
ENGROSSED SUBSTITUTE HOUSE BILL 2700

State of Washington

64th Legislature

2016 Regular Session

By House Public Safety (originally sponsored by Representatives Goodman, Klippert, Orwall, Hayes, Kuderer, Pettigrew, Muri, Ortiz-Self, and Kilduff)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to impaired driving; amending RCW 36.28A.320,
2 46.01.260, 46.64.025, 46.20.291, 46.20.289, 9.94A.533, 46.61.506,
3 10.01.230, 10.05.140, 46.20.311, 46.20.385, 46.20.720, 46.20.308,
4 10.21.055, 46.61.5055, 46.20.3101, and 36.28A.390; reenacting and
5 amending RCW 43.79A.040 and 10.31.100; repealing RCW 36.28A.310; and
6 providing an effective date.

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

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

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

1 money from donations, gifts, grants, participation fees, and user
2 fees or payments.

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

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

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

13 (3) The investment income account may be utilized for the payment
14 of purchased banking services on behalf of treasurer's trust funds
15 including, but not limited to, depository, safekeeping, and
16 disbursement functions for the state treasurer or affected state
17 agencies. The investment income account is subject in all respects to
18 chapter 43.88 RCW, but no appropriation is required for payments to
19 financial institutions. Payments must occur prior to distribution of
20 earnings set forth in subsection (4) of this section.

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

24 (b) The following accounts and funds must receive their
25 proportionate share of earnings based upon each account's or fund's
26 average daily balance for the period: The 24/7 sobriety account, the
27 Washington promise scholarship account, the Washington advanced
28 college tuition payment program account, the accessible communities
29 account, the community and technical college innovation account, the
30 agricultural local fund, the American Indian scholarship endowment
31 fund, the foster care scholarship endowment fund, the foster care
32 endowed scholarship trust fund, the contract harvesting revolving
33 account, the Washington state combined fund drive account, the
34 commemorative works account, the county enhanced 911 excise tax
35 account, the toll collection account, the developmental disabilities
36 endowment trust fund, the energy account, the fair fund, the family
37 leave insurance account, the food animal veterinarian conditional
38 scholarship account, the fruit and vegetable inspection account, the
39 future teachers conditional scholarship account, the game farm

1 alternative account, the GET ready for math and science scholarship
2 account, the Washington global health technologies and product
3 development account, the grain inspection revolving fund, the
4 industrial insurance rainy day fund, the juvenile accountability
5 incentive account, the law enforcement officers' and firefighters'
6 plan 2 expense fund, the local tourism promotion account, the
7 multiagency permitting team account, the pilotage account, the
8 produce railcar pool account, the regional transportation investment
9 district account, the rural rehabilitation account, the stadium and
10 exhibition center account, the youth athletic facility account, the
11 self-insurance revolving fund, the children's trust fund, the
12 Washington horse racing commission Washington bred owners' bonus fund
13 and breeder awards account, the Washington horse racing commission
14 class C purse fund account, the individual development account
15 program account, the Washington horse racing commission operating
16 account, the life sciences discovery fund, the Washington state
17 heritage center account, the reduced cigarette ignition propensity
18 account, the center for childhood deafness and hearing loss account,
19 the school for the blind account, the Millersylvania park trust fund,
20 the public employees' and retirees' insurance reserve fund, and the
21 radiation perpetual maintenance fund.

22 (c) The following accounts and funds must receive eighty percent
23 of their proportionate share of earnings based upon each account's or
24 fund's average daily balance for the period: The advanced right-of-
25 way revolving fund, the advanced environmental mitigation revolving
26 account, the federal narcotics asset forfeitures account, the high
27 occupancy vehicle account, the local rail service assistance account,
28 and the miscellaneous transportation programs account.

29 (d) Any state agency that has independent authority over accounts
30 or funds not statutorily required to be held in the custody of the
31 state treasurer that deposits funds into a fund or account in the
32 custody of the state treasurer pursuant to an agreement with the
33 office of the state treasurer shall receive its proportionate share
34 of earnings based upon each account's or fund's average daily balance
35 for the period.

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

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

3 (1) Except as provided in subsection (2) of this section, the
4 director may destroy applications for vehicle registrations, copies
5 of vehicle registrations issued, applications for drivers' licenses,
6 copies of issued drivers' licenses, certificates of title and
7 registration or other documents, and records or supporting papers on
8 file in the department that have been microfilmed or photographed or
9 are more than five years old. The director may destroy applications
10 for vehicle registrations that are renewal applications when the
11 computer record of the applications has been updated.

12 (2)(a) The director shall not destroy records of convictions or
13 adjudications of RCW 46.61.502, 46.61.503, 46.61.504, 46.61.520, and
14 46.61.522, (~~(or~~) records of deferred prosecutions granted under RCW
15 10.05.120, or any other records of a prior offense as defined in RCW
16 46.61.5055 and shall maintain such records permanently on file.

17 (b) (~~The director shall not, within fifteen years from the date~~
18 ~~of conviction or adjudication, destroy records if the offense was~~
19 ~~originally charged as one of the offenses designated in (a) of this~~
20 ~~subsection, convictions or adjudications of the following offenses:~~
21 ~~RCW 46.61.500 or 46.61.5249 or any other violation that was~~
22 ~~originally charged as one of the offenses designated in (a) of this~~
23 ~~subsection.)) After fifteen years from the date of conviction or
24 adjudication, the director shall destroy all records of the
25 conviction if the offense was originally charged as one of the
26 offenses designated in (a) of this subsection and the court entered
27 written findings of fact and conclusions of law holding that the
28 person was not intoxicated by liquor, marijuana, or a controlled
29 substance under chapter 69.50 RCW unless the person had a valid
30 prescription for such drug.~~

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

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

35 Whenever any person served with a traffic citation or a traffic-
36 related criminal complaint willfully fails to appear at a requested
37 hearing for a moving violation or fails to comply with the terms of a
38 notice of traffic citation for a moving violation or a traffic-
39 related criminal complaint, the court in which the defendant failed

1 to appear shall promptly give notice of such fact to the department
2 of licensing. Whenever thereafter the case in which the defendant
3 failed to appear is adjudicated, the court hearing the case shall
4 promptly file with the department a certificate showing that the case
5 has been adjudicated. For the purposes of this section, "moving
6 violation" is defined by rule pursuant to RCW 46.20.2891.

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

9 The department is authorized to suspend the license of a driver
10 upon a showing by its records or other sufficient evidence that the
11 licensee:

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

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

17 (3) Has been convicted of offenses against traffic regulations
18 governing the movement of vehicles, or found to have committed
19 traffic infractions, with such frequency as to indicate a disrespect
20 for traffic laws or a disregard for the safety of other persons on
21 the highways;

22 (4) Is incompetent to drive a motor vehicle under RCW
23 46.20.031(3);

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

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

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

32 (8) Has been certified by the department of social and health
33 services as a person who is not in compliance with a child support
34 order or a residential or visitation order as provided in RCW
35 74.20A.320.

