

ESHB 1504 - S COMM AMD  
By Committee on Ways & Means

OUT OF ORDER 04/17/2019

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

3 **"Sec. 1.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read  
4 as follows:

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

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

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

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

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

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

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

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

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

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

24 (f) The firearm enhancements in this section shall apply to all  
25 felony crimes except the following: Possession of a machine gun or  
26 bump-fire stock, possessing a stolen firearm, drive-by shooting,  
27 theft of a firearm, unlawful possession of a firearm in the first and  
28 second degree, and use of a machine gun or bump-fire stock in a  
29 felony;

30 (g) If the standard sentence range under this section exceeds the  
31 statutory maximum sentence for the offense, the statutory maximum  
32 sentence shall be the presumptive sentence unless the offender is a  
33 persistent offender. If the addition of a firearm enhancement  
34 increases the sentence so that it would exceed the statutory maximum  
35 for the offense, the portion of the sentence representing the  
36 enhancement may not be reduced.

37 (4) The following additional times shall be added to the standard  
38 sentence range for felony crimes committed after July 23, 1995, if  
39 the offender or an accomplice was armed with a deadly weapon other  
40 than a firearm as defined in RCW 9.41.010 and the offender is being

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

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

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

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

24 (d) If the offender is being sentenced under (a), (b), and/or (c)  
25 of this subsection for any deadly weapon enhancements and the  
26 offender has previously been sentenced for any deadly weapon  
27 enhancements after July 23, 1995, under (a), (b), and/or (c) of this  
28 subsection or subsection (3)(a), (b), and/or (c) of this section, or  
29 both, all deadly weapon enhancements under this subsection shall be  
30 twice the amount of the enhancement listed;

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

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

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

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

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

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

25 (a) Eighteen months for offenses committed under RCW 69.50.401(2)

26 (a) or (b) or 69.50.410;

27 (b) Fifteen months for offenses committed under RCW 69.50.401(2)

28 (c), (d), or (e);

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

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

33 (6) An additional twenty-four months shall be added to the  
34 standard sentence range for any ranked offense involving a violation  
35 of chapter 69.50 RCW if the offense was also a violation of RCW  
36 69.50.435 or 9.94A.827. All enhancements under this subsection shall  
37 run consecutively to all other sentencing provisions, for all  
38 offenses sentenced under this chapter.

39 (7) An additional two years shall be added to the standard  
40 sentence range for vehicular homicide committed while under the

1 influence of intoxicating liquor or any drug as defined by RCW  
2 46.61.502 for each prior offense as defined in RCW 46.61.5055.

3 Notwithstanding any other provision of law, all impaired driving  
4 enhancements under this subsection are mandatory, shall be served in  
5 total confinement, and shall run consecutively to all other  
6 sentencing provisions, including other impaired driving enhancements,  
7 for all offenses sentenced under this chapter.

8 An offender serving a sentence under this subsection may be  
9 granted an extraordinary medical placement when authorized under RCW  
10 9.94A.728(1)(c).

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

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

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

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

32 (iv) If the offender is being sentenced for any sexual motivation  
33 enhancements under (a)(i), (ii), and/or (iii) of this subsection and  
34 the offender has previously been sentenced for any sexual motivation  
35 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or  
36 (iii) of this subsection, all sexual motivation enhancements under  
37 this subsection shall be twice the amount of the enhancement listed;

38 (b) Notwithstanding any other provision of law, all sexual  
39 motivation enhancements under this subsection are mandatory, shall be  
40 served in total confinement, and shall run consecutively to all other

1 sentencing provisions, including other sexual motivation  
2 enhancements, for all offenses sentenced under this chapter. However,  
3 whether or not a mandatory minimum term has expired, an offender  
4 serving a sentence under this subsection may be:

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

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

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

10 (d) If the standard sentence range under this subsection exceeds  
11 the statutory maximum sentence for the offense, the statutory maximum  
12 sentence shall be the presumptive sentence unless the offender is a  
13 persistent offender. If the addition of a sexual motivation  
14 enhancement increases the sentence so that it would exceed the  
15 statutory maximum for the offense, the portion of the sentence  
16 representing the enhancement may not be reduced;

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

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

23 (9) An additional one-year enhancement shall be added to the  
24 standard sentence range for the felony crimes of RCW 9A.44.073,  
25 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on  
26 or after July 22, 2007, if the offender engaged, agreed, or offered  
27 to engage the victim in the sexual conduct in return for a fee. If  
28 the offender is being sentenced for more than one offense, the  
29 one-year enhancement must be added to the total period of total  
30 confinement for all offenses, regardless of which underlying offense  
31 is subject to the enhancement. If the offender is being sentenced for  
32 an anticipatory offense for the felony crimes of RCW 9A.44.073,  
33 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the  
34 offender attempted, solicited another, or conspired to engage, agree,  
35 or offer to engage the victim in the sexual conduct in return for a  
36 fee, an additional one-year enhancement shall be added to the  
37 standard sentence range determined under subsection (2) of this  
38 section. For purposes of this subsection, "sexual conduct" means  
39 sexual intercourse or sexual contact, both as defined in chapter  
40 9A.44 RCW.

1 (10)(a) For a person age eighteen or older convicted of any  
2 criminal street gang-related felony offense for which the person  
3 compensated, threatened, or solicited a minor in order to involve the  
4 minor in the commission of the felony offense, the standard sentence  
5 range is determined by locating the sentencing grid sentence range  
6 defined by the appropriate offender score and the seriousness level  
7 of the completed crime, and multiplying the range by one hundred  
8 twenty-five percent. If the standard sentence range under this  
9 subsection exceeds the statutory maximum sentence for the offense,  
10 the statutory maximum sentence is the presumptive sentence unless the  
11 offender is a persistent offender.

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

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

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

24 (12) An additional twelve months shall be added to the standard  
25 sentence range for an offense that is also a violation of RCW  
26 9.94A.831.

27 (13) An additional twelve months shall be added to the standard  
28 sentence range for vehicular homicide committed while under the  
29 influence of intoxicating liquor or any drug as defined by RCW  
30 46.61.520 or for vehicular assault committed while under the  
31 influence of intoxicating liquor or any drug as defined by RCW  
32 46.61.522, or for any felony driving under the influence (RCW  
33 46.61.502(6)) or felony physical control under the influence (RCW  
34 46.61.504(6)) for each child passenger under the age of sixteen who  
35 is an occupant in the defendant's vehicle. These enhancements shall  
36 be mandatory, shall be served in total confinement, and shall run  
37 consecutively to all other sentencing provisions, including other  
38 minor child enhancements, for all offenses sentenced under this  
39 chapter. If the addition of a minor child enhancement increases the  
40 sentence so that it would exceed the statutory maximum for the

1 offense, the portion of the sentence representing the enhancement may  
2 not be reduced.

3 (14) An additional twelve months shall be added to the standard  
4 sentence range for an offense that is also a violation of RCW  
5 9.94A.832.

6 **Sec. 2.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to  
7 read as follows:

8 (1)(a) The term of the sentence of an offender committed to a  
9 correctional facility operated by the department may be reduced by  
10 earned release time in accordance with procedures that shall be  
11 developed and adopted by the correctional agency having jurisdiction  
12 in which the offender is confined. The earned release time shall be  
13 for good behavior and good performance, as determined by the  
14 correctional agency having jurisdiction. The correctional agency  
15 shall not credit the offender with earned release credits in advance  
16 of the offender actually earning the credits.

17 (b) Any program established pursuant to this section shall allow  
18 an offender to earn early release credits for presentence  
19 incarceration. If an offender is transferred from a county jail to  
20 the department, the administrator of a county jail facility shall  
21 certify to the department the amount of time spent in custody at the  
22 facility and the number of days of early release credits lost or not  
23 earned. The department may approve a jail certification from a  
24 correctional agency that calculates early release time based on the  
25 actual amount of confinement time served by the offender before  
26 sentencing when an erroneous calculation of confinement time served  
27 by the offender before sentencing appears on the judgment and  
28 sentence. The department must adjust an offender's rate of early  
29 release listed on the jail certification to be consistent with the  
30 rate applicable to offenders in the department's facilities. However,  
31 the department is not authorized to adjust the number of presentence  
32 early release days that the jail has certified as lost or not earned.

33 (2)(a) An offender who has been convicted of a felony committed  
34 after July 23, 1995, that involves any applicable deadly weapon  
35 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not  
36 receive any good time credits or earned release time for that portion  
37 of his or her sentence that results from any deadly weapon  
38 enhancements.



1       (b) An offender whose sentence includes any impaired driving  
2 enhancements under RCW 9.94A.533(7), minor child enhancements under  
3 RCW 9.94A.533(13), or both, shall not receive any good time credits  
4 or earned release time for any portion of his or her sentence that  
5 results from those enhancements.

6       (3) An offender may earn early release time as follows:

7       (a) In the case of an offender sentenced pursuant to RCW  
8 10.95.030(3) or 10.95.035, the offender may not receive any earned  
9 early release time during the minimum term of confinement imposed by  
10 the court; for any remaining portion of the sentence served by the  
11 offender, the aggregate earned release time may not exceed ten  
12 percent of the sentence.

13       (b) In the case of an offender convicted of a serious violent  
14 offense, or a sex offense that is a class A felony, committed on or  
15 after July 1, 1990, and before July 1, 2003, the aggregate earned  
16 release time may not exceed fifteen percent of the sentence.

17       (c) In the case of an offender convicted of a serious violent  
18 offense, or a sex offense that is a class A felony, committed on or  
19 after July 1, 2003, the aggregate earned release time may not exceed  
20 ten percent of the sentence.

