver submits to the test and the test is administered,  
35 the driver's license, permit, or privilege to drive will be suspended,  
36 revoked, or denied for at least ninety days if:

37 (i) The driver is age twenty-one or over and the test indicates



1 either that the alcohol concentration of the driver's breath (~~or~~  
2 ~~blood~~) is 0.08 or more or that the THC concentration of the driver's  
3 blood is 5.00 or more; or

4 (ii) The driver is under age twenty-one and the test indicates  
5 either that the alcohol concentration of the driver's breath (~~or~~  
6 ~~blood~~) is 0.02 or more or that the THC concentration of the driver's  
7 blood is above 0.00; or

8 (iii) The driver is under age twenty-one and the driver is in  
9 violation of RCW 46.61.502 or 46.61.504; and

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

13 (3) Except as provided in this section, the test administered shall  
14 be of the breath only. If an individual is unconscious or is under  
15 arrest for the crime of felony driving under the influence of  
16 intoxicating liquor or drugs under RCW 46.61.502(6), felony physical  
17 control of a motor vehicle while under the influence of intoxicating  
18 liquor or any drug under RCW 46.61.504(6), vehicular homicide as  
19 provided in RCW 46.61.520, or vehicular assault as provided in RCW  
20 46.61.522, or if an individual is under arrest for the crime of driving  
21 while under the influence of intoxicating liquor or drugs as provided  
22 in RCW 46.61.502, which arrest results from an accident in which there  
23 has been serious bodily injury to another person, a breath or blood  
24 test may be administered without the consent of the individual so  
25 arrested pursuant to a search warrant, a valid waiver of the warrant  
26 requirement, or when exigent circumstances exist.

27 ~~(4) ((Any person who is dead, unconscious, or who is otherwise in~~  
28 ~~a condition rendering him or her incapable of refusal, shall be deemed~~  
29 ~~not to have withdrawn the consent provided by subsection (1) of this~~  
30 ~~section and the test or tests may be administered, subject to the~~  
31 ~~provisions of RCW 46.61.506, and the person shall be deemed to have~~  
32 ~~received the warnings required under subsection (2) of this section.~~

33 ~~(5))~~ If, following his or her arrest and receipt of warnings under  
34 subsection (2) of this section, the person arrested refuses upon the  
35 request of a law enforcement officer to submit to a test or tests of  
36 his or her breath (~~or blood~~), no test shall be given except as  
37 authorized (~~under subsection (3) or (4) of this section~~) by a search  
38 warrant.

1 ((+6)) (5) If, after arrest and after the other applicable  
2 conditions and requirements of this section have been satisfied, a test  
3 or tests of the person's blood or breath is administered and the test  
4 results indicate that the alcohol concentration of the person's breath  
5 or blood is 0.08 or more, or the THC concentration of the person's  
6 blood is 5.00 or more, if the person is age twenty-one or over, or that  
7 the alcohol concentration of the person's breath or blood is 0.02 or  
8 more, or the THC concentration of the person's blood is above 0.00, if  
9 the person is under the age of twenty-one, or the person refuses to  
10 submit to a test, the arresting officer or other law enforcement  
11 officer at whose direction any test has been given, or the department,  
12 where applicable, if the arrest results in a test of the person's  
13 blood, shall:

14 (a) Serve notice in writing on the person on behalf of the  
15 department of its intention to suspend, revoke, or deny the person's  
16 license, permit, or privilege to drive as required by subsection  
17 ((+7)) (6) of this section;

18 (b) Serve notice in writing on the person on behalf of the  
19 department of his or her right to a hearing, specifying the steps he or  
20 she must take to obtain a hearing as provided by subsection ((+8)) (7)  
21 of this section and that the person waives the right to a hearing if he  
22 or she receives an ignition interlock driver's license;

