
HOUSE BILL 2700

State of Washington

64th Legislature

2016 Regular Session

By Representatives Goodman, Klippert, Orwall, Hayes, Kuderer, Pettigrew, Muri, Ortiz-Self, and Kilduff

Read first time 01/19/16. Referred to Committee on Public Safety.

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 46.61.508, 18.130.410, 10.01.230, 46.61.140, 10.05.140, 46.20.311,
4 46.20.385, 46.20.720, 46.61.5055, and 46.20.308; reenacting and
5 amending RCW 43.79A.040 and 10.31.100; and providing an effective
6 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 or a traffic-related criminal complaint
33 for a moving violation, the court in which the defendant failed to
34 appear shall promptly give notice of such fact to the department of
35 licensing. Whenever thereafter the case in which the defendant failed
36 to appear is adjudicated, the court hearing the case shall promptly
37 file with the department a certificate showing that the case has been
38 adjudicated. For the purposes of this section, "moving violation" is
39 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
13 care assistant certified under chapter 18.135 RCW; (~~or~~) a medical
14 assistant-certified or medical assistant-phlebotomist certified under
15 chapter 18.360 RCW; or a technician trained in withdrawing blood.
16 This limitation shall not apply to the taking of breath specimens.

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

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

31 **Sec. 9.** RCW 46.61.508 and 2015 2nd sp.s. c 3 s 23 are each
32 amended to read as follows:

33 No physician licensed under chapter 18.71 RCW; osteopathic
34 physician licensed under chapter 18.57 RCW; registered nurse,
35 licensed practical nurse, or advanced registered nurse practitioner
36 licensed under chapter 18.79 RCW; physician assistant licensed under
37 chapter 18.71A RCW; osteopathic physician assistant licensed under
38 chapter 18.57A RCW; advanced emergency medical technician or
39 paramedic licensed under chapter 18.73 RCW; (~~until July 1, 2016,~~)

1 health care assistant certified under chapter 18.135 RCW; or medical
2 assistant-certified or medical assistant-phlebotomist certified under
3 chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory
4 employing or utilizing services of such licensed or certified health
5 care provider, shall incur any civil or criminal liability as a
6 result of the act of withdrawing blood from any person when directed
7 by a law enforcement officer to do so for the purpose of a blood test
8 under the provisions of a search warrant, a waiver of the search
9 warrant requirement, exigent circumstances, any other authority of
10 law, or RCW 46.20.308, as now or hereafter amended: PROVIDED, That
11 nothing in this section shall relieve such licensed or certified
12 health care provider, or hospital or duly licensed clinical
13 laboratory from civil liability arising from the use of improper
14 procedures or failing to exercise the required standard of care.

15 **Sec. 10.** RCW 18.130.410 and 2015 2nd sp.s. c 3 s 21 are each
16 amended to read as follows:

17 It is not professional misconduct for a physician licensed under
18 chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57
19 RCW; registered nurse, licensed practical nurse, or advanced
20 registered nurse practitioner licensed under chapter 18.79 RCW;
21 physician assistant licensed under chapter 18.71A RCW; osteopathic
22 physician assistant licensed under chapter 18.57A RCW; advanced
23 emergency medical technician or paramedic licensed under chapter
24 18.73 RCW; (~~until July 1, 2016,~~) health care assistant certified
25 under chapter 18.135 RCW; or medical assistant-certified or medical
26 assistant-phlebotomist certified under chapter 18.360 RCW, or
27 hospital, or duly licensed clinical laboratory employing or utilizing
28 services of such licensed or certified health care provider, to
29 collect a blood sample without a person's consent when the physician
30 licensed under chapter 18.71 RCW; osteopathic physician licensed
31 under chapter 18.57 RCW; registered nurse, licensed practical nurse,
32 or advanced registered nurse practitioner licensed under chapter
33 18.79 RCW; physician assistant licensed under chapter 18.71A RCW;
34 osteopathic physician assistant licensed under chapter 18.57A RCW;
35 advanced emergency medical technician or paramedic licensed under
36 chapter 18.73 RCW; (~~until July 1, 2016,~~) health care assistant
37 certified under chapter 18.135 RCW; or medical assistant-certified or
38 medical assistant-phlebotomist certified under chapter 18.360 RCW, or
39 hospital, or duly licensed clinical laboratory employing or utilizing

