

ESHB 2700 - S COMM AMD

By Committee on Transportation

ADOPTED 03/09/2016

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

3 "Sec. 1. RCW 36.28A.320 and 2015 2nd sp.s. c 3 s 16 are each
4 amended to read as follows:

5 There is hereby established in the custody of the state
6 (~~(treasury)~~) treasurer the 24/7 sobriety account. The account shall
7 be maintained and administered by the criminal justice training
8 commission to reimburse the state for costs associated with
9 establishing and operating the 24/7 sobriety program and the
10 Washington association of sheriffs and police chiefs for ongoing 24/7
11 sobriety program administration costs. An appropriation is not
12 required for expenditures and the account is not subject to allotment
13 procedures under chapter 43.88 RCW. Funds in the account may not
14 lapse and must carry forward from biennium to biennium. Interest
15 earned by the account must be retained in the account. The criminal
16 justice training commission may accept for deposit in the account
17 money from donations, gifts, grants, participation fees, and user
18 fees or payments.

19 **Sec. 2.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are
20 each reenacted and amended to read as follows:

21 (1) Money in the treasurer's trust fund may be deposited,
22 invested, and reinvested by the state treasurer in accordance with
23 RCW 43.84.080 in the same manner and to the same extent as if the
24 money were in the state treasury, and may be commingled with moneys
25 in the state treasury for cash management and cash balance purposes.

26 (2) All income received from investment of the treasurer's trust
27 fund must be set aside in an account in the treasury trust fund to be
28 known as the investment income account.

29 (3) The investment income account may be utilized for the payment
30 of purchased banking services on behalf of treasurer's trust funds
31 including, but not limited to, depository, safekeeping, and

1 disbursement functions for the state treasurer or affected state
2 agencies. The investment income account is subject in all respects to
3 chapter 43.88 RCW, but no appropriation is required for payments to
4 financial institutions. Payments must occur prior to distribution of
5 earnings set forth in subsection (4) of this section.

6 (4)(a) Monthly, the state treasurer must distribute the earnings
7 credited to the investment income account to the state general fund
8 except under (b), (c), and (d) of this subsection.

9 (b) The following accounts and funds must receive their
10 proportionate share of earnings based upon each account's or fund's
11 average daily balance for the period: The 24/7 sobriety account, the
12 Washington promise scholarship account, the Washington advanced
13 college tuition payment program account, the accessible communities
14 account, the community and technical college innovation account, the
15 agricultural local fund, the American Indian scholarship endowment
16 fund, the foster care scholarship endowment fund, the foster care
17 endowed scholarship trust fund, the contract harvesting revolving
18 account, the Washington state combined fund drive account, the
19 commemorative works account, the county enhanced 911 excise tax
20 account, the toll collection account, the developmental disabilities
21 endowment trust fund, the energy account, the fair fund, the family
22 leave insurance account, the food animal veterinarian conditional
23 scholarship account, the fruit and vegetable inspection account, the
24 future teachers conditional scholarship account, the game farm
25 alternative account, the GET ready for math and science scholarship
26 account, the Washington global health technologies and product
27 development account, the grain inspection revolving fund, the
28 industrial insurance rainy day fund, the juvenile accountability
29 incentive account, the law enforcement officers' and firefighters'
30 plan 2 expense fund, the local tourism promotion account, the
31 multiagency permitting team account, the pilotage account, the
32 produce railcar pool account, the regional transportation investment
33 district account, the rural rehabilitation account, the stadium and
34 exhibition center account, the youth athletic facility account, the
35 self-insurance revolving fund, the children's trust fund, the
36 Washington horse racing commission Washington bred owners' bonus fund
37 and breeder awards account, the Washington horse racing commission
38 class C purse fund account, the individual development account
39 program account, the Washington horse racing commission operating
40 account, the life sciences discovery fund, the Washington state

1 heritage center account, the reduced cigarette ignition propensity
2 account, the center for childhood deafness and hearing loss account,
3 the school for the blind account, the Millersylvania park trust fund,
4 the public employees' and retirees' insurance reserve fund, and the
5 radiation perpetual maintenance fund.

6 (c) The following accounts and funds must receive eighty percent
7 of their proportionate share of earnings based upon each account's or
8 fund's average daily balance for the period: The advanced right-of-
9 way revolving fund, the advanced environmental mitigation revolving
10 account, the federal narcotics asset forfeitures account, the high
11 occupancy vehicle account, the local rail service assistance account,
12 and the miscellaneous transportation programs account.

13 (d) Any state agency that has independent authority over accounts
14 or funds not statutorily required to be held in the custody of the
15 state treasurer that deposits funds into a fund or account in the
16 custody of the state treasurer pursuant to an agreement with the
17 office of the state treasurer shall receive its proportionate share
18 of earnings based upon each account's or fund's average daily balance
19 for the period.

20 (5) In conformance with Article II, section 37 of the state
21 Constitution, no trust accounts or funds shall be allocated earnings
22 without the specific affirmative directive of this section.

23 **Sec. 3.** RCW 46.01.260 and 2015 2nd sp.s. c 3 s 10 are each
24 amended to read as follows:

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

34 (2)(a) The director shall not destroy records of convictions or
35 adjudications of RCW 46.61.502, 46.61.503, 46.61.504, 46.61.520, and
36 46.61.522, ~~((~~or~~))~~ records of deferred prosecutions granted under RCW
37 10.05.120, or any other records of a prior offense as defined in RCW
38 46.61.5055 and shall maintain such records permanently on file.

1 (b) (~~The director shall not, within fifteen years from the date~~
2 ~~of conviction or adjudication, destroy records if the offense was~~
3 ~~originally charged as one of the offenses designated in (a) of this~~
4 ~~subsection, convictions or adjudications of the following offenses:~~
5 ~~RCW 46.61.500 or 46.61.5249 or any other violation that was~~
6 ~~originally charged as one of the offenses designated in (a) of this~~
7 ~~subsection.~~

8 (e)) For purposes of RCW 46.52.101 and 46.52.130, offenses
9 subject to this subsection shall be considered "alcohol-related"
10 offenses.

11 **Sec. 4.** RCW 46.64.025 and 2012 c 82 s 5 are each amended to read
12 as follows:

13 Whenever any person served with a traffic citation or a traffic-
14 related criminal complaint willfully fails to appear at a requested
15 hearing for a moving violation or fails to comply with the terms of a
16 notice of traffic citation for a moving violation or a traffic-
17 related criminal complaint, the court in which the defendant failed
18 to appear shall promptly give notice of such fact to the department
19 of licensing. Whenever thereafter the case in which the defendant
20 failed to appear is adjudicated, the court hearing the case shall
21 promptly file with the department a certificate showing that the case
22 has been adjudicated. For the purposes of this section, "moving
23 violation" is defined by rule pursuant to RCW 46.20.2891.

24 **Sec. 5.** RCW 46.20.291 and 2007 c 393 s 2 are each amended to
25 read as follows:

26 The department is authorized to suspend the license of a driver
27 upon a showing by its records or other sufficient evidence that the
28 licensee:

29 (1) Has committed an offense for which mandatory revocation or
30 suspension of license is provided by law;

31 (2) Has, by reckless or unlawful operation of a motor vehicle,
32 caused or contributed to an accident resulting in death or injury to
33 any person or serious property damage;

34 (3) Has been convicted of offenses against traffic regulations
35 governing the movement of vehicles, or found to have committed
36 traffic infractions, with such frequency as to indicate a disrespect
37 for traffic laws or a disregard for the safety of other persons on
38 the highways;

1 (4) Is incompetent to drive a motor vehicle under RCW
2 46.20.031(3);

3 (5) Has failed to respond to a notice of traffic infraction,
4 failed to appear at a requested hearing, violated a written promise
5 to appear in court, or has failed to comply with the terms of a
6 notice of traffic infraction, criminal complaint, or citation, as
7 provided in RCW 46.20.289;

8 (6) Is subject to suspension under RCW 46.20.305 or 9A.56.078;

9 (7) Has committed one of the prohibited practices relating to
10 drivers' licenses defined in RCW 46.20.0921; or

11 (8) Has been certified by the department of social and health
12 services as a person who is not in compliance with a child support
13 order or a residential or visitation order as provided in RCW
14 74.20A.320.

15 **Sec. 6.** RCW 46.20.289 and 2012 c 82 s 3 are each amended to read
16 as follows:

17 The department shall suspend all driving privileges of a person
18 when the department receives notice from a court under RCW
19 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed
20 to respond to a notice of traffic infraction for a moving violation,
21 failed to appear at a requested hearing for a moving violation,
22 violated a written promise to appear in court for a notice of
23 infraction for a moving violation, or has failed to comply with the
24 terms of a notice of traffic infraction, criminal complaint, or
25 citation for a moving violation, or when the department receives
26 notice from another state under Article IV of the nonresident
27 violator compact under RCW 46.23.010 or from a jurisdiction that has
28 entered into an agreement with the department under RCW 46.23.020,
29 other than for a standing, stopping, or parking violation, provided
30 that the traffic infraction or traffic offense is committed on or
31 after July 1, 2005. A suspension under this section takes effect
32 pursuant to the provisions of RCW 46.20.245, and remains in effect
33 until the department has received a certificate from the court
34 showing that the case has been adjudicated, and until the person
35 meets the requirements of RCW 46.20.311. In the case of failure to
36 respond to a traffic infraction issued under RCW 46.55.105, the
37 department shall suspend all driving privileges until the person
38 provides evidence from the court that all penalties and restitution
39 have been paid. A suspension under this section does not take effect

1 if, prior to the effective date of the suspension, the department
2 receives a certificate from the court showing that the case has been
3 adjudicated.

4 **Sec. 7.** RCW 9.94A.533 and 2015 c 134 s 2 are each amended to
5 read as follows:

6 (1) The provisions of this section apply to the standard sentence
7 ranges determined by RCW 9.94A.510 or 9.94A.517.

8 (2) For persons convicted of the anticipatory offenses of
9 criminal attempt, solicitation, or conspiracy under chapter 9A.28
10 RCW, the standard sentence range is determined by locating the
11 sentencing grid sentence range defined by the appropriate offender
12 score and the seriousness level of the completed crime, and
13 multiplying the range by seventy-five percent.