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

25 ~~(d))~~ Serve notice in writing that the ~~((marked))~~ license or  
26 permit, if any, is a temporary license that is valid for sixty days  
27 from the date of arrest or from the date notice has been given in the  
28 event notice is given by the department following a blood test, or  
29 until the suspension, revocation, or denial of the person's license,  
30 permit, or privilege to drive is sustained at a hearing pursuant to  
31 subsection ((+8)) (7) of this section, whichever occurs first. No  
32 temporary license is valid to any greater degree than the license or  
33 permit that it replaces; and

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

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

8 (ii) That after receipt of the warnings required by subsection (2)  
9 of this section the person refused to submit to a test of his or her  
10 (~~blood or~~) breath, or a test was administered and the results  
11 indicated that the alcohol concentration of the person's breath or  
12 blood was 0.08 or more, or the THC concentration of the person's blood  
13 was 5.00 or more, if the person is age twenty-one or over, or that the  
14 alcohol concentration of the person's breath or blood was 0.02 or more,  
15 or the THC concentration of the person's blood was above 0.00, if the  
16 person is under the age of twenty-one; and

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

18 (~~(+7)~~) (6) The department of licensing, upon the receipt of a  
19 sworn report or report under a declaration authorized by RCW 9A.72.085  
20 under subsection (~~(+6)(e)~~) (5)(d) of this section, shall suspend,  
21 revoke, or deny the person's license, permit, or privilege to drive or  
22 any nonresident operating privilege, as provided in RCW 46.20.3101,  
23 such suspension, revocation, or denial to be effective beginning sixty  
24 days from the date of arrest or from the date notice has been given in  
25 the event notice is given by the department following a blood test, or  
26 when sustained at a hearing pursuant to subsection (~~(+8)~~) (7) of this  
27 section, whichever occurs first.

28 (~~(+8)~~) (7) A person receiving notification under subsection  
29 (~~(+6)~~) (5)(b) of this section may, within twenty days after the notice  
30 has been given, request in writing a formal hearing before the  
31 department. The person shall pay a fee of three hundred seventy-five  
32 dollars as part of the request. If the request is mailed, it must be  
33 postmarked within twenty days after receipt of the notification. Upon  
34 timely receipt of such a request for a formal hearing, including  
35 receipt of the required three hundred seventy-five dollar fee, the  
36 department shall afford the person an opportunity for a hearing. The  
37 department may waive the required three hundred seventy-five dollar fee  
38 if the 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)(e)~~) (5) of this section extended, if the person  
12 is 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, or THC in his or her system  
20 in a concentration above 0.00, if the person was under the age of  
21 twenty-one, whether the person was placed under arrest, and (a) whether  
22 the person refused to submit to the test or tests upon request of the  
23 officer after having been informed that such refusal would result in  
24 the revocation of the person's license, permit, or privilege to drive,  
25 or (b) if a test or tests were administered, whether the applicable  
26 requirements of this section were satisfied before the administration  
27 of the test or tests, whether the person submitted to the test or  
28 tests, or whether a test was administered without express consent as  
29 permitted under this section, and whether the test or tests indicated  
30 that the alcohol concentration of the person's breath or blood was 0.08  
31 or more, or the THC concentration of the person's blood was 5.00 or  
32 more, if the person was age twenty-one or over at the time of the  
33 arrest, or that the alcohol concentration of the person's breath or  
34 blood was 0.02 or more, or the THC concentration of the person's blood  
35 was above 0.00, if the person was under the age of twenty-one at the  
36 time of the arrest. The sworn report or report under a declaration  
37 authorized by RCW 9A.72.085 submitted by a law enforcement officer is  
38 prima facie evidence that the officer had reasonable grounds to believe

1 the person had been driving or was in actual physical control of a  
2 motor vehicle within this state while under the influence of  
3 intoxicating liquor or drugs, or both, or the person had been driving  
4 or was in actual physical control of a motor vehicle within this state  
5 while having alcohol in his or her system in a concentration of 0.02 or  
6 more, or THC in his or her system in a concentration above 0.00, and  
7 was under the age of twenty-one and that the officer complied with the  
8 requirements of this section.