1 services of such licensed or certified health care provider
2 withdrawing blood was directed by a law enforcement officer to do so
3 for the purpose of a blood test under the provisions of a search
4 warrant or exigent circumstances: PROVIDED, That nothing in this
5 section shall relieve a physician licensed under chapter 18.71 RCW;
6 osteopathic physician licensed under chapter 18.57 RCW; registered
7 nurse, licensed practical nurse, or advanced registered nurse
8 practitioner licensed under chapter 18.79 RCW; physician assistant
9 licensed under chapter 18.71A RCW; osteopathic physician assistant
10 licensed under chapter 18.57A RCW; advanced emergency medical
11 technician or paramedic licensed under chapter 18.73 RCW; (~~until~~
12 ~~July 1, 2016,~~) health care assistant certified under chapter 18.135
13 RCW; or medical assistant-certified or medical assistant-phlebotomist
14 certified under chapter 18.360 RCW, or hospital, or duly licensed
15 clinical laboratory employing or utilizing services of such licensed
16 or certified health care provider withdrawing blood from professional
17 discipline arising from the use of improper procedures or from
18 failing to exercise the required standard of care.

19 **Sec. 11.** RCW 10.31.100 and 2014 c 202 s 307, 2014 c 100 s 2, and
20 2014 c 5 s 1 are each reenacted and amended to read as follows:

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

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

37 (2) A police officer shall arrest and take into custody, pending
38 release on bail, personal recognizance, or court order, a person

1 without a warrant when the officer has probable cause to believe
2 that:

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

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

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

1 including whether the conduct was part of an ongoing pattern of
2 abuse.

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

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

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

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

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

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

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

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

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

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

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

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

39 (7) An officer may act upon the request of a law enforcement
40 officer in whose presence a traffic infraction was committed, to

1 stop, detain, arrest, or issue a notice of traffic infraction to the
2 driver who is believed to have committed the infraction. The request
3 by the witnessing officer shall give an officer the authority to take
4 appropriate action under the laws of the state of Washington.

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

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

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

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

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

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

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

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

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

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

1 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
2 local ordinance and the police officer has knowledge that the person
3 has a prior offense as defined in RCW 46.61.5055 within ten years.

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

7 **Sec. 12.** RCW 10.01.230 and 2011 c 293 s 15 are each amended to
8 read as follows:

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

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

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

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

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

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

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

38 ~~((e))~~ (f) The victim impact panel shall have a policy to
39 prohibit admittance of anyone under the influence of alcohol or

1 drugs, or anyone whose actions or behavior are otherwise
2 inappropriate. The victim impact panel may institute additional
3 admission requirements;

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

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

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

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

16 **Sec. 13.** RCW 46.61.140 and 1965 ex.s. c 155 s 23 are each
17 amended to read as follows:

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

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

25 (2) Upon a roadway which is divided into three lanes and provides
26 for two-way movement of traffic, a vehicle shall not be driven in the
27 center lane except when overtaking and passing another vehicle
28 traveling in the same direction when such center lane is clear of
29 traffic within a safe distance, or in preparation for making a left
30 turn or where such center lane is at the time allocated exclusively
31 to traffic moving in the same direction that the vehicle is
32 proceeding and such allocation is designated by official traffic-
33 control devices.

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

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

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

10 **Sec. 14.** RCW 10.05.140 and 2013 2nd sp.s. c 35 s 21 are each
11 amended to read as follows:

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

33 **Sec. 15.** RCW 46.20.311 and 2006 c 73 s 15 are each amended to
34 read as follows:

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

1 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
2 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
3 driving privilege of any person is suspended by reason of a
4 conviction, a finding that a traffic infraction has been committed,
5 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
6 46.20.308, the suspension shall remain in effect until the person
7 gives and thereafter maintains proof of financial responsibility for
8 the future as provided in chapter 46.29 RCW.

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

1 a vehicle owned or operated by the person is equipped with a
2 functioning ignition interlock device.