14 (3) The following additional times shall be added to the standard
15 sentence range for felony crimes committed after July 23, 1995, if
16 the offender or an accomplice was armed with a firearm as defined in
17 RCW 9.41.010 and the offender is being sentenced for one of the
18 crimes listed in this subsection as eligible for any firearm
19 enhancements based on the classification of the completed felony
20 crime. If the offender is being sentenced for more than one offense,
21 the firearm enhancement or enhancements must be added to the total
22 period of confinement for all offenses, regardless of which
23 underlying offense is subject to a firearm enhancement. If the
24 offender or an accomplice was armed with a firearm as defined in RCW
25 9.41.010 and the offender is being sentenced for an anticipatory
26 offense under chapter 9A.28 RCW to commit one of the crimes listed in
27 this subsection as eligible for any firearm enhancements, the
28 following additional times shall be added to the standard sentence
29 range determined under subsection (2) of this section based on the
30 felony crime of conviction as classified under RCW 9A.28.020:

31 (a) Five years for any felony defined under any law as a class A
32 felony or with a statutory maximum sentence of at least twenty years,
33 or both, and not covered under (f) of this subsection;

34 (b) Three years for any felony defined under any law as a class B
35 felony or with a statutory maximum sentence of ten years, or both,
36 and not covered under (f) of this subsection;

37 (c) Eighteen months for any felony defined under any law as a
38 class C felony or with a statutory maximum sentence of five years, or
39 both, and not covered under (f) of this subsection;

1 (d) If the offender is being sentenced for any firearm
2 enhancements under (a), (b), and/or (c) of this subsection and the
3 offender has previously been sentenced for any deadly weapon
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
5 subsection or subsection (4)(a), (b), and/or (c) of this section, or
6 both, all firearm enhancements under this subsection shall be twice
7 the amount of the enhancement listed;

8 (e) Notwithstanding any other provision of law, all firearm
9 enhancements under this section are mandatory, shall be served in
10 total confinement, and shall run consecutively to all other
11 sentencing provisions, including other firearm or deadly weapon
12 enhancements, for all offenses sentenced under this chapter. However,
13 whether or not a mandatory minimum term has expired, an offender
14 serving a sentence under this subsection may be:

15 (i) Granted an extraordinary medical placement when authorized
16 under RCW 9.94A.728(~~(+3)~~) (1)(c); or

17 (ii) Released under the provisions of RCW 9.94A.730;

18 (f) The firearm enhancements in this section shall apply to all
19 felony crimes except the following: Possession of a machine gun,
20 possessing a stolen firearm, drive-by shooting, theft of a firearm,
21 unlawful possession of a firearm in the first and second degree, and
22 use of a machine gun in a felony;

23 (g) If the standard sentence range under this section exceeds the
24 statutory maximum sentence for the offense, the statutory maximum
25 sentence shall be the presumptive sentence unless the offender is a
26 persistent offender. If the addition of a firearm enhancement
27 increases the sentence so that it would exceed the statutory maximum
28 for the offense, the portion of the sentence representing the
29 enhancement may not be reduced.

30 (4) The following additional times shall be added to the standard
31 sentence range for felony crimes committed after July 23, 1995, if
32 the offender or an accomplice was armed with a deadly weapon other
33 than a firearm as defined in RCW 9.41.010 and the offender is being
34 sentenced for one of the crimes listed in this subsection as eligible
35 for any deadly weapon enhancements based on the classification of the
36 completed felony crime. If the offender is being sentenced for more
37 than one offense, the deadly weapon enhancement or enhancements must
38 be added to the total period of confinement for all offenses,
39 regardless of which underlying offense is subject to a deadly weapon
40 enhancement. If the offender or an accomplice was armed with a deadly

1 weapon other than a firearm as defined in RCW 9.41.010 and the
2 offender is being sentenced for an anticipatory offense under chapter
3 9A.28 RCW to commit one of the crimes listed in this subsection as
4 eligible for any deadly weapon enhancements, the following additional
5 times shall be added to the standard sentence range determined under
6 subsection (2) of this section based on the felony crime of
7 conviction as classified under RCW 9A.28.020:

8 (a) Two years for any felony defined under any law as a class A
9 felony or with a statutory maximum sentence of at least twenty years,
10 or both, and not covered under (f) of this subsection;

11 (b) One year for any felony defined under any law as a class B
12 felony or with a statutory maximum sentence of ten years, or both,
13 and not covered under (f) of this subsection;

14 (c) Six months for any felony defined under any law as a class C
15 felony or with a statutory maximum sentence of five years, or both,
16 and not covered under (f) of this subsection;

17 (d) If the offender is being sentenced under (a), (b), and/or (c)
18 of this subsection for any deadly weapon enhancements and the
19 offender has previously been sentenced for any deadly weapon
20 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
21 subsection or subsection (3)(a), (b), and/or (c) of this section, or
22 both, all deadly weapon enhancements under this subsection shall be
23 twice the amount of the enhancement listed;

24 (e) Notwithstanding any other provision of law, all deadly weapon
25 enhancements under this section are mandatory, shall be served in
26 total confinement, and shall run consecutively to all other
27 sentencing provisions, including other firearm or deadly weapon
28 enhancements, for all offenses sentenced under this chapter. However,
29 whether or not a mandatory minimum term has expired, an offender
30 serving a sentence under this subsection may be:

31 (i) Granted an extraordinary medical placement when authorized
32 under RCW 9.94A.728(~~(+3)~~) (1)(c); or

33 (ii) Released under the provisions of RCW 9.94A.730;

34 (f) The deadly weapon enhancements in this section shall apply to
35 all felony crimes except the following: Possession of a machine gun,
36 possessing a stolen firearm, drive-by shooting, theft of a firearm,
37 unlawful possession of a firearm in the first and second degree, and
38 use of a machine gun in a felony;

39 (g) If the standard sentence range under this section exceeds the
40 statutory maximum sentence for the offense, the statutory maximum

1 sentence shall be the presumptive sentence unless the offender is a
2 persistent offender. If the addition of a deadly weapon enhancement
3 increases the sentence so that it would exceed the statutory maximum
4 for the offense, the portion of the sentence representing the
5 enhancement may not be reduced.

6 (5) The following additional times shall be added to the standard
7 sentence range if the offender or an accomplice committed the offense
8 while in a county jail or state correctional facility and the
9 offender is being sentenced for one of the crimes listed in this
10 subsection. If the offender or an accomplice committed one of the
11 crimes listed in this subsection while in a county jail or state
12 correctional facility, and the offender is being sentenced for an
13 anticipatory offense under chapter 9A.28 RCW to commit one of the
14 crimes listed in this subsection, the following additional times
15 shall be added to the standard sentence range determined under
16 subsection (2) of this section:

17 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
18 (a) or (b) or 69.50.410;

19 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
20 (c), (d), or (e);

21 (c) Twelve months for offenses committed under RCW 69.50.4013.

22 For the purposes of this subsection, all of the real property of
23 a state correctional facility or county jail shall be deemed to be
24 part of that facility or county jail.

25 (6) An additional twenty-four months shall be added to the
26 standard sentence range for any ranked offense involving a violation
27 of chapter 69.50 RCW if the offense was also a violation of RCW
28 69.50.435 or 9.94A.827. All enhancements under this subsection shall
29 run consecutively to all other sentencing provisions, for all
30 offenses sentenced under this chapter.

31 (7) An additional two years shall be added to the standard
32 sentence range for vehicular homicide committed while under the
33 influence of intoxicating liquor or any drug as defined by RCW
34 46.61.502 for each prior offense as defined in RCW 46.61.5055.

35 Notwithstanding any other provision of law, all impaired driving
36 enhancements under this subsection ((shall be)) are mandatory, shall
37 be served in total confinement, and shall run consecutively to all
38 other sentencing provisions, including other impaired driving
39 enhancements, for all offenses sentenced under this chapter.

1 An offender serving a sentence under this subsection may be
2 granted an extraordinary medical placement when authorized under RCW
3 9.94A.728(1)(c).

4 (8)(a) The following additional times shall be added to the
5 standard sentence range for felony crimes committed on or after July
6 1, 2006, if the offense was committed with sexual motivation, as that
7 term is defined in RCW 9.94A.030. If the offender is being sentenced
8 for more than one offense, the sexual motivation enhancement must be
9 added to the total period of total confinement for all offenses,
10 regardless of which underlying offense is subject to a sexual
11 motivation enhancement. If the offender committed the offense with
12 sexual motivation and the offender is being sentenced for an
13 anticipatory offense under chapter 9A.28 RCW, the following
14 additional times shall be added to the standard sentence range
15 determined under subsection (2) of this section based on the felony
16 crime of conviction as classified under RCW 9A.28.020:

17 (i) Two years for any felony defined under the law as a class A
18 felony or with a statutory maximum sentence of at least twenty years,
19 or both;

20 (ii) Eighteen months for any felony defined under any law as a
21 class B felony or with a statutory maximum sentence of ten years, or
22 both;

23 (iii) One year for any felony defined under any law as a class C
24 felony or with a statutory maximum sentence of five years, or both;

25 (iv) If the offender is being sentenced for any sexual motivation
26 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
27 the offender has previously been sentenced for any sexual motivation
28 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
29 (iii) of this subsection, all sexual motivation enhancements under
30 this subsection shall be twice the amount of the enhancement listed;

31 (b) Notwithstanding any other provision of law, all sexual
32 motivation enhancements under this subsection are mandatory, shall be
33 served in total confinement, and shall run consecutively to all other
34 sentencing provisions, including other sexual motivation
35 enhancements, for all offenses sentenced under this chapter. However,
36 whether or not a mandatory minimum term has expired, an offender
37 serving a sentence under this subsection may be:

38 (i) Granted an extraordinary medical placement when authorized
39 under RCW 9.94A.728(~~(+3)~~) (1)(c); or

40 (ii) Released under the provisions of RCW 9.94A.730;

1 (c) The sexual motivation enhancements in this subsection apply
2 to all felony crimes;

3 (d) If the standard sentence range under this subsection exceeds
4 the statutory maximum sentence for the offense, the statutory maximum
5 sentence shall be the presumptive sentence unless the offender is a
6 persistent offender. If the addition of a sexual motivation
7 enhancement increases the sentence so that it would exceed the
8 statutory maximum for the offense, the portion of the sentence
9 representing the enhancement may not be reduced;

10 (e) The portion of the total confinement sentence which the
11 offender must serve under this subsection shall be calculated before
12 any earned early release time is credited to the offender;

13 (f) Nothing in this subsection prevents a sentencing court from
14 imposing a sentence outside the standard sentence range pursuant to
15 RCW 9.94A.535.

16 (9) An additional one-year enhancement shall be added to the
17 standard sentence range for the felony crimes of RCW 9A.44.073,
18 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
19 or after July 22, 2007, if the offender engaged, agreed, or offered
20 to engage the victim in the sexual conduct in return for a fee. If
21 the offender is being sentenced for more than one offense, the
22 one-year enhancement must be added to the total period of total
23 confinement for all offenses, regardless of which underlying offense
24 is subject to the enhancement. If the offender is being sentenced for
25 an anticipatory offense for the felony crimes of RCW 9A.44.073,
26 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
27 offender attempted, solicited another, or conspired to engage, agree,
28 or offer to engage the victim in the sexual conduct in return for a
29 fee, an additional one-year enhancement shall be added to the
30 standard sentence range determined under subsection (2) of this
31 section. For purposes of this subsection, "sexual conduct" means
32 sexual intercourse or sexual contact, both as defined in chapter
33 9A.44 RCW.

34 (10)(a) For a person age eighteen or older convicted of any
35 criminal street gang-related felony offense for which the person
36 compensated, threatened, or solicited a minor in order to involve the
37 minor in the commission of the felony offense, the standard sentence
38 range is determined by locating the sentencing grid sentence range
39 defined by the appropriate offender score and the seriousness level
40 of the completed crime, and multiplying the range by one hundred

1 twenty-five percent. If the standard sentence range under this
2 subsection exceeds the statutory maximum sentence for the offense,
3 the statutory maximum sentence is the presumptive sentence unless the
4 offender is a persistent offender.

5 (b) This subsection does not apply to any criminal street gang-
6 related felony offense for which involving a minor in the commission
7 of the felony offense is an element of the offense.

8 (c) The increased penalty specified in (a) of this subsection is
9 unavailable in the event that the prosecution gives notice that it
10 will seek an exceptional sentence based on an aggravating factor
11 under RCW 9.94A.535.

12 (11) An additional twelve months and one day shall be added to
13 the standard sentence range for a conviction of attempting to elude a
14 police vehicle as defined by RCW 46.61.024, if the conviction
15 included a finding by special allegation of endangering one or more
16 persons under RCW 9.94A.834.

