

3SHB 1504 - S COMM AMD

By Committee on Law & Justice

ADOPTED 03/03/2020

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  
2 (~~may not be reduced~~) shall be mandatory, shall be served in total  
3 confinement, and shall run consecutively to all other sentencing  
4 provisions.

5 (14) An additional twelve months shall be added to the standard  
6 sentence range for an offense that is also a violation of RCW  
7 9.94A.832.

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

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

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

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



1 of his or her sentence that results from any deadly weapon  
2 enhancements.

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

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

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

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

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

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

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

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

28 (A) A sex offense;

29 (B) A violent offense;

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

31 (D) A felony that is domestic violence as defined in RCW  
32 10.99.020;

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

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

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

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

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

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

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

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

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

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

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

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

1 (i) Transfer an offender to partial confinement in lieu of earned  
2 early release for a period not to exceed three months. The three  
3 months in partial confinement is in addition to that portion of the  
4 offender's term of confinement that may be served in partial  
5 confinement as provided in RCW 9.94A.728(~~(5)~~) (1)(e);

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

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

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

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

23 (6) An offender serving a term of confinement imposed under RCW  
24 9.94A.670(5)(a) is not eligible for earned release credits under this  
25 section.

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

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

35 (i) Have a functioning ignition interlock device installed on all  
36 motor vehicles operated by the person, with proof of installation  
37 filed with the court by the person or the certified interlock  
38 provider within five business days of the date of release from

1 custody or as soon thereafter as determined by the court based on  
2 availability within the jurisdiction; or

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

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

10 (iv) Have an ignition interlock device on all motor vehicles  
11 operated by the person and that such person agrees not to operate any  
12 motor vehicle without an ignition interlock device as required by the  
13 court. Under this subsection (1)(a)(iv), the person must file a sworn  
14 statement with the court upon release at arraignment that states the  
15 person will not operate any motor vehicle without an ignition  
16 interlock device while the ignition interlock restriction is imposed  
17 by the court. Such person must also submit to 24/7 sobriety program  
18 monitoring pursuant to (a)(ii) of this subsection, if available, or  
19 alcohol monitoring, at the expense of the person, as provided in RCW  
20 46.61.5055(5) (b) and (c).

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

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

39 (b) If the court authorizes removal of an ignition interlock  
40 device imposed under this section, the court shall immediately notify

1 the department of licensing regarding the lifting of the ignition  
2 interlock restriction and the department of licensing shall release  
3 any attachment, imprint, or notation on such person's driving record  
4 relating to the ignition interlock requirement imposed under this  
5 section.

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

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

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

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

1 required or allowed by statute. The court may establish a payment  
2 schedule for the payment of the cost reimbursement, separate from any  
3 payment schedule imposed for other fines and costs. All payments for  
4 the cost reimbursement must be remitted directly to the public agency  
5 or agencies that incurred the cost associated with the emergency  
6 response.

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

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

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

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

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

35 (3) Within fifteen days after notice has been given to a person  
36 under subsection (1) of this section, the person may request in  
37 writing an administrative review before the department. If the  
38 request is mailed, it must be postmarked within fifteen days after  
39 the date the department has given notice. If a person fails to

1 request an administrative review within fifteen days after the date  
2 the department gives notice, the person is considered to have  
3 defaulted and loses his or her right to an administrative review  
4 unless the department finds good cause for a request after the  
5 fifteen-day period.

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

12 (b) The only issues to be addressed in the administrative review  
13 are:

14 (i) Whether the records relied on by the department identify the  
15 correct person; and

16 (ii) Whether the information transmitted from the court or other  
17 reporting agency or entity regarding the person accurately describes  
18 the action taken by the court or other reporting agency or entity.

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

26 (d) The action subject to the notification requirements of  
27 subsection (1) of this section shall be stayed during the  
28 administrative review process.

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

1       ~~((3))~~ (4) The department may adopt rules that are considered  
2 necessary or convenient by the department for purposes of  
3 administering this section, including, but not limited to, rules  
4 regarding expedited procedures for issuing orders and expedited  
5 notice procedures.

6       ~~((4))~~ (5) This section does not apply where an opportunity for  
7 an informal settlement, driver improvement interview, or formal  
8 hearing is otherwise provided by law or rule of the department.