21       (d) An offender is qualified to earn up to fifty percent of  
22 aggregate earned release time if he or she:

23       (i) Is not classified as an offender who is at a high risk to  
24 reoffend as provided in subsection (4) of this section;

25       (ii) Is not confined pursuant to a sentence for:

26       (A) A sex offense;

27       (B) A violent offense;

28       (C) A crime against persons as defined in RCW 9.94A.411;

29       (D) A felony that is domestic violence as defined in RCW  
30 10.99.020;

31       (E) A violation of RCW 9A.52.025 (residential burglary);

32       (F) A violation of, or an attempt, solicitation, or conspiracy to  
33 violate, RCW 69.50.401 by manufacture or delivery or possession with  
34 intent to deliver methamphetamine; or

35       (G) A violation of, or an attempt, solicitation, or conspiracy to  
36 violate, RCW 69.50.406 (delivery of a controlled substance to a  
37 minor);

38       (iii) Has no prior conviction for the offenses listed in (d)(ii)  
39 of this subsection;

1 (iv) Participates in programming or activities as directed by the  
2 offender's individual reentry plan as provided under RCW 72.09.270 to  
3 the extent that such programming or activities are made available by  
4 the department; and

5 (v) Has not committed a new felony after July 22, 2007, while  
6 under community custody.

7 (e) In no other case shall the aggregate earned release time  
8 exceed one-third of the total sentence.

9 (4) The department shall perform a risk assessment of each  
10 offender who may qualify for earned early release under subsection  
11 (3)(d) of this section utilizing the risk assessment tool recommended  
12 by the Washington state institute for public policy. Subsection  
13 (3)(d) of this section does not apply to offenders convicted after  
14 July 1, 2010.

15 (5)(a) A person who is eligible for earned early release as  
16 provided in this section and who will be supervised by the department  
17 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to  
18 community custody in lieu of earned release time;

19 (b) The department shall, as a part of its program for release to  
20 the community in lieu of earned release, require the offender to  
21 propose a release plan that includes an approved residence and living  
22 arrangement. All offenders with community custody terms eligible for  
23 release to community custody in lieu of earned release shall provide  
24 an approved residence and living arrangement prior to release to the  
25 community;

26 (c) The department may deny transfer to community custody in lieu  
27 of earned release time if the department determines an offender's  
28 release plan, including proposed residence location and living  
29 arrangements, may violate the conditions of the sentence or  
30 conditions of supervision, place the offender at risk to violate the  
31 conditions of the sentence, place the offender at risk to reoffend,  
32 or present a risk to victim safety or community safety. The  
33 department's authority under this section is independent of any  
34 court-ordered condition of sentence or statutory provision regarding  
35 conditions for community custody;

36 (d) If the department is unable to approve the offender's release  
37 plan, the department may do one or more of the following:

38 (i) Transfer an offender to partial confinement in lieu of earned  
39 early release for a period not to exceed three months. The three  
40 months in partial confinement is in addition to that portion of the

1 offender's term of confinement that may be served in partial  
2 confinement as provided in RCW 9.94A.728(~~(5)~~) (1)(e);

3 (ii) Provide rental vouchers to the offender for a period not to  
4 exceed three months if rental assistance will result in an approved  
5 release plan.

6 A voucher must be provided in conjunction with additional  
7 transition support programming or services that enable an offender to  
8 participate in services including, but not limited to, substance  
9 abuse treatment, mental health treatment, sex offender treatment,  
10 educational programming, or employment programming;

11 (e) The department shall maintain a list of housing providers  
12 that meets the requirements of RCW 72.09.285. If more than two  
13 voucher recipients will be residing per dwelling unit, as defined in  
14 RCW 59.18.030, rental vouchers for those recipients may only be paid  
15 to a housing provider on the department's list;

16 (f) For each offender who is the recipient of a rental voucher,  
17 the department shall gather data as recommended by the Washington  
18 state institute for public policy in order to best demonstrate  
19 whether rental vouchers are effective in reducing recidivism.

20 (6) An offender serving a term of confinement imposed under RCW  
21 9.94A.670(5)(a) is not eligible for earned release credits under this  
22 section.

23 **Sec. 3.** RCW 10.21.055 and 2016 c 203 s 16 are each amended to  
24 read as follows:

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

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

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

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

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

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

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

35 (b) If the court authorizes removal of an ignition interlock  
36 device imposed under this section, the court shall immediately notify  
37 the department of licensing regarding the lifting of the ignition  
38 interlock restriction and the department of licensing shall release  
39 any attachment, imprint, or notation on such person's driving record

1 relating to the ignition interlock requirement imposed under this  
2 section.

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

8 **Sec. 4.** RCW 38.52.430 and 2012 c 183 s 6 are each amended to  
9 read as follows:

10 A person whose intoxication causes an incident resulting in an  
11 appropriate emergency response, and who, in connection with the  
12 incident, has been found guilty of or has had their prosecution  
13 deferred for (1) driving while under the influence of intoxicating  
14 liquor or any drug, RCW 46.61.502; (2) physical control of a motor  
15 vehicle while under the influence of intoxicating liquor or any drug,  
16 RCW 46.61.504; (3) operating an aircraft under the influence of  
17 intoxicants or drugs, RCW 47.68.220; (~~((3))~~) (4) use of a vessel  
18 while under the influence of alcohol or drugs, RCW 79A.60.040;  
19 (~~((4))~~) (5) vehicular homicide while under the influence of  
20 intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (~~((5))~~) (6)  
21 vehicular assault while under the influence of intoxicating liquor or  
22 any drug, RCW 46.61.522(1)(b), is liable for the expense of an  
23 emergency response by a public agency to the incident.

24 The expense of an emergency response is a charge against the  
25 person liable for expenses under this section. The charge constitutes  
26 a debt of that person and is collectible by the public agency  
27 incurring those costs in the same manner as in the case of an  
28 obligation under a contract, expressed or implied. Following a  
29 conviction of an offense listed in this section, and prior to  
30 sentencing, the prosecution may present to the court information  
31 setting forth the expenses incurred by the public agency for its  
32 emergency response to the incident. Upon a finding by the court that  
33 the expenses are reasonable, the court shall order the defendant to  
34 reimburse the public agency. The cost reimbursement shall be included  
35 in the sentencing order as an additional monetary obligation of the  
36 defendant and may not be substituted for any other fine or cost  
37 required or allowed by statute. The court may establish a payment  
38 schedule for the payment of the cost reimbursement, separate from any  
39 payment schedule imposed for other fines and costs. All payments for

1 the cost reimbursement must be remitted directly to the public agency  
2 or agencies that incurred the cost associated with the emergency  
3 response.

4 In no event shall a person's liability under this section for the  
5 expense of an emergency response exceed two thousand five hundred  
6 dollars for a particular incident.

7 If more than one public agency makes a claim for payment from an  
8 individual for an emergency response to a single incident under the  
9 provisions of this section, and the sum of the claims exceeds the  
10 amount recovered, the division of the amount recovered shall be  
11 determined by an interlocal agreement consistent with the  
12 requirements of chapter 39.34 RCW.

13 **Sec. 5.** RCW 46.20.245 and 2005 c 288 s 1 are each amended to  
14 read as follows:

15 (1) Whenever the department proposes to withhold the driving  
16 privilege of a person or disqualify a person from operating a  
17 commercial motor vehicle and this action is made mandatory by the  
18 provisions of this chapter or other law, the department must give  
19 notice to the person in writing by posting in the United States mail,  
20 appropriately addressed, postage prepaid, or by personal service.  
21 Notice by mail is given upon deposit in the United States mail.  
22 Notice given under this subsection must specify the date upon which  
23 the driving privilege is to be withheld which shall not be less than  
24 forty-five days after the original notice is given.

25 (2) For persons subject to suspension, revocation, or denial of a  
26 driver's license who are eligible for full credit under RCW  
27 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section  
28 must also notify the person of the obligation to complete the  
29 requirements under RCW 46.20.311 and pay the probationary license fee  
30 under RCW 46.20.355 by the date specified in the notice in order to  
31 avoid license suspension.

32 (3) Within fifteen days after notice has been given to a person  
33 under subsection (1) of this section, the person may request in  
34 writing an administrative review before the department. If the  
35 request is mailed, it must be postmarked within fifteen days after  
36 the date the department has given notice. If a person fails to  
37 request an administrative review within fifteen days after the date  
38 the department gives notice, the person is considered to have  
39 defaulted and loses his or her right to an administrative review

1 unless the department finds good cause for a request after the  
2 fifteen-day period.

3 (a) An administrative review under this subsection shall consist  
4 solely of an internal review of documents and records submitted or  
5 available to the department, unless the person requests an interview  
6 before the department, in which case all or any part of the  
7 administrative review may, at the discretion of the department, be  
8 conducted by telephone or other electronic means.

9 (b) The only issues to be addressed in the administrative review  
10 are:

11 (i) Whether the records relied on by the department identify the  
12 correct person; and

13 (ii) Whether the information transmitted from the court or other  
14 reporting agency or entity regarding the person accurately describes  
15 the action taken by the court or other reporting agency or entity.

16 (c) For the purposes of this section, the notice received from a  
17 court or other reporting agency or entity, regardless of form or  
18 format, is prima facie evidence that the information from the court  
19 or other reporting agency or entity regarding the person is accurate.  
20 A person requesting administrative review has the burden of showing  
21 by a preponderance of the evidence that the person is not subject to  
22 the withholding of the driving privilege.

23 (d) The action subject to the notification requirements of  
24 subsection (1) of this section shall be stayed during the  
25 administrative review process.

26 (e) Judicial review of a department order affirming the action  
27 subject to the notification requirements of subsection (1) of this  
28 section after an administrative review shall be available in the same  
29 manner as provided in RCW 46.20.308(~~((9))~~) (8). The department shall  
30 certify its record to the court within thirty days after service upon  
31 the department of the petition for judicial review. The action  
32 subject to the notification requirements of subsection (1) of this  
33 section shall not automatically be stayed during the judicial review.  
34 If judicial relief is sought for a stay or other temporary remedy  
35 from the department's action, the court shall not grant relief unless  
36 the court finds that the appellant is likely to prevail in the appeal  
37 and that without a stay the appellant will suffer irreparable injury.

38 (~~((3))~~) (4) The department may adopt rules that are considered  
39 necessary or convenient by the department for purposes of  
40 administering this section, including, but not limited to, rules

1 regarding expedited procedures for issuing orders and expedited  
2 notice procedures.

3 ~~((4))~~ (5) This section does not apply where an opportunity for  
4 an informal settlement, driver improvement interview, or formal  
5 hearing is otherwise provided by law or rule of the department.

