

---

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1276

---

State of Washington

64th Legislature

2015 Regular Session

By House General Government & Information Technology (originally sponsored by Representatives Klippert, Goodman, Hayes, Orwall, Moscoso, Pettigrew, Zeiger, Kilduff, and Fey)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to impaired driving; amending RCW 10.21.055,  
2 46.20.385, 46.20.740, 46.20.308, 46.20.750, 46.25.120, 46.61.140,  
3 46.61.5055, 46.01.260, 43.43.395, 9.94A.589, 46.61.504, 46.61.503,  
4 46.20.755, 36.28A.300, 36.28A.320, 36.28A.330, 36.28A.370,  
5 36.28A.390, 10.21.015, and 10.21.030; reenacting and amending RCW  
6 46.52.130; adding a new section to chapter 46.61 RCW; repealing RCW  
7 36.28A.310; and prescribing penalties.

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

9 **Conditions of release—Requirements—Ignition interlock device—24/7**  
10 **sobriety program monitoring**

11 **Sec. 1.** RCW 10.21.055 and 2013 2nd sp.s. c 35 s 1 are each  
12 amended to read as follows:

13 (1)(a) When any person charged with (~~or arrested for~~) a  
14 violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in  
15 which the person has a prior offense as defined in RCW 46.61.5055 and  
16 the current offense involves alcohol, is released from custody  
17 (~~before~~) at arraignment or trial on bail or personal recognizance,  
18 the court authorizing the release shall require, as a condition of  
19 release(~~(t)~~) that person (~~(to (a))~~):

1 (i) Have a functioning ignition interlock device installed on all  
2 motor vehicles operated by the person, with proof of installation  
3 filed with the court by the person or the certified interlock  
4 provider within five business days of the date of release from  
5 custody or as soon thereafter as determined by the court based on  
6 availability within the jurisdiction; (~~or (b)~~)

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

9 (iii) Have an ignition interlock device pursuant to (a)(i) of  
10 this subsection and comply with 24/7 sobriety program monitoring  
11 pursuant to (a)(ii) of this subsection; or

12 (iv) Have an ignition interlock pursuant to (a)(i) of this  
13 subsection, file a sworn statement with the court upon release at  
14 arraignment that states the person agrees not to operate any motor  
15 vehicle while the ignition interlock restriction is imposed by the  
16 court, and submit to alcohol monitoring as outlined in RCW  
17 46.61.5055(5)(b).

18 (b) The court shall immediately notify the department of  
19 licensing when an ignition interlock restriction is imposed: (i) As a  
20 condition of release pursuant to (a) of this subsection; or (ii) in  
21 instances where a person is charged with or convicted of a violation  
22 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, and the offense  
23 involves alcohol. If the court imposes an ignition interlock  
24 restriction, the department of licensing shall attach or imprint a  
25 notation on the driving record of any person restricted under this  
26 section stating that the person may operate only a motor vehicle  
27 equipped with a functioning ignition interlock device.

28 (c) Pursuant to (a)(iv) of this subsection, the person ordered to  
29 install the ignition interlock pursuant to (a) of this subsection  
30 satisfies the requirement to install an ignition interlock by filing  
31 a sworn statement with the court at arraignment, that states that the  
32 person agrees not to operate any motor vehicle while the ignition  
33 interlock restriction is imposed by the court; provided, that the  
34 ignition interlock requirement will still be reported to the  
35 department pursuant to subsection (1)(b) of this section and it will  
36 remain unlawful for the person to operate any motor vehicle unless it  
37 is equipped with a fully functioning ignition interlock device.

38 (2)(a) Upon acquittal or dismissal of all pending or current  
39 charges relating to a violation of RCW 46.61.502, 46.61.504,  
40 46.61.520, or 46.61.522, or equivalent local ordinance, the court

1 shall authorize removal of the ignition interlock device and lift any  
2 requirement to comply with electronic alcohol/drug monitoring imposed  
3 under subsection (1) of this section. Nothing in this section limits  
4 the authority of the court or department under RCW 46.20.720.

5 (b) If the court authorizes removal of an ignition interlock  
6 device imposed under (a) of this subsection the court shall  
7 immediately notify the department of licensing regarding the lifting  
8 of the ignition interlock restriction and the department of licensing  
9 shall release any attachment, imprint, or notation on such person's  
10 driving record relating to the ignition interlock requirement imposed  
11 under this section.

12 (3) When an ignition interlock restriction imposed as a condition  
13 of release is canceled, the court shall provide a defendant with a  
14 written order confirming release of the restriction. The written  
15 order shall serve as proof of release of the restriction until which  
16 time the department of licensing updates the driving record.

17 **Ignition interlock driver's license—Application—Eligibility—**  
18 **Cancellation—Costs—Rules**

19 **Sec. 2.** RCW 46.20.385 and 2013 2nd sp.s. c 35 s 20 are each  
20 amended to read as follows:

21 (1)(a) ((Beginning January 1, 2009,)) Any person licensed under  
22 this chapter or who has a valid driver's license from another state,  
23 who is convicted of: (i) A violation of RCW 46.61.502 or 46.61.504 or  
24 an equivalent local or out-of-state statute or ordinance, or (ii) a  
25 violation of RCW 46.61.520(1)(a) or an equivalent local or out-of-  
26 state statute or ordinance, or (iii) a conviction for a violation of  
27 RCW 46.61.520(1) (b) or (c) if the conviction is the result of a  
28 charge that was originally filed as a violation of RCW  
29 46.61.520(1)(a), or (iv) RCW 46.61.522(1)(b) or an equivalent local  
30 or out-of-state statute or ordinance, or (v) RCW 46.61.522(1) (a) or  
31 (c) if the conviction is the result of a charge that was originally  
32 filed as a violation of RCW 46.61.522(1)(b) committed while under the  
33 influence of intoxicating liquor or any drug, or (vi) who has had or  
34 will have his or her license suspended, revoked, or denied under RCW  
35 46.20.3101, or who is otherwise permitted under subsection (8) of  
36 this section, may submit to the department an application for an  
37 ignition interlock driver's license. The department, upon receipt of  
38 the prescribed fee and upon determining that the petitioner is

1 eligible to receive the license, may issue an ignition interlock  
2 driver's license.

3 (b) A person may apply for an ignition interlock driver's license  
4 anytime, including immediately after receiving the notices under RCW  
5 46.20.308 or after his or her license is suspended, revoked, or  
6 denied. (~~(A person receiving an ignition interlock driver's license  
7 waives his or her right to a hearing or appeal under RCW 46.20.308.)~~)

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

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

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

33 (iii) The time period during which the person is licensed under  
34 this section shall apply on a day-for-day basis toward satisfying the  
35 period of time the ignition interlock device restriction is required  
36 under RCW 46.20.720 (~~(and)~~), 46.61.5055, 10.05.140, 46.61.500(3), and  
37 46.61.5249(4). Beginning with incidents occurring on or after  
38 September 1, 2011, when calculating the period of time for the  
39 restriction under RCW 46.20.720 (2) or (3), the department must also  
40 give the person a day-for-day credit for the time period, beginning

1 from the date of the incident, during which the person kept an  
2 ignition interlock device installed on all vehicles the person  
3 operates. For the purposes of this subsection (1)(c)(iii), the term  
4 "all vehicles" does not include vehicles that would be subject to the  
5 employer exception under RCW 46.20.720(3).

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

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

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

26 (5) The director shall cancel an ignition interlock driver's  
27 license after receiving notice that the holder thereof has been  
28 convicted of operating a motor vehicle in violation of its  
29 restrictions, no longer meets the eligibility requirements, or has  
30 been convicted of or found to have committed a separate offense or  
31 any other act or omission that under this chapter would warrant  
32 suspension or revocation of a regular driver's license. The  
33 department must give notice of the cancellation as provided under RCW  
34 46.20.245. A person whose ignition interlock driver's license has  
35 been canceled under this section may reapply for a new ignition  
36 interlock driver's license if he or she is otherwise qualified under  
37 this section and pays the fee required under RCW 46.20.380.

38 (6)(a) Unless costs are waived by the ignition interlock company  
39 or the person is indigent under RCW 10.101.010, the applicant shall  
40 pay the cost of installing, removing, and leasing the ignition

1 interlock device and shall pay an additional fee of twenty dollars  
2 per month. Payments shall be made directly to the ignition interlock  
3 company. The company shall remit the additional twenty dollar fee to  
4 the department.

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

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

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

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

29 **Notation on driving record—Verification of interlock—Penalty**

30 **Sec. 3.** RCW 46.20.740 and 2010 c 269 s 8 are each amended to  
31 read as follows:

32 (1) The department shall attach or imprint a notation on the  
33 driving record of any person restricted under RCW 46.20.720,  
34 46.61.5055, or 10.05.140 stating that the person may operate only a  
35 motor vehicle equipped with a functioning ignition interlock device.  
36 The department shall determine the person's eligibility for licensing  
37 based upon written verification by a company doing business in the  
38 state that it has installed the required device on a vehicle owned or

1 operated by the person seeking reinstatement. If, based upon  
2 notification from the interlock provider or otherwise, the department  
3 determines that an ignition interlock required under this section is  
4 no longer installed or functioning as required, the department shall  
5 suspend the person's license or privilege to drive. Whenever the  
6 license or driving privilege of any person is suspended or revoked as  
7 a result of noncompliance with an ignition interlock requirement, the  
8 suspension shall remain in effect until the person provides notice  
9 issued by a company doing business in the state that a vehicle owned  
10 or operated by the person is equipped with a functioning ignition  
11 interlock device.