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

11       Pursuant to RCW 46.20.308, the department shall suspend, revoke,  
12 or deny the arrested person's license, permit, or privilege to drive  
13 as follows:

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

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

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

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

28       (a) For a first incident within seven years, where there has not  
29 been a previous incident within seven years that resulted in  
30 administrative action under this section, suspension for ninety days,  
31 unless the person successfully completes or is enrolled in a pretrial  
32 24/7 sobriety program;

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

35       (3) In the case of an incident where a person under age twenty-  
36 one has submitted to or been administered a test or tests indicating  
37 that the alcohol concentration of the person's breath or blood was  
38 0.02 or more, or that the THC concentration of the person's blood was  
39 above 0.00:



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

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

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

16 **Sec. 7.** RCW 46.20.311 and 2016 c 203 s 12 are each amended to  
17 read as follows:

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

22 (b) Except for a suspension under RCW 46.20.267, 46.20.289,  
23 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or  
24 driving privilege of any person is suspended by reason of a  
25 conviction, a finding that a traffic infraction has been committed,  
26 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or  
27 46.20.308, the suspension shall remain in effect until the person  
28 gives and thereafter maintains proof of financial responsibility for  
29 the future as provided in chapter 46.29 RCW.

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

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

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

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

35 (ii) (~~if~~) Except as provided in subsection (4) of this section,  
36 if the suspension is the result of a violation of RCW 46.61.502 or  
37 46.61.504, or is the result of administrative action under RCW  
38 46.20.308, the reissue fee shall be one hundred (~~fifty~~) seventy  
39 dollars.

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

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

14 (ii) (~~(if)~~) Except as provided in subsection (4) of this section,  
15 if the revocation is the result of a violation of RCW 46.20.308,  
16 46.61.502, or 46.61.504, the reissue fee shall be one hundred  
17 (~~(fifty)~~) seventy dollars. If the revocation is the result of a  
18 nonfelony violation of RCW 46.61.502 or 46.61.504, the department  
19 shall determine the person's eligibility for licensing based upon the  
20 reports provided by the (~~(alcoholism)~~) substance use disorder agency  
21 or probation department designated under RCW 46.61.5056 and shall  
22 deny reissuance of a license, permit, or privilege to drive until  
23 enrollment and participation in an approved program has been  
24 established and the person is otherwise qualified. If the suspension  
25 is the result of a violation of RCW 46.61.502(6) or 46.61.504(6), the  
26 department shall determine the person's eligibility for licensing  
27 based upon the reports provided by the (~~(alcohol or drug dependency)~~)  
28 substance use disorder agency required under RCW 46.61.524 and shall  
29 deny reinstatement until satisfactory progress in an approved program  
30 has been established and the person is otherwise qualified. If the  
31 revocation is the result of a violation of RCW 46.61.502 or  
32 46.61.504, and the person is required pursuant to RCW 46.20.720 to  
33 drive only a motor vehicle equipped with a functioning ignition  
34 interlock or other biological or technical device, the department  
35 shall determine the person's eligibility for licensing based upon  
36 written verification by a company doing business in the state that it  
37 has installed the required device on a vehicle owned or operated by  
38 the person applying for a new license. The department may waive the  
39 requirement for written verification under this subsection if it  
40 determines to its satisfaction that a device previously verified as

1 having been installed on a vehicle owned or operated by the person is  
2 still installed and functioning or as permitted by RCW 46.20.720(8).  
3 If, following issuance of a new license, the department determines,  
4 based upon notification from the interlock provider or otherwise,  
5 that an interlock required under RCW 46.20.720 is no longer  
6 functioning, the department shall suspend the person's license or  
7 privilege to drive until the department has received written  
8 verification from an interlock provider that a functioning interlock  
9 is installed.

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

21 (3)(a) Whenever the driver's license of any person is suspended  
22 pursuant to Article IV of the nonresident violators compact or RCW  
23 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not  
24 issue to the person any new or renewal license until the person pays  
25 a reissue fee of seventy-five dollars.

26 (b) (~~(f)~~) Except as provided in subsection (4) of this section,  
27 if the suspension is the result of a violation of the laws of this or  
28 any other state, province, or other jurisdiction involving (i) the  
29 operation or physical control of a motor vehicle upon the public  
30 highways while under the influence of intoxicating liquor or drugs,  
31 or (ii) the refusal to submit to a chemical test of the driver's  
32 blood alcohol content, the reissue fee shall be one hundred (~~(fifty)~~)  
33 seventy dollars.