17 (12) An additional twelve months shall be added to the standard
18 sentence range for an offense that is also a violation of RCW
19 9.94A.831.

20 (13) An additional twelve months shall be added to the standard
21 sentence range for vehicular homicide committed while under the
22 influence of intoxicating liquor or any drug as defined by RCW
23 46.61.520 or for vehicular assault committed while under the
24 influence of intoxicating liquor or any drug as defined by RCW
25 46.61.522, or for any felony driving under the influence (RCW
26 46.61.502(6)) or felony physical control under the influence (RCW
27 46.61.504(6)) for each child passenger under the age of sixteen who
28 is an occupant in the defendant's vehicle. These enhancements shall
29 be mandatory, shall be served in total confinement, and shall run
30 consecutively to all other sentencing provisions. If the addition of
31 a minor child enhancement increases the sentence so that it would
32 exceed the statutory maximum for the offense, the portion of the
33 sentence representing the enhancement may not be reduced.

34 (14) An additional twelve months shall be added to the standard
35 sentence range for an offense that is also a violation of RCW
36 9.94A.832.

37 **Sec. 8.** RCW 46.61.506 and 2015 2nd sp.s. c 3 s 22 are each
38 amended to read as follows:

1 (1) Upon the trial of any civil or criminal action or proceeding
2 arising out of acts alleged to have been committed by any person
3 while driving or in actual physical control of a vehicle while under
4 the influence of intoxicating liquor or any drug, if the person's
5 alcohol concentration is less than 0.08 or the person's THC
6 concentration is less than 5.00, it is evidence that may be
7 considered with other competent evidence in determining whether the
8 person was under the influence of intoxicating liquor or any drug.

9 (2)(a) The breath analysis of the person's alcohol concentration
10 shall be based upon grams of alcohol per two hundred ten liters of
11 breath.

12 (b) The blood analysis of the person's THC concentration shall be
13 based upon nanograms per milliliter of whole blood.

14 (c) The foregoing provisions of this section shall not be
15 construed as limiting the introduction of any other competent
16 evidence bearing upon the question whether the person was under the
17 influence of intoxicating liquor or any drug.

18 (3) Analysis of the person's blood or breath to be considered
19 valid under the provisions of this section or RCW 46.61.502 or
20 46.61.504 shall have been performed according to methods approved by
21 the state toxicologist and by an individual possessing a valid permit
22 issued by the state toxicologist for this purpose. The state
23 toxicologist is directed to approve satisfactory techniques or
24 methods, to supervise the examination of individuals to ascertain
25 their qualifications and competence to conduct such analyses, and to
26 issue permits which shall be subject to termination or revocation at
27 the discretion of the state toxicologist.

28 (4)(a) A breath test performed by any instrument approved by the
29 state toxicologist shall be admissible at trial or in an
30 administrative proceeding if the prosecution or department produces
31 prima facie evidence of the following:

32 (i) The person who performed the test was authorized to perform
33 such test by the state toxicologist;

34 (ii) The person being tested did not vomit or have anything to
35 eat, drink, or smoke for at least fifteen minutes prior to
36 administration of the test;

37 (iii) The person being tested did not have any foreign
38 substances, not to include dental work, fixed or removable, in his or
39 her mouth at the beginning of the fifteen-minute observation period;

1 (iv) Prior to the start of the test, the temperature of any
2 liquid simulator solution utilized as an external standard, as
3 measured by a thermometer approved of by the state toxicologist was
4 thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

5 (v) The internal standard test resulted in the message
6 "verified";

7 (vi) The two breath samples agree to within plus or minus ten
8 percent of their mean to be determined by the method approved by the
9 state toxicologist;

10 (vii) The result of the test of the liquid simulator solution
11 external standard or dry gas external standard result did lie
12 between .072 to .088 inclusive; and

13 (viii) All blank tests gave results of .000.

14 (b) For purposes of this section, "prima facie evidence" is
15 evidence of sufficient circumstances that would support a logical and
16 reasonable inference of the facts sought to be proved. In assessing
17 whether there is sufficient evidence of the foundational facts, the
18 court or administrative tribunal is to assume the truth of the
19 prosecution's or department's evidence and all reasonable inferences
20 from it in a light most favorable to the prosecution or department.

21 (c) Nothing in this section shall be deemed to prevent the
22 subject of the test from challenging the reliability or accuracy of
23 the test, the reliability or functioning of the instrument, or any
24 maintenance procedures. Such challenges, however, shall not preclude
25 the admissibility of the test once the prosecution or department has
26 made a prima facie showing of the requirements contained in (a) of
27 this subsection. Instead, such challenges may be considered by the
28 trier of fact in determining what weight to give to the test result.

29 (5) When a blood test is administered under the provisions of RCW
30 46.20.308, the withdrawal of blood for the purpose of determining its
31 alcoholic or drug content may be performed only by a physician
32 licensed under chapter 18.71 RCW; an osteopathic physician licensed
33 under chapter 18.57 RCW; a registered nurse, licensed practical
34 nurse, or advanced registered nurse practitioner licensed under
35 chapter 18.79 RCW; a physician assistant licensed under chapter
36 18.71A RCW; an osteopathic physician assistant licensed under chapter
37 18.57A RCW; an advanced emergency medical technician or paramedic
38 licensed under chapter 18.73 RCW; until July 1, 2016, a health care
39 assistant certified under chapter 18.135 RCW; or a medical assistant-
40 certified or medical assistant-phlebotomist certified under chapter

1 18.360 RCW. Proof of qualification to draw blood may be established
2 through the department of health's provider credential search. This
3 limitation shall not apply to the taking of breath specimens.

4 (6) The person tested may have a licensed or certified health
5 care provider listed in subsection (5) of this section, or a
6 qualified technician, chemist, or other qualified person of his or
7 her own choosing administer one or more tests in addition to any
8 administered at the direction of a law enforcement officer. The test
9 will be admissible if the person establishes the general
10 acceptability of the testing technique or method. The failure or
11 inability to obtain an additional test by a person shall not preclude
12 the admission of evidence relating to the test or tests taken at the
13 direction of a law enforcement officer.

14 (7) Upon the request of the person who shall submit to a test or
15 tests at the request of a law enforcement officer, full information
16 concerning the test or tests shall be made available to him or her or
17 his or her attorney.

18 **Sec. 9.** RCW 10.31.100 and 2014 c 202 s 307, 2014 c 100 s 2, and
19 2014 c 5 s 1 are each reenacted and amended to read as follows:

20 A police officer having probable cause to believe that a person
21 has committed or is committing a felony shall have the authority to
22 arrest the person without a warrant. A police officer may arrest a
23 person without a warrant for committing a misdemeanor or gross
24 misdemeanor only when the offense is committed in the presence of an
25 officer, except as provided in subsections (1) through (11) of this
26 section.

27 (1) Any police officer having probable cause to believe that a
28 person has committed or is committing a misdemeanor or gross
29 misdemeanor, involving physical harm or threats of harm to any person
30 or property or the unlawful taking of property or involving the use
31 or possession of cannabis, or involving the acquisition, possession,
32 or consumption of alcohol by a person under the age of twenty-one
33 years under RCW 66.44.270, or involving criminal trespass under RCW
34 9A.52.070 or 9A.52.080, shall have the authority to arrest the
35 person.

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

1 (a) An order has been issued of which the person has knowledge
2 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
3 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
4 person has violated the terms of the order restraining the person
5 from acts or threats of violence, or restraining the person from
6 going onto the grounds of or entering a residence, workplace, school,
7 or day care, or prohibiting the person from knowingly coming within,
8 or knowingly remaining within, a specified distance of a location or,
9 in the case of an order issued under RCW 26.44.063, imposing any
10 other restrictions or conditions upon the person; or

11 (b) A foreign protection order, as defined in RCW 26.52.010, has
12 been issued of which the person under restraint has knowledge and the
13 person under restraint has violated a provision of the foreign
14 protection order prohibiting the person under restraint from
15 contacting or communicating with another person, or excluding the
16 person under restraint from a residence, workplace, school, or day
17 care, or prohibiting the person from knowingly coming within, or
18 knowingly remaining within, a specified distance of a location, or a
19 violation of any provision for which the foreign protection order
20 specifically indicates that a violation will be a crime; or

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

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

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

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

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

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

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

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

16 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
17 negligent manner.

18 (4) A law enforcement officer investigating at the scene of a
19 motor vehicle accident may arrest the driver of a motor vehicle
20 involved in the accident if the officer has probable cause to believe
21 that the driver has committed in connection with the accident a
22 violation of any traffic law or regulation.

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

28 (b) A law enforcement officer investigating at the scene of a
29 motor vessel accident may issue a citation for an infraction to the
30 operator of a motor vessel involved in the accident if the officer
31 has probable cause to believe that the operator has committed, in
32 connection with the accident, a violation of any boating safety law
33 of chapter 79A.60 RCW.

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

37 (7) An officer may act upon the request of a law enforcement
38 officer in whose presence a traffic infraction was committed, to
39 stop, detain, arrest, or issue a notice of traffic infraction to the
40 driver who is believed to have committed the infraction. The request

1 by the witnessing officer shall give an officer the authority to take
2 appropriate action under the laws of the state of Washington.

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

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

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

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

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

22 (12) A law enforcement officer having probable cause to believe
23 that a person has committed a violation under RCW 77.15.160(4) may
24 issue a citation for an infraction to the person in connection with
25 the violation.

26 (13) A law enforcement officer having probable cause to believe
27 that a person has committed a criminal violation under RCW 77.15.809
28 or 77.15.811 may arrest the person in connection with the violation.

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

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

35 (16)(a) Except as provided in (b) of this subsection, a police
36 officer shall arrest and keep in custody, until release by a judicial
37 officer on bail, personal recognizance, or court order, a person
38 without a warrant when the officer has probable cause to believe that
39 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent

1 local ordinance and the police officer has knowledge that the person
2 has a prior offense as defined in RCW 46.61.5055 within ten years.

3 (b) A police officer is not required to keep in custody a person
4 under (a) of this subsection if the person requires immediate medical
5 attention and is admitted to a hospital.

6 **Sec. 10.** RCW 10.01.230 and 2011 c 293 s 15 are each amended to
7 read as follows:

8 (1) The Washington traffic safety commission may develop and
9 maintain a registry of qualified victim impact panels. When imposing
10 a requirement that an offender attend a victim impact panel under RCW
11 46.61.5152, the court may refer the offender to a victim impact panel
12 that is listed in the registry. The Washington traffic safety
13 commission may consult with victim impact panel organizations to
14 develop and maintain a registry.