6 **Sec. 6.** RCW 46.20.3101 and 2016 c 203 s 18 are each amended to  
7 read as follows:

8 Pursuant to RCW 46.20.308, the department shall suspend, revoke,  
9 or deny the arrested person's license, permit, or privilege to drive  
10 as follows:

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

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

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

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

25 (a) For a first incident within seven years, where there has not  
26 been a previous incident within seven years that resulted in  
27 administrative action under this section, suspension for ninety days,  
28 unless the person successfully completes or is enrolled in a pretrial  
29 24/7 sobriety program;

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

32 (3) In the case of an incident where a person under age twenty-  
33 one has submitted to or been administered a test or tests indicating  
34 that the alcohol concentration of the person's breath or blood was  
35 0.02 or more, or that the THC concentration of the person's blood was  
36 above 0.00:

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



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

4 (4) The department shall grant credit on a day-for-day basis for  
5 (~~any portion of~~) a suspension, revocation, or denial (~~already~~  
6 ~~served~~) imposed under this section for any portion of a suspension,  
7 revocation, or denial (~~imposed~~) already served under RCW 46.61.5055  
8 arising out of the same incident. If a person has already served a  
9 suspension, revocation, or denial under RCW 46.61.5055 for a period  
10 equal to or greater than the period imposed under this section, the  
11 department shall provide notice of full credit, shall provide for no  
12 further suspension or revocation under this section, and shall impose  
13 no additional reissue fees for this credit.

14 **Sec. 7.** RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are  
15 each reenacted and amended to read as follows:

16 (1) Upon receipt of an abstract indicating a deferred prosecution  
17 has been granted under RCW 10.05.060, or upon receipt of a notice of  
18 conviction of RCW 46.61.502 or 46.61.504, the department of licensing  
19 shall order the person to surrender any nonprobationary Washington  
20 state driver's license that may be in his or her possession. The  
21 department shall revoke the license, permit, or privilege to drive of  
22 any person who fails to surrender it as required by this section for  
23 one year, unless the license has been previously surrendered to the  
24 department, a law enforcement officer, or a court, or the person has  
25 completed an affidavit of lost, stolen, destroyed, or previously  
26 surrendered license, such revocation to take effect thirty days after  
27 notice is given of the requirement for license surrender.

28 (2) The department shall place a person's driving privilege in  
29 probationary status as required by RCW 10.05.060 or 46.61.5055 for a  
30 period of five years from the date the probationary status is  
31 required to go into effect.

32 (3) Following receipt of an abstract indicating a deferred  
33 prosecution has been granted under RCW 10.05.060, or upon  
34 reinstatement or reissuance of a driver's license suspended or  
35 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,  
36 the department shall require the person to obtain a probationary  
37 license in order to operate a motor vehicle in the state of  
38 Washington, except as otherwise exempt under RCW 46.20.025. The  
39 department shall not issue the probationary license unless the person

1 is otherwise qualified for licensing, and the person must renew the  
2 probationary license on the same cycle as the person's regular  
3 license would have been renewed until the expiration of the five-year  
4 probationary status period imposed under subsection (2) of this  
5 section.

6 (4) If a person is eligible for full credit under RCW  
7 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued  
8 under RCW 46.20.245, has completed the requirements under RCW  
9 46.20.311 and paid the fee under subsection (5) of this section, the  
10 department shall issue a probationary license on the date specified  
11 in the notice with no further action required of the person.

12 (5) For each original issue or renewal of a probationary license  
13 under this section, the department shall charge a fee of fifty  
14 dollars in addition to any other licensing fees required. Except for  
15 when renewing a probationary license, the department shall waive the  
16 requirement to obtain an additional probationary license and the  
17 fifty dollar fee if the person has a probationary license in his or  
18 her possession at the time a new probationary license is required.

19 ~~((+5))~~ (6) A probationary license shall enable the department  
20 and law enforcement personnel to determine that the person is on  
21 probationary status. The fact that a person's driving privilege is in  
22 probationary status or that the person has been issued a probationary  
23 license shall not be a part of the person's record that is available  
24 to insurance companies.

25 **Sec. 8.** RCW 46.20.720 and 2017 c 336 s 5 are each amended to  
26 read as follows:

27 (1) **Ignition interlock restriction.** The department shall require  
28 that a person may drive only a motor vehicle equipped with a  
29 functioning ignition interlock device:

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

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

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

38 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;  
39 or

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

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

7 (i) Due to a conviction of a violation of RCW 46.61.502 or  
8 46.61.504 or an equivalent local or out-of-state statute or  
9 ordinance; or

10 (ii) Due to a conviction of a violation of RCW 46.61.5249 or  
11 46.61.500 or an equivalent local ordinance if the person is required  
12 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an  
13 ignition interlock device on all vehicles operated by the person; or

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

23 (2) **Calibration.** Unless otherwise specified by the court for a  
24 restriction imposed under subsection (1)(e) of this section, the  
25 ignition interlock device shall be calibrated to prevent the motor  
26 vehicle from being started when the breath sample provided has an  
27 alcohol concentration of (~~0.025~~) 0.020 or more.

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

29 (a) Subsection (1)(a) of this section shall remain in effect  
30 until:

31 (i) The court has authorized the removal of the device under RCW  
32 10.21.055; or

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

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

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

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

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

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

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

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

14 (e) The period of restriction under (c) or (d) of this subsection  
15 shall be extended by one hundred eighty days whenever the department  
16 receives notice that the restricted person has been convicted under  
17 RCW 46.20.740 or 46.20.750.

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

20 (g) The period of restriction under (c) and (d) of this  
21 subsection based on incidents occurring on or after June 9, 2016,  
22 must be tolled for any period in which the person does not have an  
23 ignition interlock device installed on a vehicle owned or operated by  
24 the person unless the person receives a determination from the  
25 department that the person is unable to operate an ignition interlock  
26 device due to a physical disability. The department's determination  
27 that a person is unable to operate an ignition interlock device must  
28 be reasonable and be based upon good and substantial evidence. This  
29 determination is subject to review by a court of competent  
30 jurisdiction. The department may charge a person seeking a medical  
31 exemption under this subsection a reasonable fee for the assessment.

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

39 (a) Any attempt to start the vehicle with a breath alcohol  
40 concentration of 0.04 or more unless a subsequent test performed

1 within ten minutes registers a breath alcohol concentration lower  
2 than 0.04 and the digital image confirms the same person provided  
3 both samples;

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

7 (c) Failure to pass any random retest with a breath alcohol  
8 concentration of (~~(0.025)~~) 0.020 or lower unless a subsequent test  
9 performed within ten minutes registers a breath alcohol concentration  
10 lower than (~~(0.025)~~) 0.020, and the digital image confirms the same  
11 person provided both samples; or

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

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

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

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

33 (6) **Employer exemption.** (a) Except as provided in (b) of this  
34 subsection, the installation of an ignition interlock device is not  
35 necessary on vehicles owned, leased, or rented by a person's employer  
36 and on those vehicles whose care and/or maintenance is the temporary  
37 responsibility of the employer, and driven at the direction of a  
38 person's employer as a requirement of employment during working  
39 hours. The person must provide the department with a declaration  
40 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 when the employer's  
4 vehicle is assigned exclusively to the restricted driver and used  
5 solely for commuting to and from employment.

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

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

26 **Sec. 9.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each  
27 amended to read as follows:

28 (1) The department shall attach or imprint a notation on the  
29 driving record of any person restricted under RCW 46.20.720,  
30 46.61.5055, or 10.05.140 stating that the person may operate only a  
31 motor vehicle equipped with a functioning ignition interlock device.  
32 The department shall determine the person's eligibility for licensing  
33 based upon written verification by a company doing business in the  
34 state that it has installed the required device on a vehicle owned or  
35 operated by the person seeking reinstatement. If, based upon  
36 notification from the interlock provider or otherwise, the department  
37 determines that an ignition interlock required under this section is  
38 no longer installed or functioning as required, the department shall  
39 suspend the person's license or privilege to drive. Whenever the

1 license or driving privilege of any person is suspended or revoked as  
2 a result of noncompliance with an ignition interlock requirement, the  
3 suspension shall remain in effect until the person provides notice  
4 issued by a company doing business in the state that a vehicle owned  
5 or operated by the person is equipped with a functioning ignition  
6 interlock device.

7 (2) It is a gross misdemeanor for a person with such a notation  
8 on his or her driving record to operate a motor vehicle that is not  
9 so equipped, unless the notation resulted from a restriction imposed  
10 as a condition of release and the restriction has been released by  
11 the court prior to driving. Any time a person is convicted under this  
12 section, the court shall immediately notify the department for  
13 purposes of RCW 46.20.720(3)(e).

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

17 **Sec. 10.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each  
18 amended to read as follows:

19 (1) A person who is restricted to the use of a vehicle equipped  
20 with an ignition interlock device is guilty of a gross misdemeanor if  
21 the restricted driver:

22 (a) Tamper with the device by modifying, detaching,  
23 disconnecting, or otherwise disabling it to allow the restricted  
24 driver to operate the vehicle;

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

28 (c) Has, directs, authorizes, or requests another person to  
29 tamper with the device by modifying, detaching, disconnecting, or  
30 otherwise disabling it to allow the restricted driver to operate the  
31 vehicle; or

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

35 (2) A person who knowingly assists another person who is  
36 restricted to the use of a vehicle equipped with an ignition  
37 interlock device to circumvent the device or to start and operate  
38 that vehicle is guilty of a gross misdemeanor. The provisions of this  
39 subsection do not apply if the starting of a motor vehicle, or the

1 request to start a motor vehicle, equipped with an ignition interlock  
2 device is done for the purpose of safety or mechanical repair of the  
3 device or the vehicle and the person subject to the court order does  
4 not operate the vehicle.

5 (3) Any sentence imposed for a violation of subsection (1) of  
6 this section shall be served consecutively with any sentence imposed  
7 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,  
8 46.61.520(1)(a), or 46.61.522(1)(b).

9 (4) Any time a person is convicted under subsection (1) of this  
10 section, the court shall immediately notify the department for  
11 purposes of RCW 46.20.720(3)(e).

