

SHB 2700 - H AMD 748

By Representative Klippert

ADOPTED 02/17/2016

1 Beginning on page 42, line 37, strike all of section 17 and
2 insert the following:

3 "**Sec. 17.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each
4 amended to read as follows:

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

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

14 (i) By imprisonment for not less than one day nor more than three
15 hundred sixty-four days. Twenty-four consecutive hours of the
16 imprisonment may not be suspended unless the court finds that the
17 imposition of this mandatory minimum sentence would impose a
18 substantial risk to the offender's physical or mental well-being.
19 Whenever the mandatory minimum sentence is suspended, the court shall
20 state in writing the reason for granting the suspension and the facts
21 upon which the suspension is based. In lieu of the mandatory minimum
22 term of imprisonment required under this subsection (1)(a)(i), the
23 court may order not less than fifteen days of electronic home
24 monitoring or a ninety day period of 24/7 sobriety program
25 monitoring. The court may consider the offender's pretrial 24/7
26 sobriety program monitoring as fulfilling a portion of posttrial
27 sentencing. The offender shall pay the cost of electronic home
28 monitoring. The county or municipality in which the penalty is being
29 imposed shall determine the cost. The court may also require the
30 offender's electronic home monitoring device or other separate
31 alcohol monitoring device to include an alcohol detection
32 breathalyzer, and the court may restrict the amount of alcohol the

1 offender may consume during the time the offender is on electronic
2 home monitoring; and

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

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

12 (i) By imprisonment for not less than two days nor more than
13 three hundred sixty-four days. Forty-eight consecutive hours of the
14 imprisonment may not be suspended unless the court finds that the
15 imposition of this mandatory minimum sentence would impose a
16 substantial risk to the offender's physical or mental well-being.
17 Whenever the mandatory minimum sentence is suspended, the court shall
18 state in writing the reason for granting the suspension and the facts
19 upon which the suspension is based. In lieu of the mandatory minimum
20 term of imprisonment required under this subsection (1)(b)(i), the
21 court may order not less than thirty days of electronic home
22 monitoring or a one hundred twenty day period of 24/7 sobriety
23 program monitoring. The court may consider the offender's pretrial
24 24/7 sobriety program testing as fulfilling a portion of posttrial
25 sentencing. The offender shall pay the cost of electronic home
26 monitoring. The county or municipality in which the penalty is being
27 imposed shall determine the cost. The court may also require the
28 offender's electronic home monitoring device to include an alcohol
29 detection breathalyzer or other separate alcohol monitoring device,
30 and the court may restrict the amount of alcohol the offender may
31 consume during the time the offender is on electronic home
32 monitoring; and

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

36 (2) **One prior offense in seven years.** Except as provided in RCW
37 46.61.502(6) or 46.61.504(6), a person who is convicted of a
38 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
39 within seven years shall be punished as follows:

1 (a) **Penalty for alcohol concentration less than 0.15.** In the case
2 of a person whose alcohol concentration was less than 0.15, or for
3 whom for reasons other than the person's refusal to take a test
4 offered pursuant to RCW 46.20.308 there is no test result indicating
5 the person's alcohol concentration:

6 (i) By imprisonment for not less than thirty days nor more than
7 three hundred sixty-four days and sixty days of electronic home
8 monitoring. In lieu of the mandatory minimum term of sixty days
9 electronic home monitoring, the court may order at least an
10 additional four days in jail or, if available in that county or city,
11 a six-month period of 24/7 sobriety program monitoring pursuant to
12 RCW 36.28A.300 through 36.28A.390, and the court shall order an
13 expanded alcohol assessment and treatment, if deemed appropriate by
14 the assessment. The offender shall pay for the cost of the electronic
15 monitoring. The county or municipality where the penalty is being
16 imposed shall determine the cost. The court may also require the
17 offender's electronic home monitoring device include an alcohol
18 detection breathalyzer or other separate alcohol monitoring device,
19 and may restrict the amount of alcohol the offender may consume
20 during the time the offender is on electronic home monitoring. Thirty
21 days of imprisonment and sixty days of electronic home monitoring may
22 not be suspended unless the court finds that the imposition of this
23 mandatory minimum sentence would impose a substantial risk to the
24 offender's physical or mental well-being. Whenever the mandatory
25 minimum sentence is suspended, the court shall state in writing the
26 reason for granting the suspension and the facts upon which the
27 suspension is based; and

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

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

36 (i) By imprisonment for not less than forty-five days nor more
37 than three hundred sixty-four days and ninety days of electronic home
38 monitoring. In lieu of the mandatory minimum term of ninety days
39 electronic home monitoring, the court may order at least an
40 additional six days in jail or, if available in that county or city,