15 (2) To be listed on the registry, the victim impact panel must
16 meet the following minimum standards:

17 (a) The victim impact panel must address the effects of driving
18 while impaired on individuals and families and address alternatives
19 to drinking and driving and drug use and driving;

20 (b) The victim impact panel (~~(should strive to)~~) shall have at
21 least two different speakers, one of whom is a victim survivor of an
22 impaired driving crash, to present their stories in person. A victim
23 survivor may be the panel facilitator. The victim impact panel should
24 be a minimum of sixty minutes of presentation, not including
25 registration and administration time;

26 (c) The victim impact panel shall have policies and procedures to
27 recruit, screen, train, and provide feedback and ongoing support to
28 the panelists. The panel shall take reasonable steps to verify the
29 authenticity of each panelist's story;

30 (d) Pursuant to (b) of this subsection, the victim impact panel
31 shall use in-person speakers for each presentation for a minimum of
32 sixty minutes of presentation. The victim impact panel may supplement
33 the in-person presentations with prerecorded videos, but in no case
34 shall the videos shown exceed fifteen minutes of presentation;

35 (e) The victim impact panel shall charge a reasonable fee to all
36 persons required to attend, unless otherwise ordered by the court;

37 (~~(e)~~) (f) The victim impact panel shall have a policy to
38 prohibit admittance of anyone under the influence of alcohol or
39 drugs, or anyone whose actions or behavior are otherwise

1 inappropriate. The victim impact panel may institute additional
2 admission requirements;

3 ~~((f))~~ (g) The victim impact panel shall maintain attendance
4 records for at least five years;

5 ~~((g))~~ (h) The victim impact panel shall make reasonable efforts
6 to use a facility that meets standards established by the Americans
7 with disabilities act;

8 ~~((h))~~ (i) The victim impact panel may provide referral
9 information to other community services; and

10 ~~((i))~~ (j) The victim impact panel shall have a designated
11 facilitator who is responsible for the compliance with these minimum
12 standards and who is responsible for maintaining appropriate records
13 and communication with the referring courts and probationary
14 departments regarding attendance or nonattendance.

15 **Sec. 11.** RCW 10.05.140 and 2013 2nd sp.s. c 35 s 21 are each
16 amended to read as follows:

17 As a condition of granting a deferred prosecution petition, the
18 court shall order that the petitioner shall not operate a motor
19 vehicle upon the public highways without a valid operator's license
20 and proof of liability insurance. The amount of liability insurance
21 shall be established by the court at not less than that established
22 by RCW 46.29.490. As a condition of granting a deferred prosecution
23 petition on any alcohol-dependency based case, the court shall also
24 order the installation of an ignition interlock under RCW 46.20.720.
25 The required periods of use of the interlock shall be not less than
26 the periods provided for in RCW 46.20.720~~((3))~~. As a condition of
27 granting a deferred prosecution petition, the court may order the
28 petitioner to make restitution and to pay costs as defined in RCW
29 10.01.160. To help ensure continued sobriety and reduce the
30 likelihood of reoffense, the court may order reasonable conditions
31 during the period of the deferred prosecution including, but not
32 limited to, attendance at self-help recovery support groups for
33 alcoholism or drugs, complete abstinence from alcohol and all
34 nonprescribed mind-altering drugs, periodic urinalysis or breath
35 analysis, and maintaining law-abiding behavior. The court may
36 terminate the deferred prosecution program upon violation of the
37 deferred prosecution order.

1 **Sec. 12.** RCW 46.20.311 and 2006 c 73 s 15 are each amended to
2 read as follows:

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

7 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
8 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
9 driving privilege of any person is suspended by reason of a
10 conviction, a finding that a traffic infraction has been committed,
11 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
12 46.20.308, the suspension shall remain in effect until the person
13 gives and thereafter maintains proof of financial responsibility for
14 the future as provided in chapter 46.29 RCW.

15 (c) If the suspension is the result of a nonfelony violation of
16 RCW 46.61.502 or 46.61.504, the department shall determine the
17 person's eligibility for licensing based upon the reports provided by
18 the alcoholism agency or probation department designated under RCW
19 46.61.5056 and shall deny reinstatement until enrollment and
20 participation in an approved program has been established and the
21 person is otherwise qualified. If the suspension is the result of a
22 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
23 determine the person's eligibility for licensing based upon the
24 reports provided by the alcohol or drug dependency agency required
25 under RCW 46.61.524 and shall deny reinstatement until satisfactory
26 progress in an approved program has been established and the person
27 is otherwise qualified. If the suspension is the result of a
28 violation of RCW 46.61.502 or 46.61.504, and the person is required
29 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
30 a functioning ignition interlock, the department shall determine the
31 person's eligibility for licensing based upon written verification by
32 a company doing business in the state that it has installed the
33 required device on a vehicle owned or operated by the person seeking
34 reinstatement. The department may waive the requirement for written
35 verification under this subsection if it determines to its
36 satisfaction that a device previously verified as having been
37 installed on a vehicle owned or operated by the person is still
38 installed and functioning or as permitted by RCW 46.20.720(8). If,
39 based upon notification from the interlock provider or otherwise, the
40 department determines that an interlock required under RCW 46.20.720

1 is no longer installed or functioning as required, the department
2 shall suspend the person's license or privilege to drive. Whenever
3 the license or driving privilege of any person is suspended or
4 revoked as a result of noncompliance with an ignition interlock
5 requirement, the suspension shall remain in effect until the person
6 provides notice issued by a company doing business in the state that
7 a vehicle owned or operated by the person is equipped with a
8 functioning ignition interlock device.

9 (d) Whenever the license or driving privilege of any person is
10 suspended as a result of certification of noncompliance with a child
11 support order under chapter 74.20A RCW (~~or a residential or~~
12 ~~visitation order~~), the suspension shall remain in effect until the
13 person provides a release issued by the department of social and
14 health services stating that the person is in compliance with the
15 order.

16 (e)(i) The department shall not issue to the person a new,
17 duplicate, or renewal license until the person pays a reissue fee of
18 seventy-five dollars.

19 (ii) If the suspension is the result of a violation of RCW
20 46.61.502 or 46.61.504, or is the result of administrative action
21 under RCW 46.20.308, the reissue fee shall be one hundred fifty
22 dollars.

23 (2)(a) Any person whose license or privilege to drive a motor
24 vehicle on the public highways has been revoked, unless the
25 revocation was for a cause which has been removed, is not entitled to
26 have the license or privilege renewed or restored until: (i) After
27 the expiration of one year from the date the license or privilege to
28 drive was revoked; (ii) after the expiration of the applicable
29 revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii)
30 after the expiration of two years for persons convicted of vehicular
31 homicide; or (iv) after the expiration of the applicable revocation
32 period provided by RCW 46.20.265.

33 (b)(i) After the expiration of the appropriate period, the person
34 may make application for a new license as provided by law together
35 with a reissue fee in the amount of seventy-five dollars.

36 (ii) If the revocation is the result of a violation of RCW
37 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
38 hundred fifty dollars. If the revocation is the result of a nonfelony
39 violation of RCW 46.61.502 or 46.61.504, the department shall
40 determine the person's eligibility for licensing based upon the

1 reports provided by the alcoholism agency or probation department
2 designated under RCW 46.61.5056 and shall deny reissuance of a
3 license, permit, or privilege to drive until enrollment and
4 participation in an approved program has been established and the
5 person is otherwise qualified. If the suspension is the result of a
6 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
7 determine the person's eligibility for licensing based upon the
8 reports provided by the alcohol or drug dependency agency required
9 under RCW 46.61.524 and shall deny reinstatement until satisfactory
10 progress in an approved program has been established and the person
11 is otherwise qualified. If the revocation is the result of a
12 violation of RCW 46.61.502 or 46.61.504, and the person is required
13 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
14 a functioning ignition interlock or other biological or technical
15 device, the department shall determine the person's eligibility for
16 licensing based upon written verification by a company doing business
17 in the state that it has installed the required device on a vehicle
18 owned or operated by the person applying for a new license. The
19 department may waive the requirement for written verification under
20 this subsection if it determines to its satisfaction that a device
21 previously verified as having been installed on a vehicle owned or
22 operated by the person is still installed and functioning or as
23 permitted by RCW 46.20.720(8). If, following issuance of a new
24 license, the department determines, based upon notification from the
25 interlock provider or otherwise, that an interlock required under RCW
26 46.20.720 is no longer functioning, the department shall suspend the
27 person's license or privilege to drive until the department has
28 received written verification from an interlock provider that a
29 functioning interlock is installed.

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

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

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

13 **Sec. 13.** RCW 46.20.385 and 2015 2nd sp.s. c 3 s 3 are each
14 amended to read as follows:

15 (1)(a) Any person licensed under this chapter or who has a valid
16 driver's license from another state, who is convicted of: (i) A
17 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
18 out-of-state statute or ordinance, or (ii) a violation of RCW
19 46.61.520(1)(a) or an equivalent local or out-of-state statute or
20 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
21 (b) or (c) if the conviction is the result of a charge that was
22 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
23 46.61.522(1)(b) or an equivalent local or out-of-state statute or
24 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
25 the result of a charge that was originally filed as a violation of
26 RCW 46.61.522(1)(b) committed while under the influence of
27 intoxicating liquor or any drug, or (vi) who has had or will have his
28 or her license suspended, revoked, or denied under RCW 46.20.3101, or
29 who is otherwise permitted under subsection (8) of this section, may
30 submit to the department an application for an ignition interlock
31 driver's license. The department, upon receipt of the prescribed fee
32 and upon determining that the petitioner is eligible to receive the
33 license, may issue an ignition interlock driver's license.

34 (b) A person may apply for an ignition interlock driver's license
35 anytime, including immediately after receiving the notices under RCW
36 46.20.308 or after his or her license is suspended, revoked, or
37 denied.

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

4 (i) The department shall require the person to maintain the
5 device on all vehicles operated by the person and shall restrict the
6 person to operating only vehicles equipped with the device, for the
7 remainder of the period of suspension, revocation, or denial, unless
8 otherwise permitted under RCW 46.20.720(6). ~~((Subject to the~~
9 ~~provisions of RCW 46.20.720(3)(b)(ii), the installation of an~~
10 ~~ignition interlock device is not necessary on vehicles owned, leased,~~
11 ~~or rented by a person's employer and on those vehicles whose care~~
12 ~~and/or maintenance is the temporary responsibility of the employer,~~
13 ~~and driven at the direction of a person's employer as a requirement~~
14 ~~of employment during working hours. The person must provide the~~
15 ~~department with a declaration pursuant to RCW 9A.72.085 from his or~~
16 ~~her employer stating that the person's employment requires the person~~
17 ~~to operate a vehicle owned by the employer or other persons during~~
18 ~~working hours.))~~

19 (ii) Subject to any periodic renewal requirements established by
20 the department under this section and subject to any applicable
21 compliance requirements under this chapter or other law, an ignition
22 interlock driver's license granted upon a suspension or revocation
23 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
24 portion of any concurrent or consecutive suspension or revocation
25 that may be imposed as the result of administrative action and
26 criminal conviction arising out of the same incident.

27 ~~((iii) The time period during which the person is licensed under~~
28 ~~this section shall apply on a day for day basis toward satisfying the~~
29 ~~period of time the ignition interlock device restriction is required~~
30 ~~under RCW 46.20.720, 46.61.5055, 10.05.140, 46.61.500(3), and~~
31 ~~46.61.5249(4). Beginning with incidents occurring on or after~~
32 ~~September 1, 2011, when calculating the period of time for the~~
33 ~~restriction under RCW 46.20.720 (2) or (3), the department must also~~
34 ~~give the person a day for day credit for the time period, beginning~~
35 ~~from the date of the incident, during which the person kept an~~
36 ~~ignition interlock device installed on all vehicles the person~~
37 ~~operates. For the purposes of this subsection (1)(c)(iii), the term~~
38 ~~"all vehicles" does not include vehicles that would be subject to the~~
39 ~~employer exception under RCW 46.20.720(3).))~~

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

5 (3) Upon receipt of evidence that a holder of an ignition
6 interlock driver's license granted under this subsection no longer
7 has a functioning ignition interlock device installed on all vehicles
8 operated by the driver, the director shall give written notice by
9 first-class mail to the driver that the ignition interlock driver's
10 license shall be canceled. If at any time before the cancellation
11 goes into effect the driver submits evidence that a functioning
12 ignition interlock device has been installed on all vehicles operated
13 by the driver, the cancellation shall be stayed. If the cancellation
14 becomes effective, the driver may obtain, at no additional charge, a
15 new ignition interlock driver's license upon submittal of evidence
16 that a functioning ignition interlock device has been installed on
17 all vehicles operated by the driver.