12 **Sec. 11.** RCW 46.55.113 and 2011 c 167 s 6 are each amended to  
13 read as follows:

14 (1) Whenever the driver of a vehicle is arrested for a violation  
15 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary  
16 impoundment, pursuant to the terms and conditions of an applicable  
17 local ordinance or state agency rule at the direction of a law  
18 enforcement officer.

19 (2) In addition, a police officer may take custody of a vehicle,  
20 at his or her discretion, and provide for its prompt removal to a  
21 place of safety under any of the following circumstances:

22 (a) Whenever a police officer finds a vehicle standing upon the  
23 roadway in violation of any of the provisions of RCW 46.61.560, the  
24 officer may provide for the removal of the vehicle or require the  
25 driver or other person in charge of the vehicle to move the vehicle  
26 to a position off the roadway;

27 (b) Whenever a police officer finds a vehicle unattended upon a  
28 highway where the vehicle constitutes an obstruction to traffic or  
29 jeopardizes public safety;

30 (c) Whenever a police officer finds an unattended vehicle at the  
31 scene of an accident or when the driver of a vehicle involved in an  
32 accident is physically or mentally incapable of deciding upon steps  
33 to be taken to protect his or her property;

34 (d) Whenever the driver of a vehicle is arrested and taken into  
35 custody by a police officer;

36 (e) Whenever a police officer discovers a vehicle that the  
37 officer determines to be a stolen vehicle;

38 (f) Whenever a vehicle without a special license plate, placard,  
39 or decal indicating that the vehicle is being used to transport a



1 person with disabilities under RCW 46.19.010 is parked in a stall or  
2 space clearly and conspicuously marked under RCW 46.61.581 which  
3 space is provided on private property without charge or on public  
4 property;

5 (g) Upon determining that a person is operating a motor vehicle  
6 without a valid and, if required, a specially endorsed driver's  
7 license or with a license that has been expired for ninety days or  
8 more;

9 (h) When a vehicle is illegally occupying a truck, commercial  
10 loading zone, restricted parking zone, bus, loading, hooded-meter,  
11 taxi, street construction or maintenance, or other similar zone  
12 where, by order of the director of transportation or chiefs of police  
13 or fire or their designees, parking is limited to designated classes  
14 of vehicles or is prohibited during certain hours, on designated days  
15 or at all times, if the zone has been established with signage for at  
16 least twenty-four hours and where the vehicle is interfering with the  
17 proper and intended use of the zone. Signage must give notice to the  
18 public that a vehicle will be removed if illegally parked in the  
19 zone;

20 (i) When a vehicle with an expired registration of more than  
21 forty-five days is parked on a public street;

22 (j) Upon determining that a person restricted to use of only a  
23 motor vehicle equipped with a functioning ignition interlock device  
24 is operating a motor vehicle that is not equipped with such a device  
25 in violation of RCW 46.20.740(2).

26 (3) When an arrest is made for a violation of RCW 46.20.342, if  
27 the vehicle is a commercial vehicle or farm transport vehicle and the  
28 driver of the vehicle is not the owner of the vehicle, before the  
29 summary impoundment directed under subsection (1) of this section,  
30 the police officer shall attempt in a reasonable and timely manner to  
31 contact the owner of the vehicle and may release the vehicle to the  
32 owner if the owner is reasonably available, as long as the owner was  
33 not in the vehicle at the time of the stop and arrest and the owner  
34 has not received a prior release under this subsection or RCW  
35 46.55.120(1) ~~((a))~~ (b) (ii).

36 (4) Nothing in this section may derogate from the powers of  
37 police officers under the common law. For the purposes of this  
38 section, a place of safety may include the business location of a  
39 registered tow truck operator.

1 (5) For purposes of this section "farm transport vehicle" means a  
2 motor vehicle owned by a farmer and that is being actively used in  
3 the transportation of the farmer's or another farmer's farm, orchard,  
4 aquatic farm, or dairy products, including livestock and plant or  
5 animal wastes, from point of production to market or disposal, or  
6 supplies or commodities to be used on the farm, orchard, aquatic  
7 farm, or dairy, and that has a gross vehicle weight rating of 7,258  
8 kilograms (16,001 pounds) or more.

9 **Sec. 12.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to  
10 read as follows:

11 (1) Any person who drives any vehicle in willful or wanton  
12 disregard for the safety of persons or property is guilty of reckless  
13 driving. Violation of the provisions of this section is a gross  
14 misdemeanor punishable by imprisonment for up to three hundred sixty-  
15 four days and by a fine of not more than five thousand dollars.

16 (2) (a) Subject to (b) of this subsection, the license or permit  
17 to drive or any nonresident privilege of any person convicted of  
18 reckless driving shall be suspended by the department for not less  
19 than thirty days.

20 (b) When a reckless driving conviction is a result of a charge  
21 that was originally filed as a violation of RCW 46.61.502 or  
22 46.61.504, or an equivalent local ordinance, the department shall  
23 grant credit on a day-for-day basis for any portion of a suspension,  
24 revocation, or denial already served under an administrative action  
25 arising out of the same incident. In the case of a person whose day-  
26 for-day credit is for a period equal to or greater than the period of  
27 suspension required under this section, the department shall provide  
28 notice of full credit, shall provide for no further suspension under  
29 this section, and shall impose no additional reissue fees for this  
30 credit. During any period of suspension, revocation, or denial due to  
31 a conviction for reckless driving as the result of a charge  
32 originally filed as a violation of RCW 46.61.502 or 46.61.504, any  
33 person who has obtained an ignition interlock driver's license under  
34 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the  
35 provision of the ignition interlock driver's license without  
36 obtaining a separate temporary restricted driver's license under RCW  
37 46.20.391.

38 (3) (a) Except as provided under (b) of this subsection, a person  
39 convicted of reckless driving who has one or more prior offenses as

1 defined in RCW 46.61.5055(14) within seven years shall be required,  
2 under RCW 46.20.720, to install an ignition interlock device on all  
3 vehicles operated by the person if the conviction is the result of a  
4 charge that was originally filed as a violation of RCW 46.61.502,  
5 46.61.504, or an equivalent local ordinance.

6 (b) A person convicted of reckless driving shall be required,  
7 under RCW 46.20.720, to install an ignition interlock device on all  
8 vehicles operated by the person if the conviction is the result of a  
9 charge that was originally filed as a violation of RCW 46.61.520  
10 committed while under the influence of intoxicating liquor or any  
11 drug or RCW 46.61.522 committed while under the influence of  
12 intoxicating liquor or any drug.

13 **Sec. 13.** RCW 46.61.503 and 2015 2nd sp.s. c 3 s 14 are each  
14 amended to read as follows:

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

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

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

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

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

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

1 (3) No person may be convicted under this section for being in  
2 physical control of a motor vehicle and it is an affirmative defense  
3 to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny  
4 the privilege to drive, if, prior to being pursued by a law  
5 enforcement officer, the person has moved the vehicle safely off the  
6 roadway as described in RCW 46.61.504(2).

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

12 (5) A violation of this section is a misdemeanor.

13 **Sec. 14.** RCW 46.61.504 and 2017 c 335 s 2 are each amended to  
14 read as follows:

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

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

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

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

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

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

1       (i) The suspected impaired person is not in the driver's seat of  
2 the vehicle;

3       (ii) The vehicle is not parked in an area designated for through  
4 traffic or in any place not authorized for motor vehicle traffic or  
5 parking; and

6       (iii) The vehicle's engine is off.

7       (b) For purposes of (a)(i) of this subsection, the requirement  
8 that the suspected impaired person is not in the driver's seat of the  
9 vehicle does not apply to an individual who has current approved  
10 disability parking privileges from the department.

11       (3) (a) It is an affirmative defense to a violation of subsection  
12 (1)(a) of this section which the defendant must prove by a  
13 preponderance of the evidence that the defendant consumed a  
14 sufficient quantity of alcohol after the time of being in actual  
15 physical control of the vehicle and before the administration of an  
16 analysis of the person's breath or blood to cause the defendant's  
17 alcohol concentration to be 0.08 or more within two hours after being  
18 in such control. The court shall not admit evidence of this defense  
19 unless the defendant notifies the prosecution prior to the omnibus or  
20 pretrial hearing in the case of the defendant's intent to assert the  
21 affirmative defense.

22       (b) It is an affirmative defense to a violation of subsection  
23 (1)(b) of this section, which the defendant must prove by a  
24 preponderance of the evidence, that the defendant consumed a  
25 sufficient quantity of marijuana after the time of being in actual  
26 physical control of the vehicle and before the administration of an  
27 analysis of the person's blood to cause the defendant's THC  
28 concentration to be 5.00 or more within two hours after being in  
29 control of the vehicle. The court shall not admit evidence of this  
30 defense unless the defendant notifies the prosecution prior to the  
31 omnibus or pretrial hearing in the case of the defendant's intent to  
32 assert the affirmative defense.

33       (4) (a) Analyses of blood or breath samples obtained more than two  
34 hours after the alleged being in actual physical control of a vehicle  
35 may be used as evidence that within two hours of the alleged being in  
36 such control, a person had an alcohol concentration of 0.08 or more  
37 in violation of subsection (1)(a) of this section, and in any case in  
38 which the analysis shows an alcohol concentration above 0.00 may be  
39 used as evidence that a person was under the influence of or affected

1 by intoxicating liquor or any drug in violation of subsection (1)(c)  
2 or (d) of this section.

3 (b) Analyses of blood samples obtained more than two hours after  
4 the alleged being in actual physical control of a vehicle may be used  
5 as evidence that within two hours of the alleged being in control of  
6 the vehicle, a person had a THC concentration of 5.00 or more in  
7 violation of subsection (1)(b) of this section, and in any case in  
8 which the analysis shows a THC concentration above 0.00 may be used  
9 as evidence that a person was under the influence of or affected by  
10 marijuana in violation of subsection (1)(c) or (d) of this section.