1 a six-month period of 24/7 sobriety program monitoring pursuant to
2 RCW 36.28A.300 through 36.28A.390, and the court shall order an
3 expanded alcohol assessment and treatment, if deemed appropriate by
4 the assessment. The offender shall pay for the cost of the electronic
5 monitoring. The county or municipality where the penalty is being
6 imposed shall determine the cost. The court may also require the
7 offender's electronic home monitoring device include an alcohol
8 detection breathalyzer or other separate alcohol monitoring device,
9 and may restrict the amount of alcohol the offender may consume
10 during the time the offender is on electronic home monitoring. Forty-
11 five days of imprisonment and ninety days of electronic home
12 monitoring may not be suspended unless the court finds that the
13 imposition of this mandatory minimum sentence would impose a
14 substantial risk to the offender's physical or mental well-being.
15 Whenever the mandatory minimum sentence is suspended, the court shall
16 state in writing the reason for granting the suspension and the facts
17 upon which the suspension is based; and

18 (ii) By a fine of not less than seven hundred fifty dollars nor
19 more than five thousand dollars. Seven hundred fifty dollars of the
20 fine may not be suspended unless the court finds the offender to be
21 indigent.

22 (3) **Two or three prior offenses in seven years.** Except as
23 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is
24 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has
25 two or three prior offenses within seven years shall be punished as
26 follows:

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

32 (i) By imprisonment for not less than ninety days nor more than
33 three hundred sixty-four days, if available in that county or city, a
34 six-month period of 24/7 sobriety program monitoring pursuant to RCW
35 36.28A.300 through 36.28A.390, and one hundred twenty days of
36 electronic home monitoring. In lieu of the mandatory minimum term of
37 one hundred twenty days of electronic home monitoring, the court may
38 order at least an additional eight days in jail. The court shall
39 order an expanded alcohol assessment and treatment, if deemed
40 appropriate by the assessment. The offender shall pay for the cost of

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

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

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

22 (i) By imprisonment for not less than one hundred twenty days nor
23 more than three hundred sixty-four days, if available in that county
24 or city, a six-month period of 24/7 sobriety program monitoring
25 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
26 days of electronic home monitoring. In lieu of the mandatory minimum
27 term of one hundred fifty days of electronic home monitoring, the
28 court may order at least an additional ten days in jail. The offender
29 shall pay for the cost of the electronic monitoring. The court shall
30 order an expanded alcohol assessment and treatment, if deemed
31 appropriate by the assessment. The county or municipality where the
32 penalty is being imposed shall determine the cost. The court may also
33 require the offender's electronic home monitoring device include an
34 alcohol detection breathalyzer or other separate alcohol monitoring
35 device, and may restrict the amount of alcohol the offender may
36 consume during the time the offender is on electronic home
37 monitoring. One hundred twenty days of imprisonment and one hundred
38 fifty days of electronic home monitoring may not be suspended unless
39 the court finds that the imposition of this mandatory minimum
40 sentence would impose a substantial risk to the offender's physical

1 or mental well-being. Whenever the mandatory minimum sentence is
2 suspended, the court shall state in writing the reason for granting
3 the suspension and the facts upon which the suspension is based; and

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

8 (4) **Four or more prior offenses in ten years.** A person who is
9 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be
10 punished under chapter 9.94A RCW if:

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

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

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

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

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

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

21 (5) **Monitoring.**

22 (a) **Ignition interlock device.** The court shall require any person
23 convicted of a violation of RCW 46.61.502 or 46.61.504 or an
24 equivalent local ordinance to comply with the rules and requirements
25 of the department regarding the installation and use of a functioning
26 ignition interlock device installed on all motor vehicles operated by
27 the person.

28 (b) **Monitoring devices.** If the court orders that a person refrain
29 from consuming any alcohol, the court may order the person to submit
30 to alcohol monitoring through an alcohol detection breathalyzer
31 device, transdermal sensor device, or other technology designed to
32 detect alcohol in a person's system. The person shall pay for the
33 cost of the monitoring, unless the court specifies that the cost of
34 monitoring will be paid with funds that are available from an
35 alternative source identified by the court. The county or
36 municipality where the penalty is being imposed shall determine the
37 cost.

38 (c) (~~Ignition interlock device substituted for~~) **24/7 sobriety**
39 **program monitoring.** In any county or city where a 24/7 sobriety

1 program is available and verified by the Washington association of
2 sheriffs and police chiefs, the court shall:

3 (i) Order the person to install and use a functioning ignition
4 interlock or other device in lieu of such period of 24/7 sobriety
5 program monitoring;

6 (ii) Order the person to a period of 24/7 sobriety program
7 monitoring pursuant to subsections (1) through (3) of this section;
8 or

9 (iii) Order the person to install and use a functioning ignition
10 interlock or other device in addition to a period of 24/7 sobriety
11 program monitoring pursuant to subsections (1) through (3) of this
12 section.