12 (2) It is a gross misdemeanor for a person with such a notation  
13 on his or her driving record to operate a motor vehicle that is not  
14 so equipped, unless the notation resulted from a restriction imposed  
15 as a condition of release and the restriction has been released by  
16 the court prior to driving.

17 (3) Any sentence imposed for a violation of subsection (2) of  
18 this section shall be served consecutively with any sentence imposed  
19 under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

20 **Implied consent—Test refusal—Procedures**

21 **Sec. 4.** RCW 46.20.308 and 2013 2nd sp.s. c 35 s 36 are each  
22 amended to read as follows:

23 (1) Any person who operates a motor vehicle within this state is  
24 deemed to have given consent, subject to the provisions of RCW  
25 46.61.506, to a test or tests of his or her breath for the purpose of  
26 determining the alcohol concentration(~~(, THC concentration, or~~  
27 ~~presence of any drug)) in his or her breath if arrested for any  
28 offense where, at the time of the arrest, the arresting officer has  
29 reasonable grounds to believe the person had been driving or was in  
30 actual physical control of a motor vehicle while under the influence  
31 of intoxicating liquor or any drug or was in violation of RCW  
32 46.61.503. (~~Neither consent nor this section precludes a police~~  
33 ~~officer from obtaining a search warrant for a person's breath or~~  
34 ~~blood.))~~~~

35 (2) The test or tests of breath shall be administered at the  
36 direction of a law enforcement officer having reasonable grounds to  
37 believe the person to have been driving or in actual physical control  
38 of a motor vehicle within this state while under the influence of

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

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

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

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

19 (i) The driver is age twenty-one or over and the test indicates  
20 either that the alcohol concentration of the driver's breath is 0.08  
21 or more (~~or that the THC concentration of the driver's blood is 5.00~~  
22 ~~or more~~); or

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

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

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

32 (3) (~~Except as provided in this section, the test administered~~  
33 ~~shall be of the breath only. If an individual is unconscious or is~~  
34 ~~under arrest for the crime of felony driving under the influence of~~  
35 ~~intoxicating liquor or drugs under RCW 46.61.502(6), felony physical~~  
36 ~~control of a motor vehicle while under the influence of intoxicating~~  
37 ~~liquor or any drug under RCW 46.61.504(6), vehicular homicide as~~  
38 ~~provided in RCW 46.61.520, or vehicular assault as provided in RCW~~  
39 ~~46.61.522, or if an individual is under arrest for the crime of~~  
40 ~~driving while under the influence of intoxicating liquor or drugs as~~



1 ~~provided in RCW 46.61.502, which arrest results from an accident in~~  
2 ~~which there has been serious bodily injury to another person, a~~  
3 ~~breath or blood test may be administered without the consent of the~~  
4 ~~individual so arrested pursuant to a search warrant, a valid waiver~~  
5 ~~of the warrant requirement, or when exigent circumstances exist.~~

6 (4)) If, following his or her arrest and receipt of warnings  
7 under subsection (2) of this section, the person arrested ((refuses))  
8 exercises the right, granted herein, by refusing upon the request of  
9 a law enforcement officer to submit to a test or tests of his or her  
10 breath, no test shall be given except as otherwise authorized by ((a  
11 ~~search warrant~~)) law.

12 (4) Nothing in subsection (1), (2), or (3) of this section  
13 precludes a law enforcement officer from obtaining a person's blood  
14 to test for alcohol, marijuana, or any drug, pursuant to a search  
15 warrant, a valid waiver of the warrant requirement, when exigent  
16 circumstances exist, or under any other authority of law. Any blood  
17 drawn for the purpose of determining the person's alcohol or  
18 marijuana levels, or any drug, is drawn pursuant to this section when  
19 the officer has reasonable grounds to believe that the person is in  
20 physical control or driving a vehicle under the influence or in  
21 violation of RCW 46.61.503.

22 (5) If, after arrest and after ((the)) any other applicable  
23 conditions and requirements of this section have been satisfied, a  
24 test or tests of the person's blood or breath is administered and the  
25 test results indicate that the alcohol concentration of the person's  
26 breath or blood is 0.08 or more, or the THC concentration of the  
27 person's blood is 5.00 or more, if the person is age twenty-one or  
28 over, or that the alcohol concentration of the person's breath or  
29 blood is 0.02 or more, or the THC concentration of the person's blood  
30 is above 0.00, if the person is under the age of twenty-one, or the  
31 person refuses to submit to a test, the arresting officer or other  
32 law enforcement officer at whose direction any test has been given,  
33 or the department, where applicable, if the arrest results in a test  
34 of the person's blood, shall:

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

39 (b) Serve notice in writing on the person on behalf of the  
40 department of his or her right to a hearing, specifying the steps he

1 or she must take to obtain a hearing as provided by subsection (7) of  
2 this section (~~(and that the person waives the right to a hearing if~~  
3 ~~he or she receives an ignition interlock driver's license)~~);

4 (c) Serve notice in writing that the license or permit, if any,  
5 is a temporary license that is valid for sixty days from the date of  
6 arrest or from the date notice has been given in the event notice is  
7 given by the department following a blood test, or until the  
8 suspension, revocation, or denial of the person's license, permit, or  
9 privilege to drive is sustained at a hearing pursuant to subsection  
10 (7) of this section, whichever occurs first. No temporary license is  
11 valid to any greater degree than the license or permit that it  
12 replaces; and

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

17 (i) That the officer had reasonable grounds to believe the  
18 arrested person had been driving or was in actual physical control of  
19 a motor vehicle within this state while under the influence of  
20 intoxicating liquor or drugs, or both, or was under the age of  
21 twenty-one years and had been driving or was in actual physical  
22 control of a motor vehicle while having an alcohol or THC  
23 concentration in violation of RCW 46.61.503;

24 (ii) That after receipt of ~~((the))~~ any applicable warnings  
25 required by subsection (2) of this section the person refused to  
26 submit to a test of his or her breath, or a test was administered and  
27 the results indicated that the alcohol concentration of the person's  
28 breath or blood was 0.08 or more, or the THC concentration of the  
29 person's blood was 5.00 or more, if the person is age twenty-one or  
30 over, or that the alcohol concentration of the person's breath or  
31 blood was 0.02 or more, or the THC concentration of the person's  
32 blood was above 0.00, if the person is under the age of twenty-one;  
33 and

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

36 (6) The department of licensing, upon the receipt of a sworn  
37 report or report under a declaration authorized by RCW 9A.72.085  
38 under subsection (5)(d) of this section, shall suspend, revoke, or  
39 deny the person's license, permit, or privilege to drive or any  
40 nonresident operating privilege, as provided in RCW 46.20.3101, such

1 suspension, revocation, or denial to be effective beginning sixty  
2 days from the date of arrest or from the date notice has been given  
3 in the event notice is given by the department following a blood  
4 test, or when sustained at a hearing pursuant to subsection (7) of  
5 this section, whichever occurs first.

6 (7) A person receiving notification under subsection (5)(b) of  
7 this section may, within twenty days after the notice has been given,  
8 request in writing a formal hearing before the department. The person  
9 shall pay a fee of three hundred seventy-five dollars as part of the  
10 request. If the request is mailed, it must be postmarked within  
11 twenty days after receipt of the notification. Upon timely receipt of  
12 such a request for a formal hearing, including receipt of the  
13 required three hundred seventy-five dollar fee, the department shall  
14 afford the person an opportunity for a hearing. The department may  
15 waive the required three hundred seventy-five dollar fee if the  
16 person is an indigent as defined in RCW 10.101.010. Except as  
17 otherwise provided in this section, the hearing is subject to and  
18 shall be scheduled and conducted in accordance with RCW 46.20.329 and  
19 46.20.332. The hearing shall be conducted in the county of the  
20 arrest, except that all or part of the hearing may, at the discretion  
21 of the department, be conducted by telephone or other electronic  
22 means. The hearing shall be held within sixty days following the  
23 arrest or following the date notice has been given in the event  
24 notice is given by the department following a blood test, unless  
25 otherwise agreed to by the department and the person, in which case  
26 the action by the department shall be stayed, and any valid temporary  
27 license (~~marked~~) under subsection (5) of this section extended, if  
28 the person is otherwise eligible for licensing. For the purposes of  
29 this section, the scope of the hearing shall cover the issues of  
30 whether a law enforcement officer had reasonable grounds to believe  
31 the person had been driving or was in actual physical control of a  
32 motor vehicle within this state while under the influence of  
33 intoxicating liquor or any drug or had been driving or was in actual  
34 physical control of a motor vehicle within this state while having  
35 alcohol in his or her system in a concentration of 0.02 or more, or  
36 THC in his or her system in a concentration above 0.00, if the person  
37 was under the age of twenty-one, whether the person was placed under  
38 arrest, and (a) whether the person refused to submit to the test or  
39 tests upon request of the officer after having been informed that  
40 such refusal would result in the revocation of the person's license,

1 permit, or privilege to drive, or (b) if a test or tests were  
2 administered, whether the applicable requirements of this section  
3 were satisfied before the administration of the test or tests,  
4 whether the person submitted to the test or tests, or whether a test  
5 was administered (~~(without express consent)~~) pursuant to a search  
6 warrant, a valid waiver of the warrant requirement, when exigent  
7 circumstances exist, or under any other authority of law as permitted  
8 under this section, and whether the test or tests indicated that the  
9 alcohol concentration of the person's breath or blood was 0.08 or  
10 more, or the THC concentration of the person's blood was 5.00 or  
11 more, if the person was age twenty-one or over at the time of the  
12 arrest, or that the alcohol concentration of the person's breath or  
13 blood was 0.02 or more, or the THC concentration of the person's  
14 blood was above 0.00, if the person was under the age of twenty-one  
15 at the time of the arrest. Where a person is found to be in actual  
16 physical control of a motor vehicle while under the influence of  
17 intoxicating liquor or any drug or was under the age of twenty-one at  
18 the time of the arrest and was in physical control of a motor vehicle  
19 while having alcohol in his or her system in a concentration of 0.02  
20 or THC concentration above 0.00, the person may petition the hearing  
21 officer to apply the affirmative defense found in RCW 46.61.504(3)  
22 and 46.61.503(2). The driver shall have the burden to prove the  
23 affirmative defense by a preponderance of the evidence. The sworn  
24 report or report under a declaration authorized by RCW 9A.72.085  
25 submitted by a law enforcement officer is prima facie evidence that  
26 the officer had reasonable grounds to believe the person had been  
27 driving or was in actual physical control of a motor vehicle within  
28 this state while under the influence of intoxicating liquor or drugs,  
29 or both, or the person had been driving or was in actual physical  
30 control of a motor vehicle within this state while having alcohol in  
31 his or her system in a concentration of 0.02 or more, or THC in his  
32 or her system in a concentration above 0.00, and was under the age of  
33 twenty-one and that the officer complied with the requirements of  
34 this section.