34 (4) When the department reinstates a person's driver's license  
35 following a suspension, revocation, or denial under RCW 46.20.3101 or  
36 46.61.5055, and the person is entitled to full day-for-day credit  
37 under RCW 46.20.3101(4) or 46.61.5055(9)(b)(ii) for an additional  
38 restriction arising from the same incident, the department shall  
39 impose no additional reissue fees under subsection (1)(e)(ii),

1 (2)(b)(ii), or (3)(b) of this section associated with the additional  
2 restriction.

3 **Sec. 8.** RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are  
4 each reenacted and amended to read as follows:

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

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

21 (3) Following receipt of an abstract indicating a deferred  
22 prosecution has been granted under RCW 10.05.060, or upon  
23 reinstatement or reissuance of a driver's license suspended or  
24 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,  
25 the department shall require the person to obtain a probationary  
26 license in order to operate a motor vehicle in the state of  
27 Washington, except as otherwise exempt under RCW 46.20.025. The  
28 department shall not issue the probationary license unless the person  
29 is otherwise qualified for licensing, and the person must renew the  
30 probationary license on the same cycle as the person's regular  
31 license would have been renewed until the expiration of the five-year  
32 probationary status period imposed under subsection (2) of this  
33 section.

34 (4) If a person is eligible for full credit under RCW  
35 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued  
36 under RCW 46.20.245, has completed the requirements under RCW  
37 46.20.311 and paid the fee under subsection (5) of this section, the  
38 department shall issue a probationary license on the date specified  
39 in the notice with no further action required of the person.

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

8       ~~((+5))~~ (6) A probationary license shall enable the department  
9 and law enforcement personnel to determine that the person is on  
10 probationary status. The fact that a person's driving privilege is in  
11 probationary status or that the person has been issued a probationary  
12 license shall not be a part of the person's record that is available  
13 to insurance companies.

14       **Sec. 9.** RCW 46.20.385 and 2017 c 336 s 4 are each amended to  
15 read as follows:

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

35       (b) A person may apply for an ignition interlock driver's license  
36 anytime, including immediately after receiving the notices under RCW  
37 46.20.308 or after his or her license is suspended, revoked, or  
38 denied.

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

4 (i) The department shall require the person to maintain the  
5 device on all vehicles operated by the person and shall restrict the  
6 person to operating only vehicles equipped with the device, for the  
7 remainder of the period of suspension, revocation, or denial, unless  
8 otherwise permitted under RCW 46.20.720(6).

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

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

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

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

37 (5) The director shall cancel an ignition interlock driver's  
38 license after receiving notice that the holder thereof has been  
39 convicted of operating a motor vehicle in violation of its  
40 restrictions, no longer meets the eligibility requirements, or has

1 been convicted of or found to have committed a separate offense or  
2 any other act or omission that under this chapter would warrant  
3 suspension or revocation of a regular driver's license. The  
4 department must give notice of the cancellation as provided under RCW  
5 46.20.245. A person whose ignition interlock driver's license has  
6 been canceled under this section may reapply for a new ignition  
7 interlock driver's license if he or she is otherwise qualified under  
8 this section and pays the fee required under RCW 46.20.380.

9 (6) (a) Unless costs are waived by the ignition interlock company  
10 or the person is indigent under RCW 10.101.010, the applicant shall  
11 pay the cost of installing, removing, and leasing the ignition  
12 interlock device and shall pay an additional fee of (~~twenty~~)  
13 twenty-one dollars per month. Payments shall be made directly to the  
14 ignition interlock company. The company shall remit the additional  
15 fee to the department, except that the company may retain twenty-five  
16 cents per month of the additional fee to cover the expenses  
17 associated with administering the fee.

18 (b) The department shall deposit the proceeds of the (~~twenty~~)  
19 twenty-one dollar fee into the ignition interlock device revolving  
20 account. Expenditures from the account may be used only to administer  
21 and operate the ignition interlock device revolving account program.  
22 The department shall adopt rules to provide monetary assistance  
23 according to greatest need and when funds are available.