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

1 The department shall suspend all driving privileges of a person
2 when the department receives notice from a court under RCW
3 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed
4 to respond to a notice of traffic infraction for a moving violation,
5 failed to appear at a requested hearing for a moving violation,
6 violated a written promise to appear in court for a notice of
7 infraction for a moving violation, or has failed to comply with the
8 terms of a notice of traffic infraction, criminal complaint, or
9 citation for a moving violation, or when the department receives
10 notice from another state under Article IV of the nonresident
11 violator compact under RCW 46.23.010 or from a jurisdiction that has
12 entered into an agreement with the department under RCW 46.23.020,
13 other than for a standing, stopping, or parking violation, provided
14 that the traffic infraction or traffic offense is committed on or
15 after July 1, 2005. A suspension under this section takes effect
16 pursuant to the provisions of RCW 46.20.245, and remains in effect
17 until the department has received a certificate from the court
18 showing that the case has been adjudicated, and until the person
19 meets the requirements of RCW 46.20.311. In the case of failure to
20 respond to a traffic infraction issued under RCW 46.55.105, the
21 department shall suspend all driving privileges until the person
22 provides evidence from the court that all penalties and restitution
23 have been paid. A suspension under this section does not take effect
24 if, prior to the effective date of the suspension, the department
25 receives a certificate from the court showing that the case has been
26 adjudicated.

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

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

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

37 (3) The following additional times shall be added to the standard
38 sentence range for felony crimes committed after July 23, 1995, if
39 the offender or an accomplice was armed with a firearm as defined in

1 RCW 9.41.010 and the offender is being sentenced for one of the
2 crimes listed in this subsection as eligible for any firearm
3 enhancements based on the classification of the completed felony
4 crime. If the offender is being sentenced for more than one offense,
5 the firearm enhancement or enhancements must be added to the total
6 period of confinement for all offenses, regardless of which
7 underlying offense is subject to a firearm enhancement. If the
8 offender or an accomplice was armed with a firearm as defined in RCW
9 9.41.010 and the offender is being sentenced for an anticipatory
10 offense under chapter 9A.28 RCW to commit one of the crimes listed in
11 this subsection as eligible for any firearm enhancements, the
12 following additional times shall be added to the standard sentence
13 range determined under subsection (2) of this section based on the
14 felony crime of conviction as classified under RCW 9A.28.020:

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

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

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

24 (d) If the offender is being sentenced for any firearm
25 enhancements under (a), (b), and/or (c) of this subsection and the
26 offender has previously been sentenced for any deadly weapon
27 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
28 subsection or subsection (4)(a), (b), and/or (c) of this section, or
29 both, all firearm enhancements under this subsection shall be twice
30 the amount of the enhancement listed;

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

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

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

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

6 (g) If the standard sentence range under this section exceeds the
7 statutory maximum sentence for the offense, the statutory maximum
8 sentence shall be the presumptive sentence unless the offender is a
9 persistent offender. If the addition of a firearm enhancement
10 increases the sentence so that it would exceed the statutory maximum
11 for the offense, the portion of the sentence representing the
12 enhancement may not be reduced.

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

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

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

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

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

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

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

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

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

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

30 (5) The following additional times shall be added to the standard
31 sentence range if the offender or an accomplice committed the offense
32 while in a county jail or state correctional facility and the
33 offender is being sentenced for one of the crimes listed in this
34 subsection. If the offender or an accomplice committed one of the
35 crimes listed in this subsection while in a county jail or state
36 correctional facility, and the offender is being sentenced for an
37 anticipatory offense under chapter 9A.28 RCW to commit one of the
38 crimes listed in this subsection, the following additional times
39 shall be added to the standard sentence range determined under
40 subsection (2) of this section:

- 1 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
2 (a) or (b) or 69.50.410;
3 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
4 (c), (d), or (e);
5 (c) Twelve months for offenses committed under RCW 69.50.4013.

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

9 (6) An additional twenty-four months shall be added to the
10 standard sentence range for any ranked offense involving a violation
11 of chapter 69.50 RCW if the offense was also a violation of RCW
12 69.50.435 or 9.94A.827. All enhancements under this subsection shall
13 run consecutively to all other sentencing provisions, for all
14 offenses sentenced under this chapter.

15 (7) An additional two years shall be added to the standard
16 sentence range for vehicular homicide committed while under the
17 influence of intoxicating liquor or any drug as defined by RCW
18 46.61.502 for each prior offense as defined in RCW 46.61.5055.

19 Notwithstanding any other provision of law, all impaired driving
20 enhancements under this subsection ((shall be)) are mandatory, shall
21 be served in total confinement, and shall run consecutively to all
22 other sentencing provisions, including other impaired driving
23 enhancements, for all offenses sentenced under this chapter.

24 An offender serving a sentence under this subsection may be
25 granted an extraordinary medical placement when authorized under RCW
26 9.94A.728(1)(c).

27 (8)(a) The following additional times shall be added to the
28 standard sentence range for felony crimes committed on or after July
29 1, 2006, if the offense was committed with sexual motivation, as that
30 term is defined in RCW 9.94A.030. If the offender is being sentenced
31 for more than one offense, the sexual motivation enhancement must be
32 added to the total period of total confinement for all offenses,
33 regardless of which underlying offense is subject to a sexual
34 motivation enhancement. If the offender committed the offense with
35 sexual motivation and the offender is being sentenced for an
36 anticipatory offense under chapter 9A.28 RCW, the following
37 additional times shall be added to the standard sentence range
38 determined under subsection (2) of this section based on the felony
39 crime of conviction as classified under RCW 9A.28.020:

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

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

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

9 (iv) If the offender is being sentenced for any sexual motivation
10 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
11 the offender has previously been sentenced for any sexual motivation
12 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
13 (iii) of this subsection, all sexual motivation enhancements under
14 this subsection shall be twice the amount of the enhancement listed;

15 (b) Notwithstanding any other provision of law, all sexual
16 motivation enhancements under this subsection are mandatory, shall be
17 served in total confinement, and shall run consecutively to all other
18 sentencing provisions, including other sexual motivation
19 enhancements, for all offenses sentenced under this chapter. However,
20 whether or not a mandatory minimum term has expired, an offender
21 serving a sentence under this subsection may be:

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

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

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

27 (d) If the standard sentence range under this subsection exceeds
28 the statutory maximum sentence for the offense, the statutory maximum
29 sentence shall be the presumptive sentence unless the offender is a
30 persistent offender. If the addition of a sexual motivation
31 enhancement increases the sentence so that it would exceed the
32 statutory maximum for the offense, the portion of the sentence
33 representing the enhancement may not be reduced;

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

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

1 (9) An additional one-year enhancement shall be added to the
2 standard sentence range for the felony crimes of RCW 9A.44.073,
3 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
4 or after July 22, 2007, if the offender engaged, agreed, or offered
5 to engage the victim in the sexual conduct in return for a fee. If
6 the offender is being sentenced for more than one offense, the
7 one-year enhancement must be added to the total period of total
8 confinement for all offenses, regardless of which underlying offense
9 is subject to the enhancement. If the offender is being sentenced for
10 an anticipatory offense for the felony crimes of RCW 9A.44.073,
11 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
12 offender attempted, solicited another, or conspired to engage, agree,
13 or offer to engage the victim in the sexual conduct in return for a
14 fee, an additional one-year enhancement shall be added to the
15 standard sentence range determined under subsection (2) of this
16 section. For purposes of this subsection, "sexual conduct" means
17 sexual intercourse or sexual contact, both as defined in chapter
18 9A.44 RCW.