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

24 ~~((+9))~~ (8) If the suspension, revocation, or denial is sustained  
25 after such a hearing, the person whose license, privilege, or permit is  
26 suspended, revoked, or denied has the right to file a petition in the  
27 superior court of the county of arrest to review the final order of  
28 revocation by the department in the same manner as an appeal from a  
29 decision of a court of limited jurisdiction. Notice of appeal must be  
30 filed within thirty days after the date the final order is served or  
31 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ  
32 1.1, or other statutes or rules referencing de novo review, the appeal  
33 shall be limited to a review of the record of the administrative  
34 hearing. The appellant must pay the costs associated with obtaining  
35 the record of the hearing before the hearing officer. The filing of  
36 the appeal does not stay the effective date of the suspension,  
37 revocation, or denial. A petition filed under this subsection must  
38 include the petitioner's grounds for requesting review. Upon granting

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

19 ~~((+10))~~ (9)(a) If a person whose driver's license, permit, or  
20 privilege to drive has been or will be suspended, revoked, or denied  
21 under subsection ~~((+7))~~ (6) of this section, other than as a result of  
22 a breath ~~((or blood))~~ test refusal, and who has not committed an  
23 offense for which he or she was granted a deferred prosecution under  
24 chapter 10.05 RCW, petitions a court for a deferred prosecution on  
25 criminal charges arising out of the arrest for which action has been or  
26 will be taken under subsection ~~((+7))~~ (6) of this section, or notifies  
27 the department of licensing of the intent to seek such a deferred  
28 prosecution, then the license suspension or revocation shall be stayed  
29 pending entry of the deferred prosecution. The stay shall not be  
30 longer than one hundred fifty days after the date charges are filed, or  
31 two years after the date of the arrest, whichever time period is  
32 shorter. If the court stays the suspension, revocation, or denial, it  
33 may impose conditions on such stay. If the person is otherwise  
34 eligible for licensing, the department shall issue a temporary license,  
35 or extend any valid temporary license ~~((marked))~~ under subsection  
36 ~~((+6))~~ (5) of this section, for the period of the stay. If a deferred  
37 prosecution treatment plan is not recommended in the report made under  
38 RCW 10.05.050, or if treatment is rejected by the court, or if the

1 person declines to accept an offered treatment plan, or if the person  
2 violates any condition imposed by the court, then the court shall  
3 immediately direct the department to cancel the stay and any temporary  
4 marked license or extension of a temporary license issued under this  
5 subsection.

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

14 (c) The provisions of (b) of this subsection relating to a stay of  
15 a suspension, revocation, or denial and the cancellation of any  
16 suspension, revocation, or denial do not apply to the suspension,  
17 revocation, denial, or disqualification of a person's commercial  
18 driver's license or privilege to operate a commercial motor vehicle.

19 (~~(+11)~~) (10) When it has been finally determined under the  
20 procedures of this section that a nonresident's privilege to operate a  
21 motor vehicle in this state has been suspended, revoked, or denied, the  
22 department shall give information in writing of the action taken to the  
23 motor vehicle administrator of the state of the person's residence and  
24 of any state in which he or she has a license.

25 **Sec. 37.** RCW 9.94A.535 and 2013 c 256 s 2 and 2013 c 84 s 26 are  
26 each reenacted and amended to read as follows:

27 The court may impose a sentence outside the standard sentence range  
28 for an offense if it finds, considering the purpose of this chapter,  
29 that there are substantial and compelling reasons justifying an  
30 exceptional sentence. Facts supporting aggravated sentences, other  
31 than the fact of a prior conviction, shall be determined pursuant to  
32 the provisions of RCW 9.94A.537.

33 Whenever a sentence outside the standard sentence range is imposed,  
34 the court shall set forth the reasons for its decision in written  
35 findings of fact and conclusions of law. A sentence outside the  
36 standard sentence range shall be a determinate sentence.

1 If the sentencing court finds that an exceptional sentence outside  
2 the standard sentence range should be imposed, the sentence is subject  
3 to review only as provided for in RCW 9.94A.585(4).