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

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

13 (ii) If the suspension is the result of a violation of RCW
14 46.61.502 or 46.61.504, or is the result of administrative action
15 under RCW 46.20.308, the reissue fee shall be one hundred fifty
16 dollars.

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

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

30 (ii) If the revocation is the result of a violation of RCW
31 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
32 hundred fifty dollars. If the revocation is the result of a nonfelony
33 violation of RCW 46.61.502 or 46.61.504, the department shall
34 determine the person's eligibility for licensing based upon the
35 reports provided by the alcoholism agency or probation department
36 designated under RCW 46.61.5056 and shall deny reissuance of a
37 license, permit, or privilege to drive until enrollment and
38 participation in an approved program has been established and the
39 person is otherwise qualified. If the suspension is the result of a
40 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall

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

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

35 (3)(a) Whenever the driver's license of any person is suspended
36 pursuant to Article IV of the nonresident violators compact or RCW
37 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not
38 issue to the person any new or renewal license until the person pays
39 a reissue fee of seventy-five dollars.

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

8 **Sec. 16.** RCW 46.20.385 and 2015 2nd sp.s. c 3 s 3 are each
9 amended to read as follows:

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

29 (b) A person may apply for an ignition interlock driver's license
30 anytime, including immediately after receiving the notices under RCW
31 46.20.308 or after his or her license is suspended, revoked, or
32 denied.

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

36 (i) The department shall require the person to maintain the
37 device on all vehicles operated by the person and shall restrict the
38 person to operating only vehicles equipped with the device, for the
39 remainder of the period of suspension, revocation, or denial, unless

1 ~~otherwise permitted under RCW 46.20.720(6). ((Subject to the~~
2 ~~provisions of RCW 46.20.720(3)(b)(ii), the installation of an~~
3 ~~ignition interlock device is not necessary on vehicles owned, leased,~~
4 ~~or rented by a person's employer and on those vehicles whose care~~
5 ~~and/or maintenance is the temporary responsibility of the employer,~~
6 ~~and driven at the direction of a person's employer as a requirement~~
7 ~~of employment during working hours. The person must provide the~~
8 ~~department with a declaration pursuant to RCW 9A.72.085 from his or~~
9 ~~her employer stating that the person's employment requires the person~~
10 ~~to operate a vehicle owned by the employer or other persons during~~
11 ~~working hours.))~~

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

20 ~~((iii) The time period during which the person is licensed under~~
21 ~~this section shall apply on a day for day basis toward satisfying the~~
22 ~~period of time the ignition interlock device restriction is required~~
23 ~~under RCW 46.20.720, 46.61.5055, 10.05.140, 46.61.500(3), and~~
24 ~~46.61.5249(4). Beginning with incidents occurring on or after~~
25 ~~September 1, 2011, when calculating the period of time for the~~
26 ~~restriction under RCW 46.20.720 (2) or (3), the department must also~~
27 ~~give the person a day for day credit for the time period, beginning~~
28 ~~from the date of the incident, during which the person kept an~~
29 ~~ignition interlock device installed on all vehicles the person~~
30 ~~operates. For the purposes of this subsection (1)(c)(iii), the term~~
31 ~~"all vehicles" does not include vehicles that would be subject to the~~
32 ~~employer exception under RCW 46.20.720(3).))~~

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

37 (3) Upon receipt of evidence that a holder of an ignition
38 interlock driver's license granted under this subsection no longer
39 has a functioning ignition interlock device installed on all vehicles
40 operated by the driver, the director shall give written notice by

1 first-class mail to the driver that the ignition interlock driver's
2 license shall be canceled. If at any time before the cancellation
3 goes into effect the driver submits evidence that a functioning
4 ignition interlock device has been installed on all vehicles operated
5 by the driver, the cancellation shall be stayed. If the cancellation
6 becomes effective, the driver may obtain, at no additional charge, a
7 new ignition interlock driver's license upon submittal of evidence
8 that a functioning ignition interlock device has been installed on
9 all vehicles operated by the driver.

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

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

25 (6)(a) Unless costs are waived by the ignition interlock company
26 or the person is indigent under RCW 10.101.010, the applicant shall
27 pay the cost of installing, removing, and leasing the ignition
28 interlock device and shall pay an additional fee of twenty dollars
29 per month. Payments shall be made directly to the ignition interlock
30 company. The company shall remit the additional twenty dollar fee to
31 the department.