19 (10)(a) For a person age eighteen or older convicted of any
20 criminal street gang-related felony offense for which the person
21 compensated, threatened, or solicited a minor in order to involve the
22 minor in the commission of the felony offense, the standard sentence
23 range is determined by locating the sentencing grid sentence range
24 defined by the appropriate offender score and the seriousness level
25 of the completed crime, and multiplying the range by one hundred
26 twenty-five percent. If the standard sentence range under this
27 subsection exceeds the statutory maximum sentence for the offense,
28 the statutory maximum sentence is the presumptive sentence unless the
29 offender is a persistent offender.

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

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

37 (11) An additional twelve months and one day shall be added to
38 the standard sentence range for a conviction of attempting to elude a
39 police vehicle as defined by RCW 46.61.024, if the conviction

1 included a finding by special allegation of endangering one or more
2 persons under RCW 9.94A.834.

3 (12) An additional twelve months shall be added to the standard
4 sentence range for an offense that is also a violation of RCW
5 9.94A.831.

6 (13) An additional twelve months shall be added to the standard
7 sentence range for vehicular homicide committed while under the
8 influence of intoxicating liquor or any drug as defined by RCW
9 46.61.520 or for vehicular assault committed while under the
10 influence of intoxicating liquor or any drug as defined by RCW
11 46.61.522, or for any felony driving under the influence (RCW
12 46.61.502(6)) or felony physical control under the influence (RCW
13 46.61.504(6)) for each child passenger under the age of sixteen who
14 is an occupant in the defendant's vehicle. These enhancements shall
15 be mandatory, shall be served in total confinement, and shall run
16 consecutively to all other sentencing provisions. If the addition of
17 a minor child enhancement increases the sentence so that it would
18 exceed the statutory maximum for the offense, the portion of the
19 sentence representing the enhancement may not be reduced.

20 (14) An additional twelve months shall be added to the standard
21 sentence range for an offense that is also a violation of RCW
22 9.94A.832.

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

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

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

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

38 (c) The foregoing provisions of this section shall not be
39 construed as limiting the introduction of any other competent

1 evidence bearing upon the question whether the person was under the
2 influence of intoxicating liquor or any drug.

3 (3) Analysis of the person's blood or breath to be considered
4 valid under the provisions of this section or RCW 46.61.502 or
5 46.61.504 shall have been performed according to methods approved by
6 the state toxicologist and by an individual possessing a valid permit
7 issued by the state toxicologist for this purpose. The state
8 toxicologist is directed to approve satisfactory techniques or
9 methods, to supervise the examination of individuals to ascertain
10 their qualifications and competence to conduct such analyses, and to
11 issue permits which shall be subject to termination or revocation at
12 the discretion of the state toxicologist.

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

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

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

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

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

29 (v) The internal standard test resulted in the message
30 "verified";

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

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

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

38 (b) For purposes of this section, "prima facie evidence" is
39 evidence of sufficient circumstances that would support a logical and
40 reasonable inference of the facts sought to be proved. In assessing

1 whether there is sufficient evidence of the foundational facts, the
2 court or administrative tribunal is to assume the truth of the
3 prosecution's or department's evidence and all reasonable inferences
4 from it in a light most favorable to the prosecution or department.

5 (c) Nothing in this section shall be deemed to prevent the
6 subject of the test from challenging the reliability or accuracy of
7 the test, the reliability or functioning of the instrument, or any
8 maintenance procedures. Such challenges, however, shall not preclude
9 the admissibility of the test once the prosecution or department has
10 made a prima facie showing of the requirements contained in (a) of
11 this subsection. Instead, such challenges may be considered by the
12 trier of fact in determining what weight to give to the test result.

13 (5) When a blood test is administered under the provisions of RCW
14 46.20.308, the withdrawal of blood for the purpose of determining its
15 alcoholic or drug content may be performed only by a physician
16 licensed under chapter 18.71 RCW; an osteopathic physician licensed
17 under chapter 18.57 RCW; a registered nurse, licensed practical
18 nurse, or advanced registered nurse practitioner licensed under
19 chapter 18.79 RCW; a physician assistant licensed under chapter
20 18.71A RCW; an osteopathic physician assistant licensed under chapter
21 18.57A RCW; an advanced emergency medical technician or paramedic
22 licensed under chapter 18.73 RCW; until July 1, 2016, a health care
23 assistant certified under chapter 18.135 RCW; or a medical assistant-
24 certified or medical assistant-phlebotomist certified under chapter
25 18.360 RCW. Proof of qualification to draw blood may be established
26 through the department of health's provider credential search. This
27 limitation shall not apply to the taking of breath specimens.

28 (6) The person tested may have a licensed or certified health
29 care provider listed in subsection (5) of this section, or a
30 qualified technician, chemist, or other qualified person of his or
31 her own choosing administer one or more tests in addition to any
32 administered at the direction of a law enforcement officer. The test
33 will be admissible if the person establishes the general
34 acceptability of the testing technique or method. The failure or
35 inability to obtain an additional test by a person shall not preclude
36 the admission of evidence relating to the test or tests taken at the
37 direction of a law enforcement officer.

38 (7) Upon the request of the person who shall submit to a test or
39 tests at the request of a law enforcement officer, full information

1 concerning the test or tests shall be made available to him or her or
2 his or her attorney.

3 **Sec. 9.** RCW 10.31.100 and 2014 c 202 s 307, 2014 c 100 s 2, and
4 2014 c 5 s 1 are each reenacted and amended to read as follows:

5 A police officer having probable cause to believe that a person
6 has committed or is committing a felony shall have the authority to
7 arrest the person without a warrant. A police officer may arrest a
8 person without a warrant for committing a misdemeanor or gross
9 misdemeanor only when the offense is committed in the presence of an
10 officer, except as provided in subsections (1) through (11) of this
11 section.

12 (1) Any police officer having probable cause to believe that a
13 person has committed or is committing a misdemeanor or gross
14 misdemeanor, involving physical harm or threats of harm to any person
15 or property or the unlawful taking of property or involving the use
16 or possession of cannabis, or involving the acquisition, possession,
17 or consumption of alcohol by a person under the age of twenty-one
18 years under RCW 66.44.270, or involving criminal trespass under RCW
19 9A.52.070 or 9A.52.080, shall have the authority to arrest the
20 person.