4 A departure from the standards in RCW 9.94A.589 (1) and (2)  
5 governing whether sentences are to be served consecutively or  
6 concurrently is an exceptional sentence subject to the limitations in  
7 this section, and may be appealed by the offender or the state as set  
8 forth in RCW 9.94A.585 (2) through (6).

9 (1) Mitigating Circumstances - Court to Consider

10 The court may impose an exceptional sentence below the standard  
11 range if it finds that mitigating circumstances are established by a  
12 preponderance of the evidence. The following are illustrative only and  
13 are not intended to be exclusive reasons for exceptional sentences.

14 (a) To a significant degree, the victim was an initiator, willing  
15 participant, aggressor, or provoker of the incident.

16 (b) Before detection, the defendant compensated, or made a good  
17 faith effort to compensate, the victim of the criminal conduct for any  
18 damage or injury sustained.

19 (c) The defendant committed the crime under duress, coercion,  
20 threat, or compulsion insufficient to constitute a complete defense but  
21 which significantly affected his or her conduct.

22 (d) The defendant, with no apparent predisposition to do so, was  
23 induced by others to participate in the crime.

24 (e) The defendant's capacity to appreciate the wrongfulness of his  
25 or her conduct, or to conform his or her conduct to the requirements of  
26 the law, was significantly impaired. Voluntary use of drugs or alcohol  
27 is excluded.

28 (f) The offense was principally accomplished by another person and  
29 the defendant manifested extreme caution or sincere concern for the  
30 safety or well-being of the victim.

31 (g) The operation of the multiple offense policy of RCW 9.94A.589  
32 results in a presumptive sentence that is clearly excessive in light of  
33 the purpose of this chapter, as expressed in RCW 9.94A.010.

34 (h) The defendant or the defendant's children suffered a continuing  
35 pattern of physical or sexual abuse by the victim of the offense and  
36 the offense is a response to that abuse.

37 (i) The defendant was making a good faith effort to obtain or



1 provide medical assistance for someone who is experiencing a drug-  
2 related overdose.

3 (j) The current offense involved domestic violence, as defined in  
4 RCW 10.99.020, and the defendant suffered a continuing pattern of  
5 coercion, control, or abuse by the victim of the offense and the  
6 offense is a response to that coercion, control, or abuse.

7 (2) Aggravating Circumstances - Considered and Imposed by the Court  
8 The trial court may impose an aggravated exceptional sentence  
9 without a finding of fact by a jury under the following circumstances:

10 (a) The defendant and the state both stipulate that justice is best  
11 served by the imposition of an exceptional sentence outside the  
12 standard range, and the court finds the exceptional sentence to be  
13 consistent with and in furtherance of the interests of justice and the  
14 purposes of the sentencing reform act.

15 (b) The defendant's prior unscored misdemeanor or prior unscored  
16 foreign criminal history results in a presumptive sentence that is  
17 clearly too lenient in light of the purpose of this chapter, as  
18 expressed in RCW 9.94A.010.

19 (c) The defendant has committed multiple current offenses and the  
20 defendant's high offender score results in some of the current offenses  
21 going unpunished.

22 (d) The failure to consider the defendant's prior criminal history  
23 which was omitted from the offender score calculation pursuant to RCW  
24 9.94A.525 results in a presumptive sentence that is clearly too  
25 lenient.

26 (3) Aggravating Circumstances - Considered by a Jury - Imposed by  
27 the Court

28 Except for circumstances listed in subsection (2) of this section,  
29 the following circumstances are an exclusive list of factors that can  
30 support a sentence above the standard range. Such facts should be  
31 determined by procedures specified in RCW 9.94A.537.

32 (a) The defendant's conduct during the commission of the current  
33 offense manifested deliberate cruelty to the victim.

34 (b) The defendant knew or should have known that the victim of the  
35 current offense was particularly vulnerable or incapable of resistance.

36 (c) The current offense was a violent offense, and the defendant  
37 knew that the victim of the current offense was pregnant.