24 (7) The department shall adopt rules to implement ignition  
25 interlock licensing. The department shall consult with the  
26 administrative office of the courts, the state patrol, the Washington  
27 association of sheriffs and police chiefs, ignition interlock  
28 companies, and any other organization or entity the department deems  
29 appropriate.

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

35 (b) A person who does not have any driver's license under this  
36 chapter, but who would otherwise be eligible under this section to  
37 apply for an ignition interlock license, may submit to the department  
38 an application for an ignition interlock license. The department may  
39 require the person to take any driver's licensing examination under



1 this chapter and may require the person to also apply and qualify for  
2 a temporary restricted driver's license under RCW 46.20.391.

3 **Sec. 10.** RCW 46.20.720 and 2019 c 232 s 22 are each amended to  
4 read as follows:

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

8 (a) **Pretrial release.** Upon receipt of notice from a court that an  
9 ignition interlock device restriction has been imposed under RCW  
10 10.21.055;

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

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

16 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;  
17 or

18 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance  
19 if the person would be required under RCW 46.61.5249(4) or  
20 46.61.500(3) (a) or (b) to install an ignition interlock device on  
21 all vehicles operated by the person in the event of a conviction;

22 (d) **Post conviction.** After any applicable period of mandatory  
23 suspension, revocation, or denial of driving privileges, or upon  
24 fulfillment of day-for-day credit under RCW 46.61.5055(9)(b)(ii) for  
25 a suspension, revocation, or denial of driving privileges:

26 (i) Due to a conviction of a violation of RCW 46.61.502 or  
27 46.61.504 or an equivalent local or out-of-state statute or  
28 ordinance; or

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

33 (e) **Court order.** Upon receipt of an order by a court having  
34 jurisdiction that a person charged or convicted of any offense  
35 involving the use, consumption, or possession of alcohol while  
36 operating a motor vehicle may drive only a motor vehicle equipped  
37 with a functioning ignition interlock. The court shall establish a  
38 specific ((~~calibration setting~~)) alcohol set point at which the  
39 ignition interlock will prevent the vehicle from being started. The

1 court shall also establish the period of time for which ignition  
2 interlock use will be required.

3 (2) ~~((Calibration-))~~ Alcohol set point. Unless otherwise  
4 specified by the court for a restriction imposed under subsection  
5 (1)(e) of this section, the ignition interlock device shall ~~((be~~  
6 ~~calibrated to prevent))~~ have an alcohol set point that prevents the  
7 motor vehicle from being started when the breath sample provided has  
8 an alcohol concentration of ~~((0.025))~~ 0.020 or more.

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

10 (a) Subsection (1)(a) of this section shall remain in effect  
11 until:

12 (i) The court has authorized the removal of the device under RCW  
13 10.21.055; or

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

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

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

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

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

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

27 The restriction of a person who is convicted of a violation of  
28 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who  
29 committed the offense while ~~((a passenger))~~ one or more passengers  
30 under the age of sixteen ~~((was))~~ were in the vehicle shall be  
31 extended for an additional ~~((six-month))~~ period as required by RCW  
32 46.61.5055(6)(a).

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

35 (e) The period of restriction under (c) or (d) of this subsection  
36 shall be extended by one hundred eighty days whenever the department  
37 receives notice that the restricted person has been convicted under  
38 RCW 46.20.740 or 46.20.750. If the period of restriction under (c) or  
39 (d) of this subsection has been fulfilled and cannot be extended, the  
40 department must add a new one hundred eighty-day restriction that is

1 imposed from the date of conviction and is subject to the  
2 requirements for removal under subsection (4) of this section.

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

5 (g) The period of restriction under (c) and (d) of this  
6 subsection based on incidents occurring on or after June 9, 2016,  
7 must be tolled for any period in which the person does not have an  
8 ignition interlock device installed on a vehicle owned or operated by  
9 the person unless the person receives a determination from the  
10 department that the person is unable to operate an ignition interlock  
11 device due to a physical disability. The department's determination  
12 that a person is unable to operate an ignition interlock device must  
13 be reasonable and be based upon good and substantial evidence. This  
14 determination is subject to review by a court of competent  
15 jurisdiction. The department may charge a person seeking a medical  
16 exemption under this subsection a reasonable fee for the assessment.