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

25 (a) An order has been issued of which the person has knowledge
26 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
27 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
28 person has violated the terms of the order restraining the person
29 from acts or threats of violence, or restraining the person from
30 going onto the grounds of or entering a residence, workplace, school,
31 or day care, or prohibiting the person from knowingly coming within,
32 or knowingly remaining within, a specified distance of a location or,
33 in the case of an order issued under RCW 26.44.063, imposing any
34 other restrictions or conditions upon the person; or

35 (b) A foreign protection order, as defined in RCW 26.52.010, has
36 been issued of which the person under restraint has knowledge and the
37 person under restraint has violated a provision of the foreign
38 protection order prohibiting the person under restraint from
39 contacting or communicating with another person, or excluding the

1 person under restraint from a residence, workplace, school, or day
2 care, or prohibiting the person from knowingly coming within, or
3 knowingly remaining within, a specified distance of a location, or a
4 violation of any provision for which the foreign protection order
5 specifically indicates that a violation will be a crime; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (16)(a) Except as provided in (b) of this subsection, a police
22 officer shall arrest and keep in custody, until release by a judicial
23 officer on bail, personal recognizance, or court order, a person
24 without a warrant when the officer has probable cause to believe that
25 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
26 local ordinance and the police officer has knowledge that the person
27 has a prior offense as defined in RCW 46.61.5055 within ten years.

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

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

33 (1) The Washington traffic safety commission may develop and
34 maintain a registry of qualified victim impact panels. When imposing
35 a requirement that an offender attend a victim impact panel under RCW
36 46.61.5152, the court may refer the offender to a victim impact panel
37 that is listed in the registry. The Washington traffic safety
38 commission may consult with victim impact panel organizations to
39 develop and maintain a registry.

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

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

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

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

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

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

23 (~~((e))~~) (f) The victim impact panel shall have a policy to
24 prohibit admittance of anyone under the influence of alcohol or
25 drugs, or anyone whose actions or behavior are otherwise
26 inappropriate. The victim impact panel may institute additional
27 admission requirements;

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

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

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

35 (~~((i))~~) (j) The victim impact panel shall have a designated
36 facilitator who is responsible for the compliance with these minimum
37 standards and who is responsible for maintaining appropriate records
38 and communication with the referring courts and probationary
39 departments regarding attendance or nonattendance.

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

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

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

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

30 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
31 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
32 driving privilege of any person is suspended by reason of a
33 conviction, a finding that a traffic infraction has been committed,
34 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
35 46.20.308, the suspension shall remain in effect until the person
36 gives and thereafter maintains proof of financial responsibility for
37 the future as provided in chapter 46.29 RCW.

38 (c) If the suspension is the result of a nonfelony violation of
39 RCW 46.61.502 or 46.61.504, the department shall determine the

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

33 (d) Whenever the license or driving privilege of any person is
34 suspended as a result of certification of noncompliance with a child
35 support order under chapter 74.20A RCW (~~or a residential or~~
36 ~~visitation order~~)), the suspension shall remain in effect until the
37 person provides a release issued by the department of social and
38 health services stating that the person is in compliance with the
39 order.

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

4 (ii) If the suspension is the result of a violation of RCW
5 46.61.502 or 46.61.504, or is the result of administrative action
6 under RCW 46.20.308, the reissue fee shall be one hundred fifty
7 dollars.

8 (2)(a) Any person whose license or privilege to drive a motor
9 vehicle on the public highways has been revoked, unless the
10 revocation was for a cause which has been removed, is not entitled to
11 have the license or privilege renewed or restored until: (i) After
12 the expiration of one year from the date the license or privilege to
13 drive was revoked; (ii) after the expiration of the applicable
14 revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii)
15 after the expiration of two years for persons convicted of vehicular
16 homicide; or (iv) after the expiration of the applicable revocation
17 period provided by RCW 46.20.265.

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

21 (ii) If the revocation is the result of a violation of RCW
22 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
23 hundred fifty dollars. If the revocation is the result of a nonfelony
24 violation of RCW 46.61.502 or 46.61.504, the department shall
25 determine the person's eligibility for licensing based upon the
26 reports provided by the alcoholism agency or probation department
27 designated under RCW 46.61.5056 and shall deny reissuance of a
28 license, permit, or privilege to drive until enrollment and
29 participation in an approved program has been established and the
30 person is otherwise qualified. If the suspension is the result of a
31 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
32 determine the person's eligibility for licensing based upon the
33 reports provided by the alcohol or drug dependency agency required
34 under RCW 46.61.524 and shall deny reinstatement until satisfactory
35 progress in an approved program has been established and the person
36 is otherwise qualified. If the revocation is the result of a
37 violation of RCW 46.61.502 or 46.61.504, and the person is required
38 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
39 a functioning ignition interlock or other biological or technical
40 device, the department shall determine the person's eligibility for

1 licensing based upon written verification by a company doing business
2 in the state that it has installed the required device on a vehicle
3 owned or operated by the person applying for a new license. The
4 department may waive the requirement for written verification under
5 this subsection if it determines to its satisfaction that a device
6 previously verified as having been installed on a vehicle owned or
7 operated by the person is still installed and functioning or as
8 permitted by RCW 46.20.720(8). If, following issuance of a new
9 license, the department determines, based upon notification from the
10 interlock provider or otherwise, that an interlock required under RCW
11 46.20.720 is no longer functioning, the department shall suspend the
12 person's license or privilege to drive until the department has
13 received written verification from an interlock provider that a
14 functioning interlock is installed.

15 (c) Except for a revocation under RCW 46.20.265, the department
16 shall not then issue a new license unless it is satisfied after
17 investigation of the driving ability of the person that it will be
18 safe to grant the privilege of driving a motor vehicle on the public
19 highways, and until the person gives and thereafter maintains proof
20 of financial responsibility for the future as provided in chapter
21 46.29 RCW. For a revocation under RCW 46.20.265, the department shall
22 not issue a new license unless it is satisfied after investigation of
23 the driving ability of the person that it will be safe to grant that
24 person the privilege of driving a motor vehicle on the public
25 highways.

26 (3)(a) Whenever the driver's license of any person is suspended
27 pursuant to Article IV of the nonresident violators compact or RCW
28 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not
29 issue to the person any new or renewal license until the person pays
30 a reissue fee of seventy-five dollars.

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

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

1 (1)(a) Any person licensed under this chapter or who has a valid
2 driver's license from another state, who is convicted of: (i) A
3 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
4 out-of-state statute or ordinance, or (ii) a violation of RCW
5 46.61.520(1)(a) or an equivalent local or out-of-state statute or
6 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
7 (b) or (c) if the conviction is the result of a charge that was
8 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
9 46.61.522(1)(b) or an equivalent local or out-of-state statute or
10 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
11 the result of a charge that was originally filed as a violation of
12 RCW 46.61.522(1)(b) committed while under the influence of
13 intoxicating liquor or any drug, or (vi) who has had or will have his
14 or her license suspended, revoked, or denied under RCW 46.20.3101, or
15 who is otherwise permitted under subsection (8) of this section, may
16 submit to the department an application for an ignition interlock
17 driver's license. The department, upon receipt of the prescribed fee
18 and upon determining that the petitioner is eligible to receive the
19 license, may issue an ignition interlock driver's license.