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

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

15 (a) The person has three or more prior offenses within ten years  
16 as defined in RCW 46.61.5055; or

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

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

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

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

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

25 **Sec. 15.** RCW 46.61.5055 and 2018 c 201 s 9009 are each amended  
26 to read as follows:

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

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

36 (i) By imprisonment for not less than one day nor more than three  
37 hundred sixty-four days. Twenty-four consecutive hours of the  
38 imprisonment may not be suspended unless the court finds that the  
39 imposition of this mandatory minimum sentence would impose a

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

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

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

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

1 monitoring. The county or municipality in which the penalty is being  
2 imposed shall determine the cost. The court may also require the  
3 offender's electronic home monitoring device to include an alcohol  
4 detection breathalyzer or other separate alcohol monitoring device,  
5 and the court may restrict the amount of alcohol the offender may  
6 consume during the time the offender is on electronic home  
7 monitoring; and

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

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

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

20 (i) By imprisonment for not less than thirty days nor more than  
21 three hundred sixty-four days and sixty days of electronic home  
22 monitoring. In lieu of the mandatory term of imprisonment and  
23 electronic home monitoring under this subsection (2)(a)(i), the court  
24 may order a minimum of four days in jail and either one hundred  
25 eighty days of electronic home monitoring or a one hundred twenty-day  
26 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300  
27 through 36.28A.390. The court may consider the offender's pretrial  
28 24/7 sobriety program monitoring as fulfilling a portion of posttrial  
29 sentencing. The court shall order an expanded alcohol assessment and  
30 treatment, if deemed appropriate by the assessment. The offender  
31 shall pay for the cost of the electronic monitoring. The county or  
32 municipality where the penalty is being imposed shall determine the  
33 cost. The court may also require the offender's electronic home  
34 monitoring device include an alcohol detection breathalyzer or other  
35 separate alcohol monitoring device, and may restrict the amount of  
36 alcohol the offender may consume during the time the offender is on  
37 electronic home monitoring. Thirty days of imprisonment and sixty  
38 days of electronic home monitoring may not be suspended unless the  
39 court finds that the imposition of this mandatory minimum sentence  
40 would impose a substantial risk to the offender's physical or mental



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

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

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

12 (i) By imprisonment for not less than forty-five days nor more  
13 than three hundred sixty-four days and ninety days of electronic home  
14 monitoring. In lieu of the mandatory minimum term of imprisonment and  
15 electronic home monitoring under this subsection (2)(b)(i), the court  
16 may order a minimum of six days in jail and either six months of  
17 electronic home monitoring or a one hundred twenty-day period of 24/7  
18 sobriety program monitoring pursuant to RCW 36.28A.300 through  
19 36.28A.390. The court may consider the offender's pretrial 24/7  
20 sobriety program monitoring as fulfilling a portion of posttrial  
21 sentencing. The court shall order an expanded alcohol assessment and  
22 treatment, if deemed appropriate by the assessment. The offender  
23 shall pay for the cost of the electronic monitoring. The county or  
24 municipality where the penalty is being imposed shall determine the  
25 cost. The court may also require the offender's electronic home  
26 monitoring device include an alcohol detection breathalyzer or other  
27 separate alcohol monitoring device, and may restrict the amount of  
28 alcohol the offender may consume during the time the offender is on  
29 electronic home monitoring. Forty-five days of imprisonment and  
30 ninety days of electronic home monitoring may not be suspended unless  
31 the court finds that the imposition of this mandatory minimum  
32 sentence would impose a substantial risk to the offender's physical  
33 or mental well-being. Whenever the mandatory minimum sentence is  
34 suspended, the court shall state in writing the reason for granting  
35 the suspension and the facts upon which the suspension is based; and

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

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

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

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

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

35           (b) **Penalty for alcohol concentration at least 0.15.** In the case  
36 of a person whose alcohol concentration was at least 0.15, or for  
37 whom by reason of the person's refusal to take a test offered  
38 pursuant to RCW 46.20.308 there is no test result indicating the  
39 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) **Three or more prior offenses in (~~ten~~) fifteen years.** A  
28 person who is convicted of a violation of RCW 46.61.502 or 46.61.504  
29 shall be punished under chapter 9.94A RCW if:

30 (a) The person has three or more prior offenses within (~~ten~~)  
31 fifteen years; 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).

1           (5) **Monitoring.** (a) **Ignition interlock device.** The court shall  
2 require any person convicted of a violation of RCW 46.61.502 or  
3 46.61.504 or an equivalent local ordinance to comply with the rules  
4 and requirements of the department regarding the installation and use  
5 of a functioning ignition interlock device installed on all motor  
6 vehicles operated by 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) **24/7 sobriety program monitoring.** In any county or city where  
18 a 24/7 sobriety program is available and verified by the Washington  
19 association of sheriffs and police chiefs, the court shall:

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

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

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

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

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

36           (b) In any case in which the person has no prior offenses within  
37 seven years, and except as provided in RCW 46.61.502(6) or  
38 46.61.504(6), order an additional twenty-four hours of imprisonment  
39 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 prior offense within  
10 seven years, and except as provided in RCW 46.61.502(6) or  
11 46.61.504(6), order an additional ten days of imprisonment and a fine  
12 of not less than three thousand dollars and not more than ten  
13 thousand dollars. One thousand dollars of the fine may not be  
14 suspended unless the court finds the offender to be indigent.

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

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

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

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

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

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

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

36 (a) **Penalty for alcohol concentration less than 0.15.** If the  
37 person's alcohol concentration was less than 0.15, or if for reasons  
38 other than the person's refusal to take a test offered under RCW  
39 46.20.308 there is no test result indicating the person's alcohol  
40 concentration:

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

8 (ii) Where there has been one prior offense within seven years,  
9 be revoked or denied by the department for two years or until the  
10 person is evaluated by an alcoholism agency or probation department  
11 pursuant to RCW 46.20.311 and the person completes or is enrolled in  
12 a six-month period of 24/7 sobriety program monitoring. In no  
13 circumstances shall the license suspension be for less than one year;  
14 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **(11) Conditions of probation.** (a) In addition to any  
31 nonsuspendable and nondeferrable jail sentence required by this  
32 section, whenever the court imposes up to three hundred sixty-four  
33 days in jail, the court shall also suspend but shall not defer a  
34 period of confinement for a period not exceeding five years. The  
35 court shall impose conditions of probation that include: (i) Not  
36 driving a motor vehicle within this state without a valid license to  
37 drive; (ii) not driving a motor vehicle within this state without  
38 proof of liability insurance or other financial responsibility for  
39 the future pursuant to RCW 46.30.020; (iii) not driving or being in  
40 physical control of a motor vehicle within this state while having an

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

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

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

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

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

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



1 (c) The court determines that there is reason to believe that the  
2 offender would violate the conditions of the electronic home  
3 monitoring penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
36 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
37 ordinance, if the charge under which the deferred prosecution was  
38 granted was originally filed as a violation of RCW 46.61.502 or  
39 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
40 46.61.522;

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

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

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

17 (b) "Treatment" means substance use disorder treatment licensed  
18 or certified by the department of health;

19 (c) "Within seven years" means that the arrest for a prior  
20 offense occurred within seven years before or after the arrest for  
21 the current offense; and

22 (d) "Within (~~ten~~) fifteen years" means that the arrest for a  
23 prior offense occurred within (~~ten~~) fifteen years before or after  
24 the arrest for the current offense.

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

27 **Sec. 16.** RCW 46.61.5055 and 2019 c ... s 15 (section 15 of this  
28 act) are each amended to read as follows:

29 (1) **No prior offenses in seven years.** Except as provided in RCW  
30 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
31 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
32 within seven years shall be punished as follows:

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

38 (i) By imprisonment for not less than (~~one-day~~) twenty-four  
39 consecutive hours nor more than three hundred sixty-four days.

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

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

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

30 (i) By imprisonment for not less than (~~two days~~) forty-eight  
31 consecutive hours nor more than three hundred sixty-four days.  
32 (~~Forty-eight consecutive hours of the imprisonment may not be~~  
33 ~~suspended unless the court finds that the imposition of this~~  
34 ~~mandatory minimum sentence would impose a substantial risk to the~~  
35 ~~offender's physical or mental well-being. Whenever the mandatory~~  
36 ~~minimum sentence is suspended, the court shall state in writing the~~  
37 ~~reason for granting the suspension and the facts upon which the~~  
38 ~~suspension is based.)) In lieu of the mandatory minimum term of  
39 imprisonment required under this subsection (1)(b)(i), the court, in  
40 its discretion, may order not less than thirty days of electronic~~

1 home monitoring or a one hundred twenty day period of 24/7 sobriety  
2 program monitoring. The court may consider the offender's pretrial  
3 24/7 sobriety program testing as fulfilling a portion of posttrial  
4 sentencing. The offender shall pay the cost of electronic home  
5 monitoring. The county or municipality in which the penalty is being  
6 imposed shall determine the cost. The court may also require the  
7 offender's electronic home monitoring device to include an alcohol  
8 detection breathalyzer or other separate alcohol monitoring device,  
9 and the court may restrict the amount of alcohol the offender may  
10 consume during the time the offender is on electronic home  
11 monitoring; and

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

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

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

24 (i) By imprisonment for not less than thirty days nor more than  
25 three hundred sixty-four days and sixty days of electronic home  
26 monitoring. Thirty days of imprisonment and sixty days of electronic  
27 home monitoring may not be suspended unless the court finds that the  
28 imposition of this mandatory minimum sentence would impose a  
29 substantial risk to the offender's physical or mental well-being. If  
30 the offender shows that the imposition of this mandatory minimum  
31 sentence would impose a substantial risk to the offender's physical  
32 or mental well-being, in lieu of the mandatory term of imprisonment  
33 and electronic home monitoring under this subsection (2)(a)(i), the  
34 court may order a minimum of ((four days in jail and)) either one  
35 hundred eighty days of electronic home monitoring or a one hundred  
36 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW  
37 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
38 sentence is suspended, the court shall state in writing the reason  
39 for granting the suspension and the facts upon which the suspension  
40 is based. The court may consider the offender's pretrial 24/7