32 (b) The department shall deposit the proceeds of the twenty
33 dollar fee into the ignition interlock device revolving account.
34 Expenditures from the account may be used only to administer and
35 operate the ignition interlock device revolving account program. The
36 department shall adopt rules to provide monetary assistance according
37 to greatest need and when funds are available.

38 (7) The department shall adopt rules to implement ignition
39 interlock licensing. The department shall consult with the
40 administrative office of the courts, the state patrol, the Washington

1 association of sheriffs and police chiefs, ignition interlock
2 companies, and any other organization or entity the department deems
3 appropriate.

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

9 (b) A person who does not have any driver's license under this
10 chapter, but who would otherwise be eligible under this section to
11 apply for an ignition interlock license, may submit to the department
12 an application for an ignition interlock license. The department may
13 require the person to take any driver's licensing examination under
14 this chapter and may require the person to also apply and qualify for
15 a temporary restricted driver's license under RCW 46.20.391.

16 **Sec. 17.** RCW 46.20.720 and 2013 2nd sp.s. c 35 s 19 are each
17 amended to read as follows:

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

27 ~~(2) Under RCW 46.61.5055 and subject to the exceptions listed in~~
28 ~~that statute, the court shall order any person convicted of a~~
29 ~~violation of RCW 46.61.502 or 46.61.504 or an equivalent local~~
30 ~~ordinance to comply with the rules and requirements of the department~~
31 ~~regarding the installation and use of a functioning ignition~~
32 ~~interlock device installed on all motor vehicles operated by the~~
33 ~~person. The court shall order any person participating in a deferred~~
34 ~~prosecution program under RCW 10.05.020 for a violation of RCW~~
35 ~~46.61.502 or 46.61.504 or an equivalent local ordinance to have a~~
36 ~~functioning ignition interlock device installed on all motor vehicles~~
37 ~~operated by the person.~~

38 ~~(3)(a) The department shall require that, after any applicable~~
39 ~~period of suspension, revocation, or denial of driving privileges, a~~

1 ~~person may drive only a motor vehicle equipped with a functioning~~
2 ~~ignition interlock device if the person is convicted of a violation~~
3 ~~of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state~~
4 ~~statute or ordinance. The department shall require that a person may~~
5 ~~drive only a motor vehicle equipped with a functioning ignition~~
6 ~~interlock device if the person is convicted of a violation of RCW~~
7 ~~46.61.5249 or 46.61.500 and is required under RCW 46.61.5249(4) or~~
8 ~~46.61.500(3) (a) or (b) to install an ignition interlock device on~~
9 ~~all vehicles operated by the person.~~

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

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

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

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

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

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

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

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

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

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

9 ~~(a) Any attempt to start the vehicle with a breath alcohol~~
10 ~~concentration of 0.04 or more unless a subsequent test performed~~
11 ~~within ten minutes registers a breath alcohol concentration lower~~
12 ~~than 0.04 and the digital image confirms the same person provided~~
13 ~~both samples;~~

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

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

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

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

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

38 ~~(a) **Pretrial release.** Upon receipt of notice from a court that an~~
39 ~~ignition interlock device restriction has been imposed under RCW~~
40 ~~10.21.055;~~

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

3 (c) Deferred prosecution. Upon receipt of notice from a court
4 that the person is participating in a deferred prosecution program
5 under RCW 10.05.020 for a violation of:

6 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
7 or

8 (ii) RCW 46.61.5249 or 46.61.500 if the person would be required
9 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
10 ignition interlock device on all vehicles operated by the person in
11 the event of a conviction;

12 (d) Post conviction. After any applicable period of suspension,
13 revocation, or denial of driving privileges:

14 (i) Due to a conviction of a violation of RCW 46.61.502 or
15 46.61.504 or an equivalent local or out-of-state statute or
16 ordinance; or

17 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
18 46.61.500 if the person is required under RCW 46.61.5249(4) or
19 46.61.500(3) (a) or (b) to install an ignition interlock device on
20 all vehicles operated by the person; or

21 (e) Court order. Upon receipt of an order by a court having
22 jurisdiction that a person charged or convicted of any offense
23 involving the use, consumption, or possession of alcohol while
24 operating a motor vehicle may drive only a motor vehicle equipped
25 with a functioning ignition interlock. The court shall establish a
26 specific calibration setting at which the ignition interlock will
27 prevent the vehicle from being started. The court shall also
28 establish the period of time for which ignition interlock use will be
29 required.