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

21 (5) The director shall cancel an ignition interlock driver's
22 license after receiving notice that the holder thereof has been
23 convicted of operating a motor vehicle in violation of its
24 restrictions, no longer meets the eligibility requirements, or has
25 been convicted of or found to have committed a separate offense or
26 any other act or omission that under this chapter would warrant
27 suspension or revocation of a regular driver's license. The
28 department must give notice of the cancellation as provided under RCW
29 46.20.245. A person whose ignition interlock driver's license has
30 been canceled under this section may reapply for a new ignition
31 interlock driver's license if he or she is otherwise qualified under
32 this section and pays the fee required under RCW 46.20.380.

33 (6)(a) Unless costs are waived by the ignition interlock company
34 or the person is indigent under RCW 10.101.010, the applicant shall
35 pay the cost of installing, removing, and leasing the ignition
36 interlock device and shall pay an additional fee of twenty dollars
37 per month. Payments shall be made directly to the ignition interlock
38 company. The company shall remit the additional twenty dollar fee to
39 the department.

1 (b) The department shall deposit the proceeds of the twenty
2 dollar fee into the ignition interlock device revolving account.
3 Expenditures from the account may be used only to administer and
4 operate the ignition interlock device revolving account program. The
5 department shall adopt rules to provide monetary assistance according
6 to greatest need and when funds are available.

7 (7) The department shall adopt rules to implement ignition
8 interlock licensing. The department shall consult with the
9 administrative office of the courts, the state patrol, the Washington
10 association of sheriffs and police chiefs, ignition interlock
11 companies, and any other organization or entity the department deems
12 appropriate.

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

18 (b) A person who does not have any driver's license under this
19 chapter, but who would otherwise be eligible under this section to
20 apply for an ignition interlock license, may submit to the department
21 an application for an ignition interlock license. The department may
22 require the person to take any driver's licensing examination under
23 this chapter and may require the person to also apply and qualify for
24 a temporary restricted driver's license under RCW 46.20.391.

25 **Sec. 14.** RCW 46.20.720 and 2013 2nd sp.s. c 35 s 19 are each
26 amended to read as follows:

27 ~~(1) ((The court may order that after a period of suspension,~~
28 ~~revocation, or denial of driving privileges, and for up to as long as~~
29 ~~the court has jurisdiction, any person convicted of any offense~~
30 ~~involving the use, consumption, or possession of alcohol while~~
31 ~~operating a motor vehicle may drive only a motor vehicle equipped~~
32 ~~with a functioning ignition interlock. The court shall establish a~~
33 ~~specific calibration setting at which the interlock will prevent the~~
34 ~~vehicle from being started. The court shall also establish the period~~
35 ~~of time for which interlock use will be required.~~

36 ~~(2) Under RCW 46.61.5055 and subject to the exceptions listed in~~
37 ~~that statute, the court shall order any person convicted of a~~
38 ~~violation of RCW 46.61.502 or 46.61.504 or an equivalent local~~
39 ~~ordinance to comply with the rules and requirements of the department~~

1 regarding the installation and use of a functioning ignition
2 interlock device installed on all motor vehicles operated by the
3 person. The court shall order any person participating in a deferred
4 prosecution program under RCW 10.05.020 for a violation of RCW
5 46.61.502 or 46.61.504 or an equivalent local ordinance to have a
6 functioning ignition interlock device installed on all motor vehicles
7 operated by the person.

8 (3)(a) The department shall require that, after any applicable
9 period of suspension, revocation, or denial of driving privileges, a
10 person may drive only a motor vehicle equipped with a functioning
11 ignition interlock device if the person is convicted of a violation
12 of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state
13 statute or ordinance. The department shall require that a person may
14 drive only a motor vehicle equipped with a functioning ignition
15 interlock device if the person is convicted of a violation of RCW
16 46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or
17 46.61.500(3) (a) or (b) to install an ignition interlock device on
18 all vehicles operated by the person.

19 (b)(i) Except as provided in (b)(ii) of this subsection, the
20 installation of an ignition interlock device is not necessary on
21 vehicles owned, leased, or rented by a person's employer and on those
22 vehicles whose care and/or maintenance is the temporary
23 responsibility of the employer, and driven at the direction of a
24 person's employer as a requirement of employment during working
25 hours. The person must provide the department with a declaration
26 pursuant to RCW 9A.72.085 from his or her employer stating that the
27 person's employment requires the person to operate a vehicle owned by
28 the employer or other persons during working hours.

29 (ii) The employer exemption does not apply:

30 (A) When the employer's vehicle is assigned exclusively to the
31 restricted driver and used solely for commuting to and from
32 employment;

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

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

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

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

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

10 ~~(iii) For a person who has previously been restricted under~~
11 ~~(c)(ii) of this subsection, a period of ten years.~~

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

18 ~~(a) Any attempt to start the vehicle with a breath alcohol~~
19 ~~concentration of 0.04 or more unless a subsequent test performed~~
20 ~~within ten minutes registers a breath alcohol concentration lower~~
21 ~~than 0.04 and the digital image confirms the same person provided~~
22 ~~both samples;~~

23 ~~(b) Failure to take any random test unless a review of the~~
24 ~~digital image confirms that the vehicle was not occupied by the~~
25 ~~driver at the time of the missed test;~~

26 ~~(c) Failure to pass any random retest with a breath alcohol~~
27 ~~concentration of 0.025 or lower unless a subsequent test performed~~
28 ~~within ten minutes registers a breath alcohol concentration lower~~
29 ~~than 0.025, and the digital image confirms the same person provided~~
30 ~~both samples; or~~

31 ~~(d) Failure of the person to appear at the ignition interlock~~
32 ~~device vendor when required for maintenance, repair, calibration,~~
33 ~~monitoring, inspection, or replacement of the device.~~

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

38 ~~(6) In addition to any other costs associated with the use of an~~
39 ~~ignition interlock device imposed on the person restricted under this~~
40 ~~section, the person shall pay an additional fee of twenty dollars per~~

1 month. Payments must be made directly to the ignition interlock
2 company. The company shall remit the additional twenty dollar fee to
3 the department to be deposited into the ignition interlock device
4 revolving account.)) **Ignition interlock restriction.** The department
5 shall require that a person may drive only a motor vehicle equipped
6 with a functioning ignition interlock device:

7 (a) **Pretrial release.** Upon receipt of notice from a court that an
8 ignition interlock device restriction has been imposed under RCW
9 10.21.055;

10 (b) **Ignition interlock driver's license.** As required for issuance
11 of an ignition interlock driver's license under RCW 46.20.385;

12 (c) **Deferred prosecution.** Upon receipt of notice from a court
13 that the person is participating in a deferred prosecution program
14 under RCW 10.05.020 for a violation of:

15 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
16 or

17 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
18 if the person would be required under RCW 46.61.5249(4) or
19 46.61.500(3) (a) or (b) to install an ignition interlock device on
20 all vehicles operated by the person in the event of a conviction;

21 (d) **Post conviction.** After any applicable period of suspension,
22 revocation, or denial of driving privileges:

23 (i) Due to a conviction of a violation of RCW 46.61.502 or
24 46.61.504 or an equivalent local or out-of-state statute or
25 ordinance; or

26 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
27 46.61.500 or an equivalent local ordinance if the person is required
28 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
29 ignition interlock device on all vehicles operated by the person; or

30 (e) **Court order.** Upon receipt of an order by a court having
31 jurisdiction that a person charged or convicted of any offense
32 involving the use, consumption, or possession of alcohol while
33 operating a motor vehicle may drive only a motor vehicle equipped
34 with a functioning ignition interlock. The court shall establish a
35 specific calibration setting at which the ignition interlock will
36 prevent the vehicle from being started. The court shall also
37 establish the period of time for which ignition interlock use will be
38 required.

39 (2) **Calibration.** Unless otherwise specified by the court for a
40 restriction imposed under subsection (1)(e) of this section, the

1 ignition interlock device shall be calibrated to prevent the motor
2 vehicle from being started when the breath sample provided has an
3 alcohol concentration of 0.025 or more.

4 (3) **Duration of restriction.** A restriction imposed under:

5 (a) Subsection (1)(a) of this section shall remain in effect
6 until:

7 (i) The court has authorized the removal of the device under RCW
8 10.21.055; or

9 (ii) The department has imposed a restriction under subsection
10 (1)(b), (c), or (d) of this section arising out of the same incident.

11 (b) Subsection (1)(b) of this section remains in effect during
12 the validity of any ignition interlock driver's license that has been
13 issued to the person.

14 (c) Subsection (1)(c)(i) or (d)(i) of this section shall be for
15 no less than:

16 (i) For a person who has not previously been restricted under
17 this subsection, a period of one year;

18 (ii) For a person who has previously been restricted under (c)(i)
19 of this subsection, a period of five years;

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

22 The restriction of a person who is convicted of a violation of
23 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who
24 committed the offense while a passenger under the age of sixteen was
25 in the vehicle shall be extended for an additional six-month period
26 as required by RCW 46.61.5055(6)(a).

27 (d) Subsection (1)(c)(ii) or (d)(ii) of this section shall be for
28 a period of no less than six months.

29 (e) Subsection (1)(e) of this section shall remain in effect for
30 the period of time specified by the court.

31 The period of restriction under (c) and (d) of this subsection
32 based on incidents occurring on or after the effective date of this
33 section must be tolled for any period in which the person does not
34 have an ignition interlock device installed on a vehicle owned or
35 operated by the person.

36 (4) **Requirements for removal.** A restriction imposed under
37 subsection (1)(c) or (d) of this section shall remain in effect until
38 the department receives a declaration from the person's ignition
39 interlock device vendor, in a form provided or approved by the
40 department, certifying that there have been none of the following

1 incidents in the four consecutive months prior to the date of
2 release:

3 (a) Any attempt to start the vehicle with a breath alcohol
4 concentration of 0.04 or more unless a subsequent test performed
5 within ten minutes registers a breath alcohol concentration lower
6 than 0.04 and the digital image confirms the same person provided
7 both samples;

8 (b) Failure to take any random test unless a review of the
9 digital image confirms that the vehicle was not occupied by the
10 driver at the time of the missed test;

11 (c) Failure to pass any random retest with a breath alcohol
12 concentration of 0.025 or lower unless a subsequent test performed
13 within ten minutes registers a breath alcohol concentration lower
14 than 0.025, and the digital image confirms the same person provided
15 both samples; or

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

19 (5) **Day-for-day credit.** (a) The time period during which a person
20 has an ignition interlock device installed in order to meet the
21 requirements of subsection (1)(b) of this section shall apply on a
22 day-for-day basis toward satisfying the period of time the ignition
23 interlock device restriction is imposed under subsection (1)(c) or
24 (d) of this section arising out of the same incident.

25 (b) The department must also give the person a day-for-day credit
26 for any time period, beginning from the date of the incident, during
27 which the person kept an ignition interlock device installed on all
28 vehicles the person operates, other than those subject to the
29 employer exemption under subsection (6) of this section.

