
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, ~~(($\text{\textcircled{e}}$)) 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.~~

24 ~~(e))~~ For purposes of RCW 46.52.101 and 46.52.130, offenses
25 subject to this subsection shall be considered "alcohol-related"
26 offenses.

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

29 Whenever any person served with a traffic citation or a traffic-
30 related criminal complaint willfully fails to appear at a requested
31 hearing for a moving violation or fails to comply with the terms of a
32 notice of traffic citation for a moving violation or a traffic-
33 related criminal complaint, the court in which the defendant failed
34 to appear shall promptly give notice of such fact to the department
35 of licensing. Whenever thereafter the case in which the defendant
36 failed to appear is adjudicated, the court hearing the case shall
37 promptly file with the department a certificate showing that the case
38 has been adjudicated. For the purposes of this section, "moving
39 violation" is defined by rule pursuant to RCW 46.20.2891.

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

3 The department is authorized to suspend the license of a driver
4 upon a showing by its records or other sufficient evidence that the
5 licensee:

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

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

11 (3) Has been convicted of offenses against traffic regulations
12 governing the movement of vehicles, or found to have committed
13 traffic infractions, with such frequency as to indicate a disrespect
14 for traffic laws or a disregard for the safety of other persons on
15 the highways;

16 (4) Is incompetent to drive a motor vehicle under RCW
17 46.20.031(3);

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

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

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

26 (8) Has been certified by the department of social and health
27 services as a person who is not in compliance with a child support
28 order or a residential or visitation order as provided in RCW
29 74.20A.320.

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

32 The department shall suspend all driving privileges of a person
33 when the department receives notice from a court under RCW
34 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed
35 to respond to a notice of traffic infraction for a moving violation,
36 failed to appear at a requested hearing for a moving violation,
37 violated a written promise to appear in court for a notice of
38 infraction for a moving violation, or has failed to comply with the
39 terms of a notice of traffic infraction, criminal complaint, or

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

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

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

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

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

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

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

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

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

16 (d) If the offender is being sentenced for any firearm
17 enhancements under (a), (b), and/or (c) of this subsection and the
18 offender has previously been sentenced for any deadly weapon
19 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
20 subsection or subsection (4)(a), (b), and/or (c) of this section, or
21 both, all firearm enhancements under this subsection shall be twice
22 the amount of the enhancement listed;

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

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

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

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

38 (g) If the standard sentence range under this section exceeds the
39 statutory maximum sentence for the offense, the statutory maximum
40 sentence shall be the presumptive sentence unless the offender is a

1 persistent offender. If the addition of a firearm enhancement
2 increases the sentence so that it would exceed the statutory maximum
3 for the offense, the portion of the sentence representing the
4 enhancement may not be reduced.

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

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

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

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

32 (d) If the offender is being sentenced under (a), (b), and/or (c)
33 of this subsection for any deadly weapon enhancements and the
34 offender has previously been sentenced for any deadly weapon
35 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
36 subsection or subsection (3)(a), (b), and/or (c) of this section, or
37 both, all deadly weapon enhancements under this subsection shall be
38 twice the amount of the enhancement listed;

39 (e) Notwithstanding any other provision of law, all deadly weapon
40 enhancements under this section are mandatory, shall be served in

1 total confinement, and shall run consecutively to all other
2 sentencing provisions, including other firearm or deadly weapon
3 enhancements, for all offenses sentenced under this chapter. However,
4 whether or not a mandatory minimum term has expired, an offender
5 serving a sentence under this subsection may be:

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

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

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

14 (g) If the standard sentence range under this section exceeds the
15 statutory maximum sentence for the offense, the statutory maximum
16 sentence shall be the presumptive sentence unless the offender is a
17 persistent offender. If the addition of a deadly weapon enhancement
18 increases the sentence so that it would exceed the statutory maximum
19 for the offense, the portion of the sentence representing the
20 enhancement may not be reduced.

21 (5) The following additional times shall be added to the standard
22 sentence range if the offender or an accomplice committed the offense
23 while in a county jail or state correctional facility and the
24 offender is being sentenced for one of the crimes listed in this
25 subsection. If the offender or an accomplice committed one of the
26 crimes listed in this subsection while in a county jail or state
27 correctional facility, and the offender is being sentenced for an
28 anticipatory offense under chapter 9A.28 RCW to commit one of the
29 crimes listed in this subsection, the following additional times
30 shall be added to the standard sentence range determined under
31 subsection (2) of this section:

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

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

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

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

1 (6) An additional twenty-four months shall be added to the
2 standard sentence range for any ranked offense involving a violation
3 of chapter 69.50 RCW if the offense was also a violation of RCW
4 69.50.435 or 9.94A.827. All enhancements under this subsection shall
5 run consecutively to all other sentencing provisions, for all
6 offenses sentenced under this chapter.

7 (7) An additional two years shall be added to the standard
8 sentence range for vehicular homicide committed while under the
9 influence of intoxicating liquor or any drug as defined by RCW
10 46.61.502 for each prior offense as defined in RCW 46.61.5055.

11 Notwithstanding any other provision of law, all impaired driving
12 enhancements under this subsection ((shall be)) are mandatory, shall
13 be served in total confinement, and shall run consecutively to all
14 other sentencing provisions, including other impaired driving
15 enhancements, for all offenses sentenced under this chapter.

16 An offender serving a sentence under this subsection may be
17 granted an extraordinary medical placement when authorized under RCW
18 9.94A.728(1)(c).