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

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

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

25 (i) By imprisonment for not less than forty-five days nor more  
26 than three hundred sixty-four days and ninety days of electronic home  
27 monitoring. Forty-five days of imprisonment and ninety days of  
28 electronic home monitoring may not be suspended unless the court  
29 finds that the imposition of this mandatory minimum sentence would  
30 impose a substantial risk to the offender's physical or mental well-  
31 being. If the offender shows that the imposition of this mandatory  
32 minimum sentence would impose a substantial risk to the offender's  
33 physical or mental well-being, in lieu of the mandatory minimum term  
34 of imprisonment and electronic home monitoring under this subsection  
35 (2)(b)(i), the court may order a minimum of ((six days in jail and))  
36 either six months of electronic home monitoring or a one hundred  
37 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW  
38 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
39 sentence is suspended, the court shall state in writing the reason  
40 for granting the suspension and the facts upon which the suspension

1 is based. The court may consider the offender's pretrial 24/7  
2 sobriety program monitoring as fulfilling a portion of posttrial  
3 sentencing. The court shall order an expanded alcohol assessment and  
4 treatment, if deemed appropriate by the assessment. The offender  
5 shall pay for the cost of the electronic monitoring. The county or  
6 municipality where the penalty is being imposed shall determine the  
7 cost. The court may also require the offender's electronic home  
8 monitoring device include an alcohol detection breathalyzer or other  
9 separate alcohol monitoring device, and may restrict the amount of  
10 alcohol the offender may consume during the time the offender is on  
11 electronic home monitoring(~~(. Forty-five days of imprisonment and  
12 ninety days of electronic home monitoring may not be suspended unless  
13 the court finds that the imposition of this mandatory minimum  
14 sentence would impose a substantial risk to the offender's physical  
15 or mental well-being. Whenever the mandatory minimum sentence is  
16 suspended, the court shall state in writing the reason for granting  
17 the suspension and the facts upon which the suspension is based))~~);  
18 and

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

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

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

32 (i) By imprisonment for not less than ninety days nor more than  
33 three hundred sixty-four days, if available in that county or city, a  
34 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
35 36.28A.300 through 36.28A.390, and one hundred twenty days of  
36 electronic home monitoring. Ninety days of imprisonment and one  
37 hundred twenty days of electronic home monitoring may not be  
38 suspended unless the court finds that the imposition of this  
39 mandatory minimum sentence would impose a substantial risk to the  
40 offender's physical or mental well-being. If the offender shows that

1 the imposition of this mandatory minimum sentence would impose a  
2 substantial risk to the offender's physical or mental well-being, in  
3 lieu of the mandatory minimum term of ninety days of imprisonment and  
4 one hundred twenty days of electronic home monitoring, the court may  
5 order ((at least an additional eight days in jail)) three hundred  
6 sixty days of electronic home monitoring or a three hundred sixty-day  
7 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through  
8 36.28A.390. Whenever the mandatory minimum sentence is suspended, the  
9 court shall state in writing the reason for granting the suspension  
10 and the facts upon which the suspension is based. The court shall  
11 order an expanded alcohol assessment and treatment, if deemed  
12 appropriate by the assessment. The offender shall pay for the cost of  
13 the electronic monitoring. The county or municipality where the  
14 penalty is being imposed shall determine the cost. The court may also  
15 require the offender's electronic home monitoring device include an  
16 alcohol detection breathalyzer or other separate alcohol monitoring  
17 device, and may restrict the amount of alcohol the offender may  
18 consume during the time the offender is on electronic home  
19 monitoring(~~(. Ninety days of imprisonment and one hundred twenty days~~  
20 ~~of electronic home monitoring may not be suspended unless the court~~  
21 ~~finds that the imposition of this mandatory minimum sentence would~~  
22 ~~impose a substantial risk to the offender's physical or mental well-~~  
23 ~~being. Whenever the mandatory minimum sentence is suspended, the~~  
24 ~~court shall state in writing the reason for granting the suspension~~  
25 ~~and the facts upon which the suspension is based)); and~~

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

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

34 (i) By imprisonment for not less than one hundred twenty days nor  
35 more than three hundred sixty-four days, if available in that county  
36 or city, a six-month period of 24/7 sobriety program monitoring  
37 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty  
38 days of electronic home monitoring. One hundred twenty days of  
39 imprisonment and one hundred fifty days of electronic home monitoring  
40 may not be suspended unless the court finds that the imposition of



1 this mandatory minimum sentence would impose a substantial risk to  
2 the offender's physical or mental well-being. If the offender shows  
3 that the imposition of this mandatory minimum sentence would impose a  
4 substantial risk to the offender's physical or mental well-being, in  
5 lieu of the mandatory minimum term of one hundred twenty days of  
6 imprisonment and one hundred fifty days of electronic home  
7 monitoring, the court may order ((at least an additional ten days in  
8 jail)) three hundred sixty days of electronic home monitoring or a  
9 three hundred sixty-day period of 24/7 sobriety monitoring pursuant  
10 to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
11 sentence is suspended, the court shall state in writing the reason  
12 for granting the suspension and the facts upon which the suspension  
13 is based. The offender shall pay for the cost of the electronic  
14 monitoring. The court shall order an expanded alcohol assessment and  
15 treatment, if deemed appropriate by the assessment. The county or  
16 municipality where the penalty is being imposed shall determine the  
17 cost. The court may also require the offender's electronic home  
18 monitoring device include an alcohol detection breathalyzer or other  
19 separate alcohol monitoring device, and may restrict the amount of  
20 alcohol the offender may consume during the time the offender is on  
21 electronic home monitoring(~~(. One hundred twenty days of imprisonment~~  
22 ~~and one hundred fifty days of electronic home monitoring may not be~~  
23 ~~suspended unless the court finds that the imposition of this~~  
24 ~~mandatory minimum sentence would impose a substantial risk to the~~  
25 ~~offender's physical or mental well-being. Whenever the mandatory~~  
26 ~~minimum sentence is suspended, the court shall state in writing the~~  
27 ~~reason for granting the suspension and the facts upon which the~~  
28 ~~suspension is based)); and~~

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

33 (4) **Three or more prior offenses in fifteen years.** A person who  
34 is convicted of a violation of RCW 46.61.502 or 46.61.504 shall be  
35 punished under chapter 9.94A RCW if:

36 (a) The person has three or more prior offenses within fifteen  
37 years; or

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

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

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

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

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

6 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall  
7 require any person convicted of a violation of RCW 46.61.502 or  
8 46.61.504 or an equivalent local ordinance to comply with the rules  
9 and requirements of the department regarding the installation and use  
10 of a functioning ignition interlock device installed on all motor  
11 vehicles operated by the person.

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

22 (c) **24/7 sobriety program monitoring.** In any county or city where  
23 a 24/7 sobriety program is available and verified by the Washington  
24 association of sheriffs and police chiefs, the court shall:

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

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

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

35 (6) **Penalty for having a minor passenger in vehicle.** If a person  
36 who is convicted of a violation of RCW 46.61.502 or 46.61.504  
37 committed the offense while ((a)) one or more passengers under the  
38 age of sixteen ((was)) were in the vehicle, the court shall:

39 (a) Order the use of an ignition interlock or other device for an  
40 additional ((six)) twelve months for each passenger under the age of

1 sixteen when the person is subject to the penalties under subsection  
2 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an  
3 ignition interlock device for an additional eighteen months for each  
4 passenger under the age of sixteen when the person is subject to the  
5 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this  
6 section;

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

16 (c) In any case in which the person has one prior offense within  
17 seven years, and except as provided in RCW 46.61.502(6) or  
18 46.61.504(6), order an additional five days of imprisonment to be  
19 served consecutively for each passenger under the age of sixteen, and  
20 a fine of not less than two thousand dollars and not more than five  
21 thousand dollars for each passenger under the age of sixteen. One  
22 thousand dollars of the fine for each passenger under the age of  
23 sixteen may not be suspended unless the court finds the offender to  
24 be indigent;

25 (d) In any case in which the person has two prior offenses within  
26 seven years, and except as provided in RCW 46.61.502(6) or  
27 46.61.504(6), order an additional ten days of imprisonment to be  
28 served consecutively for each passenger under the age of sixteen, and  
29 a fine of not less than three thousand dollars and not more than ten  
30 thousand dollars for each passenger under the age of sixteen. One  
31 thousand dollars of the fine for each passenger under the age of  
32 sixteen may not be suspended unless the court finds the offender to  
33 be indigent.

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

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

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

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

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

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

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

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

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

28 ((+ii)) (B) Where there has been one prior offense within seven  
29 years, be revoked or denied by the department for two years or until  
30 the person is evaluated by an alcoholism agency or probation  
31 department pursuant to RCW 46.20.311 and the person completes or is  
32 enrolled in a six-month period of 24/7 sobriety program monitoring.  
33 In no circumstances shall the license suspension be for less than one  
34 year; or

35 ((+iii)) (C) Where there have been two or more prior offenses  
36 within seven years, be revoked or denied by the department for three  
37 years;

38 ((+b)) (ii) **Penalty for alcohol concentration at least 0.15.** If  
39 the person's alcohol concentration was at least 0.15:

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

8        ~~((ii))~~ (B) Where there has been one prior offense within seven  
9 years, be revoked or denied by the department for nine hundred days;  
10 or

11        ~~((iii))~~ (C) Where there have been two or more prior offenses  
12 within seven years, be revoked or denied by the department for four  
13 years; or

14        ~~((e))~~ (iii) Penalty for refusing to take test. If by reason of  
15 the person's refusal to take a test offered under RCW 46.20.308,  
16 there is no test result indicating the person's alcohol  
17 concentration:

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

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

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

25        (b)(i) The department shall grant credit on a day-for-day basis  
26 for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~  
27 ~~served))~~ imposed under this subsection (9) for any portion of a  
28 suspension, revocation, or denial ~~((imposed))~~ already served under  
29 RCW 46.20.3101 arising out of the same incident.

30        (ii) If a person has already served a suspension, revocation, or  
31 denial under RCW 46.20.3101 for a period equal to or greater than the  
32 period imposed under this subsection (9), the department shall  
33 provide notice of full credit, shall provide for no further  
34 suspension or revocation under this subsection provided the person  
35 has completed the requirements under RCW 46.20.311 and paid the  
36 probationary license fee under RCW 46.20.355 by the date specified in  
37 the notice under RCW 46.20.245, and shall impose no additional  
38 reissue fees for this credit.