30 (c) If the day-for-day credit granted under this subsection
31 equals or exceeds the period of time the ignition interlock device
32 restriction is imposed under subsection (1)(c) or (d) of this section
33 arising out of the same incident, and the person has already met the
34 requirements for removal of the device under subsection (4) of this
35 section, the department may waive the requirement that a device be
36 installed or that the person again meet the requirements for removal.

37 (6) **Employer exemption.** (a) Except as provided in (b) of this
38 subsection, the installation of an ignition interlock device is not
39 necessary on vehicles owned, leased, or rented by a person's employer
40 and on those vehicles whose care and/or maintenance is the temporary

1 responsibility of the employer, and driven at the direction of a
2 person's employer as a requirement of employment during working
3 hours. The person must provide the department with a declaration
4 pursuant to RCW 9A.72.085 from his or her employer stating that the
5 person's employment requires the person to operate a vehicle owned by
6 the employer or other persons during working hours.

7 (b) The employer exemption does not apply when the employer's
8 vehicle is assigned exclusively to the restricted driver and used
9 solely for commuting to and from employment.

10 (7) **Ignition interlock device revolving account.** In addition to
11 any other costs associated with the use of an ignition interlock
12 device imposed on the person restricted under this section, the
13 person shall pay an additional fee of twenty dollars per month.
14 Payments must be made directly to the ignition interlock company. The
15 company shall remit the additional twenty dollar fee to the
16 department to be deposited into the ignition interlock device
17 revolving account. The department may waive the monthly fee if the
18 person is indigent under RCW 10.101.010.

19 (8) **Foreign jurisdiction.** For a person restricted under this
20 section who is residing outside of the state of Washington, the
21 department may accept verification of installation of an ignition
22 interlock device by an ignition interlock company authorized to do
23 business in the jurisdiction in which the person resides, provided
24 the device meets any applicable requirements of that jurisdiction.
25 The department may waive the monthly fee required by subsection (7)
26 of this section if collection of the fee would be impractical in the
27 case of a person residing in another jurisdiction.

28 **Sec. 15.** RCW 46.20.308 and 2015 2nd sp.s. c 3 s 5 are each
29 amended to read as follows:

30 (1) Any person who operates a motor vehicle within this state is
31 deemed to have given consent, subject to the provisions of RCW
32 46.61.506, to a test or tests of his or her breath for the purpose of
33 determining the alcohol concentration in his or her breath if
34 arrested for any offense where, at the time of the arrest, the
35 arresting officer has reasonable grounds to believe the person had
36 been driving or was in actual physical control of a motor vehicle
37 while under the influence of intoxicating liquor or any drug or was
38 in violation of RCW 46.61.503.

1 (2) The test or tests of breath shall be administered at the
2 direction of a law enforcement officer having reasonable grounds to
3 believe the person to have been driving or in actual physical control
4 of a motor vehicle within this state while under the influence of
5 intoxicating liquor or any drug or the person to have been driving or
6 in actual physical control of a motor vehicle while having alcohol in
7 a concentration in violation of RCW 46.61.503 in his or her system
8 and being under the age of twenty-one. Prior to administering a
9 breath test pursuant to this section, the officer shall inform the
10 person of his or her right under this section to refuse the breath
11 test, and of his or her right to have additional tests administered
12 by any qualified person of his or her choosing as provided in RCW
13 46.61.506. The officer shall warn the driver, in substantially the
14 following language, that:

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

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

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

23 (i) The driver is age twenty-one or over and the test indicates
24 either that the alcohol concentration of the driver's breath is 0.08
25 or more; or

26 (ii) The driver is under age twenty-one and the test indicates
27 either that the alcohol concentration of the driver's breath is 0.02
28 or more; or

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

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

34 (3) If, following his or her arrest and receipt of warnings under
35 subsection (2) of this section, the person arrested exercises the
36 right, granted herein, by refusing upon the request of a law
37 enforcement officer to submit to a test or tests of his or her
38 breath, no test shall be given except as otherwise authorized by law.

39 (4) Nothing in subsection (1), (2), or (3) of this section
40 precludes a law enforcement officer from obtaining a person's blood

1 to test for alcohol, marijuana, or any drug, pursuant to a search
2 warrant, a valid waiver of the warrant requirement, when exigent
3 circumstances exist, or under any other authority of law. Any blood
4 drawn for the purpose of determining the person's alcohol, marijuana
5 levels, or any drug, is drawn pursuant to this section when the
6 officer has reasonable grounds to believe that the person is in
7 physical control or driving a vehicle under the influence or in
8 violation of RCW 46.61.503.

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

22 (a) Serve notice in writing on the person on behalf of the
23 department of its intention to suspend, revoke, or deny the person's
24 license, permit, or privilege to drive as required by subsection (6)
25 of this section;

26 (b) Serve notice in writing on the person on behalf of the
27 department of his or her right to a hearing, specifying the steps he
28 or she must take to obtain a hearing as provided by subsection (7) of
29 this section;

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

39 (d) Immediately notify the department of the arrest and transmit
40 to the department within seventy-two hours, except as delayed as the

1 result of a blood test, a sworn report or report under a declaration
2 authorized by RCW 9A.72.085 that states:

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

10 (ii) That after receipt of any applicable warnings required by
11 subsection (2) of this section the person refused to submit to a test
12 of his or her breath, or a test was administered and the results
13 indicated that the alcohol concentration of the person's breath or
14 blood was 0.08 or more, or the THC concentration of the person's
15 blood was 5.00 or more, if the person is age twenty-one or over, or
16 that the alcohol concentration of the person's breath or blood was
17 0.02 or more, or the THC concentration of the person's blood was
18 above 0.00, if the person is under the age of twenty-one; and

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

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

31 (7) A person receiving notification under subsection (5)(b) of
32 this section may, within (~~twenty~~) seven days after the notice has
33 been given, request in writing a formal hearing before the
34 department. The person shall pay a fee of three hundred seventy-five
35 dollars as part of the request. If the request is mailed, it must be
36 postmarked within (~~twenty~~) seven days after receipt of the
37 notification. Upon timely receipt of such a request for a formal
38 hearing, including receipt of the required three hundred seventy-five
39 dollar fee, the department shall afford the person an opportunity for
40 a hearing. The department may waive the required three hundred

1 seventy-five dollar fee if the person is an indigent as defined in
2 RCW 10.101.010. Except as otherwise provided in this section, the
3 hearing is subject to and shall be scheduled and conducted in
4 accordance with RCW 46.20.329 and 46.20.332. The hearing shall be
5 conducted in the county of the arrest, except that all or part of the
6 hearing may, at the discretion of the department, be conducted by
7 telephone or other electronic means. The hearing shall be held within
8 ~~((sixty))~~ thirty days, excluding Saturdays, Sundays, and legal
9 holidays, following the date of timely receipt of such request for a
10 formal hearing before the department or thirty days, excluding
11 Saturdays, Sundays, and legal holidays following ~~((the arrest or~~
12 ~~following))~~ the date notice has been given in the event notice is
13 given by the department following a blood test, unless otherwise
14 agreed to by the department and the person, in which case the action
15 by the department shall be stayed, and any valid temporary license
16 under subsection (5) of this section extended, if the person is
17 otherwise eligible for licensing. Unless otherwise agreed to by the
18 department and the person, the department must give five days notice
19 of the hearing to the person. For the purposes of this section, the
20 scope of the hearing shall cover the issues of whether a law
21 enforcement officer had reasonable grounds to believe the person had
22 been driving or was in actual physical control of a motor vehicle
23 within this state while under the influence of intoxicating liquor or
24 any drug or had been driving or was in actual physical control of a
25 motor vehicle within this state while having alcohol in his or her
26 system in a concentration of 0.02 or more, or THC in his or her
27 system in a concentration above 0.00, if the person was under the age
28 of twenty-one, whether the person was placed under arrest, and (a)
29 whether the person refused to submit to the test or tests upon
30 request of the officer after having been informed that such refusal
31 would result in the revocation of the person's license, permit, or
32 privilege to drive, or (b) if a test or tests were administered,
33 whether the applicable requirements of this section were satisfied
34 before the administration of the test or tests, whether the person
35 submitted to the test or tests, or whether a test was administered
36 pursuant to a search warrant, a valid waiver of the warrant
37 requirement, when exigent circumstances exist, or under any other
38 authority of law as permitted under this section, and whether the
39 test or tests indicated that the alcohol concentration of the
40 person's breath or blood was 0.08 or more, or the THC concentration

1 of the person's blood was 5.00 or more, if the person was age twenty-
2 one or over at the time of the arrest, or that the alcohol
3 concentration of the person's breath or blood was 0.02 or more, or
4 the THC concentration of the person's blood was above 0.00, if the
5 person was under the age of twenty-one at the time of the arrest.
6 Where a person is found to be in actual physical control of a motor
7 vehicle while under the influence of intoxicating liquor or any drug
8 or was under the age of twenty-one at the time of the arrest and was
9 in physical control of a motor vehicle while having alcohol in his or
10 her system in a concentration of 0.02 or THC concentration above
11 0.00, the person may petition the hearing officer to apply the
12 affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The
13 driver has the burden to prove the affirmative defense by a
14 preponderance of the evidence. The sworn report or report under a
15 declaration authorized by RCW 9A.72.085 submitted by a law
16 enforcement officer is prima facie evidence that the officer had
17 reasonable grounds to believe the person had been driving or was in
18 actual physical control of a motor vehicle within this state while
19 under the influence of intoxicating liquor or drugs, or both, or the
20 person had been driving or was in actual physical control of a motor
21 vehicle within this state while having alcohol in his or her system
22 in a concentration of 0.02 or more, or THC in his or her system in a
23 concentration above 0.00, and was under the age of twenty-one and
24 that the officer complied with the requirements of this section.

25 A hearing officer shall conduct the hearing, may issue subpoenas
26 for the attendance of witnesses and the production of documents, and
27 shall administer oaths to witnesses. The hearing officer shall not
28 issue a subpoena for the attendance of a witness at the request of
29 the person unless the request is accompanied by the fee required by
30 RCW 5.56.010 for a witness in district court. The sworn report or
31 report under a declaration authorized by RCW 9A.72.085 of the law
32 enforcement officer and any other evidence accompanying the report
33 shall be admissible without further evidentiary foundation and the
34 certifications authorized by the criminal rules for courts of limited
35 jurisdiction shall be admissible without further evidentiary
36 foundation. The person may be represented by counsel, may question
37 witnesses, may present evidence, and may testify. The department
38 shall order that the suspension, revocation, or denial either be
39 rescinded or sustained.