1 (d) The current offense was a major economic offense or series of  
2 offenses, so identified by a consideration of any of the following  
3 factors:

4 (i) The current offense involved multiple victims or multiple  
5 incidents per victim;

6 (ii) The current offense involved attempted or actual monetary loss  
7 substantially greater than typical for the offense;

8 (iii) The current offense involved a high degree of sophistication  
9 or planning or occurred over a lengthy period of time; or

10 (iv) The defendant used his or her position of trust, confidence,  
11 or fiduciary responsibility to facilitate the commission of the current  
12 offense.

13 (e) The current offense was a major violation of the Uniform  
14 Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to  
15 trafficking in controlled substances, which was more onerous than the  
16 typical offense of its statutory definition: The presence of ANY of  
17 the following may identify a current offense as a major VUCSA:

18 (i) The current offense involved at least three separate  
19 transactions in which controlled substances were sold, transferred, or  
20 possessed with intent to do so;

21 (ii) The current offense involved an attempted or actual sale or  
22 transfer of controlled substances in quantities substantially larger  
23 than for personal use;

24 (iii) The current offense involved the manufacture of controlled  
25 substances for use by other parties;

26 (iv) The circumstances of the current offense reveal the offender  
27 to have occupied a high position in the drug distribution hierarchy;

28 (v) The current offense involved a high degree of sophistication or  
29 planning, occurred over a lengthy period of time, or involved a broad  
30 geographic area of disbursement; or

31 (vi) The offender used his or her position or status to facilitate  
32 the commission of the current offense, including positions of trust,  
33 confidence or fiduciary responsibility (e.g., pharmacist, physician, or  
34 other medical professional).

35 (f) The current offense included a finding of sexual motivation  
36 pursuant to RCW 9.94A.835.

37 (g) The offense was part of an ongoing pattern of sexual abuse of

1 the same victim under the age of eighteen years manifested by multiple  
2 incidents over a prolonged period of time.

3 (h) The current offense involved domestic violence, as defined in  
4 RCW 10.99.020, or stalking, as defined in RCW 9A.46.110, and one or  
5 more of the following was present:

6 (i) The offense was part of an ongoing pattern of psychological,  
7 physical, or sexual abuse of a victim or multiple victims manifested by  
8 multiple incidents over a prolonged period of time;

9 (ii) The offense occurred within sight or sound of the victim's or  
10 the offender's minor children under the age of eighteen years; or

11 (iii) The offender's conduct during the commission of the current  
12 offense manifested deliberate cruelty or intimidation of the victim.

13 (i) The offense resulted in the pregnancy of a child victim of  
14 rape.

15 (j) The defendant knew that the victim of the current offense was  
16 a youth who was not residing with a legal custodian and the defendant  
17 established or promoted the relationship for the primary purpose of  
18 victimization.

19 (k) The offense was committed with the intent to obstruct or impair  
20 human or animal health care or agricultural or forestry research or  
21 commercial production.

22 (l) The current offense is trafficking in the first degree or  
23 trafficking in the second degree and any victim was a minor at the time  
24 of the offense.

25 (m) The offense involved a high degree of sophistication or  
26 planning.

27 (n) The defendant used his or her position of trust, confidence, or  
28 fiduciary responsibility to facilitate the commission of the current  
29 offense.

30 (o) The defendant committed a current sex offense, has a history of  
31 sex offenses, and is not amenable to treatment.

32 (p) The offense involved an invasion of the victim's privacy.

33 (q) The defendant demonstrated or displayed an egregious lack of  
34 remorse.

35 (r) The offense involved a destructive and foreseeable impact on  
36 persons other than the victim.

37 (s) The defendant committed the offense to obtain or maintain his

1 or her membership or to advance his or her position in the hierarchy of  
2 an organization, association, or identifiable group.

3 (t) The defendant committed the current offense shortly after being  
4 released from incarceration.

5 (u) The current offense is a burglary and the victim of the  
6 burglary was present in the building or residence when the crime was  
7 committed.

8 (v) The offense was committed against a law enforcement officer who  
9 was performing his or her official duties at the time of the offense,  
10 the offender knew that the victim was a law enforcement officer, and  
11 the victim's status as a law enforcement officer is not an element of  
12 the offense.