17 **(4) Requirements for removal.** A restriction imposed under  
18 subsection (1)(c) or (d) of this section shall remain in effect until  
19 the department receives a declaration from the person's ignition  
20 interlock device vendor, in a form provided or approved by the  
21 department, certifying ~~((that))~~ the following:

22 (a) That there have been none of the following incidents in the  
23 one hundred eighty consecutive days prior to the date of release:

24 ~~((a))~~ (i) Any attempt to start the vehicle with a breath  
25 alcohol concentration of 0.04 or more unless a subsequent test  
26 performed within ten minutes registers a breath alcohol concentration  
27 lower than 0.04 and the digital image confirms the same person  
28 provided both samples;

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

32 ~~((c))~~ (iii) Failure to pass any random retest with a breath  
33 alcohol concentration of ~~((0.025 or))~~ lower than 0.020 unless a  
34 subsequent test performed within ten minutes registers a breath  
35 alcohol concentration lower than ~~((0.025))~~ 0.020, and the digital  
36 image confirms the same person provided both samples; ~~((or~~

37 ~~(d))~~ (iv) Failure of the person to appear at the ignition  
38 interlock device vendor when required for maintenance, repair,  
39 calibration, monitoring, inspection, or replacement of the device; or

1 (v) Removal of the ignition interlock device by a person other  
2 than an ignition interlock technician certified by the Washington  
3 state patrol; and

4 (b) That the ignition interlock device was inspected at the  
5 conclusion of the one hundred eighty-day period by an ignition  
6 interlock technician certified by the Washington state patrol and no  
7 evidence was found that the device was tampered with in the manner  
8 described in RCW 46.20.750.

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

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

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

27 (6) **Employer exemption.** (a) Except as provided in (b) of this  
28 subsection, the installation of an ignition interlock device is not  
29 necessary on vehicles owned, leased, or rented by a person's employer  
30 and on those vehicles whose care and/or maintenance is the temporary  
31 responsibility of the employer, and driven at the direction of a  
32 person's employer as a requirement of employment during working  
33 hours. The person must provide the department with a declaration  
34 pursuant to chapter 5.50 RCW from his or her employer stating that  
35 the person's employment requires the person to operate a vehicle  
36 owned by the employer or other persons during working hours. When the  
37 department receives a declaration under this subsection, it shall  
38 attach or imprint a notation on the person's driving record stating  
39 that the employer exemption applies.

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

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

15 (8) **Foreign jurisdiction.** For a person restricted under this  
16 section who is residing outside of the state of Washington, the  
17 department may accept verification of installation of an ignition  
18 interlock device by an ignition interlock company authorized to do  
19 business in the jurisdiction in which the person resides, provided  
20 the device meets any applicable requirements of that jurisdiction.  
21 The department may waive one or more requirements for removal under  
22 subsection (4) of this section if compliance with the requirement or  
23 requirements would be impractical in the case of a person residing in  
24 another jurisdiction, provided the person is in compliance with any  
25 equivalent requirement of that jurisdiction. The department may waive  
26 the monthly fee required by subsection (7) of this section if  
27 collection of the fee would be impractical in the case of a person  
28 residing in another jurisdiction.

29 **Sec. 11.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each  
30 amended to read as follows:

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

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

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

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

20 **Sec. 12.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each  
21 amended to read as follows:

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

25 (a) Tampers with the device or any components of the device, or  
26 otherwise interferes with the proper functionality of the device, by  
27 modifying, detaching, disconnecting, or otherwise disabling it to  
28 allow the restricted driver to operate the vehicle;

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

32 (c) Has, directs, authorizes, or requests another person to  
33 tamper with the device or any components of the device, or otherwise  
34 interfere with the proper functionality of the device, by modifying,  
35 detaching, disconnecting, or otherwise disabling it to allow the  
36 restricted driver to operate the vehicle; or

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

1 (2) A person who knowingly assists another person who is  
2 restricted to the use of a vehicle equipped with an ignition  
3 interlock device to circumvent the device or any components of the  
4 device, or otherwise interfere with the proper functionality of the  
5 device, or to start and operate that vehicle is guilty of a gross  
6 misdemeanor. The provisions of this subsection do not apply if the  
7 starting of a motor vehicle, or the request to start a motor vehicle,  
8 equipped with an ignition interlock device is done for the purpose of  
9 safety or mechanical repair of the device or the vehicle and the  
10 person subject to the court order does not operate the vehicle.