1 (8) If the suspension, revocation, or denial is sustained after
2 such a hearing, the person whose license, privilege, or permit is
3 suspended, revoked, or denied has the right to file a petition in the
4 superior court of the county of arrest to review the final order of
5 revocation by the department in the same manner as an appeal from a
6 decision of a court of limited jurisdiction. Notice of appeal must be
7 filed within thirty days after the date the final order is served or
8 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ
9 1.1, or other statutes or rules referencing de novo review, the
10 appeal shall be limited to a review of the record of the
11 administrative hearing. The appellant must pay the costs associated
12 with obtaining the record of the hearing before the hearing officer.
13 The filing of the appeal does not stay the effective date of the
14 suspension, revocation, or denial. A petition filed under this
15 subsection must include the petitioner's grounds for requesting
16 review. Upon granting petitioner's request for review, the court
17 shall review the department's final order of suspension, revocation,
18 or denial as expeditiously as possible. The review must be limited to
19 a determination of whether the department has committed any errors of
20 law. The superior court shall accept those factual determinations
21 supported by substantial evidence in the record: (a) That were
22 expressly made by the department; or (b) that may reasonably be
23 inferred from the final order of the department. The superior court
24 may reverse, affirm, or modify the decision of the department or
25 remand the case back to the department for further proceedings. The
26 decision of the superior court must be in writing and filed in the
27 clerk's office with the other papers in the case. The court shall
28 state the reasons for the decision. If judicial relief is sought for
29 a stay or other temporary remedy from the department's action, the
30 court shall not grant such relief unless the court finds that the
31 appellant is likely to prevail in the appeal and that without a stay
32 the appellant will suffer irreparable injury. If the court stays the
33 suspension, revocation, or denial it may impose conditions on such
34 stay.

35 (9)(a) If a person whose driver's license, permit, or privilege
36 to drive has been or will be suspended, revoked, or denied under
37 subsection (6) of this section, other than as a result of a breath
38 test refusal, and who has not committed an offense for which he or
39 she was granted a deferred prosecution under chapter 10.05 RCW,
40 petitions a court for a deferred prosecution on criminal charges

1 arising out of the arrest for which action has been or will be taken
2 under subsection (6) of this section, or notifies the department of
3 licensing of the intent to seek such a deferred prosecution, then the
4 license suspension or revocation shall be stayed pending entry of the
5 deferred prosecution. The stay shall not be longer than one hundred
6 fifty days after the date charges are filed, or two years after the
7 date of the arrest, whichever time period is shorter. If the court
8 stays the suspension, revocation, or denial, it may impose conditions
9 on such stay. If the person is otherwise eligible for licensing, the
10 department shall issue a temporary license, or extend any valid
11 temporary license under subsection (5) of this section, for the
12 period of the stay. If a deferred prosecution treatment plan is not
13 recommended in the report made under RCW 10.05.050, or if treatment
14 is rejected by the court, or if the person declines to accept an
15 offered treatment plan, or if the person violates any condition
16 imposed by the court, then the court shall immediately direct the
17 department to cancel the stay and any temporary license or extension
18 of a temporary license issued under this subsection.

19 (b) A suspension, revocation, or denial imposed under this
20 section, other than as a result of a breath test refusal, shall be
21 stayed if the person is accepted for deferred prosecution as provided
22 in chapter 10.05 RCW for the incident upon which the suspension,
23 revocation, or denial is based. If the deferred prosecution is
24 terminated, the stay shall be lifted and the suspension, revocation,
25 or denial reinstated. If the deferred prosecution is completed, the
26 stay shall be lifted and the suspension, revocation, or denial
27 canceled.

28 (c) The provisions of (b) of this subsection relating to a stay
29 of a suspension, revocation, or denial and the cancellation of any
30 suspension, revocation, or denial do not apply to the suspension,
31 revocation, denial, or disqualification of a person's commercial
32 driver's license or privilege to operate a commercial motor vehicle.

33 (10) When it has been finally determined under the procedures of
34 this section that a nonresident's privilege to operate a motor
35 vehicle in this state has been suspended, revoked, or denied, the
36 department shall give information in writing of the action taken to
37 the motor vehicle administrator of the state of the person's
38 residence and of any state in which he or she has a license.

1 **Sec. 16.** RCW 10.21.055 and 2015 2nd sp.s. c 3 s 2 are each
2 amended to read as follows:

3 (1)(a) When any person charged with a violation of RCW 46.61.502,
4 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
5 offense as defined in RCW 46.61.5055 and the current offense involves
6 alcohol, is released from custody at arraignment or trial on bail or
7 personal recognizance, the court authorizing the release shall
8 require, as a condition of release that person comply with one of the
9 following four requirements:

10 (i) Have a functioning ignition interlock device installed on all
11 motor vehicles operated by the person, with proof of installation
12 filed with the court by the person or the certified interlock
13 provider within five business days of the date of release from
14 custody or as soon thereafter as determined by the court based on
15 availability within the jurisdiction; or

16 (ii) Comply with 24/7 sobriety program monitoring, as defined in
17 RCW 36.28A.330; or

18 (iii) Have an ignition interlock device on all motor vehicles
19 operated by the person pursuant to (a)(i) of this subsection and
20 submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of
21 this subsection, if available, or alcohol monitoring, at the expense
22 of the person, as provided in RCW 46.61.5055(5) (b) and (c); or

23 (iv) Have an ignition interlock device on all motor vehicles
24 operated by the person and that such person agrees not to operate any
25 motor vehicle without an ignition interlock device as required by the
26 court. Under this subsection (1)(a)(iv), the person must file a sworn
27 statement with the court upon release at arraignment that states the
28 person will not operate any motor vehicle without an ignition
29 interlock device while the ignition interlock restriction is imposed
30 by the court. Such person must also submit to 24/7 sobriety program
31 monitoring pursuant to (a)(ii) of this subsection, if available, or
32 alcohol monitoring, at the expense of the person, as provided in RCW
33 46.61.5055(5) (b) and (c).

34 (b) The court shall immediately notify the department of
35 licensing when an ignition interlock restriction is imposed: (i) As a
36 condition of release pursuant to (a) of this subsection; or (ii) in
37 instances where a person is charged with, or convicted of, a
38 violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, and
39 the offense involves alcohol. If the court imposes an ignition
40 interlock restriction, the department of licensing shall attach or

1 imprint a notation on the driving record of any person restricted
2 under this section stating that the person may operate only a motor
3 vehicle equipped with a functioning ignition interlock device.

4 (2)(a) Upon acquittal or dismissal of all pending or current
5 charges relating to a violation of RCW 46.61.502, 46.61.504,
6 46.61.520, or 46.61.522, or equivalent local ordinance, the court
7 shall authorize removal of the ignition interlock device and lift any
8 requirement to comply with electronic alcohol/drug monitoring imposed
9 under subsection (1) of this section. Nothing in this section limits
10 the authority of the court or department under RCW 46.20.720.

11 (b) If the court authorizes removal of an ignition interlock
12 device imposed under ~~((a) of)~~ this ~~((subsection[,]))~~ section, the
13 court shall immediately notify the department of licensing regarding
14 the lifting of the ignition interlock restriction and the department
15 of licensing shall release any attachment, imprint, or notation on
16 such person's driving record relating to the ignition interlock
17 requirement imposed under this section.

18 (3) When an ignition interlock restriction imposed as a condition
19 of release is canceled, the court shall provide a defendant with a
20 written order confirming release of the restriction. The written
21 order shall serve as proof of release of the restriction until which
22 time the department of licensing updates the driving record.

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

25 (1) **No prior offenses in seven years.** Except as provided in RCW
26 46.61.502(6) or 46.61.504(6), a person who is convicted of a
27 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
28 within seven years shall be punished as follows:

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

34 (i) By imprisonment for not less than one day nor more than three
35 hundred sixty-four days. Twenty-four consecutive hours of the
36 imprisonment may not be suspended unless the court finds that the
37 imposition of this mandatory minimum sentence would impose a
38 substantial risk to the offender's physical or mental well-being.
39 Whenever the mandatory minimum sentence is suspended, the court shall

1 state in writing the reason for granting the suspension and the facts
2 upon which the suspension is based. In lieu of the mandatory minimum
3 term of imprisonment required under this subsection (1)(a)(i), the
4 court may order not less than fifteen days of electronic home
5 monitoring or a ninety day period of 24/7 sobriety program
6 monitoring. The court may consider the offender's pretrial 24/7
7 sobriety program monitoring as fulfilling a portion of posttrial
8 sentencing. The offender shall pay the cost of electronic home
9 monitoring. The county or municipality in which the penalty is being
10 imposed shall determine the cost. The court may also require the
11 offender's electronic home monitoring device or other separate
12 alcohol monitoring device to include an alcohol detection
13 breathalyzer, and the court may restrict the amount of alcohol the
14 offender may consume during the time the offender is on electronic
15 home monitoring; and

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

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

25 (i) By imprisonment for not less than two days nor more than
26 three hundred sixty-four days. Forty-eight consecutive hours of the
27 imprisonment may not be suspended unless the court finds that the
28 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, the court shall
31 state in writing the reason for granting the suspension and the facts
32 upon which the suspension is based. In lieu of the mandatory minimum
33 term of imprisonment required under this subsection (1)(b)(i), the
34 court may order not less than thirty days of electronic home
35 monitoring or a one hundred twenty day period of 24/7 sobriety
36 program monitoring. The court may consider the offender's pretrial
37 24/7 sobriety program testing as fulfilling a portion of posttrial
38 sentencing. The offender shall pay the cost of electronic home
39 monitoring. The county or municipality in which the penalty is being
40 imposed shall determine the cost. The court may also require the

1 offender's electronic home monitoring device to include an alcohol
2 detection breathalyzer or other separate alcohol monitoring device,
3 and the court may restrict the amount of alcohol the offender may
4 consume during the time the offender is on electronic home
5 monitoring; and

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

9 (2) **One prior offense in seven years.** Except as provided in RCW
10 46.61.502(6) or 46.61.504(6), a person who is convicted of a
11 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
12 within seven years shall be punished as follows:

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

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

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

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

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

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

35 (3) **Two or three prior offenses in seven years.** Except as
36 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is
37 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has
38 two or three prior offenses within seven years shall be punished as
39 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 ninety days nor more than
7 three hundred sixty-four days, if available in that county or city, a
8 six-month period of 24/7 sobriety program monitoring pursuant to RCW
9 36.28A.300 through 36.28A.390, and one hundred twenty days of
10 electronic home monitoring. In lieu of the mandatory minimum term of
11 one hundred twenty days of electronic home monitoring, the court may
12 order at least an additional eight days in jail. The court shall
13 order an expanded alcohol assessment and treatment, if deemed
14 appropriate by the assessment. The offender shall pay for the cost of
15 the electronic monitoring. The county or municipality where the
16 penalty is being imposed shall determine the cost. The court may also
17 require the offender's electronic home monitoring device include an
18 alcohol detection breathalyzer or other separate alcohol monitoring
19 device, and may restrict the amount of alcohol the offender may
20 consume during the time the offender is on electronic home
21 monitoring. Ninety days of imprisonment and one hundred twenty days
22 of electronic home monitoring may not be suspended unless the court
23 finds that the imposition of this mandatory minimum sentence would
24 impose a substantial risk to the offender's physical or mental well-
25 being. Whenever the mandatory minimum sentence is suspended, the
26 court shall state in writing the reason for granting the suspension
27 and the facts upon which the suspension is based; and

28 (ii) By a fine of not less than one thousand dollars nor more
29 than five thousand dollars. One thousand 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 one hundred twenty days nor
37 more than three hundred sixty-four days, if available in that county
38 or city, a six-month period of 24/7 sobriety program monitoring
39 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
40 days of electronic home monitoring. In lieu of the mandatory minimum

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

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

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

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

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

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

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

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

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

35 (5) **Monitoring.**

36 (a) **Ignition interlock device.** The court shall require any person
37 convicted of a violation of RCW 46.61.502 or 46.61.504 or an
38 equivalent local ordinance to comply with the rules and requirements
39 of the department regarding the installation and use of a functioning

1 ignition interlock device installed on all motor vehicles operated by
2 the person.