13 (w) The defendant committed the offense against a victim who was  
14 acting as a good samaritan.

15 (x) The defendant committed the offense against a public official  
16 or officer of the court in retaliation of the public official's  
17 performance of his or her duty to the criminal justice system.

18 (y) The victim's injuries substantially exceed the level of bodily  
19 harm necessary to satisfy the elements of the offense. This aggravator  
20 is not an exception to RCW 9.94A.530(2).

21 (z)(i)(A) The current offense is theft in the first degree, theft  
22 in the second degree, possession of stolen property in the first  
23 degree, or possession of stolen property in the second degree; (B) the  
24 stolen property involved is metal property; and (C) the property damage  
25 to the victim caused in the course of the theft of metal property is  
26 more than three times the value of the stolen metal property, or the  
27 theft of the metal property creates a public hazard.

28 (ii) For purposes of this subsection, "metal property" means  
29 commercial metal property, private metal property, or nonferrous metal  
30 property, as defined in RCW 19.290.010.

31 (aa) The defendant committed the offense with the intent to  
32 directly or indirectly cause any benefit, aggrandizement, gain, profit,  
33 or other advantage to or for a criminal street gang as defined in RCW  
34 9.94A.030, its reputation, influence, or membership.

35 (bb) The current offense involved paying to view, over the internet  
36 in violation of RCW 9.68A.075, depictions of a minor engaged in an act  
37 of sexually explicit conduct as defined in RCW 9.68A.011(4) (a) through  
38 (g).

1 (cc) The offense was intentionally committed because the defendant  
2 perceived the victim to be homeless, as defined in RCW 9.94A.030.

3 (dd) The current offense involved a felony crime against persons,  
4 except for assault in the third degree pursuant to RCW 9A.36.031(1)(k),  
5 that occurs in a courtroom, jury room, judge's chamber, or any waiting  
6 area or corridor immediately adjacent to a courtroom, jury room, or  
7 judge's chamber. This subsection shall apply only: (i) During the  
8 times when a courtroom, jury room, or judge's chamber is being used for  
9 judicial purposes during court proceedings; and (ii) if signage was  
10 posted in compliance with section 3, chapter 256, Laws of 2013 at the  
11 time of the offense.

12 (ee) During the commission of the current offense, the defendant  
13 was driving in the opposite direction of the normal flow of traffic on  
14 a multiple lane highway, as defined by RCW 46.04.350, with a posted  
15 speed limit of forty-five miles per hour or greater.

16 NEW SECTION. Sec. 38. (1) The legislature finds that Washington  
17 state has one of the weakest driving under the influence felony laws  
18 (in noninjury cases) in the nation. Of the forty-five states that have  
19 felony driving under the influence laws for convictions, Washington  
20 state and North Dakota were the only states where a convicted driving  
21 under the influence offender in a noninjury crash could be charged with  
22 a felony starting on the fifth offense. This year, North Dakota  
23 changed its law making a fourth time driving under the influence  
24 offender a felon, leaving Washington state with the dubious distinction  
25 as the state with the greatest number of prior convictions required to  
26 constitute a driving under the influence felony. The legislature  
27 further notes that there have been several high profile driving under  
28 the influence fatalities in Washington state committed by offenders  
29 with multiple prior driving under the influence offenses on their  
30 record or while waiting to have their cases resolved pretrial. The  
31 Washington impaired driving work group is established to study  
32 effective strategies to reduce vehicle-related deaths and serious  
33 injuries that are a result of impaired driving incidents in Washington  
34 state.