11 (3) Any sentence imposed for a violation of subsection (1) of  
12 this section shall be served consecutively with any sentence imposed  
13 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,  
14 46.61.520(1)(a), or 46.61.522(1)(b).

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

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

20 (1) Whenever the driver of a vehicle is arrested for a violation  
21 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary  
22 impoundment, pursuant to the terms and conditions of an applicable  
23 local ordinance or state agency rule at the direction of a law  
24 enforcement officer.

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

28 (a) Whenever a police officer finds a vehicle standing upon the  
29 roadway in violation of any of the provisions of RCW 46.61.560, the  
30 officer may provide for the removal of the vehicle or require the  
31 driver or other person in charge of the vehicle to move the vehicle  
32 to a position off the roadway;

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

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

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

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

5 (f) Whenever a vehicle without a special license plate, placard,  
6 or decal indicating that the vehicle is being used to transport a  
7 person with disabilities under RCW 46.19.010 is parked in a stall or  
8 space clearly and conspicuously marked under RCW 46.61.581 which  
9 space is provided on private property without charge or on public  
10 property;

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

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

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

28 (j) Upon determining that a person restricted to use of only a  
29 motor vehicle equipped with a functioning ignition interlock device  
30 is operating a motor vehicle that is not equipped with such a device  
31 in violation of RCW 46.20.740(2).

32 (3) When an arrest is made for a violation of RCW 46.20.342, if  
33 the vehicle is a commercial vehicle or farm transport vehicle and the  
34 driver of the vehicle is not the owner of the vehicle, before the  
35 summary impoundment directed under subsection (1) of this section,  
36 the police officer shall attempt in a reasonable and timely manner to  
37 contact the owner of the vehicle and may release the vehicle to the  
38 owner if the owner is reasonably available, as long as the owner was  
39 not in the vehicle at the time of the stop and arrest and the owner



1 has not received a prior release under this subsection or RCW  
2 46.55.120(1) (~~(a)~~) (b) (ii).

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

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

15 **Sec. 14.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to  
16 read as follows:

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

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

26 (b) When a reckless driving conviction is a result of a charge  
27 that was originally filed as a violation of RCW 46.61.502 or  
28 46.61.504, or an equivalent local ordinance, the department shall  
29 grant credit on a day-for-day basis for any portion of a suspension,  
30 revocation, or denial already served under an administrative action  
31 arising out of the same incident. In the case of a person whose day-  
32 for-day credit is for a period equal to or greater than the period of  
33 suspension required under this section, the department shall provide  
34 notice of full credit, shall provide for no further suspension under  
35 this section, and shall impose no additional reissue fees for this  
36 credit. During any period of suspension, revocation, or denial due to  
37 a conviction for reckless driving as the result of a charge  
38 originally filed as a violation of RCW 46.61.502 or 46.61.504, any  
39 person who has obtained an ignition interlock driver's license under

1 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the  
2 provision of the ignition interlock driver's license without  
3 obtaining a separate temporary restricted driver's license under RCW  
4 46.20.391.

5 (3) (a) Except as provided under (b) of this subsection, a person  
6 convicted of reckless driving who has one or more prior offenses as  
7 defined in RCW 46.61.5055(14) within seven years shall be required,  
8 under RCW 46.20.720, to install an ignition interlock device on all  
9 vehicles operated by the person if the conviction is the result of a  
10 charge that was originally filed as a violation of RCW 46.61.502,  
11 46.61.504, or an equivalent local ordinance.