13 (6) **Penalty for having a minor passenger in vehicle.** If a person
14 who is convicted of a violation of RCW 46.61.502 or 46.61.504
15 committed the offense while a passenger under the age of sixteen was
16 in the vehicle, the court shall:

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

19 (b) In any case in which the person has no prior offenses within
20 seven years, and except as provided in RCW 46.61.502(6) or
21 46.61.504(6), order an additional twenty-four hours of imprisonment
22 and a fine of not less than one thousand dollars and not more than
23 five thousand dollars. One thousand dollars of the fine may not be
24 suspended unless the court finds the offender to be indigent;

25 (c) In any case in which the person has one prior offense within
26 seven years, and except as provided in RCW 46.61.502(6) or
27 46.61.504(6), order an additional five days of imprisonment and a
28 fine of not less than two thousand dollars and not more than five
29 thousand dollars. One thousand dollars of the fine may not be
30 suspended unless the court finds the offender to be indigent;

31 (d) In any case in which the person has two or three prior
32 offenses within seven years, and except as provided in RCW
33 46.61.502(6) or 46.61.504(6), order an additional ten days of
34 imprisonment and a fine of not less than three thousand dollars and
35 not more than ten thousand dollars. One thousand dollars of the fine
36 may not be suspended unless the court finds the offender to be
37 indigent.

38 (7) **Other items courts must consider while setting penalties.** In
39 exercising its discretion in setting penalties within the limits

1 allowed by this section, the court shall particularly consider the
2 following:

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

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

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

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

13 (8) **Treatment and information school.** An offender punishable
14 under this section is subject to the alcohol assessment and treatment
15 provisions of RCW 46.61.5056.

16 (9) **Driver's license privileges of the defendant.** The license,
17 permit, or nonresident privilege of a person convicted of driving or
18 being in physical control of a motor vehicle while under the
19 influence of intoxicating liquor or drugs must:

20 (a) **Penalty for alcohol concentration less than 0.15.** If the
21 person's alcohol concentration was less than 0.15, or if for reasons
22 other than the person's refusal to take a test offered under RCW
23 46.20.308 there is no test result indicating the person's alcohol
24 concentration:

25 (i) Where there has been no prior offense within seven years, be
26 suspended or denied by the department for ninety days or until the
27 person is evaluated by an alcoholism agency or probation department
28 pursuant to RCW 46.20.311 and the person completes or is enrolled in
29 a ninety day period of 24/7 sobriety program monitoring. In no
30 circumstances shall the license suspension be for fewer than two
31 days;

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

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

36 (b) **Penalty for alcohol concentration at least 0.15.** If the
37 person's alcohol concentration was at least 0.15:

38 (i) Where there has been no prior offense within seven years, be
39 revoked or denied by the department for one year or until the person
40 is evaluated by an alcoholism agency or probation department pursuant

1 to RCW 46.20.311 and the person completes or is enrolled in a one
2 hundred twenty day period of 24/7 sobriety program monitoring. In no
3 circumstances shall the license revocation be for fewer than four
4 days;

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

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

10 (c) **Penalty for refusing to take test.** If by reason of the
11 person's refusal to take a test offered under RCW 46.20.308, there is
12 no test result indicating the person's alcohol concentration:

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

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

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

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

23 Upon receipt of a notice from the court under RCW 36.28A.390 that
24 a participant has been removed from a 24/7 sobriety program, the
25 department must resume any suspension, revocation, or denial that had
26 been terminated early under this subsection due to participation in
27 the program, granting credit on a day-for-day basis for any portion
28 of a suspension, revocation, or denial already served under RCW
29 46.20.3101 or this section arising out of the same incident.

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

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

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

9 (11) **Conditions of probation.** (a) In addition to any
10 nonsuspendable and nondeferrable jail sentence required by this
11 section, whenever the court imposes up to three hundred sixty-four
12 days in jail, the court shall also suspend but shall not defer a
13 period of confinement for a period not exceeding five years. The
14 court shall impose conditions of probation that include: (i) Not
15 driving a motor vehicle within this state without a valid license to
16 drive; (ii) not driving a motor vehicle within this state without
17 proof of liability insurance or other financial responsibility for
18 the future pursuant to RCW 46.30.020; (iii) not driving or being in
19 physical control of a motor vehicle within this state while having an
20 alcohol concentration of 0.08 or more or a THC concentration of 5.00
21 nanograms per milliliter of whole blood or higher, within two hours
22 after driving; (iv) not refusing to submit to a test of his or her
23 breath or blood to determine alcohol or drug concentration upon
24 request of a law enforcement officer who has reasonable grounds to
25 believe the person was driving or was in actual physical control of a
26 motor vehicle within this state while under the influence of
27 intoxicating liquor or drug; and (v) not driving a motor vehicle in
28 this state without a functioning ignition interlock device as
29 required by the department under RCW 46.20.720(~~(+3)~~). The court may
30 impose conditions of probation that include nonrepetition,
31 installation of an ignition interlock device on the probationer's
32 motor vehicle, alcohol or drug treatment, supervised probation, or
33 other conditions that may be appropriate. The sentence may be imposed
34 in whole or in part upon violation of a condition of probation during
35 the suspension period.