20 (b) A person may apply for an ignition interlock driver's license
21 anytime, including immediately after receiving the notices under RCW
22 46.20.308 or after his or her license is suspended, revoked, or
23 denied.

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

27 (i) The department shall require the person to maintain the
28 device on all vehicles operated by the person and shall restrict the
29 person to operating only vehicles equipped with the device, for the
30 remainder of the period of suspension, revocation, or denial, unless
31 otherwise permitted under RCW 46.20.720(6). (~~Subject to the~~
32 ~~provisions of RCW 46.20.720(3)(b)(ii), the installation of an~~
33 ~~ignition interlock device is not necessary on vehicles owned, leased,~~
34 ~~or rented by a person's employer and on those vehicles whose care~~
35 ~~and/or maintenance is the temporary responsibility of the employer,~~
36 ~~and driven at the direction of a person's employer as a requirement~~
37 ~~of employment during working hours. The person must provide the~~
38 ~~department with a declaration pursuant to RCW 9A.72.085 from his or~~
39 ~~her employer stating that the person's employment requires the person~~

1 ~~to operate a vehicle owned by the employer or other persons during~~
2 ~~working hours.)~~)

3 (ii) Subject to any periodic renewal requirements established by
4 the department under this section and subject to any applicable
5 compliance requirements under this chapter or other law, an ignition
6 interlock driver's license granted upon a suspension or revocation
7 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
8 portion of any concurrent or consecutive suspension or revocation
9 that may be imposed as the result of administrative action and
10 criminal conviction arising out of the same incident.

11 ~~((iii) The time period during which the person is licensed under~~
12 ~~this section shall apply on a day for day basis toward satisfying the~~
13 ~~period of time the ignition interlock device restriction is required~~
14 ~~under RCW 46.20.720, 46.61.5055, 10.05.140, 46.61.500(3), and~~
15 ~~46.61.5249(4). Beginning with incidents occurring on or after~~
16 ~~September 1, 2011, when calculating the period of time for the~~
17 ~~restriction under RCW 46.20.720 (2) or (3), the department must also~~
18 ~~give the person a day for day credit for the time period, beginning~~
19 ~~from the date of the incident, during which the person kept an~~
20 ~~ignition interlock device installed on all vehicles the person~~
21 ~~operates. For the purposes of this subsection (1)(c)(iii), the term~~
22 ~~"all vehicles" does not include vehicles that would be subject to the~~
23 ~~employer exception under RCW 46.20.720(3).)~~)

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

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

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

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

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

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

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

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

1 (b) A person who does not have any driver's license under this
2 chapter, but who would otherwise be eligible under this section to
3 apply for an ignition interlock license, may submit to the department
4 an application for an ignition interlock license. The department may
5 require the person to take any driver's licensing examination under
6 this chapter and may require the person to also apply and qualify for
7 a temporary restricted driver's license under RCW 46.20.391.

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

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

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

30 ~~(3)(a) The department shall require that, after any applicable~~
31 ~~period of suspension, revocation, or denial of driving privileges, a~~
32 ~~person may drive only a motor vehicle equipped with a functioning~~
33 ~~ignition interlock device if the person is convicted of a violation~~
34 ~~of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state~~
35 ~~statute or ordinance. The department shall require that a person may~~
36 ~~drive only a motor vehicle equipped with a functioning ignition~~
37 ~~interlock device if the person is convicted of a violation of RCW~~
38 ~~46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or~~

1 ~~46.61.500(3) (a) or (b) to install an ignition interlock device on~~
2 ~~all vehicles operated by the person.~~

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

13 ~~(ii) The employer exemption does not apply:~~

14 ~~(A) When the employer's vehicle is assigned exclusively to the~~
15 ~~restricted driver and used solely for commuting to and from~~
16 ~~employment;~~

17 ~~(B) For the first thirty days after an ignition interlock device~~
18 ~~has been installed as the result of a first conviction of a violation~~
19 ~~of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state~~
20 ~~statute or ordinance; or~~

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

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

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

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

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

36 ~~(4) A restriction imposed under subsection (3) of this section~~
37 ~~shall remain in effect until the department receives a declaration~~
38 ~~from the person's ignition interlock device vendor, in a form~~
39 ~~provided or approved by the department, certifying that there have~~

1 ~~been none of the following incidents in the four consecutive months~~
2 ~~prior to the date of release:~~

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

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

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

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

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

23 ~~(6) In addition to any other costs associated with the use of an~~
24 ~~ignition interlock device imposed on the person restricted under this~~
25 ~~section, the person shall pay an additional fee of twenty dollars per~~
26 ~~month. Payments must be made directly to the ignition interlock~~
27 ~~company. The company shall remit the additional twenty dollar fee to~~
28 ~~the department to be deposited into the ignition interlock device~~
29 ~~revolving account.)) **Ignition interlock restriction.** The department~~
30 ~~shall require that a person may drive only a motor vehicle equipped~~
31 ~~with a functioning ignition interlock device:~~

32 ~~(a) **Pretrial release.** Upon receipt of notice from a court that an~~
33 ~~ignition interlock device restriction has been imposed under RCW~~
34 ~~10.21.055;~~

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

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

1 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
2 or
3 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
4 if the person would be required under RCW 46.61.5249(4) or
5 46.61.500(3) (a) or (b) to install an ignition interlock device on
6 all vehicles operated by the person in the event of a conviction;
7 (d) **Post conviction.** After any applicable period of suspension,
8 revocation, or denial of driving privileges:
9 (i) Due to a conviction of a violation of RCW 46.61.502 or
10 46.61.504 or an equivalent local or out-of-state statute or
11 ordinance; or
12 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
13 46.61.500 or an equivalent local ordinance if the person is required
14 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
15 ignition interlock device on all vehicles operated by the person; or
16 (e) **Court order.** Upon receipt of an order by a court having
17 jurisdiction that a person charged or convicted of any offense
18 involving the use, consumption, or possession of alcohol while
19 operating a motor vehicle may drive only a motor vehicle equipped
20 with a functioning ignition interlock. The court shall establish a
21 specific calibration setting at which the ignition interlock will
22 prevent the vehicle from being started. The court shall also
23 establish the period of time for which ignition interlock use will be
24 required.
25 (2) **Calibration.** Unless otherwise specified by the court for a
26 restriction imposed under subsection (1)(e) of this section, the
27 ignition interlock device shall be calibrated to prevent the motor
28 vehicle from being started when the breath sample provided has an
29 alcohol concentration of 0.025 or more.
30 (3) **Duration of restriction.** A restriction imposed under:
31 (a) Subsection (1)(a) of this section shall remain in effect
32 until:
33 (i) The court has authorized the removal of the device under RCW
34 10.21.055; or
35 (ii) The department has imposed a restriction under subsection
36 (1)(b), (c), or (d) of this section arising out of the same incident.
37 (b) Subsection (1)(b) of this section remains in effect during
38 the validity of any ignition interlock driver's license that has been
39 issued to the person.