35 A hearing officer shall conduct the hearing, may issue subpoenas  
36 for the attendance of witnesses and the production of documents, and  
37 shall administer oaths to witnesses. The hearing officer shall not  
38 issue a subpoena for the attendance of a witness at the request of  
39 the person unless the request is accompanied by the fee required by  
40 RCW 5.56.010 for a witness in district court. The sworn report or

1 report under a declaration authorized by RCW 9A.72.085 of the law  
2 enforcement officer and any other evidence accompanying the report  
3 shall be admissible without further evidentiary foundation and the  
4 certifications authorized by the criminal rules for courts of limited  
5 jurisdiction shall be admissible without further evidentiary  
6 foundation. The person may be represented by counsel, may question  
7 witnesses, may present evidence, and may testify. The department  
8 shall order that the suspension, revocation, or denial either be  
9 rescinded or sustained.

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

1 the appellant will suffer irreparable injury. If the court stays the  
2 suspension, revocation, or denial it may impose conditions on such  
3 stay.

4 (9)(a) If a person whose driver's license, permit, or privilege  
5 to drive has been or will be suspended, revoked, or denied under  
6 subsection (6) of this section, other than as a result of a breath  
7 test refusal, and who has not committed an offense for which he or  
8 she was granted a deferred prosecution under chapter 10.05 RCW,  
9 petitions a court for a deferred prosecution on criminal charges  
10 arising out of the arrest for which action has been or will be taken  
11 under subsection (6) of this section, or notifies the department of  
12 licensing of the intent to seek such a deferred prosecution, then the  
13 license suspension or revocation shall be stayed pending entry of the  
14 deferred prosecution. The stay shall not be longer than one hundred  
15 fifty days after the date charges are filed, or two years after the  
16 date of the arrest, whichever time period is shorter. If the court  
17 stays the suspension, revocation, or denial, it may impose conditions  
18 on such stay. If the person is otherwise eligible for licensing, the  
19 department shall issue a temporary license, or extend any valid  
20 temporary license under subsection (5) of this section, for the  
21 period of the stay. If a deferred prosecution treatment plan is not  
22 recommended in the report made under RCW 10.05.050, or if treatment  
23 is rejected by the court, or if the person declines to accept an  
24 offered treatment plan, or if the person violates any condition  
25 imposed by the court, then the court shall immediately direct the  
26 department to cancel the stay and any temporary ((marked)) license or  
27 extension of a temporary license issued under this subsection.

28 (b) A suspension, revocation, or denial imposed under this  
29 section, other than as a result of a breath test refusal, shall be  
30 stayed if the person is accepted for deferred prosecution as provided  
31 in chapter 10.05 RCW for the incident upon which the suspension,  
32 revocation, or denial is based. If the deferred prosecution is  
33 terminated, the stay shall be lifted and the suspension, revocation,  
34 or denial reinstated. If the deferred prosecution is completed, the  
35 stay shall be lifted and the suspension, revocation, or denial  
36 canceled.

37 (c) The provisions of (b) of this subsection relating to a stay  
38 of a suspension, revocation, or denial and the cancellation of any  
39 suspension, revocation, or denial do not apply to the suspension,

1 revocation, denial, or disqualification of a person's commercial  
2 driver's license or privilege to operate a commercial motor vehicle.

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

9 **Circumventing ignition interlock—Penalty**

10 **Sec. 5.** RCW 46.20.750 and 2005 c 200 s 2 are each amended to  
11 read as follows:

12 (1) A person who is restricted to the use of a vehicle equipped  
13 with an ignition interlock device (~~(and who tampers with the device~~  
14 ~~or directs, authorizes, or requests another to tamper with the~~  
15 ~~device, in order to circumvent the device by modifying, detaching,~~  
16 ~~disconnecting, or otherwise disabling it,)) is guilty of a gross  
17 misdemeanor if the restricted driver:~~

18 (a) Tampers with the device by modifying, detaching,  
19 disconnecting, or otherwise disabling it to allow the restricted  
20 driver to operate the vehicle;

21 (b) Uses or requests another person to use a filter or other  
22 device to circumvent the ignition interlock or to start or operate  
23 the vehicle to allow the restricted driver to operate the vehicle;

24 (c) Has, directs, authorizes, or requests another person to  
25 tamper with the device by modifying, detaching, disconnecting, or  
26 otherwise disabling it to allow the restricted driver to operate the  
27 vehicle; or

28 (d) Has, allows, directs, authorizes, or requests another person  
29 to blow or otherwise exhale into the device in order to circumvent  
30 the device to allow the restricted driver to operate the vehicle.

31 (2) A person who knowingly assists another person who is  
32 restricted to the use of a vehicle equipped with an ignition  
33 interlock device to circumvent the device or to start and operate  
34 that vehicle (~~(in violation of a court order))~~) is guilty of a gross  
35 misdemeanor. The provisions of this subsection do not apply if the  
36 starting of a motor vehicle, or the request to start a motor vehicle,  
37 equipped with an ignition interlock device is done for the purpose of

1 safety or mechanical repair of the device or the vehicle and the  
2 person subject to the court order does not operate the vehicle.

3 (3) Any sentence imposed for a violation of subsection (1) of  
4 this section shall be served consecutively with any sentence imposed  
5 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,  
6 46.61.520(1)(a), or 46.61.522(1)(b).

7 **Commercial vehicles—Test for alcohol or drugs—Disqualification for**  
8 **refusal of test or positive test—Procedures**

9 **Sec. 6.** RCW 46.25.120 and 2013 2nd sp.s. c 35 s 12 are each  
10 amended to read as follows:

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

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

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

27 (4) A law enforcement officer who at the time of stopping or  
28 detaining a commercial motor vehicle driver has reasonable grounds to  
29 believe that driver was driving a commercial motor vehicle while  
30 having alcohol, marijuana, or any drug in his or her system or while  
31 under the influence of alcohol, marijuana, or any drug may obtain a  
32 blood test pursuant to a search warrant, a valid waiver of the  
33 warrant requirement, when exigent circumstances exist, or under any  
34 other authority of law.

35 (5) If the person refuses testing, or (~~submits to~~) a test is  
36 administered that discloses an alcohol concentration of 0.04 or more  
37 or any measurable amount of THC concentration, the law enforcement  
38 officer shall submit a sworn report to the department certifying that



1 the test was requested pursuant to subsection (1) of this section or  
2 a blood test was administered pursuant to subsection (4) of this  
3 section and that the person refused to submit to testing, or  
4 (~~submitted to~~) a test was administered that disclosed an alcohol  
5 concentration of 0.04 or more or any measurable amount of THC  
6 concentration.

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

36 (~~(6)~~) (7) If a motor carrier or employer who is required to  
37 have a testing program under 49 C.F.R. 382 knows that a commercial  
38 driver in his or her employ has refused to submit to testing under  
39 this section and has not been disqualified from driving a commercial  
40 motor vehicle, the employer may notify law enforcement or his or her

1 medical review officer or breath alcohol technician that the driver  
2 has refused to submit to the required testing.

3 ((+7)) (8) The hearing provisions of this section do not apply  
4 to those persons disqualified from driving a commercial motor vehicle  
5 under RCW 46.25.090(7).

6 **Open container law for marijuana**

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.61  
8 RCW to read as follows:

9 (1)(a) It is a traffic infraction:

10 (i) For the registered owner of a motor vehicle, or the driver if  
11 the registered owner is not then present, or passengers in the  
12 vehicle, to keep marijuana in a motor vehicle when the vehicle is  
13 upon a highway, unless it is (A) in the trunk of the vehicle, (B) in  
14 some other area of the vehicle not normally occupied or directly  
15 accessible by the driver or passengers if the vehicle does not have a  
16 trunk, or (C) in a package, container, or receptacle that has not  
17 been opened or the seal broken or contents partially removed. A  
18 utility compartment or glove compartment is deemed to be within the  
19 area occupied by the driver and passengers;

20 (ii) To consume marijuana in any manner including, but not  
21 limited to, smoking or ingesting in a motor vehicle when the vehicle  
22 is upon the public highway; or

23 (iii) To place marijuana in a container specifically labeled by  
24 the manufacturer of the container as containing a nonmarijuana  
25 substance and to then violate (a)(i) of this subsection.

26 (b) There is a rebuttable presumption that it is a traffic  
27 infraction if the original container of marijuana is incorrectly  
28 labeled and there is a subsequent violation of (a)(i) of this  
29 subsection.