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

35 (3) Duration of restriction. The restriction period begins when
36 the department receives notification of the ignition interlock device
37 installation. A restriction imposed under:

38 (a) Subsection (1)(a) of this section shall remain in effect
39 until:

1 (i) The court has authorized the removal of the device under RCW
2 10.21.055; or

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

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

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

10 (i) For a person who has not previously been restricted under
11 this subsection for a prior offense within the last seven years, a
12 period of one year;

13 (ii) For a person who has previously been restricted under
14 (c)(ii) of this subsection for a prior offense within the last seven
15 years, a period of five years;

16 (iii) For a person who has previously been restricted under
17 (c)(ii) of this subsection for a prior offense within the last seven
18 years, a period of ten years.

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

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

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

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

35 (a) Any attempt to start the vehicle with a breath alcohol
36 concentration of 0.04 or more unless a subsequent test performed
37 within ten minutes registers a breath alcohol concentration lower
38 than 0.04 and the digital image confirms the same person provided
39 both samples;

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

4 (c) Failure to pass any random retest with a breath alcohol
5 concentration of 0.025 or lower unless a subsequent test performed
6 within ten minutes registers a breath alcohol concentration lower
7 than 0.025, and the digital image confirms the same person provided
8 both samples; or

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

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

18 (b) The department must also give the person a day-for-day credit
19 for the time period prior to the imposition of the restriction
20 imposed under subsection (1)(b) of this section, beginning from the
21 date of the incident, during which the person kept an ignition
22 interlock device installed on all vehicles the person operates, other
23 than those subject to the employer exemption under subsection (6) of
24 this section.

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

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

1 person's employment requires the person to operate a vehicle owned by
2 the employer or other persons during working hours.

3 (b) The employer exemption does not apply:

4 (i) When the employer's vehicle is assigned exclusively to the
5 restricted driver and used solely for commuting to and from
6 employment;

7 (ii) Beginning on the effective date of any applicable suspension
8 or revocation, for the first thirty days after an ignition interlock
9 device has been installed as the result of a first conviction of a
10 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
11 out-of-state statute or ordinance; or

12 (iii) Beginning on the effective date of any applicable
13 suspension or revocation, for the first three hundred sixty-five days
14 after an ignition interlock device has been installed as the result
15 of a second or subsequent conviction of a violation of RCW 46.61.502
16 or 46.61.504 or an equivalent local or out-of-state statute or
17 ordinance.

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

27 (8) **Foreign jurisdiction.** For a person restricted under this
28 section who is residing outside of the state of Washington, the
29 department may accept verification of installation of an ignition
30 interlock device by an ignition interlock company authorized to do
31 business in the jurisdiction in which the person resides, provided
32 the device meets any applicable requirements of that jurisdiction.
33 The department may waive the monthly fee required by subsection (7)
34 of this section if collection of the fee would be impractical in the
35 case of a person residing in another jurisdiction.

36 **Sec. 18.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each
37 amended to read as follows:

38 (1) **No prior offenses in seven years.** Except as provided in RCW
39 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
2 within seven years shall be punished as follows:

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

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

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

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

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

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

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

16 (2) **One prior offense in seven years.** Except as provided in RCW
17 46.61.502(6) or 46.61.504(6), a person who is convicted of a
18 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
19 within seven years shall be punished as follows:

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

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

1 not be suspended unless the court finds that the imposition of this
2 mandatory minimum sentence would impose a substantial risk to the
3 offender's physical or mental well-being. Whenever the mandatory
4 minimum sentence is suspended, the court shall state in writing the
5 reason for granting the suspension and the facts upon which the
6 suspension is based; and

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

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

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

37 (ii) By a fine of not less than seven hundred fifty dollars nor
38 more than five thousand dollars. Seven hundred fifty dollars of the
39 fine may not be suspended unless the court finds the offender to be
40 indigent.