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

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

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

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

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

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

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

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

23 (4) **Requirements for removal.** A restriction imposed under
24 subsection (1)(c) or (d) of this section shall remain in effect until
25 the department receives a declaration from the person's ignition
26 interlock device vendor, in a form provided or approved by the
27 department, certifying that there have been none of the following
28 incidents in the four consecutive months prior to the date of
29 release:

30 (a) Any attempt to start the vehicle with a breath alcohol
31 concentration of 0.04 or more unless a subsequent test performed
32 within ten minutes registers a breath alcohol concentration lower
33 than 0.04 and the digital image confirms the same person provided
34 both samples;

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

38 (c) Failure to pass any random retest with a breath alcohol
39 concentration of 0.025 or lower unless a subsequent test performed
40 within ten minutes registers a breath alcohol concentration lower

1 than 0.025, and the digital image confirms the same person provided
2 both samples; or

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

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

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

17 (c) If the day-for-day credit granted under this subsection
18 equals or exceeds the period of time the ignition interlock device
19 restriction is imposed under subsection (1)(c) or (d) of this section
20 arising out of the same incident, and the person has already met the
21 requirements for removal of the device under subsection (4) of this
22 section, the department may waive the requirement that a device be
23 installed or that the person again meet the requirements for removal.

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

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

37 (7) **Ignition interlock device revolving account.** In addition to
38 any other costs associated with the use of an ignition interlock
39 device imposed on the person restricted under this section, the
40 person shall pay an additional fee of twenty dollars per month.

1 Payments must be made directly to the ignition interlock company. The
2 company shall remit the additional twenty dollar fee to the
3 department to be deposited into the ignition interlock device
4 revolving account. The department may waive the monthly fee if the
5 person is indigent under RCW 10.101.010.

6 (8) **Foreign jurisdiction.** For a person restricted under this
7 section who is residing outside of the state of Washington, the
8 department may accept verification of installation of an ignition
9 interlock device by an ignition interlock company authorized to do
10 business in the jurisdiction in which the person resides, provided
11 the device meets any applicable requirements of that jurisdiction.
12 The department may waive the monthly fee required by subsection (7)
13 of this section if collection of the fee would be impractical in the
14 case of a person residing in another jurisdiction.

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

17 (1) Any person who operates a motor vehicle within this state is
18 deemed to have given consent, subject to the provisions of RCW
19 46.61.506, to a test or tests of his or her breath for the purpose of
20 determining the alcohol concentration in his or her breath if
21 arrested for any offense where, at the time of the arrest, the
22 arresting officer has reasonable grounds to believe the person had
23 been driving or was in actual physical control of a motor vehicle
24 while under the influence of intoxicating liquor or any drug or was
25 in violation of RCW 46.61.503.

26 (2) The test or tests of breath shall be administered at the
27 direction of a law enforcement officer having reasonable grounds to
28 believe the person to have been driving or in actual physical control
29 of a motor vehicle within this state while under the influence of
30 intoxicating liquor or any drug or the person to have been driving or
31 in actual physical control of a motor vehicle while having alcohol in
32 a concentration in violation of RCW 46.61.503 in his or her system
33 and being under the age of twenty-one. Prior to administering a
34 breath test pursuant to this section, the officer shall inform the
35 person of his or her right under this section to refuse the breath
36 test, and of his or her right to have additional tests administered
37 by any qualified person of his or her choosing as provided in RCW
38 46.61.506. The officer shall warn the driver, in substantially the
39 following language, that:

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

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

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

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

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

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

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

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

25 (4) Nothing in subsection (1), (2), or (3) of this section
26 precludes a law enforcement officer from obtaining a person's blood
27 to test for alcohol, marijuana, or any drug, pursuant to a search
28 warrant, a valid waiver of the warrant requirement, when exigent
29 circumstances exist, or under any other authority of law. Any blood
30 drawn for the purpose of determining the person's alcohol, marijuana
31 levels, or any drug, is drawn pursuant to this section when the
32 officer has reasonable grounds to believe that the person is in
33 physical control or driving a vehicle under the influence or in
34 violation of RCW 46.61.503.

35 (5) If, after arrest and after any other applicable conditions
36 and requirements of this section have been satisfied, a test or tests
37 of the person's blood or breath is administered and the test results
38 indicate that the alcohol concentration of the person's breath or
39 blood is 0.08 or more, or the THC concentration of the person's blood
40 is 5.00 or more, if the person is age twenty-one or over, or that the

1 alcohol concentration of the person's breath or blood is 0.02 or
2 more, or the THC concentration of the person's blood is above 0.00,
3 if the person is under the age of twenty-one, or the person refuses
4 to submit to a test, the arresting officer or other law enforcement
5 officer at whose direction any test has been given, or the
6 department, where applicable, if the arrest results in a test of the
7 person's blood, shall:

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

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

16 (c) Serve notice in writing that the license or permit, if any,
17 is a temporary license that is valid for (~~sixty~~) thirty days from
18 the date of arrest or from the date notice has been given in the
19 event notice is given by the department following a blood test, or
20 until the suspension, revocation, or denial of the person's license,
21 permit, or privilege to drive is sustained at a hearing pursuant to
22 subsection (7) of this section, whichever occurs first. No temporary
23 license is valid to any greater degree than the license or permit
24 that it replaces; and

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

29 (i) That the officer had reasonable grounds to believe the
30 arrested person had been driving or was in actual physical control of
31 a motor vehicle within this state while under the influence of
32 intoxicating liquor or drugs, or both, or was under the age of
33 twenty-one years and had been driving or was in actual physical
34 control of a motor vehicle while having an alcohol or THC
35 concentration in violation of RCW 46.61.503;

36 (ii) That after receipt of any applicable warnings required by
37 subsection (2) of this section the person refused to submit to a test
38 of his or her breath, or a test was administered and the results
39 indicated that the alcohol concentration of the person's breath or
40 blood was 0.08 or more, or the THC concentration of the person's

1 blood was 5.00 or more, if the person is age twenty-one or over, or
2 that the alcohol concentration of the person's breath or blood was
3 0.02 or more, or the THC concentration of the person's blood was
4 above 0.00, if the person is under the age of twenty-one; and

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

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

17 (7) A person receiving notification under subsection (5)(b) of
18 this section may, within (~~twenty~~) seven days after the notice has
19 been given, request in writing a formal hearing before the
20 department. The person shall pay a fee of three hundred seventy-five
21 dollars as part of the request. If the request is mailed, it must be
22 postmarked within (~~twenty~~) seven days after receipt of the
23 notification. Upon timely receipt of such a request for a formal
24 hearing, including receipt of the required three hundred seventy-five
25 dollar fee, the department shall afford the person an opportunity for
26 a hearing. The department may waive the required three hundred
27 seventy-five dollar fee if the person is an indigent as defined in
28 RCW 10.101.010. Except as otherwise provided in this section, the
29 hearing is subject to and shall be scheduled and conducted in
30 accordance with RCW 46.20.329 and 46.20.332. The hearing shall be
31 conducted in the county of the arrest, except that all or part of the
32 hearing may, at the discretion of the department, be conducted by
33 telephone or other electronic means. The hearing shall be held within
34 (~~sixty~~) thirty days, excluding Saturdays, Sundays, and legal
35 holidays, following the date of timely receipt of such request for a
36 formal hearing before the department or thirty days, excluding
37 Saturdays, Sundays, and legal holidays following (~~the arrest or~~
38 ~~following~~) the date notice has been given in the event notice is
39 given by the department following a blood test, unless otherwise
40 agreed to by the department and the person, in which case the action