30 (2) As used in this section, "marijuana" or "marihuana" means all  
31 parts of the plant *Cannabis*, whether growing or not; the seeds  
32 thereof; the resin extracted from any part of the plant; and every  
33 compound, manufacture, salt, derivative, mixture, or preparation of  
34 the plant, its seeds, or resin. The term does not include the mature  
35 stalks of the plant, fiber produced from the stalks, oil or cake made  
36 from the seeds of the plant, any other compound, manufacture, salt,  
37 derivative, mixture, or preparation of the mature stalks, except the

1 resin extracted therefrom, fiber, oil, or cake, or the sterilized  
2 seed of the plant which is incapable of germination.

3 **Driving on roadways laned for traffic**

4 **Sec. 8.** RCW 46.61.140 and 1965 ex.s. c 155 s 23 are each amended  
5 to read as follows:

6 Whenever any roadway has been divided into two or more clearly  
7 marked lanes for traffic the following rules in addition to all  
8 others consistent herewith shall apply:

9 (1) A vehicle shall be driven (~~as nearly as practicable~~)  
10 entirely within a single lane and shall not be moved from such lane  
11 until the driver has first ascertained that such movement can be made  
12 with safety.

13 (2) Upon a roadway which is divided into three lanes and provides  
14 for two-way movement of traffic, a vehicle shall not be driven in the  
15 center lane except when overtaking and passing another vehicle  
16 traveling in the same direction when such center lane is clear of  
17 traffic within a safe distance, or in preparation for making a left  
18 turn or where such center lane is at the time allocated exclusively  
19 to traffic moving in the same direction that the vehicle is  
20 proceeding and such allocation is designated by official traffic-  
21 control devices.

22 (3) Official traffic-control devices may be erected directing  
23 slow moving or other specified traffic to use a designated lane or  
24 designating those lanes to be used by traffic moving in a particular  
25 direction regardless of the center of the roadway and drivers of  
26 vehicles shall obey the directions of every such device.

27 (4) Official traffic-control devices may be installed prohibiting  
28 the changing of lanes on sections of roadway and drivers of vehicles  
29 shall obey the directions of every such device.

30 (5) It is an affirmative defense to a violation of this section,  
31 which the driver must establish by a preponderance of the evidence,  
32 that the vehicle crossed into another lane as a result of an act,  
33 omission, or occurrence outside of the driver's immediate control and  
34 only to the minimum extent reasonably necessary under the  
35 circumstances.

36 **Alcohol and drug violators—Penalty schedule**

1       **Sec. 9.** RCW 46.61.5055 and 2014 c 100 s 1 are each amended to  
2 read as follows:

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

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

12       (i) By imprisonment for not less than one day nor more than three  
13 hundred sixty-four days. Twenty-four consecutive hours of the  
14 imprisonment may not be suspended unless the court finds that the  
15 imposition of this mandatory minimum sentence would impose a  
16 substantial risk to the offender's physical or mental well-being.  
17 Whenever the mandatory minimum sentence is suspended, the court shall  
18 state in writing the reason for granting the suspension and the facts  
19 upon which the suspension is based. In lieu of the mandatory minimum  
20 term of imprisonment required under this subsection (1)(a)(i), the  
21 court may order not less than fifteen days of electronic home  
22 monitoring. The offender shall pay the cost of electronic home  
23 monitoring. The county or municipality in which the penalty is being  
24 imposed shall determine the cost. The court may also require the  
25 offender's electronic home monitoring device or other separate  
26 alcohol monitoring device to include an alcohol detection  
27 breathalyzer, and the court may restrict the amount of alcohol the  
28 offender may consume during the time the offender is on electronic  
29 home monitoring, and if available in the county or city, the court  
30 may also order the offender to not less than thirty days of the 24/7  
31 sobriety program monitoring pursuant to chapter 36.28A RCW; and

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

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

1 (i) By imprisonment for not less than two days nor more than  
2 three hundred sixty-four days. Forty-eight consecutive hours of the  
3 imprisonment may not be suspended unless the court finds that the  
4 imposition of this mandatory minimum sentence would impose a  
5 substantial risk to the offender's physical or mental well-being.  
6 Whenever the mandatory minimum sentence is suspended, the court shall  
7 state in writing the reason for granting the suspension and the facts  
8 upon which the suspension is based. In lieu of the mandatory minimum  
9 term of imprisonment required under this subsection (1)(b)(i), the  
10 court may order not less than thirty days of electronic home  
11 monitoring. The offender shall pay the cost of electronic home  
12 monitoring. The county or municipality in which the penalty is being  
13 imposed shall determine the cost. The court may also require the  
14 offender's electronic home monitoring device to include an alcohol  
15 detection breathalyzer or other separate alcohol monitoring device,  
16 and the court may restrict the amount of alcohol the offender may  
17 consume during the time the offender is on electronic home  
18 monitoring, and if available in the county or city, the court may  
19 also order the offender to not less than thirty days of the 24/7  
20 sobriety program monitoring pursuant to chapter 36.28A RCW; and

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

24 (2) **One prior offense in seven years.** Except as provided in RCW  
25 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
26 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
27 within seven years shall be punished as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

8 (5) **Monitoring.**

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

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

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

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

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

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

39 (6) **Penalty for having a minor passenger in vehicle.** If a person  
40 who is convicted of a violation of RCW 46.61.502 or 46.61.504

1 committed the offense while a passenger under the age of sixteen was  
2 in the vehicle, the court shall:

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

5 (b) In any case in which the person has no prior offenses within  
6 seven years, and except as provided in RCW 46.61.502(6) or  
7 46.61.504(6), order an additional twenty-four hours of imprisonment  
8 and a fine of not less than one thousand dollars and not more than  
9 five thousand dollars. One thousand dollars of the fine may not be  
10 suspended unless the court finds the offender to be indigent;

11 (c) In any case in which the person has one prior offense within  
12 seven years, and except as provided in RCW 46.61.502(6) or  
13 46.61.504(6), order an additional five days of imprisonment and a  
14 fine of not less than two thousand dollars and not more than five  
15 thousand dollars. One thousand dollars of the fine may not be  
16 suspended unless the court finds the offender to be indigent;

17 (d) In any case in which the person has two or three prior  
18 offenses within seven years, and except as provided in RCW  
19 46.61.502(6) or 46.61.504(6), order an additional ten days of  
20 imprisonment and a fine of not less than three thousand dollars and  
21 not more than ten thousand dollars. One thousand dollars of the fine  
22 may not be suspended unless the court finds the offender to be  
23 indigent.

24 (7) **Other items courts must consider while setting penalties.** In  
25 exercising its discretion in setting penalties within the limits  
26 allowed by this section, the court shall particularly consider the  
27 following:

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

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

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

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

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

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

5           (a) **Penalty for alcohol concentration less than 0.15.** If the  
6 person's alcohol concentration was less than 0.15, or if for reasons  
7 other than the person's refusal to take a test offered under RCW  
8 46.20.308 there is no test result indicating the person's alcohol  
9 concentration:

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

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

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

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

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

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

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

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

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

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

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

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

38           Upon its own motion or upon motion by a person, a court may find,  
39 on the record, that notice to the department under RCW 46.20.270 has  
40 been delayed for three years or more as a result of a clerical or

1 court error. If so, the court may order that the person's license,  
2 permit, or nonresident privilege shall not be revoked, suspended, or  
3 denied for that offense. The court shall send notice of the finding  
4 and order to the department and to the person. Upon receipt of the  
5 notice from the court, the department shall not revoke, suspend, or  
6 deny the license, permit, or nonresident privilege of the person for  
7 that offense.

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

11 **(10) Probation of driving privilege.** After expiration of any  
12 period of suspension, revocation, or denial of the offender's  
13 license, permit, or privilege to drive required by this section, the  
14 department shall place the offender's driving privilege in  
15 probationary status pursuant to RCW 46.20.355.

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

1 The sentence may be imposed in whole or in part upon violation of a  
2 condition of probation during the suspension period.

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

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

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

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

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

26 (c) The court determines that there is reason to believe that the  
27 offender would violate the conditions of the electronic home  
28 monitoring penalty.

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

36 Whenever the combination of jail time and electronic home  
37 monitoring or alternative sentence would exceed three hundred sixty-  
38 four days, the offender shall serve the jail portion of the sentence  
39 first, and the electronic home monitoring or alternative portion of

1 the sentence shall be reduced so that the combination does not exceed  
2 three hundred sixty-four days.

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

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

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

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

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

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

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

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

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

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

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

34 ~~((vii))~~ (ix) A conviction for a violation of RCW 46.10.490(2)  
35 or an equivalent local ordinance;

36 ~~((viii))~~ (x) A conviction for a violation of RCW 46.61.520  
37 committed while under the influence of intoxicating liquor or any  
38 drug, or a conviction for a violation of RCW 46.61.520 committed in a  
39 reckless manner or with the disregard for the safety of others if the  
40 conviction is the result of a charge that was originally filed as a

1 violation of RCW 46.61.520 committed while under the influence of  
2 intoxicating liquor or any drug;

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

10 ~~((x))~~ (xii) A conviction for a violation of RCW 46.61.5249,  
11 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the  
12 conviction is the result of a charge that was originally filed as a  
13 violation of RCW 46.61.502 or 46.61.504, or an equivalent local  
14 ordinance, or of RCW 46.61.520 or 46.61.522;

15 ~~((xi))~~ (xiii) An out-of-state conviction for a violation that  
16 would have been a violation of (a)(i), (ii), ~~((viii))~~ (x), ~~((ix))~~  
17 (xi), or ~~((x))~~ (xii) of this subsection if committed in this state;

18 ~~((xii))~~ (xiv) A deferred prosecution under chapter 10.05 RCW  
19 granted in a prosecution for a violation of RCW 46.61.502, 46.61.504,  
20 or an equivalent local ordinance;

21 ~~((xiii))~~ (xv) A deferred prosecution under chapter 10.05 RCW  
22 granted in a prosecution for a violation of RCW 46.61.5249, or an  
23 equivalent local ordinance, if the charge under which the deferred  
24 prosecution was granted was originally filed as a violation of RCW  
25 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW  
26 46.61.520 or 46.61.522;

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

33 ~~((xv))~~ (xvii) A deferred sentence imposed in a prosecution for  
34 a violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
35 equivalent local ordinance, if the charge under which the deferred  
36 sentence was imposed was originally filed as a violation of RCW  
37 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
38 violation of RCW 46.61.520 or 46.61.522;

39 If a deferred prosecution is revoked based on a subsequent  
40 conviction for an offense listed in this subsection (14)(a), the

1 subsequent conviction shall not be treated as a prior offense of the  
2 revoked deferred prosecution for the purposes of sentencing;

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

5 (c) "Within seven years" means that the arrest for a prior  
6 offense occurred within seven years before or after the arrest for  
7 the current offense; and

8 (d) "Within ten years" means that the arrest for a prior offense  
9 occurred within ten years before or after the arrest for the current  
10 offense.