19 (8)(a) The following additional times shall be added to the
20 standard sentence range for felony crimes committed on or after July
21 1, 2006, if the offense was committed with sexual motivation, as that
22 term is defined in RCW 9.94A.030. If the offender is being sentenced
23 for more than one offense, the sexual motivation enhancement must be
24 added to the total period of total confinement for all offenses,
25 regardless of which underlying offense is subject to a sexual
26 motivation enhancement. If the offender committed the offense with
27 sexual motivation and the offender is being sentenced for an
28 anticipatory offense under chapter 9A.28 RCW, the following
29 additional times shall be added to the standard sentence range
30 determined under subsection (2) of this section based on the felony
31 crime of conviction as classified under RCW 9A.28.020:

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

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

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

1 (iv) If the offender is being sentenced for any sexual motivation
2 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
3 the offender has previously been sentenced for any sexual motivation
4 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
5 (iii) of this subsection, all sexual motivation enhancements under
6 this subsection shall be twice the amount of the enhancement listed;

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

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

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

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

19 (d) If the standard sentence range under this subsection exceeds
20 the statutory maximum sentence for the offense, the statutory maximum
21 sentence shall be the presumptive sentence unless the offender is a
22 persistent offender. If the addition of a sexual motivation
23 enhancement increases the sentence so that it would exceed the
24 statutory maximum for the offense, the portion of the sentence
25 representing the enhancement may not be reduced;

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

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

32 (9) An additional one-year enhancement shall be added to the
33 standard sentence range for the felony crimes of RCW 9A.44.073,
34 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
35 or after July 22, 2007, if the offender engaged, agreed, or offered
36 to engage the victim in the sexual conduct in return for a fee. If
37 the offender is being sentenced for more than one offense, the
38 one-year enhancement must be added to the total period of total
39 confinement for all offenses, regardless of which underlying offense
40 is subject to the enhancement. If the offender is being sentenced for

1 an anticipatory offense for the felony crimes of RCW 9A.44.073,
2 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
3 offender attempted, solicited another, or conspired to engage, agree,
4 or offer to engage the victim in the sexual conduct in return for a
5 fee, an additional one-year enhancement shall be added to the
6 standard sentence range determined under subsection (2) of this
7 section. For purposes of this subsection, "sexual conduct" means
8 sexual intercourse or sexual contact, both as defined in chapter
9 9A.44 RCW.

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

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

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

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

33 (12) An additional twelve months shall be added to the standard
34 sentence range for an offense that is also a violation of RCW
35 9.94A.831.

36 (13) An additional twelve months shall be added to the standard
37 sentence range for vehicular homicide committed while under the
38 influence of intoxicating liquor or any drug as defined by RCW
39 46.61.520 or for vehicular assault committed while under the
40 influence of intoxicating liquor or any drug as defined by RCW

1 46.61.522, or for any felony driving under the influence (RCW
2 46.61.502(6)) or felony physical control under the influence (RCW
3 46.61.504(6)) for each child passenger under the age of sixteen who
4 is an occupant in the defendant's vehicle. These enhancements shall
5 be mandatory, shall be served in total confinement, and shall run
6 consecutively to all other sentencing provisions. If the addition of
7 a minor child enhancement increases the sentence so that it would
8 exceed the statutory maximum for the offense, the portion of the
9 sentence representing the enhancement may not be reduced.

10 (14) An additional twelve months shall be added to the standard
11 sentence range for an offense that is also a violation of RCW
12 9.94A.832.

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

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

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

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

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

32 (3) Analysis of the person's blood or breath to be considered
33 valid under the provisions of this section or RCW 46.61.502 or
34 46.61.504 shall have been performed according to methods approved by
35 the state toxicologist and by an individual possessing a valid permit
36 issued by the state toxicologist for this purpose. The state
37 toxicologist is directed to approve satisfactory techniques or
38 methods, to supervise the examination of individuals to ascertain
39 their qualifications and competence to conduct such analyses, and to

1 issue permits which shall be subject to termination or revocation at
2 the discretion of the state toxicologist.

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

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

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

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

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

19 (v) The internal standard test resulted in the message
20 "verified";

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

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

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

28 (b) For purposes of this section, "prima facie evidence" is
29 evidence of sufficient circumstances that would support a logical and
30 reasonable inference of the facts sought to be proved. In assessing
31 whether there is sufficient evidence of the foundational facts, the
32 court or administrative tribunal is to assume the truth of the
33 prosecution's or department's evidence and all reasonable inferences
34 from it in a light most favorable to the prosecution or department.

35 (c) Nothing in this section shall be deemed to prevent the
36 subject of the test from challenging the reliability or accuracy of
37 the test, the reliability or functioning of the instrument, or any
38 maintenance procedures. Such challenges, however, shall not preclude
39 the admissibility of the test once the prosecution or department has
40 made a prima facie showing of the requirements contained in (a) of

1 this subsection. Instead, such challenges may be considered by the
2 trier of fact in determining what weight to give to the test result.

3 (5) When a blood test is administered under the provisions of RCW
4 46.20.308, the withdrawal of blood for the purpose of determining its
5 alcoholic or drug content may be performed only by a physician
6 licensed under chapter 18.71 RCW; an osteopathic physician licensed
7 under chapter 18.57 RCW; a registered nurse, licensed practical
8 nurse, or advanced registered nurse practitioner licensed under
9 chapter 18.79 RCW; a physician assistant licensed under chapter
10 18.71A RCW; an osteopathic physician assistant licensed under chapter
11 18.57A RCW; an advanced emergency medical technician or paramedic
12 licensed under chapter 18.73 RCW; until July 1, 2016, a health care
13 assistant certified under chapter 18.135 RCW; or a medical assistant-
14 certified or medical assistant-phlebotomist certified under chapter
15 18.360 RCW. Proof of qualification to draw blood may be established
16 through the department of health's provider credential search. This
17 limitation shall not apply to the taking of breath specimens.

18 (6) The person tested may have a licensed or certified health
19 care provider listed in subsection (5) of this section, or a
20 qualified technician, chemist, or other qualified person of his or
21 her own choosing administer one or more tests in addition to any
22 administered at the direction of a law enforcement officer. The test
23 will be admissible if the person establishes the general
24 acceptability of the testing technique or method. The failure or
25 inability to obtain an additional test by a person shall not preclude
26 the admission of evidence relating to the test or tests taken at the
27 direction of a law enforcement officer.