35 (2) Members of the work group shall consist of the following  
36 members:

- 1 (a) One member from each of the two largest caucuses of the senate,  
2 appointed by the president of the senate;
- 3 (b) One member from each of the two largest caucuses of the house  
4 of representatives, appointed by the speaker of the house of  
5 representatives;
- 6 (c) The chief of the Washington state patrol, or the chief's  
7 designee;
- 8 (d) The director of the liquor control board, or the director's  
9 designee;
- 10 (e) The director of the department of licensing, or the director's  
11 designee;
- 12 (f) The secretary of the department of corrections, or the  
13 secretary's designee;
- 14 (g) The secretary of the department of social and health services,  
15 or the secretary's designee;
- 16 (h) One member representing the Washington traffic safety  
17 commission;
- 18 (i) The executive director of the Washington association of  
19 sheriffs and police chiefs, or the executive director's designee;
- 20 (j) One member representing the superior court judges' association;
- 21 (k) One member representing the district and municipal court  
22 judges' association;
- 23 (l) One member representing the Washington state association of  
24 counties;
- 25 (m) One member representing the Washington association of  
26 prosecuting attorneys;
- 27 (n) One member representing the Washington defender's association  
28 or the Washington association of criminal defense lawyers;
- 29 (o) One member representing the Washington state association of  
30 drug court professionals;
- 31 (p) One member representing the ignition interlock industry;
- 32 (q) One member representing the Washington retail association;
- 33 (r) One member representing the Washington state association of  
34 cities;
- 35 (s) One member representing treatment providers;
- 36 (t) One representative representing driving under the influence  
37 victim impact panels; and

1 (u) Representatives, appointed by the governor, that shall include,  
2 but are not limited to:

3 (i) City law enforcement;

4 (ii) County law enforcement;

5 (iii) Court administrators; and

6 (iv) Driving under the influence victims or family members of a  
7 victim.

8 (3) The Washington traffic safety commission shall convene the  
9 initial meeting of the work group and provide staff support.

10 (4) Members of the work group shall select the chair of the work  
11 group.

12 (5) At a minimum, the work group shall research, review, and make  
13 recommendations on the following:

14 (a) Lowering the minimum number of previous impaired driving  
15 convictions that must be counted before constituting and being  
16 punishable as a felony offense;

17 (b) Providing effective strategies for reducing motor vehicle-  
18 related deaths and serious injuries due to impaired driving;

19 (c) Increasing mandatory minimum penalties and fines for repeat  
20 offenders;

21 (d) Promoting and monitoring the use of mandatory ignition  
22 interlocks;

23 (e) The advantages and disadvantages of creating sobriety  
24 checkpoints;

25 (f) Requiring mandatory arrests for a first offense for an impaired  
26 driving offense;

27 (g) Increasing treatment and rehabilitation for repeat offenders;

28 (h) Reviewing the penalties for refusing to take a breath or blood  
29 test for the purpose of determining the alcohol concentration or  
30 presence of any drugs;

31 (i) Increasing funding for prevention, intervention, suppression,  
32 and prosecution of impaired driving offenses;

33 (j) Prohibiting the sale of alcohol to offenders convicted of  
34 repeat impaired driving offenses;

35 (k) Improving prosecution and encouraging prosecutors to  
36 aggressively enforce impaired driving laws;

37 (l) Increasing the number of driving under the influence courts and  
38 court-related services;

1 (m) Creating state and local impaired driving enforcement task  
2 forces to increase the visibility of enforcement;

3 (n) Promoting education and prevention strategies; and

4 (o) Encouraging private sector collaboration.

5 (6) The work group shall compile its findings and recommendations  
6 into a final report and provide its report to the legislature and  
7 governor by December 1, 2013.

8 (7) The work group shall function within existing resources and no  
9 specific budget may be provided to complete the study. The  
10 participants of the study group are encouraged to donate their time to  
11 offset any costs.

12 (8) This section expires January 1, 2014.

13 NEW SECTION. **Sec. 39.** The sum of one hundred seventy-six thousand  
14 dollars of the state general fund for the fiscal year ending June 30,  
15 2014, and one hundred seventy-six thousand dollars of the state general  
16 fund for the fiscal year ending June 30, 2015, or as much thereof as  
17 may be necessary, are appropriated to the Washington traffic safety  
18 commission solely for the purposes of section 25 of this act.