11 **Sec. 10.** RCW 46.01.260 and 2010 c 161 s 208 are each amended to  
12 read as follows:

13 (1) Except as provided in subsection (2) of this section, the  
14 director may destroy applications for vehicle registrations, copies  
15 of vehicle registrations issued, applications for drivers' licenses,  
16 copies of issued drivers' licenses, certificates of title and  
17 registration or other documents, and records or supporting papers on  
18 file in the department that have been microfilmed or photographed or  
19 are more than five years old. The director may destroy applications  
20 for vehicle registrations that are renewal applications when the  
21 computer record of the applications has been updated.

22 (2)(a) The director shall not destroy records of convictions or  
23 adjudications of RCW 46.61.502, 46.61.503, 46.61.504, 46.61.520, and  
24 46.61.522, or records of deferred prosecutions granted under RCW  
25 10.05.120 and shall maintain such records permanently on file.

26 (b) The director shall not, within fifteen years from the date of  
27 conviction or adjudication, destroy records if the offense was  
28 originally charged as one of the offenses designated in (a) of this  
29 subsection, convictions or adjudications of the following offenses:  
30 RCW 46.61.500 or 46.61.5249 or any other violation that was  
31 originally charged as one of the offenses designated in (a) of this  
32 subsection.

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

### 35 **Ignition interlock devices—Standards—Compliance**

36 **Sec. 11.** RCW 43.43.395 and 2013 2nd sp.s. c 35 s 9 are each  
37 amended to read as follows:



1 (1) The state patrol shall by rule provide standards for the  
2 certification, installation, repair, maintenance, monitoring,  
3 inspection, and removal of ignition interlock devices, as defined  
4 under RCW 46.04.215, and equipment as outlined under this section,  
5 and may inspect the records and equipment of manufacturers and  
6 vendors during regular business hours for compliance with statutes  
7 and rules and may suspend or revoke certification for any  
8 noncompliance.

9 (2)(a) When a certified service provider or individual installer  
10 of ignition interlock devices is found to be out of compliance, the  
11 installation privileges of that certified service provider or  
12 individual installer may be suspended or revoked until the certified  
13 service provider or individual installer comes into compliance.  
14 During any suspension or revocation period, the certified service  
15 provider or individual installer is responsible for notifying  
16 affected customers of any changes in their service agreement.

17 (b) A certified service provider or individual installer whose  
18 certification is suspended or revoked for noncompliance has a right  
19 to an administrative hearing under chapter 34.05 RCW to contest the  
20 suspension or revocation, or both. For the administrative hearing,  
21 the procedure and rules of evidence are as specified in chapter 34.05  
22 RCW, except as otherwise provided in this chapter. Any request for an  
23 administrative hearing must be made in writing and must be received  
24 by the state patrol within twenty days after the receipt of the  
25 notice of suspension or revocation.

26 (3)(a) An ignition interlock device must employ:

27 (i) Fuel cell technology. For the purposes of this subsection,  
28 "fuel cell technology" consists of the following electrochemical  
29 method: An electrolyte designed to oxidize the alcohol and release  
30 electrons to be collected by an active electrode; a current flow is  
31 generated within the electrode proportional to the amount of alcohol  
32 oxidized on the fuel cell surface; and the electrical current is  
33 measured and reported as breath alcohol concentration. Fuel cell  
34 technology is highly specific for alcohols(~~(-~~

35 ~~(b) When reasonably available in the area, as determined by the~~  
36 ~~state patrol, an ignition interlock device must employ));~~

37 (ii) Technology capable of taking a photo identification of the  
38 user giving the breath sample and recording on the photo the time the  
39 breath sample was given; and

1        (iii) Technology capable of providing the global positioning  
2 coordinates at the time of each test sequence. Such coordinates must  
3 be displayed within the data log that is downloaded by the  
4 manufacturer and must be made available to the state patrol to be  
5 used for circumvention and tampering investigations.

6        ((+e)) (b) To be certified, an ignition interlock device must:

7        (i) Meet or exceed the minimum test standards according to rules  
8 adopted by the state patrol. Only a notarized statement from a  
9 laboratory that is accredited and certified ((by)) under the current  
10 edition of ISO (the international organization of standardization)  
11 17025 standard for testing and calibration laboratories and is  
12 capable of performing the tests specified will be accepted as proof  
13 of meeting or exceeding the standards. The notarized statement must  
14 include the name and signature of the person in charge of the tests  
15 under the certification statement. The state patrol must adopt by  
16 rule the required language of the certification statement that must,  
17 at a minimum, outline that the testing meets or exceeds all  
18 specifications listed in the federal register adopted in rule by the  
19 state patrol; and

20        (ii) Be maintained in accordance with the rules and standards  
21 adopted by the state patrol.

## 22                    **Abstract of driving record—Access—Fee—Violations**

23        **Sec. 12.** RCW 46.52.130 and 2012 c 74 s 6 and 2012 c 73 s 1 are  
24 each reenacted and amended to read as follows:

25        Upon a proper request, the department may furnish an abstract of  
26 a person's driving record as permitted under this section.

27        (1) **Contents of abstract of driving record.** An abstract of a  
28 person's driving record, whenever possible, must include:

29        (a) An enumeration of motor vehicle accidents in which the person  
30 was driving, including:

31            (i) The total number of vehicles involved;

32            (ii) Whether the vehicles were legally parked or moving;

33            (iii) Whether the vehicles were occupied at the time of the  
34 accident; and

35            (iv) Whether the accident resulted in a fatality;

36        (b) Any reported convictions, forfeitures of bail, or findings  
37 that an infraction was committed based upon a violation of any motor  
38 vehicle law;

1 (c) The status of the person's driving privilege in this state;  
2 and

3 (d) Any reports of failure to appear in response to a traffic  
4 citation or failure to respond to a notice of infraction served upon  
5 the named individual by an arresting officer.

6 (2) **Release of abstract of driving record.** An abstract of a  
7 person's driving record may be furnished to the following persons or  
8 entities:

9 (a) **Named individuals.** (i) An abstract of the full driving record  
10 maintained by the department may be furnished to the individual named  
11 in the abstract.

12 (ii) Nothing in this section prevents a court from providing a  
13 copy of the driver's abstract to the individual named in the abstract  
14 or that named individual's attorney, provided that the named  
15 individual has a pending or open infraction or criminal case in that  
16 court. A pending case includes criminal cases that have not reached a  
17 disposition by plea, stipulation, trial, or amended charge. An open  
18 infraction or criminal case includes cases on probation, payment  
19 agreement or subject to, or in collections. Courts may charge a  
20 reasonable fee for the production and copying of the abstract for the  
21 individual.

22 (b) **Employers or prospective employers.** (i)(A) An abstract of the  
23 full driving record maintained by the department may be furnished to  
24 an employer or prospective employer or an agent acting on behalf of  
25 an employer or prospective employer of the named individual for  
26 purposes related to driving by the individual as a condition of  
27 employment or otherwise at the direction of the employer.

28 (B) Release of an abstract of the driving record of an employee  
29 or prospective employee requires a statement signed by: (I) The  
30 employee or prospective employee that authorizes the release of the  
31 record; and (II) the employer attesting that the information is  
32 necessary for employment purposes related to driving by the  
33 individual as a condition of employment or otherwise at the direction  
34 of the employer. If the employer or prospective employer authorizes  
35 an agent to obtain this information on their behalf, this must be  
36 noted in the statement.

37 (C) Upon request of the person named in the abstract provided  
38 under this subsection, and upon that same person furnishing copies of  
39 court records ruling that the person was not at fault in a motor  
40 vehicle accident, the department must indicate on any abstract

1 provided under this subsection that the person was not at fault in  
2 the motor vehicle accident.

3 (ii) In addition to the methods described in (b)(i) of this  
4 subsection, the director may enter into a contractual agreement with  
5 an employer or its agent for the purpose of reviewing the driving  
6 records of existing employees for changes to the record during  
7 specified periods of time. The department shall establish a fee for  
8 this service, which must be deposited in the highway safety fund. The  
9 fee for this service must be set at a level that will not result in a  
10 net revenue loss to the state. Any information provided under this  
11 subsection must be treated in the same manner and is subject to the  
12 same restrictions as driving record abstracts.

13 (c) **Volunteer organizations.** (i) An abstract of the full driving  
14 record maintained by the department may be furnished to a volunteer  
15 organization or an agent for a volunteer organization for which the  
16 named individual has submitted an application for a position that  
17 would require driving by the individual at the direction of the  
18 volunteer organization.