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

32 **Sec. 9.** RCW 10.31.100 and 2014 c 202 s 307, 2014 c 100 s 2, and
33 2014 c 5 s 1 are each reenacted and amended to read as follows:

34 A police officer having probable cause to believe that a person
35 has committed or is committing a felony shall have the authority to
36 arrest the person without a warrant. A police officer may arrest a
37 person without a warrant for committing a misdemeanor or gross
38 misdemeanor only when the offense is committed in the presence of an

1 officer, except as provided in subsections (1) through (11) of this
2 section.

3 (1) Any police officer having probable cause to believe that a
4 person has committed or is committing a misdemeanor or gross
5 misdemeanor, involving physical harm or threats of harm to any person
6 or property or the unlawful taking of property or involving the use
7 or possession of cannabis, or involving the acquisition, possession,
8 or consumption of alcohol by a person under the age of twenty-one
9 years under RCW 66.44.270, or involving criminal trespass under RCW
10 9A.52.070 or 9A.52.080, shall have the authority to arrest the
11 person.

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

16 (a) An order has been issued of which the person has knowledge
17 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
18 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
19 person has violated the terms of the order restraining the person
20 from acts or threats of violence, or restraining the person from
21 going onto the grounds of or entering a residence, workplace, school,
22 or day care, or prohibiting the person from knowingly coming within,
23 or knowingly remaining within, a specified distance of a location or,
24 in the case of an order issued under RCW 26.44.063, imposing any
25 other restrictions or conditions upon the person; or

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

36 (c) The person is sixteen years or older and within the preceding
37 four hours has assaulted a family or household member as defined in
38 RCW 10.99.020 and the officer believes: (i) A felonious assault has
39 occurred; (ii) an assault has occurred which has resulted in bodily
40 injury to the victim, whether the injury is observable by the

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

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

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

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

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

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

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

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

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

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

38 (5)(a) A law enforcement officer investigating at the scene of a
39 motor vessel accident may arrest the operator of a motor vessel
40 involved in the accident if the officer has probable cause to believe

1 that the operator has committed, in connection with the accident, a
2 criminal violation of chapter 79A.60 RCW.

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

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

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

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

21 (9) A police officer may 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 that
24 an order has been issued of which the person has knowledge under
25 chapter 10.14 RCW and the person has violated the terms of that
26 order.

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

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

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

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

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

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

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

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

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

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

22 (1) The Washington traffic safety commission may develop and
23 maintain a registry of qualified victim impact panels. When imposing
24 a requirement that an offender attend a victim impact panel under RCW
25 46.61.5152, the court may refer the offender to a victim impact panel
26 that is listed in the registry. The Washington traffic safety
27 commission may consult with victim impact panel organizations to
28 develop and maintain a registry.

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

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

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

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

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

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

12 ~~((e))~~ (f) The victim impact panel shall have a policy to
13 prohibit admittance of anyone under the influence of alcohol or
14 drugs, or anyone whose actions or behavior are otherwise
15 inappropriate. The victim impact panel may institute additional
16 admission requirements;

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

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

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

24 ~~((i))~~ (j) The victim impact panel shall have a designated
25 facilitator who is responsible for the compliance with these minimum
26 standards and who is responsible for maintaining appropriate records
27 and communication with the referring courts and probationary
28 departments regarding attendance or nonattendance.

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

31 As a condition of granting a deferred prosecution petition, the
32 court shall order that the petitioner shall not operate a motor
33 vehicle upon the public highways without a valid operator's license
34 and proof of liability insurance. The amount of liability insurance
35 shall be established by the court at not less than that established
36 by RCW 46.29.490. As a condition of granting a deferred prosecution
37 petition on any alcohol-dependency based case, the court shall also
38 order the installation of an ignition interlock under RCW 46.20.720.
39 The required periods of use of the interlock shall be not less than

1 the periods provided for in RCW 46.20.720(~~(+3)~~). As a condition of
2 granting a deferred prosecution petition, the court may order the
3 petitioner to make restitution and to pay costs as defined in RCW
4 10.01.160. To help ensure continued sobriety and reduce the
5 likelihood of reoffense, the court may order reasonable conditions
6 during the period of the deferred prosecution including, but not
7 limited to, attendance at self-help recovery support groups for
8 alcoholism or drugs, complete abstinence from alcohol and all
9 nonprescribed mind-altering drugs, periodic urinalysis or breath
10 analysis, and maintaining law-abiding behavior. The court may
11 terminate the deferred prosecution program upon violation of the
12 deferred prosecution order.

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

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

19 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
20 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
21 driving privilege of any person is suspended by reason of a
22 conviction, a finding that a traffic infraction has been committed,
23 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
24 46.20.308, the suspension shall remain in effect until the person
25 gives and thereafter maintains proof of financial responsibility for
26 the future as provided in chapter 46.29 RCW.

27 (c) If the suspension is the result of a nonfelony violation of
28 RCW 46.61.502 or 46.61.504, the department shall determine the
29 person's eligibility for licensing based upon the reports provided by
30 the alcoholism agency or probation department designated under RCW
31 46.61.5056 and shall deny reinstatement until enrollment and
32 participation in an approved program has been established and the
33 person is otherwise qualified. If the suspension is the result of a
34 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
35 determine the person's eligibility for licensing based upon the
36 reports provided by the alcohol or drug dependency agency required
37 under RCW 46.61.524 and shall deny reinstatement until satisfactory
38 progress in an approved program has been established and the person
39 is otherwise qualified. If the suspension is the result of a

1 violation of RCW 46.61.502 or 46.61.504, and the person is required
2 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
3 a functioning ignition interlock, the department shall determine the
4 person's eligibility for licensing based upon written verification by
5 a company doing business in the state that it has installed the
6 required device on a vehicle owned or operated by the person seeking
7 reinstatement. The department may waive the requirement for written
8 verification under this subsection if it determines to its
9 satisfaction that a device previously verified as having been
10 installed on a vehicle owned or operated by the person is still
11 installed and functioning or as permitted by RCW 46.20.720(8). If,
12 based upon notification from the interlock provider or otherwise, the
13 department determines that an interlock required under RCW 46.20.720
14 is no longer installed or functioning as required, the department
15 shall suspend the person's license or privilege to drive. Whenever
16 the license or driving privilege of any person is suspended or
17 revoked as a result of noncompliance with an ignition interlock
18 requirement, the suspension shall remain in effect until the person
19 provides notice issued by a company doing business in the state that
20 a vehicle owned or operated by the person is equipped with a
21 functioning ignition interlock device.