39        (c) Upon receipt of a notice from the court under RCW 36.28A.390  
40 that a participant has been removed from a 24/7 sobriety program, the

1 department must resume any suspension, revocation, or denial that had  
2 been terminated early under this subsection due to participation in  
3 the program, granting credit on a day-for-day basis for any portion  
4 of a suspension, revocation, or denial already served under RCW  
5 46.20.3101 or this section arising out of the same incident.

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

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

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

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

1 motor vehicle within this state while under the influence of  
2 intoxicating liquor or drug; and (v) not driving a motor vehicle in  
3 this state without a functioning ignition interlock device as  
4 required by the department under RCW 46.20.720. The court may impose  
5 conditions of probation that include nonrepetition, installation of  
6 an ignition interlock device on the probationer's motor vehicle,  
7 alcohol or drug treatment, supervised probation, or other conditions  
8 that may be appropriate. The sentence may be imposed in whole or in  
9 part upon violation of a condition of probation during the suspension  
10 period.

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

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

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

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

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

34 (c) The court determines that there is reason to believe that the  
35 offender would violate the conditions of the electronic home  
36 monitoring penalty.

37 Whenever the mandatory minimum term of electronic home monitoring  
38 is waived, the court shall state in writing the reason for granting  
39 the waiver and the facts upon which the waiver is based, and shall  
40 impose an alternative sentence with similar punitive consequences.

1 The alternative sentence may include, but is not limited to, use of  
2 an ignition interlock device, the 24/7 sobriety program monitoring,  
3 additional jail time, work crew, or work camp.

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

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

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

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

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

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

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

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

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

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

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

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



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

3 (x) A conviction for a violation of RCW 46.61.520 committed while  
4 under the influence of intoxicating liquor or any drug, or a  
5 conviction for a violation of RCW 46.61.520 committed in a reckless  
6 manner or with the disregard for the safety of others if the  
7 conviction is the result of a charge that was originally filed as a  
8 violation of RCW 46.61.520 committed while under the influence of  
9 intoxicating liquor or any drug;

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

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

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

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

28 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
29 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
30 ordinance, if the charge under which the deferred prosecution was  
31 granted was originally filed as a violation of RCW 46.61.502 or  
32 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
33 46.61.522;

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

1 (xvii) A deferred sentence imposed in a prosecution for a  
2 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
3 equivalent local ordinance, if the charge under which the deferred  
4 sentence was imposed was originally filed as a violation of RCW  
5 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
6 violation of RCW 46.61.520 or 46.61.522;

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

11 (b) "Treatment" means substance use disorder treatment licensed  
12 or certified by the department of health;

13 (c) "Within seven years" means that the arrest for a prior  
14 offense occurred within seven years before or after the arrest for  
15 the current offense; and

16 (d) "Within fifteen years" means that the arrest for a prior  
17 offense occurred within fifteen years before or after the arrest for  
18 the current offense.

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

21 **Sec. 17.** RCW 46.61.502 and 2017 c 335 s 1 are each amended to  
22 read as follows:

23 (1) A person is guilty of driving while under the influence of  
24 intoxicating liquor, marijuana, or any drug if the person drives a  
25 vehicle within this state:

26 (a) And the person has, within two hours after driving, an  
27 alcohol concentration of 0.08 or higher as shown by analysis of the  
28 person's breath or blood made under RCW 46.61.506; or

29 (b) The person has, within two hours after driving, a THC  
30 concentration of 5.00 or higher as shown by analysis of the person's  
31 blood made under RCW 46.61.506; or

32 (c) While the person is under the influence of or affected by  
33 intoxicating liquor, marijuana, or any drug; or

34 (d) While the person is under the combined influence of or  
35 affected by intoxicating liquor, marijuana, and any drug.

36 (2) The fact that a person charged with a violation of this  
37 section is or has been entitled to use a drug under the laws of this  
38 state shall not constitute a defense against a charge of violating  
39 this section.

1           (3) (a) It is an affirmative defense to a violation of subsection  
2 (1)(a) of this section, which the defendant must prove by a  
3 preponderance of the evidence, that the defendant consumed a  
4 sufficient quantity of alcohol after the time of driving and before  
5 the administration of an analysis of the person's breath or blood to  
6 cause the defendant's alcohol concentration to be 0.08 or more within  
7 two hours after driving. The court shall not admit evidence of this  
8 defense unless the defendant notifies the prosecution prior to the  
9 omnibus or pretrial hearing in the case of the defendant's intent to  
10 assert the affirmative defense.

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

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

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

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

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

- 1 (a) The person has three or more prior offenses within (~~ten~~)  
2 fifteen years as defined in RCW 46.61.5055; or  
3 (b) The person has ever previously been convicted of:  
4 (i) Vehicular homicide while under the influence of intoxicating  
5 liquor or any drug, RCW 46.61.520(1)(a);  
6 (ii) Vehicular assault while under the influence of intoxicating  
7 liquor or any drug, RCW 46.61.522(1)(b);  
8 (iii) An out-of-state offense comparable to the offense specified  
9 in (b)(i) or (ii) of this subsection; or  
10 (iv) A violation of this subsection (6) or RCW 46.61.504(6).

11 **Sec. 18.** RCW 46.61.504 and 2017 c 335 s 2 are each amended to  
12 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (a) The person has three or more prior offenses within (~~ten~~)  
2 fifteen years as defined in RCW 46.61.5055; or
- 3 (b) The person has ever previously been convicted of:
- 4 (i) Vehicular homicide while under the influence of intoxicating  
5 liquor or any drug, RCW 46.61.520(1)(a);
- 6 (ii) Vehicular assault while under the influence of intoxicating  
7 liquor or any drug, RCW 46.61.522(1)(b);
- 8 (iii) An out-of-state offense comparable to the offense specified  
9 in (b)(i) or (ii) of this subsection; or
- 10 (iv) A violation of this subsection (6) or RCW 46.61.502(6).

11 **Sec. 19.** RCW 9.94A.525 and 2017 c 272 s 3 are each amended to  
12 read as follows:

13 The offender score is measured on the horizontal axis of the  
14 sentencing grid. The offender score rules are as follows:

15 The offender score is the sum of points accrued under this  
16 section rounded down to the nearest whole number.

17 (1) A prior conviction is a conviction which exists before the  
18 date of sentencing for the offense for which the offender score is  
19 being computed. Convictions entered or sentenced on the same date as  
20 the conviction for which the offender score is being computed shall  
21 be deemed "other current offenses" within the meaning of RCW  
22 9.94A.589.

23 (2)(a) Class A and sex prior felony convictions shall always be  
24 included in the offender score.

25 (b) Class B prior felony convictions other than sex offenses  
26 shall not be included in the offender score, if since the last date  
27 of release from confinement (including full-time residential  
28 treatment) pursuant to a felony conviction, if any, or entry of  
29 judgment and sentence, the offender had spent ten consecutive years  
30 in the community without committing any crime that subsequently  
31 results in a conviction.

32 (c) Except as provided in (e) of this subsection, class C prior  
33 felony convictions other than sex offenses shall not be included in  
34 the offender score if, since the last date of release from  
35 confinement (including full-time residential treatment) pursuant to a  
36 felony conviction, if any, or entry of judgment and sentence, the  
37 offender had spent five consecutive years in the community without  
38 committing any crime that subsequently results in a conviction.

1 (d) Except as provided in (e) of this subsection, serious traffic  
2 convictions shall not be included in the offender score if, since the  
3 last date of release from confinement (including full-time  
4 residential treatment) pursuant to a conviction, if any, or entry of  
5 judgment and sentence, the offender spent five years in the community  
6 without committing any crime that subsequently results in a  
7 conviction.

8 (e) If the present conviction is felony driving while under the  
9 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or  
10 felony physical control of a vehicle while under the influence of  
11 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate  
12 crimes for the offense as defined by RCW 46.61.5055(14) shall be  
13 included in the offender score, and prior convictions for felony  
14 driving while under the influence of intoxicating liquor or any drug  
15 (RCW 46.61.502(6)) or felony physical control of a vehicle while  
16 under the influence of intoxicating liquor or any drug (RCW  
17 46.61.504(6)) shall always be included in the offender score. All  
18 other convictions of the defendant shall be scored according to this  
19 section.

20 (f) Prior convictions for a repetitive domestic violence offense,  
21 as defined in RCW 9.94A.030, shall not be included in the offender  
22 score if, since the last date of release from confinement or entry of  
23 judgment and sentence, the offender had spent ten consecutive years  
24 in the community without committing any crime that subsequently  
25 results in a conviction.

26 (g) This subsection applies to both adult and juvenile prior  
27 convictions.

28 (3) Out-of-state convictions for offenses shall be classified  
29 according to the comparable offense definitions and sentences  
30 provided by Washington law. Federal convictions for offenses shall be  
31 classified according to the comparable offense definitions and  
32 sentences provided by Washington law. If there is no clearly  
33 comparable offense under Washington law or the offense is one that is  
34 usually considered subject to exclusive federal jurisdiction, the  
35 offense shall be scored as a class C felony equivalent if it was a  
36 felony under the relevant federal statute.

37 (4) Score prior convictions for felony anticipatory offenses  
38 (attempts, criminal solicitations, and criminal conspiracies) the  
39 same as if they were convictions for completed offenses.

1 (5) (a) In the case of multiple prior convictions, for the purpose  
2 of computing the offender score, count all convictions separately,  
3 except:

4 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),  
5 to encompass the same criminal conduct, shall be counted as one  
6 offense, the offense that yields the highest offender score. The  
7 current sentencing court shall determine with respect to other prior  
8 adult offenses for which sentences were served concurrently or prior  
9 juvenile offenses for which sentences were served consecutively,  
10 whether those offenses shall be counted as one offense or as separate  
11 offenses using the "same criminal conduct" analysis found in RCW  
12 9.94A.589(1) (a), and if the court finds that they shall be counted as  
13 one offense, then the offense that yields the highest offender score  
14 shall be used. The current sentencing court may presume that such  
15 other prior offenses were not the same criminal conduct from  
16 sentences imposed on separate dates, or in separate counties or  
17 jurisdictions, or in separate complaints, indictments, or  
18 informations;

19 (ii) In the case of multiple prior convictions for offenses  
20 committed before July 1, 1986, for the purpose of computing the  
21 offender score, count all adult convictions served concurrently as  
22 one offense, and count all juvenile convictions entered on the same  
23 date as one offense. Use the conviction for the offense that yields  
24 the highest offender score.