19 (ii) Release of an abstract of the driving record of a  
20 prospective volunteer requires a statement signed by: (A) The  
21 prospective volunteer that authorizes the release of the record; and  
22 (B) the volunteer organization attesting that the information is  
23 necessary for purposes related to driving by the individual at the  
24 direction of the volunteer organization. If the volunteer  
25 organization authorizes an agent to obtain this information on their  
26 behalf, this must be noted in the statement.

27 (d) **Transit authorities.** An abstract of the full driving record  
28 maintained by the department may be furnished to an employee or agent  
29 of a transit authority checking prospective volunteer vanpool drivers  
30 for insurance and risk management needs.

31 (e) **Insurance carriers.** (i) An abstract of the driving record  
32 maintained by the department covering the period of not more than the  
33 last three years may be furnished to an insurance company or its  
34 agent:

35 (A) That has motor vehicle or life insurance in effect covering  
36 the named individual;

37 (B) To which the named individual has applied; or

38 (C) That has insurance in effect covering the employer or a  
39 prospective employer of the named individual.

40 (ii) The abstract provided to the insurance company must:

1 (A) Not contain any information related to actions committed by  
2 law enforcement officers or firefighters, as both terms are defined  
3 in RCW 41.26.030, or by Washington state patrol officers, while  
4 driving official vehicles in the performance of their occupational  
5 duty. This does not apply to any situation where the vehicle was used  
6 in the commission of a misdemeanor or felony;

7 (B) Include convictions under RCW 46.61.5249 and 46.61.525,  
8 except that the abstract must report the convictions only as  
9 negligent driving without reference to whether they are for first or  
10 second degree negligent driving; and

11 (C) Exclude any deferred prosecution under RCW 10.05.060, except  
12 that if a person is removed from a deferred prosecution under RCW  
13 10.05.090, the abstract must show the deferred prosecution as well as  
14 the removal.

15 (iii) Any policy of insurance may not be canceled, nonrenewed,  
16 denied, or have the rate increased on the basis of information  
17 regarding an accident included in the abstract of a driving record,  
18 unless the policyholder was determined to be at fault.

19 (iv) Any insurance company or its agent, for underwriting  
20 purposes relating to the operation of commercial motor vehicles, may  
21 not use any information contained in the abstract relative to any  
22 person's operation of motor vehicles while not engaged in such  
23 employment. Any insurance company or its agent, for underwriting  
24 purposes relating to the operation of noncommercial motor vehicles,  
25 may not use any information contained in the abstract relative to any  
26 person's operation of commercial motor vehicles.

27 (v) The director may enter into a contractual agreement with an  
28 insurance company or its agent for the limited purpose of reviewing  
29 the driving records of existing policyholders for changes to the  
30 record during specified periods of time. The department shall  
31 establish a fee for this service, which must be deposited in the  
32 highway safety fund. The fee for this service must be set at a level  
33 that will not result in a net revenue loss to the state. Any  
34 information provided under this subsection must be treated in the  
35 same manner and is subject to the same restrictions as driving record  
36 abstracts.

37 (f) **Alcohol/drug assessment or treatment agencies.** An abstract of  
38 the driving record maintained by the department covering the period  
39 of not more than the last five years may be furnished to an alcohol/  
40 drug assessment or treatment agency approved by the department of

1 social and health services to which the named individual has applied  
2 or been assigned for evaluation or treatment, for purposes of  
3 assisting employees in making a determination as to what level of  
4 treatment, if any, is appropriate, except that the abstract must:

5 (i) Also include records of alcohol-related offenses, as defined  
6 in RCW 46.01.260(2), covering a period of not more than the last ten  
7 years; and

8 (ii) Indicate whether an alcohol-related offense was originally  
9 charged as a violation of either RCW 46.61.502 or 46.61.504.

10 (g) **Attorneys—City attorneys ((and)), county prosecuting**  
11 **attorneys, and named individual's attorney of record.** An abstract of  
12 the full driving record maintained by the department, including  
13 whether a recorded violation is an alcohol-related offense, as  
14 defined in RCW 46.01.260(2), that was originally charged as a  
15 violation of either RCW 46.61.502 or 46.61.504, may be furnished to  
16 city attorneys ((~~or~~)), county prosecuting attorneys, or the named  
17 individual's attorney of record. City attorneys ((and)), county  
18 prosecuting attorneys, or the named individual's attorney of record  
19 may provide the driving record to alcohol/drug assessment or  
20 treatment agencies approved by the department of social and health  
21 services to which the named individual has applied or been assigned  
22 for evaluation or treatment.

23 (h) **State colleges, universities, or agencies, or units of local**  
24 **government.** An abstract of the full driving record maintained by the  
25 department may be furnished to (i) state colleges, universities, or  
26 agencies for employment and risk management purposes or (ii) units of  
27 local government authorized to self-insure under RCW 48.62.031 for  
28 employment and risk management purposes.

29 (i) **Superintendent of public instruction.** An abstract of the full  
30 driving record maintained by the department may be furnished to the  
31 superintendent of public instruction for review of public school bus  
32 driver records. The superintendent or superintendent's designee may  
33 discuss information on the driving record with an authorized  
34 representative of the employing school district for employment and  
35 risk management purposes.

36 (3) **Release to third parties prohibited.** Any person or entity  
37 receiving an abstract of a person's driving record under subsection  
38 (2)(b) through (i) of this section shall use the abstract exclusively  
39 for his, her, or its own purposes or as otherwise expressly permitted

1 under this section, and shall not divulge any information contained  
2 in the abstract to a third party.

3 (4) **Fee.** The director shall collect a thirteen dollar fee for  
4 each abstract of a person's driving record furnished by the  
5 department. Fifty percent of the fee must be deposited in the highway  
6 safety fund, and fifty percent of the fee must be deposited according  
7 to RCW 46.68.038.

8 (5) **Violation.** (a) Any negligent violation of this section is a  
9 gross misdemeanor.

10 (b) Any intentional violation of this section is a class C  
11 felony.

12 **Sec. 13.** RCW 9.94A.589 and 2002 c 175 s 7 are each amended to  
13 read as follows:

14 (1)(a) Except as provided in (b) (~~(c)~~), (c), or (d) of this  
15 subsection, whenever a person is to be sentenced for two or more  
16 current offenses, the sentence range for each current offense shall  
17 be determined by using all other current and prior convictions as if  
18 they were prior convictions for the purpose of the offender score:  
19 PROVIDED, That if the court enters a finding that some or all of the  
20 current offenses encompass the same criminal conduct then those  
21 current offenses shall be counted as one crime. Sentences imposed  
22 under this subsection shall be served concurrently. Consecutive  
23 sentences may only be imposed under the exceptional sentence  
24 provisions of RCW 9.94A.535. "Same criminal conduct," as used in this  
25 subsection, means two or more crimes that require the same criminal  
26 intent, are committed at the same time and place, and involve the  
27 same victim. This definition applies in cases involving vehicular  
28 assault or vehicular homicide even if the victims occupied the same  
29 vehicle.

30 (b) Whenever a person is convicted of two or more serious violent  
31 offenses arising from separate and distinct criminal conduct, the  
32 standard sentence range for the offense with the highest seriousness  
33 level under RCW 9.94A.515 shall be determined using the offender's  
34 prior convictions and other current convictions that are not serious  
35 violent offenses in the offender score and the standard sentence  
36 range for other serious violent offenses shall be determined by using  
37 an offender score of zero. The standard sentence range for any  
38 offenses that are not serious violent offenses shall be determined  
39 according to (a) of this subsection. All sentences imposed under

1 ((~~(b)~~—of)) this subsection (1)(b) shall be served consecutively to  
2 each other and concurrently with sentences imposed under (a) of this  
3 subsection.

4 (c) If an offender is convicted under RCW 9.41.040 for unlawful  
5 possession of a firearm in the first or second degree and for the  
6 felony crimes of theft of a firearm or possession of a stolen  
7 firearm, or both, the standard sentence range for each of these  
8 current offenses shall be determined by using all other current and  
9 prior convictions, except other current convictions for the felony  
10 crimes listed in this subsection (1)(c), as if they were prior  
11 convictions. The offender shall serve consecutive sentences for each  
12 conviction of the felony crimes listed in this subsection (1)(c), and  
13 for each firearm unlawfully possessed.

14 (d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6),  
15 or 46.61.5055(4) shall be served consecutively to any sentences  
16 imposed under RCW 46.20.740 and 46.20.750.

17 (2)(a) Except as provided in (b) of this subsection, whenever a  
18 person while under sentence for conviction of a felony commits  
19 another felony and is sentenced to another term of confinement, the  
20 latter term shall not begin until expiration of all prior terms.

21 (b) Whenever a second or later felony conviction results in  
22 community supervision with conditions not currently in effect, under  
23 the prior sentence or sentences of community supervision the court  
24 may require that the conditions of community supervision contained in  
25 the second or later sentence begin during the immediate term of  
26 community supervision and continue throughout the duration of the  
27 consecutive term of community supervision.

28 (3) Subject to subsections (1) and (2) of this section, whenever  
29 a person is sentenced for a felony that was committed while the  
30 person was not under sentence for conviction of a felony, the  
31 sentence shall run concurrently with any felony sentence which has  
32 been imposed by any court in this or another state or by a federal  
33 court subsequent to the commission of the crime being sentenced  
34 unless the court pronouncing the current sentence expressly orders  
35 that they be served consecutively.