22 (d) Whenever the license or driving privilege of any person is
23 suspended as a result of certification of noncompliance with a child
24 support order under chapter 74.20A RCW (~~or a residential or~~
25 ~~visitation order~~), the suspension shall remain in effect until the
26 person provides a release issued by the department of social and
27 health services stating that the person is in compliance with the
28 order.

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

32 (ii) If the suspension is the result of a violation of RCW
33 46.61.502 or 46.61.504, or is the result of administrative action
34 under RCW 46.20.308, the reissue fee shall be one hundred fifty
35 dollars.

36 (2)(a) Any person whose license or privilege to drive a motor
37 vehicle on the public highways has been revoked, unless the
38 revocation was for a cause which has been removed, is not entitled to
39 have the license or privilege renewed or restored until: (i) After
40 the expiration of one year from the date the license or privilege to

1 drive was revoked; (ii) after the expiration of the applicable
2 revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii)
3 after the expiration of two years for persons convicted of vehicular
4 homicide; or (iv) after the expiration of the applicable revocation
5 period provided by RCW 46.20.265.

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

9 (ii) If the revocation is the result of a violation of RCW
10 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
11 hundred fifty dollars. If the revocation is the result of a nonfelony
12 violation of RCW 46.61.502 or 46.61.504, the department shall
13 determine the person's eligibility for licensing based upon the
14 reports provided by the alcoholism agency or probation department
15 designated under RCW 46.61.5056 and shall deny reissuance of a
16 license, permit, or privilege to drive until enrollment and
17 participation in an approved program has been established and the
18 person is otherwise qualified. If the suspension is the result of a
19 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
20 determine the person's eligibility for licensing based upon the
21 reports provided by the alcohol or drug dependency agency required
22 under RCW 46.61.524 and shall deny reinstatement until satisfactory
23 progress in an approved program has been established and the person
24 is otherwise qualified. If the revocation is the result of a
25 violation of RCW 46.61.502 or 46.61.504, and the person is required
26 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
27 a functioning ignition interlock or other biological or technical
28 device, the department shall determine the person's eligibility for
29 licensing based upon written verification by a company doing business
30 in the state that it has installed the required device on a vehicle
31 owned or operated by the person applying for a new license. The
32 department may waive the requirement for written verification under
33 this subsection if it determines to its satisfaction that a device
34 previously verified as having been installed on a vehicle owned or
35 operated by the person is still installed and functioning or as
36 permitted by RCW 46.20.720(8). If, following issuance of a new
37 license, the department determines, based upon notification from the
38 interlock provider or otherwise, that an interlock required under RCW
39 46.20.720 is no longer functioning, the department shall suspend the
40 person's license or privilege to drive until the department has

1 received written verification from an interlock provider that a
2 functioning interlock is installed.

3 (c) Except for a revocation under RCW 46.20.265, the department
4 shall not then issue a new license unless it is satisfied after
5 investigation of the driving ability of the person that it will be
6 safe to grant the privilege of driving a motor vehicle on the public
7 highways, and until the person gives and thereafter maintains proof
8 of financial responsibility for the future as provided in chapter
9 46.29 RCW. For a revocation under RCW 46.20.265, the department shall
10 not issue a new license unless it is satisfied after investigation of
11 the driving ability of the person that it will be safe to grant that
12 person the privilege of driving a motor vehicle on the public
13 highways.

14 (3)(a) Whenever the driver's license of any person is suspended
15 pursuant to Article IV of the nonresident violators compact or RCW
16 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not
17 issue to the person any new or renewal license until the person pays
18 a reissue fee of seventy-five dollars.

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

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

28 (1)(a) Any person licensed under this chapter or who has a valid
29 driver's license from another state, who is convicted of: (i) A
30 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
31 out-of-state statute or ordinance, or (ii) a violation of RCW
32 46.61.520(1)(a) or an equivalent local or out-of-state statute or
33 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
34 (b) or (c) if the conviction is the result of a charge that was
35 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
36 46.61.522(1)(b) or an equivalent local or out-of-state statute or
37 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
38 the result of a charge that was originally filed as a violation of
39 RCW 46.61.522(1)(b) committed while under the influence of

1 intoxicating liquor or any drug, or (vi) who has had or will have his
2 or her license suspended, revoked, or denied under RCW 46.20.3101, or
3 who is otherwise permitted under subsection (8) of this section, may
4 submit to the department an application for an ignition interlock
5 driver's license. The department, upon receipt of the prescribed fee
6 and upon determining that the petitioner is eligible to receive the
7 license, may issue an ignition interlock driver's license.

8 (b) A person may apply for an ignition interlock driver's license
9 anytime, including immediately after receiving the notices under RCW
10 46.20.308 or after his or her license is suspended, revoked, or
11 denied.