1 by the department shall be stayed, and any valid temporary license
2 under subsection (5) of this section extended, if the person is
3 otherwise eligible for licensing. Unless otherwise agreed to by the
4 department and the person, the department must give five days notice
5 of the hearing to the person. For the purposes of this section, the
6 scope of the hearing shall cover the issues of whether a law
7 enforcement officer had reasonable grounds to believe the person had
8 been driving or was in actual physical control of a motor vehicle
9 within this state while under the influence of intoxicating liquor or
10 any drug or had been driving or was in actual physical control of a
11 motor vehicle within this state while having alcohol in his or her
12 system in a concentration of 0.02 or more, or THC in his or her
13 system in a concentration above 0.00, if the person was under the age
14 of twenty-one, whether the person was placed under arrest, and (a)
15 whether the person refused to submit to the test or tests upon
16 request of the officer after having been informed that such refusal
17 would result in the revocation of the person's license, permit, or
18 privilege to drive, or (b) if a test or tests were administered,
19 whether the applicable requirements of this section were satisfied
20 before the administration of the test or tests, whether the person
21 submitted to the test or tests, or whether a test was administered
22 pursuant to a search warrant, a valid waiver of the warrant
23 requirement, when exigent circumstances exist, or under any other
24 authority of law as permitted under this section, and whether the
25 test or tests indicated that the alcohol concentration of the
26 person's breath or blood was 0.08 or more, or the THC concentration
27 of the person's blood was 5.00 or more, if the person was age twenty-
28 one or over at the time of the arrest, or that the alcohol
29 concentration of the person's breath or blood was 0.02 or more, or
30 the THC concentration of the person's blood was above 0.00, if the
31 person was under the age of twenty-one at the time of the arrest.
32 Where a person is found to be in actual physical control of a motor
33 vehicle while under the influence of intoxicating liquor or any drug
34 or was under the age of twenty-one at the time of the arrest and was
35 in physical control of a motor vehicle while having alcohol in his or
36 her system in a concentration of 0.02 or THC concentration above
37 0.00, the person may petition the hearing officer to apply the
38 affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The
39 driver has the burden to prove the affirmative defense by a
40 preponderance of the evidence. The sworn report or report under a

1 declaration authorized by RCW 9A.72.085 submitted by a law
2 enforcement officer is prima facie evidence that the officer had
3 reasonable grounds to believe the person had been driving or was in
4 actual physical control of a motor vehicle within this state while
5 under the influence of intoxicating liquor or drugs, or both, or the
6 person had been driving or was in actual physical control of a motor
7 vehicle within this state while having alcohol in his or her system
8 in a concentration of 0.02 or more, or THC in his or her system in a
9 concentration above 0.00, and was under the age of twenty-one and
10 that the officer complied with the requirements of this section.

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

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

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

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

1 imposed by the court, then the court shall immediately direct the
2 department to cancel the stay and any temporary license or extension
3 of a temporary license issued under this subsection.

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

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

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

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

26 (1)(a) When any person charged with a violation of RCW 46.61.502,
27 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
28 offense as defined in RCW 46.61.5055 and the current offense involves
29 alcohol, is released from custody at arraignment or trial on bail or
30 personal recognizance, the court authorizing the release shall
31 require, as a condition of release that person comply with one of the
32 following four requirements:

33 (i) Have a functioning ignition interlock device installed on all
34 motor vehicles operated by the person, with proof of installation
35 filed with the court by the person or the certified interlock
36 provider within five business days of the date of release from
37 custody or as soon thereafter as determined by the court based on
38 availability within the jurisdiction; or

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

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

8 (iv) Have an ignition interlock device on all motor vehicles
9 operated by the person and that such person agrees not to operate any
10 motor vehicle without an ignition interlock device as required by the
11 court. Under this subsection (1)(a)(iv), the person must file a sworn
12 statement with the court upon release at arraignment that states the
13 person will not operate any motor vehicle without an ignition
14 interlock device while the ignition interlock restriction is imposed
15 by the court. Such person must also submit to 24/7 sobriety program
16 monitoring pursuant to (a)(ii) of this subsection, if available, or
17 alcohol monitoring, at the expense of the person, as provided in RCW
18 46.61.5055(5) (b) and (c).

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

29 (2)(a) Upon acquittal or dismissal of all pending or current
30 charges relating to a violation of RCW 46.61.502, 46.61.504,
31 46.61.520, or 46.61.522, or equivalent local ordinance, the court
32 shall authorize removal of the ignition interlock device and lift any
33 requirement to comply with electronic alcohol/drug monitoring imposed
34 under subsection (1) of this section. Nothing in this section limits
35 the authority of the court or department under RCW 46.20.720.

36 (b) If the court authorizes removal of an ignition interlock
37 device imposed under ~~((a) of)~~ this ~~((subsection[,]))~~ section, the
38 court shall immediately notify the department of licensing regarding
39 the lifting of the ignition interlock restriction and the department
40 of licensing shall release any attachment, imprint, or notation on

1 such person's driving record relating to the ignition interlock
2 requirement imposed under this section.

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

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

10 (1) **No prior offenses in seven years.** Except as provided in RCW
11 46.61.502(6) or 46.61.504(6), a person who is convicted of a
12 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
13 within seven years shall be punished as 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 one day nor more than three
20 hundred sixty-four days. Twenty-four consecutive hours of the
21 imprisonment may not be suspended unless the court finds that the
22 imposition of this mandatory minimum sentence would impose a
23 substantial risk to the offender's physical or mental well-being.
24 Whenever the mandatory minimum sentence is suspended, the court shall
25 state in writing the reason for granting the suspension and the facts
26 upon which the suspension is based. In lieu of the mandatory minimum
27 term of imprisonment required under this subsection (1)(a)(i), the
28 court may order not less than fifteen days of electronic home
29 monitoring or a ninety day period of 24/7 sobriety program
30 monitoring. The court may consider the offender's pretrial 24/7
31 sobriety program monitoring as fulfilling a portion of posttrial
32 sentencing. The offender shall pay the cost of electronic home
33 monitoring. The county or municipality in which the penalty is being
34 imposed shall determine the cost. The court may also require the
35 offender's electronic home monitoring device or other separate
36 alcohol monitoring device to include an alcohol detection
37 breathalyzer, and the court may restrict the amount of alcohol the
38 offender may consume during the time the offender is on electronic
39 home monitoring; and

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

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

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

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

34 (2) **One prior offense in seven years.** Except as provided in RCW
35 46.61.502(6) or 46.61.504(6), a person who is convicted of a
36 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
37 within seven years shall be punished as follows:

38 (a) **Penalty for alcohol concentration less than 0.15.** In the case
39 of a person whose alcohol concentration was less than 0.15, or for
40 whom for reasons other than the person's refusal to take a test

1 offered pursuant to RCW 46.20.308 there is no test result indicating
2 the person's alcohol concentration:

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

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

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

33 (i) By imprisonment for not less than forty-five days nor more
34 than three hundred sixty-four days and ninety days of electronic home
35 monitoring. In lieu of the mandatory minimum term of ninety days
36 electronic home monitoring, the court may order at least an
37 additional six 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. Forty-
8 five days of imprisonment and ninety days of electronic home
9 monitoring may not be suspended unless the court finds that the
10 imposition of this mandatory minimum sentence would impose a
11 substantial risk to the offender's physical or mental well-being.
12 Whenever the mandatory minimum sentence is suspended, the court shall
13 state in writing the reason for granting the suspension and the facts
14 upon which the suspension is based; and

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

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

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

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

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

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

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

19 (i) By imprisonment for not less than one hundred twenty days nor
20 more than three hundred sixty-four days, if available in that county
21 or city, a six-month period of 24/7 sobriety program monitoring
22 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
23 days of electronic home monitoring. In lieu of the mandatory minimum
24 term of one hundred fifty days of electronic home monitoring, the
25 court may order at least an additional ten days in jail. The offender
26 shall pay for the cost of the electronic monitoring. The court shall
27 order an expanded alcohol assessment and treatment, if deemed
28 appropriate by the assessment. 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. One hundred twenty days of imprisonment and one hundred
35 fifty days of electronic home monitoring may not be suspended unless
36 the court finds that the imposition of this mandatory minimum
37 sentence would impose a substantial risk to the offender's physical
38 or mental well-being. Whenever the mandatory minimum sentence is
39 suspended, the court shall state in writing the reason for granting
40 the suspension and the facts upon which the suspension is based; and

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

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

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

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

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

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

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

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

18 (5) **Monitoring.**

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

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

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

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

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

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

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

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

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

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

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

36 (7) **Other items courts must consider while setting penalties.** In
37 exercising its discretion in setting penalties within the limits
38 allowed by this section, the court shall particularly consider the
39 following:

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

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

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

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

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

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

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

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

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

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

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

36 (i) Where there has been no prior offense within seven years, be
37 revoked or denied by the department for one year or until the person
38 is evaluated by an alcoholism agency or probation department pursuant
39 to RCW 46.20.311 and the person completes or is enrolled in a one
40 hundred twenty day period of 24/7 sobriety program monitoring. In no

1 circumstances shall the license revocation be for fewer than four
2 days;

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (c) For each incident involving a violation of a mandatory
38 condition of probation imposed under this subsection, the license,
39 permit, or privilege to drive of the person shall be suspended by the
40 court for thirty days or, if such license, permit, or privilege to

1 drive already is suspended, revoked, or denied at the time the
2 finding of probation violation is made, the suspension, revocation,
3 or denial then in effect shall be extended by thirty days. The court
4 shall notify the department of any suspension, revocation, or denial
5 or any extension of a suspension, revocation, or denial imposed under
6 this subsection.

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

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

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

16 (c) The court determines that there is reason to believe that the
17 offender would violate the conditions of the electronic home
18 monitoring penalty.

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

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

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

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

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

- 1 (i) A conviction for a violation of RCW 46.61.502 or an
2 equivalent local ordinance;
- 3 (ii) A conviction for a violation of RCW 46.61.504 or an
4 equivalent local ordinance;
- 5 (iii) A conviction for a violation of RCW 46.25.110 or an
6 equivalent local ordinance;
- 7 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
8 equivalent local ordinance;
- 9 (v) A conviction for a violation of RCW 79A.60.040(1) or an
10 equivalent local ordinance committed in a reckless manner if the
11 conviction is the result of a charge that was originally filed as a
12 violation of RCW 79A.60.040(2) or an equivalent local ordinance;
- 13 (vi) A conviction for a violation of RCW 47.68.220 or an
14 equivalent local ordinance committed while under the influence of
15 intoxicating liquor or any drug;
- 16 (vii) A conviction for a violation of RCW 47.68.220 or an
17 equivalent local ordinance committed in a careless or reckless manner
18 if the conviction is the result of a charge that was originally filed
19 as a violation of RCW 47.68.220 or an equivalent local ordinance
20 while under the influence of intoxicating liquor or any drug;
- 21 (viii) A conviction for a violation of RCW 46.09.470(2) or an
22 equivalent local ordinance;
- 23 (ix) A conviction for a violation of RCW 46.10.490(2) or an
24 equivalent local ordinance;
- 25 (x) A conviction for a violation of RCW 46.61.520 committed while
26 under the influence of intoxicating liquor or any drug, or a
27 conviction for a violation of RCW 46.61.520 committed in a reckless
28 manner or with the disregard for the safety of others if the
29 conviction is the result of a charge that was originally filed as a
30 violation of RCW 46.61.520 committed while under the influence of
31 intoxicating liquor or any drug;
- 32 (xi) A conviction for a violation of RCW 46.61.522 committed
33 while under the influence of intoxicating liquor or any drug, or a
34 conviction for a violation of RCW 46.61.522 committed in a reckless
35 manner or with the disregard for the safety of others if the
36 conviction is the result of a charge that was originally filed as a
37 violation of RCW 46.61.522 committed while under the influence of
38 intoxicating liquor or any drug;
- 39 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
40 or 9A.36.050 or an equivalent local ordinance, if the conviction is

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

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

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

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

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

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

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

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

34 (c) "Within seven years" means that the arrest for a prior
35 offense occurred within seven years before or after the arrest for
36 the current offense; and

37 (d) "Within ten years" means that the arrest for a prior offense
38 occurred within ten years before or after the arrest for the current
39 offense.

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

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

5 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
6 or deny the arrested person's license, permit, or privilege to drive
7 as follows:

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

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

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

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

22 (a) For a first incident within seven years, where there has not
23 been a previous incident within seven years that resulted in
24 administrative action under this section, suspension for ninety days,
25 unless the person successfully completes or is enrolled in a pretrial
26 24/7 sobriety program;

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

29 (3) In the case of an incident where a person under age twenty-
30 one has submitted to or been administered a test or tests indicating
31 that the alcohol concentration of the person's breath or blood was
32 0.02 or more, or that the THC concentration of the person's blood was
33 above 0.00:

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

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

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

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

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

13 (2) A participant who violates the terms of participation in the
14 24/7 sobriety program or does not pay the required fees or associated
15 costs pretrial or posttrial shall, at a minimum:

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

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

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

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

26 (e) Serve a minimum of seven days imprisonment for a fifth or
27 subsequent violation (~~((pretrial, the participant shall abide by the~~
28 ~~order of the court. For posttrial participants, the participant shall~~
29 ~~serve the entire remaining sentence imposed by the court))~~).

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

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

1 NEW SECTION. **Sec. 21.** Section 15 of this act takes effect
2 January 1, 2019.

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