19 NEW SECTION. **Sec. 40.** The sum of two hundred seventy thousand  
20 dollars of the state general fund for the fiscal year ending June 30,  
21 2014, and three hundred sixty thousand dollars of the state general  
22 fund for the fiscal year ending June 30, 2015, or as much thereof as  
23 may be necessary, are appropriated to the Washington traffic safety  
24 commission solely for allocation to counties for the increased  
25 incarceration costs incurred as a result of mandatory arrest of repeat  
26 offenders under RCW 10.31.100(2)(d).

27 NEW SECTION. **Sec. 41.** The sum of one million two hundred seventy  
28 thousand five hundred dollars of the general fund--state appropriation  
29 for the fiscal year ending June 30, 2014, and one million two hundred  
30 seventy thousand five hundred dollars of the general fund--state  
31 appropriation for the fiscal year ending June 30, 2015, are provided as  
32 a grant to the Washington association of prosecuting attorneys for  
33 funding up to eleven deputy prosecuting attorney positions focused upon  
34 rush filing charges against repeat DUI offenders. The new positions  
35 will be in addition to current resources and not supplant existing



1 positions. The Washington association of prosecuting attorneys will  
2 provide a report by December 1, 2014, on the number of cases rush filed  
3 by the new positions and the overall effect on case processing within  
4 each jurisdiction.

5 NEW SECTION. **Sec. 42.** The sum of one hundred thousand dollars of  
6 the state general fund for the fiscal year ending June 30, 2014, and  
7 one hundred twenty-two thousand dollars of the state general fund for  
8 the fiscal year ending June 30, 2015, or as much thereof as may be  
9 necessary, are appropriated to the department of corrections solely for  
10 the increased supervision of offenders under RCW 9.94A.501(4)(h).

11 NEW SECTION. **Sec. 43.** The sum of four hundred twenty-three  
12 thousand dollars of the state general fund for the fiscal year ending  
13 June 30, 2014, eight hundred fourteen thousand dollars of the state  
14 general fund for the fiscal year ending June 30, 2015, and one million  
15 four hundred seventy-eight thousand dollars of the state general fund  
16 federal appropriation, or as much thereof as may be necessary, are  
17 appropriated to the department of social and health services to provide  
18 court ordered chemical dependency assessment and treatment services for  
19 low-income or medicaid eligible repeat DUI offenders.

20 NEW SECTION. **Sec. 44.** Sections 27, 28, and 30 through 32 of this  
21 act take effect January 1, 2014.

22 NEW SECTION. **Sec. 45.** Sections 23 through 32 of this act are each  
23 added to chapter 36.28A RCW.

24 NEW SECTION. **Sec. 46.** If any provision of this act or its  
25 application to any person or circumstance is held invalid, the  
26 remainder of the act or the application of the provision to other  
27 persons or circumstances is not affected."

**ADOPTED AS AMENDED 06/26/2013**

1           On page 1, line 2 of the title, after "drugs;" strike the remainder  
2 of the title and insert "amending RCW 2.28.175, 3.66.067, 3.66.068,  
3 3.50.320, 3.50.330, 35.20.255, 9.94A.525, 43.43.395, 46.25.090,  
4 46.25.110, 46.25.120, 9.94A.501, 46.61.5249, 46.20.270, 46.61.5058,  
5 46.20.720, 46.20.385, 10.05.140, and 4.24.545; reenacting and amending  
6 RCW 46.61.5055, 10.31.100, 46.20.308, and 9.94A.535; adding a new  
7 section to chapter 10.21 RCW; adding new sections to chapter 36.28A  
8 RCW; adding a new section to chapter 43.43 RCW; creating new sections;  
9 prescribing penalties; making appropriations; providing an effective  
10 date; and providing expiration dates."

EFFECT: The mandatory minimum sentences are restored to current law. For a 2nd offense, the 24/7 program can replace EHM. For a 3rd offense, the 24/7 program is in addition to EHM. The period of 24/7 monitoring is 6 months in all cases. The sanctions for violations of the 24/7 program are shortened. Appropriations are made. Current law making a fifth DUI/PC offense a felony is restored.

--- END ---