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

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

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

38 (~~(iii) The time period during which the person is licensed under~~
39 ~~this section shall apply on a day for day basis toward satisfying the~~
40 ~~period of time the ignition interlock device restriction is required~~

1 under RCW 46.20.720, 46.61.5055, 10.05.140, 46.61.500(3), and
2 46.61.5249(4). Beginning with incidents occurring on or after
3 September 1, 2011, when calculating the period of time for the
4 restriction under RCW 46.20.720 (2) or (3), the department must also
5 give the person a day-for-day credit for the time period, beginning
6 from the date of the incident, during which the person kept an
7 ignition interlock device installed on all vehicles the person
8 operates. For the purposes of this subsection (1)(c)(iii), the term
9 "all vehicles" does not include vehicles that would be subject to the
10 employer exception under RCW 46.20.720(3).)

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

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

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

31 (5) The director shall cancel an ignition interlock driver's
32 license after receiving notice that the holder thereof has been
33 convicted of operating a motor vehicle in violation of its
34 restrictions, no longer meets the eligibility requirements, or has
35 been convicted of or found to have committed a separate offense or
36 any other act or omission that under this chapter would warrant
37 suspension or revocation of a regular driver's license. The
38 department must give notice of the cancellation as provided under RCW
39 46.20.245. A person whose ignition interlock driver's license has
40 been canceled under this section may reapply for a new ignition

1 interlock driver's license if he or she is otherwise qualified under
2 this section and pays the fee required under RCW 46.20.380.

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

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

16 (7) The department shall adopt rules to implement ignition
17 interlock licensing. The department shall consult with the
18 administrative office of the courts, the state patrol, the Washington
19 association of sheriffs and police chiefs, ignition interlock
20 companies, and any other organization or entity the department deems
21 appropriate.

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

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

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

36 (1) ~~((The court may order that after a period of suspension,~~
37 ~~revocation, or denial of driving privileges, and for up to as long as~~
38 ~~the court has jurisdiction, any person convicted of any offense~~
39 ~~involving the use, consumption, or possession of alcohol while~~

1 ~~operating a motor vehicle may drive only a motor vehicle equipped~~
2 ~~with a functioning ignition interlock. The court shall establish a~~
3 ~~specific calibration setting at which the interlock will prevent the~~
4 ~~vehicle from being started. The court shall also establish the period~~
5 ~~of time for which interlock use will be required.~~

6 ~~(2) Under RCW 46.61.5055 and subject to the exceptions listed in~~
7 ~~that statute, the court shall order any person convicted of a~~
8 ~~violation of RCW 46.61.502 or 46.61.504 or an equivalent local~~
9 ~~ordinance to comply with the rules and requirements of the department~~
10 ~~regarding the installation and use of a functioning ignition~~
11 ~~interlock device installed on all motor vehicles operated by the~~
12 ~~person. The court shall order any person participating in a deferred~~
13 ~~prosecution program under RCW 10.05.020 for a violation of RCW~~
14 ~~46.61.502 or 46.61.504 or an equivalent local ordinance to have a~~
15 ~~functioning ignition interlock device installed on all motor vehicles~~
16 ~~operated by the person.~~

17 ~~(3)(a) The department shall require that, after any applicable~~
18 ~~period of suspension, revocation, or denial of driving privileges, a~~
19 ~~person may drive only a motor vehicle equipped with a functioning~~
20 ~~ignition interlock device if the person is convicted of a violation~~
21 ~~of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state~~
22 ~~statute or ordinance. The department shall require that a person may~~
23 ~~drive only a motor vehicle equipped with a functioning ignition~~
24 ~~interlock device if the person is convicted of a violation of RCW~~
25 ~~46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or~~
26 ~~46.61.500(3) (a) or (b) to install an ignition interlock device on~~
27 ~~all vehicles operated by the person.~~

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

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

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

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

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

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

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

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

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

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

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

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

37 ~~(c) Failure to pass any random retest with a breath alcohol~~
38 ~~concentration of 0.025 or lower unless a subsequent test performed~~
39 ~~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) For a person required to install an ignition interlock device
7 pursuant to RCW 46.61.5249(4) or 46.61.500(3), the period of time of
8 the restriction shall be for six months and shall be subject to
9 subsection (4) of this section.

10 (6) In addition to any other costs associated with the use of an
11 ignition interlock device imposed on the person restricted under this
12 section, the person shall pay an additional fee of twenty dollars per
13 month. Payments must be made directly to the ignition interlock
14 company. The company shall remit the additional twenty dollar fee to
15 the department to be deposited into the ignition interlock device
16 revolving account.)) **Ignition interlock restriction.** The department
17 shall require that a person may drive only a motor vehicle equipped
18 with a functioning ignition interlock device:

19 (a) **Pretrial release.** Upon receipt of notice from a court that an
20 ignition interlock device restriction has been imposed under RCW
21 10.21.055;

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

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

27 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
28 or

29 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
30 if the person would be required under RCW 46.61.5249(4) or
31 46.61.500(3) (a) or (b) to install an ignition interlock device on
32 all vehicles operated by the person in the event of a conviction;

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

35 (i) Due to a conviction of a violation of RCW 46.61.502 or
36 46.61.504 or an equivalent local or out-of-state statute or
37 ordinance; or

38 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
39 46.61.500 or an equivalent local ordinance if the person is required

1 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
2 ignition interlock device on all vehicles operated by the person; or
3 (e) **Court order.** Upon receipt of an order by a court having
4 jurisdiction that a person charged or convicted of any offense
5 involving the use, consumption, or possession of alcohol while
6 operating a motor vehicle may drive only a motor vehicle equipped
7 with a functioning ignition interlock. The court shall establish a
8 specific calibration setting at which the ignition interlock will
9 prevent the vehicle from being started. The court shall also
10 establish the period of time for which ignition interlock use will be
11 required.

12 (2) **Calibration.** Unless otherwise specified by the court for a
13 restriction imposed under subsection (1)(e) of this section, the
14 ignition interlock device shall be calibrated to prevent the motor
15 vehicle from being started when the breath sample provided has an
16 alcohol concentration of 0.025 or more.