25 (b) As used in this subsection (5), "served concurrently" means  
26 that: (i) The latter sentence was imposed with specific reference to  
27 the former; (ii) the concurrent relationship of the sentences was  
28 judicially imposed; and (iii) the concurrent timing of the sentences  
29 was not the result of a probation or parole revocation on the former  
30 offense.

31 (6) If the present conviction is one of the anticipatory offenses  
32 of criminal attempt, solicitation, or conspiracy, count each prior  
33 conviction as if the present conviction were for a completed offense.  
34 When these convictions are used as criminal history, score them the  
35 same as a completed crime.

36 (7) If the present conviction is for a nonviolent offense and not  
37 covered by subsection (11), (12), or (13) of this section, count one  
38 point for each adult prior felony conviction and one point for each  
39 juvenile prior violent felony conviction and 1/2 point for each  
40 juvenile prior nonviolent felony conviction.



1 (8) If the present conviction is for a violent offense and not  
2 covered in subsection (9), (10), (11), (12), or (13) of this section,  
3 count two points for each prior adult and juvenile violent felony  
4 conviction, one point for each prior adult nonviolent felony  
5 conviction, and 1/2 point for each prior juvenile nonviolent felony  
6 conviction.

7 (9) If the present conviction is for a serious violent offense,  
8 count three points for prior adult and juvenile convictions for  
9 crimes in this category, two points for each prior adult and juvenile  
10 violent conviction (not already counted), one point for each prior  
11 adult nonviolent felony conviction, and 1/2 point for each prior  
12 juvenile nonviolent felony conviction.

13 (10) If the present conviction is for Burglary 1, count prior  
14 convictions as in subsection (8) of this section; however count two  
15 points for each prior adult Burglary 2 or residential burglary  
16 conviction, and one point for each prior juvenile Burglary 2 or  
17 residential burglary conviction.

18 (11) If the present conviction is for a felony traffic offense  
19 count two points for each adult or juvenile prior conviction for  
20 Vehicular Homicide or Vehicular Assault; for each felony offense  
21 count one point for each adult and 1/2 point for each juvenile prior  
22 conviction; for each serious traffic offense, other than those used  
23 for an enhancement pursuant to RCW 46.61.520(2), count one point for  
24 each adult and 1/2 point for each juvenile prior conviction; count  
25 one point for each adult and 1/2 point for each juvenile prior  
26 conviction for operation of a vessel while under the influence of  
27 intoxicating liquor or any drug.

28 (12) If the present conviction is for homicide by watercraft or  
29 assault by watercraft count two points for each adult or juvenile  
30 prior conviction for homicide by watercraft or assault by watercraft;  
31 for each felony offense count one point for each adult and 1/2 point  
32 for each juvenile prior conviction; count one point for each adult  
33 and 1/2 point for each juvenile prior conviction for driving under  
34 the influence of intoxicating liquor or any drug, actual physical  
35 control of a motor vehicle while under the influence of intoxicating  
36 liquor or any drug, or operation of a vessel while under the  
37 influence of intoxicating liquor or any drug.

38 (13) If the present conviction is for manufacture of  
39 methamphetamine count three points for each adult prior manufacture  
40 of methamphetamine conviction and two points for each juvenile

1 manufacture of methamphetamine offense. If the present conviction is  
2 for a drug offense and the offender has a criminal history that  
3 includes a sex offense or serious violent offense, count three points  
4 for each adult prior felony drug offense conviction and two points  
5 for each juvenile drug offense. All other adult and juvenile felonies  
6 are scored as in subsection (8) of this section if the current drug  
7 offense is violent, or as in subsection (7) of this section if the  
8 current drug offense is nonviolent.

9 (14) If the present conviction is for Escape from Community  
10 Custody, RCW 72.09.310, count only prior escape convictions in the  
11 offender score. Count adult prior escape convictions as one point and  
12 juvenile prior escape convictions as 1/2 point.

13 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
14 Escape 2, RCW 9A.76.120, count adult prior convictions as one point  
15 and juvenile prior convictions as 1/2 point.

16 (16) If the present conviction is for Burglary 2 or residential  
17 burglary, count priors as in subsection (7) of this section; however,  
18 count two points for each adult and juvenile prior Burglary 1  
19 conviction, two points for each adult prior Burglary 2 or residential  
20 burglary conviction, and one point for each juvenile prior Burglary 2  
21 or residential burglary conviction.

22 (17) If the present conviction is for a sex offense, count priors  
23 as in subsections (7) through (11) and (13) through (16) of this  
24 section; however count three points for each adult and juvenile prior  
25 sex offense conviction.

26 (18) If the present conviction is for failure to register as a  
27 sex offender under RCW (~~9A.44.130 or~~) 9A.44.132, count priors as in  
28 subsections (7) through (11) and (13) through (16) of this section;  
29 however count three points for each adult and juvenile prior sex  
30 offense conviction, excluding prior convictions for failure to  
31 register as a sex offender under RCW (~~9A.44.130 or~~) 9A.44.132,  
32 which shall count as one point.

33 (19) If the present conviction is for an offense committed while  
34 the offender was under community custody, add one point. For purposes  
35 of this subsection, community custody includes community placement or  
36 postrelease supervision, as defined in chapter 9.94B RCW.

37 (20) If the present conviction is for Theft of a Motor Vehicle,  
38 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without  
39 Permission 1, or Taking a Motor Vehicle Without Permission 2, count  
40 priors as in subsections (7) through (18) of this section; however

1 count one point for prior convictions of Vehicle Prowling 2, and  
2 three points for each adult and juvenile prior Theft 1 (of a motor  
3 vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property  
4 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor  
5 vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle,  
6 Taking a Motor Vehicle Without Permission 1, or Taking a Motor  
7 Vehicle Without Permission 2 conviction.

8 (21) If the present conviction is for a felony domestic violence  
9 offense where domestic violence as defined in RCW 9.94A.030 was  
10 pleaded and proven, count priors as in subsections (7) through (20)  
11 of this section; however, count points as follows:

12 (a) Count two points for each adult prior conviction where  
13 domestic violence as defined in RCW 9.94A.030 was pleaded and proven  
14 after August 1, 2011, for any of the following offenses: A felony  
15 violation of a no-contact or protection order RCW 26.50.110, felony  
16 Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW  
17 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW  
18 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW  
19 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210),  
20 Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW  
21 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

22 (b) Count two points for each adult prior conviction where  
23 domestic violence as defined in RCW 9.94A.030 was pleaded and proven  
24 after July 23, 2017, for any of the following offenses: Assault of a  
25 child in the first degree, RCW 9A.36.120; Assault of a child in the  
26 second degree, RCW 9A.36.130; Assault of a child in the third degree,  
27 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW  
28 9A.42.020; or Criminal Mistreatment in the second degree, RCW  
29 9A.42.030;

30 (c) Count one point for each second and subsequent juvenile  
31 conviction where domestic violence as defined in RCW 9.94A.030 was  
32 pleaded and proven after August 1, 2011, for the offenses listed in  
33 (a) of this subsection; and

34 (d) Count one point for each adult prior conviction for a  
35 repetitive domestic violence offense as defined in RCW 9.94A.030,  
36 where domestic violence as defined in RCW 9.94A.030, was pleaded and  
37 proven after August 1, 2011.

38 (22) The fact that a prior conviction was not included in an  
39 offender's offender score or criminal history at a previous  
40 sentencing shall have no bearing on whether it is included in the

1 criminal history or offender score for the current offense. Prior  
2 convictions that were not counted in the offender score or included  
3 in criminal history under repealed or previous versions of the  
4 sentencing reform act shall be included in criminal history and shall  
5 count in the offender score if the current version of the sentencing  
6 reform act requires including or counting those convictions. Prior  
7 convictions that were not included in criminal history or in the  
8 offender score shall be included upon any resentencing to ensure  
9 imposition of an accurate sentence.

10 NEW SECTION. **Sec. 20.** (1) Within existing resources, the  
11 Washington association of sheriffs and police chiefs shall review  
12 current laws and regulations regarding the sentencing structure for  
13 impaired driving offenses in an effort to reduce fatalities from  
14 individuals driving under the influence. The review must include  
15 looking at lookback periods, number of previous offenses, and other  
16 possible recommendations to reduce these fatalities. The Washington  
17 association of sheriffs and police chiefs shall provide its  
18 recommendations to the governor and appropriate committees of the  
19 legislature by December 1, 2019.

20 (2) This section expires June 30, 2020.

21 NEW SECTION. **Sec. 21.** RCW 43.43.3951 (Ignition interlock  
22 devices—Limited exemption for companies not using devices employing  
23 fuel cell technology) and 2010 c 268 s 3 are each repealed.

24 NEW SECTION. **Sec. 22.** Sections 2, 3, 5 through 10, 12, and 16  
25 of this act take effect January 1, 2020."

**ESHB 1504** - S COMM AMD  
By Committee on Ways & Means

**OUT OF ORDER 04/17/2019**

26 On page 1, line 1 of the title, after "driving;" strike the  
27 remainder of the title and insert "amending RCW 9.94A.533, 9.94A.729,  
28 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.720, 46.20.740,  
29 46.20.750, 46.55.113, 46.61.500, 46.61.503, 46.61.504, 46.61.5055,  
30 46.61.5055, 46.61.502, 46.61.504, and 9.94A.525; reenacting and  
31 amending RCW 46.20.355; creating a new section; repealing RCW

1 43.43.3951; prescribing penalties; providing an effective date; and  
2 providing an expiration date."

EFFECT: (1) Revises the lookback provision for prior offenses from a ten-year lookback to a fifteen-year lookback when a person has three or more prior convictions for driving under the influence or physical control of a motor vehicle under the influence.

(2) Excludes a driver who has disability parking privileges from the Department of Licensing from the requirement of moving out of the driver's seat for purposes of an affirmative defense to physical control of a vehicle under the influence.

(3) Removes changes to the current qualifications for forensic phlebotomists.

--- END ---