36 (4) Whenever any person granted probation under RCW 9.95.210 or  
37 9.92.060, or both, has the probationary sentence revoked and a prison  
38 sentence imposed, that sentence shall run consecutively to any  
39 sentence imposed pursuant to this chapter, unless the court



1 pronouncing the subsequent sentence expressly orders that they be  
2 served concurrently.

3 (5) In the case of consecutive sentences, all periods of total  
4 confinement shall be served before any partial confinement, community  
5 restitution, community supervision, or any other requirement or  
6 conditions of any of the sentences. Except for exceptional sentences  
7 as authorized under RCW 9.94A.535, if two or more sentences that run  
8 consecutively include periods of community supervision, the aggregate  
9 of the community supervision period shall not exceed twenty-four  
10 months.

11 **Sec. 14.** RCW 46.61.504 and 2013 c 3 s 35 are each amended to  
12 read as follows:

13 (1) A person is guilty of being in actual physical control of a  
14 motor vehicle while under the influence of intoxicating liquor or any  
15 drug if the person has actual physical control of a vehicle within  
16 this state:

17 (a) And the person has, within two hours after being in actual  
18 physical control of the vehicle, an alcohol concentration of 0.08 or  
19 higher as shown by analysis of the person's breath or blood made  
20 under RCW 46.61.506; or

21 (b) The person has, within two hours after being in actual  
22 physical control of a vehicle, a THC concentration of 5.00 or higher  
23 as shown by analysis of the person's blood made under RCW 46.61.506;  
24 or

25 (c) While the person is under the influence of or affected by  
26 intoxicating liquor or any drug; or

27 (d) While the person is under the combined influence of or  
28 affected by intoxicating liquor and any drug.

29 (2) The fact that a person charged with a violation of this  
30 section is or has been entitled to use a drug under the laws of this  
31 state does not constitute a defense against any charge of violating  
32 this section. No person may be convicted under this section and it is  
33 an affirmative defense to any action pursuant to RCW 46.20.308 to  
34 suspend, revoke, or deny the privilege to drive if, prior to being  
35 pursued by a law enforcement officer, the person has moved the  
36 vehicle safely off the roadway.

37 (3)(a) It is an affirmative defense to a violation of subsection  
38 (1)(a) of this section which the defendant must prove by a  
39 preponderance of the evidence that the defendant consumed a

1 sufficient quantity of alcohol after the time of being in actual  
2 physical control of the vehicle and before the administration of an  
3 analysis of the person's breath or blood to cause the defendant's  
4 alcohol concentration to be 0.08 or more within two hours after being  
5 in such control. The court shall not admit evidence of this defense  
6 unless the defendant notifies the prosecution prior to the omnibus or  
7 pretrial hearing in the case of the defendant's intent to assert the  
8 affirmative defense.

9 (b) It is an affirmative defense to a violation of subsection  
10 (1)(b) of this section, which the defendant must prove by a  
11 preponderance of the evidence, that the defendant consumed a  
12 sufficient quantity of marijuana after the time of being in actual  
13 physical control of the vehicle and before the administration of an  
14 analysis of the person's blood to cause the defendant's THC  
15 concentration to be 5.00 or more within two hours after being in  
16 control of the vehicle. The court shall not admit evidence of this  
17 defense unless the defendant notifies the prosecution prior to the  
18 omnibus or pretrial hearing in the case of the defendant's intent to  
19 assert the affirmative defense.

20 (4)(a) Analyses of blood or breath samples obtained more than two  
21 hours after the alleged being in actual physical control of a vehicle  
22 may be used as evidence that within two hours of the alleged being in  
23 such control, a person had an alcohol concentration of 0.08 or more  
24 in violation of subsection (1)(a) of this section, and in any case in  
25 which the analysis shows an alcohol concentration above 0.00 may be  
26 used as evidence that a person was under the influence of or affected  
27 by intoxicating liquor or any drug in violation of subsection (1)(c)  
28 or (d) of this section.

29 (b) Analyses of blood samples obtained more than two hours after  
30 the alleged being in actual physical control of a vehicle may be used  
31 as evidence that within two hours of the alleged being in control of  
32 the vehicle, a person had a THC concentration of 5.00 or more in  
33 violation of subsection (1)(b) of this section, and in any case in  
34 which the analysis shows a THC concentration above 0.00 may be used  
35 as evidence that a person was under the influence of or affected by  
36 marijuana in violation of subsection (1)(c) or (d) of this section.

37 (5) Except as provided in subsection (6) of this section, a  
38 violation of this section is a gross misdemeanor.

39 (6) It is a class C felony punishable under chapter 9.94A RCW, or  
40 chapter 13.40 RCW if the person is a juvenile, if:

1 (a) The person has four or more prior offenses within ten years  
2 as defined in RCW 46.61.5055; or

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

4 (i) Vehicular homicide while under the influence of intoxicating  
5 liquor or any drug, RCW 46.61.520(1)(a);

6 (ii) Vehicular assault while under the influence of intoxicating  
7 liquor or any drug, RCW 46.61.522(1)(b);

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

10 (iv) A violation of this subsection (6) or RCW 46.61.502(6).

11 **Sec. 15.** RCW 46.61.503 and 2013 c 3 s 34 are each amended to  
12 read as follows:

13 (1) Notwithstanding any other provision of this title, a person  
14 is guilty of driving or being in physical control of a motor vehicle  
15 after consuming alcohol or marijuana if the person operates or is in  
16 physical control of a motor vehicle within this state and the person:

17 (a) Is under the age of twenty-one; and

18 (b) Has, within two hours after operating or being in physical  
19 control of the motor vehicle, either:

20 (i) An alcohol concentration of at least 0.02 but less than the  
21 concentration specified in RCW 46.61.502, as shown by analysis of the  
22 person's breath or blood made under RCW 46.61.506; or

23 (ii) A THC concentration above 0.00 but less than the  
24 concentration specified in RCW 46.61.502, as shown by analysis of the  
25 person's blood made under RCW 46.61.506.

26 (2) It is an affirmative defense to a violation of subsection (1)  
27 of this section, which the defendant must prove by a preponderance of  
28 the evidence, that the defendant consumed a sufficient quantity of  
29 alcohol or marijuana after the time of driving or being in physical  
30 control and before the administration of an analysis of the person's  
31 breath or blood to cause the defendant's alcohol or THC concentration  
32 to be in violation of subsection (1) of this section within two hours  
33 after driving or being in physical control. The court shall not admit  
34 evidence of this defense unless the defendant notifies the  
35 prosecution prior to the earlier of: (a) Seven days prior to trial;  
36 or (b) the omnibus or pretrial hearing in the case of the defendant's  
37 intent to assert the affirmative defense.

38 (3) No person may be convicted under this section for being in  
39 physical control of a motor vehicle and it is an affirmative defense

1 to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny  
2 the privilege to drive if, prior to being pursued by a law  
3 enforcement officer, the person has moved the vehicle safely off the  
4 roadway.

5 (4) Analyses of blood or breath samples obtained more than two  
6 hours after the alleged driving or being in physical control may be  
7 used as evidence that within two hours of the alleged driving or  
8 being in physical control, a person had an alcohol or THC  
9 concentration in violation of subsection (1) of this section.

10 ~~((4))~~ (5) A violation of this section is a misdemeanor.

11 **Sec. 16.** RCW 46.20.755 and 2010 c 269 s 5 are each amended to  
12 read as follows:

13 If a person is required, as part of the person's judgment and  
14 sentence or as a condition of release, to install an ignition  
15 interlock device on all motor vehicles operated by the person and the  
16 person is under the jurisdiction of the municipality or county  
17 probation or supervision department, the probation or supervision  
18 department must verify the installation of the ignition interlock  
19 device or devices. The municipality or county probation or  
20 supervision department satisfies the requirement to verify the  
21 installation or installations if the municipality or county probation  
22 or supervision department receives written verification by one or  
23 more companies doing business in the state that it has installed the  
24 required device on a vehicle owned or operated by the person. The  
25 municipality or county shall have no further obligation to supervise  
26 the use of the ignition interlock device or devices by the person and  
27 shall not be civilly liable for any injuries or damages caused by the  
28 person for failing to use an ignition interlock device or for driving  
29 under the influence of intoxicating liquor or any drug or being in  
30 actual physical control of a motor vehicle under the influence of  
31 intoxicating liquor or any drug.

32 **Sec. 17.** RCW 36.28A.300 and 2014 c 221 s 912 are each amended to  
33 read as follows:

34 ~~((There is created))~~ When funded, the Washington association of  
35 sheriffs and police chiefs shall administer a 24/7 sobriety program  
36 ~~((to be administered by the criminal justice training commission in~~  
37 ~~conjunction with)).~~ The Washington association of sheriffs and police  
38 chiefs~~((. The program))~~ shall coordinate efforts among various local

1 government entities (~~for the purpose of implementing alternatives to~~  
2 ~~incarceration for offenders convicted under RCW 46.61.502 or~~  
3 ~~46.61.504 with one or more prior convictions under RCW 46.61.502 or~~  
4 ~~46.61.504)) to establish a 24/7 sobriety program within their  
5 jurisdiction and to enhance pretrial and posttrial options for DUI  
6 offenders and offenders of other crimes in which the use of alcohol  
7 or drugs was a factor in the commission of the crime. The Washington  
8 association of sheriffs and police chiefs shall report on the status  
9 of the 24/7 sobriety program to the governor and appropriate  
10 committees of the legislature on an annual basis.~~

11 **Sec. 18.** RCW 36.28A.320 and 2014 c 221 s 913 are each amended to  
12 read as follows:

13 There is hereby established in the state treasury the 24/7  
14 sobriety account. The account shall be maintained and administered by  
15 the criminal justice training commission to reimburse the state for  
16 costs associated with establishing and operating the 24/7 sobriety  
17 program and the Washington association of sheriffs and police chiefs  
18 for ongoing 24/7 sobriety program administration costs. (~~{The}~~) An  
19 appropriation is not required for expenditures and the account is not  
20 subject to allotment procedures under chapter 43.88 RCW. Funds in the  
21 account may not lapse and must carry forward from biennium to  
22 biennium. Interest earned by the account must be retained in the  
23 account. The criminal justice training commission may accept for  
24 deposit in the account money from donations, gifts, grants,  
25 participation fees, and user fees or payments. (~~Expenditures from~~  
26 the account shall be budgeted through the normal budget process.))