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

18 (a) Subsection (1)(a) of this section shall remain in effect
19 until:

20 (i) The court has authorized the removal of the device under RCW
21 10.21.055; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (b) The department must also give the person a day-for-day credit
40 for any time period, beginning from the date of the incident, during

1 which the person kept an ignition interlock device installed on all
2 vehicles the person operates, other than those subject to the
3 employer exemption under subsection (6) of this section.

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

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

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

24 (7) **Ignition interlock device revolving account.** In addition to
25 any other costs associated with the use of an ignition interlock
26 device imposed on the person restricted under this section, the
27 person shall pay an additional fee of twenty dollars per month.
28 Payments must be made directly to the ignition interlock company. The
29 company shall remit the additional twenty dollar fee to the
30 department to be deposited into the ignition interlock device
31 revolving account. The department may waive the monthly fee if the
32 person is indigent under RCW 10.101.010.

33 (8) **Foreign jurisdiction.** For a person restricted under this
34 section who is residing outside of the state of Washington, the
35 department may accept verification of installation of an ignition
36 interlock device by an ignition interlock company authorized to do
37 business in the jurisdiction in which the person resides, provided
38 the device meets any applicable requirements of that jurisdiction.
39 The department may waive the monthly fee required by subsection (7)

1 of this section if collection of the fee would be impractical in the
2 case of a person residing in another jurisdiction.

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

5 (1) Any person who operates a motor vehicle within this state is
6 deemed to have given consent, subject to the provisions of RCW
7 46.61.506, to a test or tests of his or her breath for the purpose of
8 determining the alcohol concentration in his or her breath if
9 arrested for any offense where, at the time of the arrest, the
10 arresting officer has reasonable grounds to believe the person had
11 been driving or was in actual physical control of a motor vehicle
12 while under the influence of intoxicating liquor or any drug or was
13 in violation of RCW 46.61.503.

14 (2) The test or tests of breath shall be administered at the
15 direction of a law enforcement officer having reasonable grounds to
16 believe the person to have been driving or in actual physical control
17 of a motor vehicle within this state while under the influence of
18 intoxicating liquor or any drug or the person to have been driving or
19 in actual physical control of a motor vehicle while having alcohol in
20 a concentration in violation of RCW 46.61.503 in his or her system
21 and being under the age of twenty-one. Prior to administering a
22 breath test pursuant to this section, the officer shall inform the
23 person of his or her right under this section to refuse the breath
24 test, and of his or her right to have additional tests administered
25 by any qualified person of his or her choosing as provided in RCW
26 46.61.506. The officer shall warn the driver, in substantially the
27 following language, that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 system in a concentration of 0.02 or more, or THC in his or her
2 system in a concentration above 0.00, if the person was under the age
3 of twenty-one, whether the person was placed under arrest, and (a)
4 whether the person refused to submit to the test or tests upon
5 request of the officer after having been informed that such refusal
6 would result in the revocation of the person's license, permit, or
7 privilege to drive, or (b) if a test or tests were administered,
8 whether the applicable requirements of this section were satisfied
9 before the administration of the test or tests, whether the person
10 submitted to the test or tests, or whether a test was administered
11 pursuant to a search warrant, a valid waiver of the warrant
12 requirement, when exigent circumstances exist, or under any other
13 authority of law as permitted under this section, and whether the
14 test or tests indicated that the alcohol concentration of the
15 person's breath or blood was 0.08 or more, or the THC concentration
16 of the person's blood was 5.00 or more, if the person was age twenty-
17 one or over at the time of the arrest, or that the alcohol
18 concentration of the person's breath or blood was 0.02 or more, or
19 the THC concentration of the person's blood was above 0.00, if the
20 person was under the age of twenty-one at the time of the arrest.
21 Where a person is found to be in actual physical control of a motor
22 vehicle while under the influence of intoxicating liquor or any drug
23 or was under the age of twenty-one at the time of the arrest and was
24 in physical control of a motor vehicle while having alcohol in his or
25 her system in a concentration of 0.02 or THC concentration above
26 0.00, the person may petition the hearing officer to apply the
27 affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The
28 driver has the burden to prove the affirmative defense by a
29 preponderance of the evidence. The sworn report or report under a
30 declaration authorized by RCW 9A.72.085 submitted by a law
31 enforcement officer is prima facie evidence that the officer had
32 reasonable grounds to believe the person had been driving or was in
33 actual physical control of a motor vehicle within this state while
34 under the influence of intoxicating liquor or drugs, or both, or the
35 person had been driving or was in actual physical control of a motor
36 vehicle within this state while having alcohol in his or her system
37 in a concentration of 0.02 or more, or THC in his or her system in a
38 concentration above 0.00, and was under the age of twenty-one and
39 that the officer complied with the requirements of this section.

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

16 (8) If the suspension, revocation, or denial is sustained after
17 such a hearing, the person whose license, privilege, or permit is
18 suspended, revoked, or denied has the right to file a petition in the
19 superior court of the county of arrest to review the final order of
20 revocation by the department in the same manner as an appeal from a
21 decision of a court of limited jurisdiction. Notice of appeal must be
22 filed within thirty days after the date the final order is served or
23 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ
24 1.1, or other statutes or rules referencing de novo review, the
25 appeal shall be limited to a review of the record of the
26 administrative hearing. The appellant must pay the costs associated
27 with obtaining the record of the hearing before the hearing officer.
28 The filing of the appeal does not stay the effective date of the
29 suspension, revocation, or denial. A petition filed under this
30 subsection must include the petitioner's grounds for requesting
31 review. Upon granting petitioner's request for review, the court
32 shall review the department's final order of suspension, revocation,
33 or denial as expeditiously as possible. The review must be limited to
34 a determination of whether the department has committed any errors of
35 law. The superior court shall accept those factual determinations
36 supported by substantial evidence in the record: (a) That were
37 expressly made by the department; or (b) that may reasonably be
38 inferred from the final order of the department. The superior court
39 may reverse, affirm, or modify the decision of the department or
40 remand the case back to the department for further proceedings. The

1 decision of the superior court must be in writing and filed in the
2 clerk's office with the other papers in the case. The court shall
3 state the reasons for the decision. If judicial relief is sought for
4 a stay or other temporary remedy from the department's action, the
5 court shall not grant such relief unless the court finds that the
6 appellant is likely to prevail in the appeal and that without a stay
7 the appellant will suffer irreparable injury. If the court stays the
8 suspension, revocation, or denial it may impose conditions on such
9 stay.