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

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

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

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

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

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

23 (ii) By a fine of not less than one thousand five hundred dollars
24 nor more than five thousand dollars. One thousand five hundred
25 dollars of the fine may not be suspended unless the court finds the
26 offender to be indigent.

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

30 (a) The person has four or more prior offenses within ten years;
31 or

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

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

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

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

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

40 (5) **Monitoring.**

1 (a) **Ignition interlock device.** The court shall require any person
2 convicted of a violation of RCW 46.61.502 or 46.61.504 or an
3 equivalent local ordinance to comply with the rules and requirements
4 of the department regarding the installation and use of a functioning
5 ignition interlock device installed on all motor vehicles operated by
6 the person.

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

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

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

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

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

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

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

37 (b) In any case in which the person has no prior offenses within
38 seven years, and except as provided in RCW 46.61.502(6) or
39 46.61.504(6), order an additional twenty-four hours of imprisonment
40 and a fine of not less than one thousand dollars and not more than

1 five thousand dollars. One thousand dollars of the fine may not be
2 suspended unless the court finds the offender to be indigent;

3 (c) In any case in which the person has one prior offense within
4 seven years, and except as provided in RCW 46.61.502(6) or
5 46.61.504(6), order an additional five days of imprisonment and a
6 fine of not less than two thousand dollars and not more than five
7 thousand dollars. One thousand dollars of the fine may not be
8 suspended unless the court finds the offender to be indigent;

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

16 (7) **Other items courts must consider while setting penalties.** In
17 exercising its discretion in setting penalties within the limits
18 allowed by this section, the court shall particularly consider the
19 following:

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

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

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

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

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

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

37 (a) **Penalty for alcohol concentration less than 0.15.** If the
38 person's alcohol concentration was less than 0.15, or if for reasons
39 other than the person's refusal to take a test offered under RCW

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **Sec. 19.** RCW 46.20.308 and 2015 2nd sp.s. c 3 s 5 are each
7 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (ii) That after receipt of any applicable warnings required by
30 subsection (2) of this section the person refused to submit to a test
31 of his or her breath, or a test was administered and the results
32 indicated that the alcohol concentration of the person's breath or
33 blood was 0.08 or more, or the THC concentration of the person's
34 blood was 5.00 or more, if the person is age twenty-one or over, or
35 that the alcohol concentration of the person's breath or blood was
36 0.02 or more, or the THC concentration of the person's blood was
37 above 0.00, if the person is under the age of twenty-one; and

38 (iii) Any other information that the director may require by
39 rule.

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

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

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

1 vehicle within this state while having alcohol in his or her system
2 in a concentration of 0.02 or more, or THC in his or her system in a
3 concentration above 0.00, and was under the age of twenty-one and
4 that the officer complied with the requirements of this section.

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

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

1 expressly made by the department; or (b) that may reasonably be
2 inferred from the final order of the department. The superior court
3 may reverse, affirm, or modify the decision of the department or
4 remand the case back to the department for further proceedings. The
5 decision of the superior court must be in writing and filed in the
6 clerk's office with the other papers in the case. The court shall
7 state the reasons for the decision. If judicial relief is sought for
8 a stay or other temporary remedy from the department's action, the
9 court shall not grant such relief unless the court finds that the
10 appellant is likely to prevail in the appeal and that without a stay
11 the appellant will suffer irreparable injury. If the court stays the
12 suspension, revocation, or denial it may impose conditions on such
13 stay.

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

38 (b) A suspension, revocation, or denial imposed under this
39 section, other than as a result of a breath test refusal, shall be
40 stayed if the person is accepted for deferred prosecution as provided

1 in chapter 10.05 RCW for the incident upon which the suspension,
2 revocation, or denial is based. If the deferred prosecution is
3 terminated, the stay shall be lifted and the suspension, revocation,
4 or denial reinstated. If the deferred prosecution is completed, the
5 stay shall be lifted and the suspension, revocation, or denial
6 canceled.

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

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

18 NEW SECTION. **Sec. 20.** Section 19 of this act takes effect
19 January 1, 2019.

--- END ---