36 (b) For each violation of mandatory conditions of probation under
37 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall
38 order the convicted person to be confined for thirty days, which
39 shall not be suspended or deferred.

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

11 (12) **Waiver of electronic home monitoring.** A court may waive the
12 electronic home monitoring requirements of this chapter when:

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

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

20 (c) The court determines that there is reason to believe that the
21 offender would violate the conditions of the electronic home
22 monitoring penalty.

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

30 Whenever the combination of jail time and electronic home
31 monitoring or alternative sentence would exceed three hundred sixty-
32 four days, the offender shall serve the jail portion of the sentence
33 first, and the electronic home monitoring or alternative portion of
34 the sentence shall be reduced so that the combination does not exceed
35 three hundred sixty-four days.

36 (13) **Extraordinary medical placement.** An offender serving a
37 sentence under this section, whether or not a mandatory minimum term
38 has expired, may be granted an extraordinary medical placement by the
39 jail administrator subject to the standards and limitations set forth
40 in RCW 9.94A.728(1)(c).

1 (14) **Definitions.** For purposes of this section and RCW 46.61.502
2 and 46.61.504:

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

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

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

8 (iii) A conviction for a violation of RCW 46.25.110 or an
9 equivalent local ordinance;

10 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
11 equivalent local ordinance;

12 (v) A conviction for a violation of RCW 79A.60.040(1) or an
13 equivalent local ordinance committed in a reckless manner if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

16 (vi) A conviction for a violation of RCW 47.68.220 or an
17 equivalent local ordinance committed while under the influence of
18 intoxicating liquor or any drug;

19 (vii) A conviction for a violation of RCW 47.68.220 or an
20 equivalent local ordinance committed in a careless or reckless manner
21 if the conviction is the result of a charge that was originally filed
22 as a violation of RCW 47.68.220 or an equivalent local ordinance
23 while under the influence of intoxicating liquor or any drug;

24 (viii) A conviction for a violation of RCW 46.09.470(2) or an
25 equivalent local ordinance;

26 (ix) A conviction for a violation of RCW 46.10.490(2) or an
27 equivalent local ordinance;

28 (x) A conviction for a violation of RCW 46.61.520 committed while
29 under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.520 committed in a reckless
31 manner or with the disregard for the safety of others if the
32 conviction is the result of a charge that was originally filed as a
33 violation of RCW 46.61.520 committed while under the influence of
34 intoxicating liquor or any drug;

35 (xi) A conviction for a violation of RCW 46.61.522 committed
36 while under the influence of intoxicating liquor or any drug, or a
37 conviction for a violation of RCW 46.61.522 committed in a reckless
38 manner or with the disregard for the safety of others if the
39 conviction is the result of a charge that was originally filed as a

1 violation of RCW 46.61.522 committed while under the influence of
2 intoxicating liquor or any drug;

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

8 (xiii) An out-of-state conviction for a violation that would have
9 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
10 subsection if committed in this state;

11 (xiv) A deferred prosecution under chapter 10.05 RCW granted in a
12 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
13 equivalent local ordinance;

14 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
15 prosecution for a violation of RCW 46.61.5249, or an equivalent local
16 ordinance, if the charge under which the deferred prosecution was
17 granted was originally filed as a violation of RCW 46.61.502 or
18 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
19 46.61.522;

20 (xvi) A deferred prosecution granted in another state for a
21 violation of driving or having physical control of a vehicle while
22 under the influence of intoxicating liquor or any drug if the out-of-
23 state deferred prosecution is equivalent to the deferred prosecution
24 under chapter 10.05 RCW, including a requirement that the defendant
25 participate in a chemical dependency treatment program; or

26 (xvii) A deferred sentence imposed in a prosecution for a
27 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
28 equivalent local ordinance, if the charge under which the deferred
29 sentence was imposed was originally filed as a violation of RCW
30 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
31 violation of RCW 46.61.520 or 46.61.522;

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

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

38 (c) "Within seven years" means that the arrest for a prior
39 offense occurred within seven years before or after the arrest for
40 the current offense; and

1 (d) "Within ten years" means that the arrest for a prior offense
2 occurred within ten years before or after the arrest for the current
3 offense.

4 (15) All fines imposed by this section apply to adult offenders
5 only."

EFFECT: Restores current statute, which authorizes courts to order a person, who has no prior DUI offenses, to participate in electronic home monitoring. As a result, such offender could be ordered to participate in either electronic home monitoring or 24/7 program monitoring.

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