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

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

1 stay shall be lifted and the suspension, revocation, or denial
2 canceled.

3 (c) The provisions of (b) of this subsection relating to a stay
4 of a suspension, revocation, or denial and the cancellation of any
5 suspension, revocation, or denial do not apply to the suspension,
6 revocation, denial, or disqualification of a person's commercial
7 driver's license or privilege to operate a commercial motor vehicle.

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

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

16 (1)(a) When any person charged with a violation of RCW 46.61.502,
17 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
18 offense as defined in RCW 46.61.5055 and the current offense involves
19 alcohol, is released from custody at arraignment or trial on bail or
20 personal recognizance, the court authorizing the release shall
21 require, as a condition of release that person comply with one of the
22 following four requirements:

23 (i) Have a functioning ignition interlock device installed on all
24 motor vehicles operated by the person, with proof of installation
25 filed with the court by the person or the certified interlock
26 provider within five business days of the date of release from
27 custody or as soon thereafter as determined by the court based on
28 availability within the jurisdiction; or

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

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

36 (iv) Have an ignition interlock device on all motor vehicles
37 operated by the person and that such person agrees not to operate any
38 motor vehicle without an ignition interlock device as required by the
39 court. Under this subsection (1)(a)(iv), the person must file a sworn

1 statement with the court upon release at arraignment that states the
2 person will not operate any motor vehicle without an ignition
3 interlock device while the ignition interlock restriction is imposed
4 by the court. Such person must also submit to 24/7 sobriety program
5 monitoring pursuant to (a)(ii) of this subsection, if available, or
6 alcohol monitoring, at the expense of the person, as provided in RCW
7 46.61.5055(5) (b) and (c).

8 (b) The court shall immediately notify the department of
9 licensing when an ignition interlock restriction is imposed: (i) As a
10 condition of release pursuant to (a) of this subsection; or (ii) in
11 instances where a person is charged with, or convicted of, a
12 violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, and
13 the offense involves alcohol. If the court imposes an ignition
14 interlock restriction, the department of licensing shall attach or
15 imprint a notation on the driving record of any person restricted
16 under this section stating that the person may operate only a motor
17 vehicle equipped with a functioning ignition interlock device.

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

25 (b) If the court authorizes removal of an ignition interlock
26 device imposed under ~~((a) of)~~ this ~~(subsection[,])~~ section, the
27 court shall immediately notify the department of licensing regarding
28 the lifting of the ignition interlock restriction and the department
29 of licensing shall release any attachment, imprint, or notation on
30 such person's driving record relating to the ignition interlock
31 requirement imposed under this section.

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

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

1 (1) **No prior offenses in seven years.** Except as provided in RCW
2 46.61.502(6) or 46.61.504(6), a person who is convicted of a
3 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
4 within seven years shall be punished as follows:

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

10 (i) By imprisonment for not less than one day nor more than three
11 hundred sixty-four days. Twenty-four 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)(a)(i), the
19 court may order not less than ~~((fifteen days of electronic home
20 monitoring))~~ a ninety day period of 24/7 sobriety program monitoring.
21 ~~The ((offender shall pay the cost of electronic home monitoring. The
22 county or municipality in which the penalty is being imposed shall
23 determine the cost. The court may also require the offender's
24 electronic home monitoring device or other separate alcohol
25 monitoring device to include an alcohol detection breathalyzer, and
26 the court may restrict the amount of alcohol the offender may consume
27 during the time the offender is on electronic home monitoring))~~ court
28 may consider the offender's pretrial 24/7 sobriety program monitoring
29 as fulfilling a portion of posttrial sentencing; and

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

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

39 (i) By imprisonment for not less than two days nor more than
40 three hundred sixty-four days. Forty-eight consecutive hours of the

1 imprisonment may not be suspended unless the court finds that the
2 imposition of this mandatory minimum sentence would impose a
3 substantial risk to the offender's physical or mental well-being.
4 Whenever the mandatory minimum sentence is suspended, the court shall
5 state in writing the reason for granting the suspension and the facts
6 upon which the suspension is based. In lieu of the mandatory minimum
7 term of imprisonment required under this subsection (1)(b)(i), the
8 court may order not less than ~~((thirty days of electronic home
9 monitoring. The offender shall pay the cost of electronic home
10 monitoring. The county or municipality in which the penalty is being
11 imposed shall determine the cost. The court may also require the
12 offender's electronic home monitoring device to include an alcohol
13 detection breathalyzer or other separate alcohol monitoring device,
14 and the court may restrict the amount of alcohol the offender may
15 consume during the time the offender is on electronic home
16 monitoring))~~ a one hundred twenty day period of 24/7 sobriety program
17 monitoring. The court may consider the offender's pretrial 24/7
18 sobriety program testing as fulfilling a portion of posttrial
19 sentencing; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (5) **Monitoring.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (i) Where there has been no prior offense within seven years, be
11 suspended or denied by the department for ninety days or until the
12 person is evaluated by an alcoholism agency or probation department
13 pursuant to RCW 46.20.311 and the person completes or is enrolled in
14 a ninety day period of 24/7 sobriety program monitoring;

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

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

20 (iv) In no circumstances shall the license suspension be for
21 fewer than two days;

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

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

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

31 (iii) Where there have been two or more prior offenses within
32 seven years, be revoked or denied by the department for four years.
33 In no circumstances shall the license suspension be for fewer than
34 four days; or

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

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

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

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

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

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

16 Upon its own motion or upon motion by a person, a court may find,
17 on the record, that notice to the department under RCW 46.20.270 has
18 been delayed for three years or more as a result of a clerical or
19 court error. If so, the court may order that the person's license,
20 permit, or nonresident privilege shall not be revoked, suspended, or
21 denied for that offense. The court shall send notice of the finding
22 and order to the department and to the person. Upon receipt of the
23 notice from the court, the department shall not revoke, suspend, or
24 deny the license, permit, or nonresident privilege of the person for
25 that offense.