27 **Sec. 19.** RCW 36.28A.330 and 2013 2nd sp.s. c 35 s 26 are each  
28 amended to read as follows:

29 The definitions in this section apply throughout RCW 36.28A.300  
30 through 36.28A.390 unless the context clearly requires otherwise.

31 (1) "24/7 ((electronic alcohol/drug monitoring)) sobriety  
32 program" means ((the monitoring by the use of any electronic  
33 instrument that is capable of determining and monitoring the presence  
34 of alcohol or drugs in a person's body and includes any associated  
35 equipment a participant needs in order for the device to properly  
36 perform. Monitoring may also include mandatory urine analysis tests  
37 as ordered by the court)) a program in which a participant submits to  
38 testing of the participant's blood, breath, urine, or other bodily

1 substance to determine the presence of alcohol or any drug as defined  
2 in RCW 46.61.540. Testing must take place at a location or locations  
3 designated by the participating agency, or, with the concurrence of  
4 the Washington association of sheriffs and police chiefs, by an  
5 alternate method.

6 (2) "Participant" means a person who has ~~((one or more prior~~  
7 ~~convictions for a))~~ been charged with or convicted of a crime in  
8 which the use of alcohol or drugs as defined in RCW 46.61.540 was a  
9 contributing factor in the commission of the crime including, but not  
10 limited to, violation of RCW 46.61.502 or 46.61.504 and who has been  
11 ordered by a court to participate in the 24/7 sobriety program.

12 (3) "Participating agency" means ~~((a sheriff's office or a~~  
13 ~~designated entity named by a sheriff that has agreed to participate~~  
14 ~~in the 24/7 sobriety program by enrolling participants, administering~~  
15 ~~one or more of the tests, and submitting reports to the Washington~~  
16 ~~association of sheriffs and police chiefs))~~ any entity located in the  
17 state of Washington that has a written agreement with the Washington  
18 association of sheriffs and police chiefs to participate in the 24/7  
19 sobriety program, and includes, but is not limited to, a sheriff, a  
20 police chief, any other local, regional, or state corrections or  
21 probation entity, and any other entity designated by a sheriff,  
22 police chief, or any other local, regional, or state corrections or  
23 probation entity to perform testing in the 24/7 sobriety program.

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

- 28 (a) The type, frequency, and time period of testing;  
29 (b) The location of testing;  
30 (c) The fees and payment procedures required for testing; and  
31 (d) The responsibilities and obligations of the participant under  
32 the 24/7 sobriety program.

33 ~~((5) "24/7 sobriety program" means a twenty four hour and seven~~  
34 ~~day a week sobriety program in which a participant submits to the~~  
35 ~~testing of the participant's blood, breath, urine, or other bodily~~  
36 ~~substances in order to determine the presence of alcohol, marijuana,~~  
37 ~~or any controlled substance in the participant's body.))~~

38 **Sec. 20.** RCW 36.28A.370 and 2013 2nd sp.s. c 35 s 30 are each  
39 amended to read as follows:

1       ~~(1) ((Funds in the 24/7 sobriety account shall be distributed as~~  
2 ~~follows:~~

3       ~~(a)) Any daily user fee, installation fee, deactivation fee,~~  
4 ~~enrollment fee, or monitoring fee ((collected under the 24/7 sobriety~~  
5 ~~program shall)) must be collected by the ((sheriff or chief, or an~~  
6 ~~entity designated by the sheriff or chief, and deposited with the~~  
7 ~~county or city treasurer of the proper county or city, the proceeds~~  
8 ~~of which shall be applied)) participating agency and used ((only)) to  
9 defray the ((recurring)) participating agency's costs of the 24/7  
10 sobriety program ((including maintaining equipment, funding support  
11 services, and ensuring compliance; and)).~~

12       ~~((b)) (2) Any participation fee must be collected ((in the~~  
13 ~~administration of testing under)) by the participating agency and~~  
14 ~~deposited in the state 24/7 sobriety ((program)) account to cover~~  
15 ~~24/7 sobriety program administration costs incurred by the Washington~~  
16 ~~association of sheriffs and police chiefs ((shall be collected by the~~  
17 ~~sheriff or chief, or an entity designated by the sheriff or chief,~~  
18 ~~and deposited in the 24/7 sobriety account)).~~

19       ~~((2)) (3) All applicable fees shall be paid by the participant~~  
20 ~~contemporaneously or in advance of the time when the fee becomes due;~~  
21 ~~however, cities and counties may subsidize or pay any applicable~~  
22 ~~fees.~~

23       ~~(4) A city or county may accept donations, gifts, grants, and~~  
24 ~~other assistance to defray the participating agency's costs of the~~  
25 ~~24/7 sobriety program.~~

26       **Sec. 21.** RCW 36.28A.390 and 2013 2nd sp.s. c 35 s 32 are each  
27 amended to read as follows:

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

34       (2) A participant who violates the terms of participation in the  
35 24/7 sobriety program ((or does not pay the required fees or  
36 associated costs)) pretrial or posttrial shall, at a minimum:

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

1 (b) Serve ~~((a term))~~ the lesser of two days imprisonment or if  
2 posttrial, the entire remaining sentence imposed by the court for a  
3 second violation;

4 (c) Serve ~~((a term of up to))~~ the lesser of five days  
5 imprisonment or if posttrial, the entire remaining sentence imposed  
6 by the court for a third violation;

7 (d) Serve ~~((a term of up to))~~ the lesser of ten days imprisonment  
8 or if posttrial, the entire remaining sentence imposed by the court  
9 for a fourth violation; and

10 (e) For a fifth or subsequent violation pretrial, the participant  
11 shall abide by the order of the court. For posttrial participants,  
12 the participant shall serve the entire remaining sentence imposed by  
13 the court.

14 ~~((2) A sheriff or chief, or the designee of a sheriff or chief,~~  
15 ~~who has probable cause to believe that a participant has violated the~~  
16 ~~terms of participation in the 24/7 sobriety program or has not paid~~  
17 ~~the required fees or associated costs shall immediately take the~~  
18 ~~participant into custody and cause him or her to be held until an~~  
19 ~~appearance before a judge on the next judicial day.)) (3) The court~~  
20 may remove a participant from the 24/7 sobriety program at any time  
21 for noncompliance with the terms of participation.

22 **Sec. 22.** RCW 10.21.015 and 2014 c 24 s 1 are each amended to  
23 read as follows:

24 (1) Under this chapter, "pretrial release program" is any  
25 program, either run directly by a county or city, or by a private or  
26 public entity through contract with a county or city, into whose  
27 custody an offender is released prior to trial and which agrees to  
28 supervise the offender. As used in this section, "supervision"  
29 includes, but is not limited to, work release, day monitoring, ~~((or))~~  
30 electronic monitoring, or participation in a 24/7 sobriety program.

31 (2) A pretrial release program may not agree to supervise, or  
32 accept into its custody, an offender who is currently awaiting trial  
33 for a violent offense or sex offense, as defined in RCW 9.94A.030,  
34 who has been convicted of one or more violent offenses or sex  
35 offenses in the ten years before the date of the current offense,  
36 unless the offender's release before trial was secured with a payment  
37 of bail.



1       **Sec. 23.** RCW 10.21.030 and 2014 c 24 s 2 are each amended to  
2 read as follows:

3       (1) The judicial officer may at any time amend the order to  
4 impose additional or different conditions of release. The conditions  
5 imposed under this chapter supplement but do not supplant provisions  
6 of law allowing the imposition of conditions to assure the appearance  
7 of the defendant at trial or to prevent interference with the  
8 administration of justice.

9       (2) Appropriate conditions of release under this chapter include,  
10 but are not limited to, the following:

11       (a) The defendant may be placed in the custody of a pretrial  
12 release program;

13       (b) The defendant may have restrictions placed upon travel,  
14 association, or place of abode during the period of release;

15       (c) The defendant may be required to comply with a specified  
16 curfew;

17       (d) The defendant may be required to return to custody during  
18 specified hours or to be placed on electronic monitoring, if  
19 available. The defendant, if convicted, may not have the period of  
20 incarceration reduced by the number of days spent on electronic  
21 monitoring;

22       (e) The defendant may be prohibited from approaching or  
23 communicating in any manner with particular persons or classes of  
24 persons;

25       (f) The defendant may be prohibited from going to certain  
26 geographical areas or premises;

27       (g) The defendant may be prohibited from possessing any dangerous  
28 weapons or firearms;

29       (h) The defendant may be prohibited from possessing or consuming  
30 any intoxicating liquors or drugs not prescribed to the defendant.  
31 The defendant may be required to submit to testing to determine the  
32 defendant's compliance with this condition, including participation  
33 in a 24/7 sobriety program;

34       (i) The defendant may be prohibited from operating a motor  
35 vehicle that is not equipped with an ignition interlock device;

36       (j) The defendant may be required to report regularly to and  
37 remain under the supervision of an officer of the court or other  
38 person or agency; and

39       (k) The defendant may be prohibited from committing any  
40 violations of criminal law.

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

--- END ---