3 (b) **Monitoring devices.** If the court orders that a person refrain
4 from consuming any alcohol, the court may order the person to submit
5 to alcohol monitoring through an alcohol detection breathalyzer
6 device, transdermal sensor device, or other technology designed to
7 detect alcohol in a person's system. The person shall pay for the
8 cost of the monitoring, unless the court specifies that the cost of
9 monitoring will be paid with funds that are available from an
10 alternative source identified by the court. The county or
11 municipality where the penalty is being imposed shall determine the
12 cost.

13 (c) (~~Ignition interlock device substituted for~~) **24/7 sobriety**
14 **program monitoring.** In any county or city where a 24/7 sobriety
15 program is available and verified by the Washington association of
16 sheriffs and police chiefs, the court shall:

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

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

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

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

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

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

39 (c) In any case in which the person has one prior offense within
40 seven years, and except as provided in RCW 46.61.502(6) or

1 46.61.504(6), order an additional five days of imprisonment and a
2 fine of not less than two thousand dollars and not more than five
3 thousand dollars. One thousand dollars of the fine may not be
4 suspended unless the court finds the offender to be indigent;

5 (d) In any case in which the person has two or three prior
6 offenses within seven years, and except as provided in RCW
7 46.61.502(6) or 46.61.504(6), order an additional ten days of
8 imprisonment and a fine of not less than three thousand dollars and
9 not more than ten thousand dollars. One thousand dollars of the fine
10 may not be suspended unless the court finds the offender to be
11 indigent.

12 (7) **Other items courts must consider while setting penalties.** In
13 exercising its discretion in setting penalties within the limits
14 allowed by this section, the court shall particularly consider the
15 following:

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

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

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

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

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

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

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

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

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

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

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

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

11 (i) Where there has been no prior offense within seven years, be
12 revoked or denied by the department for one year or until the person
13 is evaluated by an alcoholism agency or probation department pursuant
14 to RCW 46.20.311 and the person completes or is enrolled in a one
15 hundred twenty day period of 24/7 sobriety program monitoring. In no
16 circumstances shall the license revocation be for fewer than four
17 days;

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

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

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

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

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

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

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

36 Upon receipt of a notice from the court under RCW 36.28A.390 that
37 a participant has been removed from a 24/7 sobriety program, the
38 department must resume any suspension, revocation, or denial that had
39 been terminated early under this subsection due to participation in
40 the program, granting credit on a day-for-day basis for any portion

1 of a suspension, revocation, or denial already served under RCW
2 46.20.3101 or this section arising out of the same incident.

3 Upon its own motion or upon motion by a person, a court may find,
4 on the record, that notice to the department under RCW 46.20.270 has
5 been delayed for three years or more as a result of a clerical or
6 court error. If so, the court may order that the person's license,
7 permit, or nonresident privilege shall not be revoked, suspended, or
8 denied for that offense. The court shall send notice of the finding
9 and order to the department and to the person. Upon receipt of the
10 notice from the court, the department shall not revoke, suspend, or
11 deny the license, permit, or nonresident privilege of the person for
12 that offense.

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

16 (10) **Probation of driving privilege.** After expiration of any
17 period of suspension, revocation, or denial of the offender's
18 license, permit, or privilege to drive required by this section, the
19 department shall place the offender's driving privilege in
20 probationary status pursuant to RCW 46.20.355.

21 (11) **Conditions of probation.** (a) In addition to any
22 nonsuspendable and nondeferrable jail sentence required by this
23 section, whenever the court imposes up to three hundred sixty-four
24 days in jail, the court shall also suspend but shall not defer a
25 period of confinement for a period not exceeding five years. The
26 court shall impose conditions of probation that include: (i) Not
27 driving a motor vehicle within this state without a valid license to
28 drive; (ii) not driving a motor vehicle within this state without
29 proof of liability insurance or other financial responsibility for
30 the future pursuant to RCW 46.30.020; (iii) not driving or being in
31 physical control of a motor vehicle within this state while having an
32 alcohol concentration of 0.08 or more or a THC concentration of 5.00
33 nanograms per milliliter of whole blood or higher, within two hours
34 after driving; (iv) not refusing to submit to a test of his or her
35 breath or blood to determine alcohol or drug concentration upon
36 request of a law enforcement officer who has reasonable grounds to
37 believe the person was driving or was in actual physical control of a
38 motor vehicle within this state while under the influence of
39 intoxicating liquor or drug; and (v) not driving a motor vehicle in
40 this state without a functioning ignition interlock device as

1 required by the department under RCW 46.20.720(~~(+3)~~). The court may
2 impose conditions of probation that include nonrepetition,
3 installation of an ignition interlock device on the probationer's
4 motor vehicle, alcohol or drug treatment, supervised probation, or
5 other conditions that may be appropriate. The sentence may be imposed
6 in whole or in part upon violation of a condition of probation during
7 the suspension period.

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

12 (c) For each incident involving a violation of a mandatory
13 condition of probation imposed under this subsection, the license,
14 permit, or privilege to drive of the person shall be suspended by the
15 court for thirty days or, if such license, permit, or privilege to
16 drive already is suspended, revoked, or denied at the time the
17 finding of probation violation is made, the suspension, revocation,
18 or denial then in effect shall be extended by thirty days. The court
19 shall notify the department of any suspension, revocation, or denial
20 or any extension of a suspension, revocation, or denial imposed under
21 this subsection.

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

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

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

31 (c) The court determines that there is reason to believe that the
32 offender would violate the conditions of the electronic home
33 monitoring penalty.

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

1 Whenever the combination of jail time and electronic home
2 monitoring or alternative sentence would exceed three hundred sixty-
3 four days, the offender shall serve the jail portion of the sentence
4 first, and the electronic home monitoring or alternative portion of
5 the sentence shall be reduced so that the combination does not exceed
6 three hundred sixty-four days.

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

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

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

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

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

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

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

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

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

30 (vii) A conviction for a violation of RCW 47.68.220 or an
31 equivalent local ordinance committed in a careless or reckless manner
32 if the conviction is the result of a charge that was originally filed
33 as a violation of RCW 47.68.220 or an equivalent local ordinance
34 while under the influence of intoxicating liquor or any drug;

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

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

39 (x) A conviction for a violation of RCW 46.61.520 committed while
40 under the influence of intoxicating liquor or any drug, or a

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

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

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

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

21 (xiv) 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 (xv) 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;

30 (xvi) 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 (xvii) A deferred sentence imposed in a prosecution for a
37 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
38 equivalent local ordinance, if the charge under which the deferred
39 sentence was imposed was originally filed as a violation of RCW

1 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
2 violation of RCW 46.61.520 or 46.61.522;

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

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

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

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

15 (15) All fines imposed by this section apply to adult offenders
16 only.

17 **Sec. 18.** RCW 46.20.3101 and 2013 c 3 s 32 are each amended to
18 read as follows:

19 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
20 or deny the arrested person's license, permit, or privilege to drive
21 as follows:

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

23 (a) For a first refusal within seven years, where there has not
24 been a previous incident within seven years that resulted in
25 administrative action under this section, revocation or denial for
26 one year;

27 (b) For a second or subsequent refusal within seven years, or for
28 a first refusal where there has been one or more previous incidents
29 within seven years that have resulted in administrative action under
30 this section, revocation or denial for two years or until the person
31 reaches age twenty-one, whichever is longer.

32 (2) In the case of an incident where a person has submitted to or
33 been administered a test or tests indicating that the alcohol
34 concentration of the person's breath or blood was 0.08 or more, or
35 that the THC concentration of the person's blood was 5.00 or more:

36 (a) For a first incident within seven years, where there has not
37 been a previous incident within seven years that resulted in
38 administrative action under this section, suspension for ninety days,

1 unless the person successfully completes or is enrolled in a pretrial
2 24/7 sobriety program;

3 (b) For a second or subsequent incident within seven years,
4 revocation or denial for two years.

5 (3) In the case of an incident where a person under age twenty-
6 one has submitted to or been administered a test or tests indicating
7 that the alcohol concentration of the person's breath or blood was
8 0.02 or more, or that the THC concentration of the person's blood was
9 above 0.00:

10 (a) For a first incident within seven years, suspension or denial
11 for ninety days;

12 (b) For a second or subsequent incident within seven years,
13 revocation or denial for one year or until the person reaches age
14 twenty-one, whichever is longer.

15 (4) The department shall grant credit on a day-for-day basis for
16 any portion of a suspension, revocation, or denial already served
17 under this section for a suspension, revocation, or denial imposed
18 under RCW 46.61.5055 arising out of the same incident.

19 **Sec. 19.** RCW 36.28A.390 and 2015 2nd sp.s. c 3 s 19 are each
20 amended to read as follows:

21 (1) A general authority Washington peace officer, as defined in
22 RCW 10.93.020, who has probable cause to believe that a participant
23 has violated the terms of participation in the 24/7 sobriety program
24 may immediately take the participant into custody and cause him or
25 her to be held until an appearance before a judge on the next
26 judicial day.

27 (2) A participant who violates the terms of participation in the
28 24/7 sobriety program or does not pay the required fees or associated
29 costs pretrial or posttrial shall, at a minimum:

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

31 (b) Serve (~~((the lesser of two days imprisonment or if posttrial,~~
32 ~~the entire remaining sentence imposed by the court))~~) a minimum of one
33 day imprisonment for a second violation;

34 (c) Serve (~~((the lesser of five days imprisonment or if posttrial,~~
35 ~~the entire remaining sentence imposed by the court))~~) a minimum of
36 three days imprisonment for a third violation;

37 (d) Serve (~~((the lesser of ten days imprisonment or if posttrial,~~
38 ~~the entire remaining sentence imposed by the court))~~) a minimum of
39 five days imprisonment for a fourth violation; and

1 (e) Serve a minimum of seven days imprisonment for a fifth or
2 subsequent violation ((pretrial, the participant shall abide by the
3 order of the court. For posttrial participants, the participant shall
4 serve the entire remaining sentence imposed by the court)).

5 (3) The court may remove a participant from the 24/7 sobriety
6 program at any time for noncompliance with the terms of
7 participation. If a participant is removed from the 24/7 sobriety
8 program, the court shall send written notice to the department of
9 licensing within five business days.

10 NEW SECTION. Sec. 20. RCW 36.28A.310 (24/7 sobriety program
11 pilot project) and 2013 2nd sp.s. c 35 s 24 are each repealed.

12 NEW SECTION. Sec. 21. Section 15 of this act takes effect
13 January 1, 2019."

ESHB 2700 - S COMM AMD
By Committee on Transportation

ADOPTED 03/09/2016

14 On page 1, line 1 of the title, after "driving;" strike the
15 remainder of the title and insert "amending RCW 36.28A.320,
16 46.01.260, 46.64.025, 46.20.291, 46.20.289, 9.94A.533, 46.61.506,
17 10.01.230, 10.05.140, 46.20.311, 46.20.385, 46.20.720, 46.20.308,
18 10.21.055, 46.61.5055, 46.20.3101, and 36.28A.390; reenacting and
19 amending RCW 43.79A.040 and 10.31.100; repealing RCW 36.28A.310; and
20 providing an effective date."

EFFECT: (1) Removes the requirement that the department of
licensing destroy a person's driving record if he or she was
originally charged of a DUI-related offense but the court found and
concluded (through a written finding of fact and conclusion) that the
person was not intoxicated by liquor, marijuana, or a controlled
substance (without a valid prescription).

(2) Corrects an internal reference.

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