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

29 **(10) Probation of driving privilege.** After expiration of any
30 period of suspension, revocation, or denial of the offender's
31 license, permit, or privilege to drive required by this section, the
32 department shall place the offender's driving privilege in
33 probationary status pursuant to RCW 46.20.355.

34 **(11) Conditions of probation.** (a) In addition to any
35 nonsuspendable and nondeferrable jail sentence required by this
36 section, whenever the court imposes up to three hundred sixty-four
37 days in jail, the court shall also suspend but shall not defer a
38 period of confinement for a period not exceeding five years. The
39 court shall impose conditions of probation that include: (i) Not
40 driving a motor vehicle within this state without a valid license to

1 drive; (ii) not driving a motor vehicle within this state without
2 proof of liability insurance or other financial responsibility for
3 the future pursuant to RCW 46.30.020; (iii) not driving or being in
4 physical control of a motor vehicle within this state while having an
5 alcohol concentration of 0.08 or more or a THC concentration of 5.00
6 nanograms per milliliter of whole blood or higher, within two hours
7 after driving; (iv) not refusing to submit to a test of his or her
8 breath or blood to determine alcohol or drug concentration upon
9 request of a law enforcement officer who has reasonable grounds to
10 believe the person was driving or was in actual physical control of a
11 motor vehicle within this state while under the influence of
12 intoxicating liquor or drug; and (v) not driving a motor vehicle in
13 this state without a functioning ignition interlock device as
14 required by the department under RCW 46.20.720(~~(+3)~~). The court may
15 impose conditions of probation that include nonrepetition,
16 installation of an ignition interlock device on the probationer's
17 motor vehicle, alcohol or drug treatment, supervised probation, or
18 other conditions that may be appropriate. The sentence may be imposed
19 in whole or in part upon violation of a condition of probation during
20 the suspension period.

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

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

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

37 (a) The offender does not have a dwelling, telephone service, or
38 any other necessity to operate an electronic home monitoring system.
39 However, if a court determines that an alcohol monitoring device
40 utilizing wireless reporting technology is reasonably available, the

1 court may require the person to obtain such a device during the
2 period of required electronic home monitoring;

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

4 (c) The court determines that there is reason to believe that the
5 offender would violate the conditions of the electronic home
6 monitoring penalty.

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

14 Whenever the combination of jail time and electronic home
15 monitoring or alternative sentence would exceed three hundred sixty-
16 four days, the offender shall serve the jail portion of the sentence
17 first, and the electronic home monitoring or alternative portion of
18 the sentence shall be reduced so that the combination does not exceed
19 three hundred sixty-four days.

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

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

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

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

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

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

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

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

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

4 (vii) A conviction for a violation of RCW 47.68.220 or an
5 equivalent local ordinance committed in a careless or reckless manner
6 if the conviction is the result of a charge that was originally filed
7 as a violation of RCW 47.68.220 or an equivalent local ordinance
8 while under the influence of intoxicating liquor or any drug;

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

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

13 (x) A conviction for a violation of RCW 46.61.520 committed while
14 under the influence of intoxicating liquor or any drug, or a
15 conviction for a violation of RCW 46.61.520 committed in a reckless
16 manner or with the disregard for the safety of others if the
17 conviction is the result of a charge that was originally filed as a
18 violation of RCW 46.61.520 committed while under the influence of
19 intoxicating liquor or any drug;

20 (xi) A conviction for a violation of RCW 46.61.522 committed
21 while under the influence of intoxicating liquor or any drug, or a
22 conviction for a violation of RCW 46.61.522 committed in a reckless
23 manner or with the disregard for the safety of others if the
24 conviction is the result of a charge that was originally filed as a
25 violation of RCW 46.61.522 committed while under the influence of
26 intoxicating liquor or any drug;

27 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
28 or 9A.36.050 or an equivalent local ordinance, if the conviction is
29 the result of a charge that was originally filed as a violation of
30 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
31 RCW 46.61.520 or 46.61.522;

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

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

38 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
39 prosecution for a violation of RCW 46.61.5249, or an equivalent local
40 ordinance, if the charge under which the deferred prosecution was

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

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

10 (xvii) A deferred sentence imposed in a prosecution for a
11 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
12 equivalent local ordinance, if the charge under which the deferred
13 sentence was imposed was originally filed as a violation of RCW
14 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
15 violation of RCW 46.61.520 or 46.61.522;

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

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

22 (c) "Within seven years" means that the arrest for a prior
23 offense occurred within seven years before or after the arrest for
24 the current offense; and

25 (d) "Within ten years" means that the arrest for a prior offense
26 occurred within ten years before or after the arrest for the current
27 offense.

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

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

32 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
33 or deny the arrested person's license, permit, or privilege to drive
34 as follows:

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

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

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

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

10 (a) For a first incident within seven years, where there has not
11 been a previous incident within seven years that resulted in
12 administrative action under this section, suspension for ninety days,
13 unless the person successfully completes or is enrolled in a pretrial
14 24/7 sobriety program;

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

17 (3) In the case of an incident where a person under age twenty-
18 one has submitted to or been administered a test or tests indicating
19 that the alcohol concentration of the person's breath or blood was
20 0.02 or more, or that the THC concentration of the person's blood was
21 above 0.00:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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