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

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

21 (1) **No prior offenses in seven years.** Except as provided in RCW  
22 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
23 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
24 within seven years shall be punished as follows:

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

30 (i) By imprisonment for not less than (~~one day~~) twenty-four  
31 consecutive hours nor more than three hundred sixty-four days.  
32 (~~Twenty-four 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) (a) (i), the court, in~~

1 its discretion, may order not less than fifteen days of electronic  
2 home monitoring or a ninety-day period of 24/7 sobriety program  
3 monitoring. The court may consider the offender's pretrial 24/7  
4 sobriety program monitoring as fulfilling a portion of posttrial  
5 sentencing. The offender shall pay the cost of electronic home  
6 monitoring. The county or municipality in which the penalty is being  
7 imposed shall determine the cost. The court may also require the  
8 offender's electronic home monitoring device or other separate  
9 alcohol monitoring device to include an alcohol detection  
10 breathalyzer, and the court may restrict the amount of alcohol the  
11 offender may consume during the time the offender is on electronic  
12 home monitoring; and

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

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

22 (i) By imprisonment for not less than (~~two days~~) forty-eight  
23 consecutive hours nor more than three hundred sixty-four days.  
24 (~~Forty-eight consecutive hours of the imprisonment may not be~~  
25 ~~suspended unless the court finds that the imposition of this~~  
26 ~~mandatory minimum sentence would impose a substantial risk to the~~  
27 ~~offender's physical or mental well-being. Whenever the mandatory~~  
28 ~~minimum sentence is suspended, the court shall state in writing the~~  
29 ~~reason for granting the suspension and the facts upon which the~~  
30 ~~suspension is based.)) In lieu of the mandatory minimum term of~~

31 imprisonment required under this subsection (1)(b)(i), the court, in  
32 its discretion, may order not less than thirty days of electronic  
33 home monitoring or a one hundred twenty day period of 24/7 sobriety  
34 program monitoring. The court may consider the offender's pretrial  
35 24/7 sobriety program testing as fulfilling a portion of posttrial  
36 sentencing. The offender shall pay the cost of electronic home  
37 monitoring. The county or municipality in which the penalty is being  
38 imposed shall determine the cost. The court may also require the  
39 offender's electronic home monitoring device to include an alcohol  
40 detection breathalyzer or other separate alcohol monitoring device,

1 and the court may restrict the amount of alcohol the offender may  
2 consume during the time the offender is on electronic home  
3 monitoring; 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.

7 (2) **One prior offense in seven years.** Except as provided in RCW  
8 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
9 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
10 within seven years shall be punished as follows:

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

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

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

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

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

18 (i) By imprisonment for not less than forty-five days nor more  
19 than three hundred sixty-four days and ninety days of electronic home  
20 monitoring. (~~(~~¶~~)~~) Forty-five days of imprisonment and ninety days of  
21 electronic home monitoring may not be suspended or converted unless  
22 the court finds that the imposition of this mandatory minimum  
23 sentence would impose a substantial risk to the offender's physical  
24 or mental well-being. If the offender shows that the imposition of  
25 this mandatory minimum sentence would impose a substantial risk to  
26 the offender's physical or mental well-being, in lieu of the  
27 mandatory minimum term of imprisonment and electronic home monitoring  
28 under this subsection (2)(b)(i), the court may order a minimum of  
29 (~~(six days in jail and)~~) either six months of electronic home  
30 monitoring or a one hundred twenty-day period of 24/7 sobriety  
31 program monitoring pursuant to RCW 36.28A.300 through 36.28A.390.  
32 Whenever the mandatory minimum sentence is suspended or converted,  
33 the court shall state in writing the reason for granting the  
34 suspension or conversion and the facts upon which the suspension or  
35 conversion is based. The court may consider the offender's pretrial  
36 24/7 sobriety program monitoring as fulfilling a portion of posttrial  
37 sentencing. The court shall order an expanded (~~(alcohol)~~) substance  
38 use disorder assessment and treatment, if deemed appropriate by the  
39 assessment. The offender shall pay for the cost of the electronic  
40 monitoring. The county or municipality where the penalty is being

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

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

17 (3) **Two prior offenses in seven years.** Except as provided in RCW  
18 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
19 violation of RCW 46.61.502 or 46.61.504 and who has two prior  
20 offenses within seven years shall be punished as follows:

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

26 (i) By imprisonment for not less than ninety days nor more than  
27 three hundred sixty-four days, if available in that county or city, a  
28 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
29 36.28A.300 through 36.28A.390, and one hundred twenty days of  
30 electronic home monitoring. Ninety days of imprisonment and one  
31 hundred twenty days of electronic home monitoring may not be  
32 suspended or converted unless the court finds that the imposition of  
33 this mandatory minimum sentence would impose a substantial risk to  
34 the offender's physical or mental well-being. If the offender shows  
35 that the imposition of this mandatory minimum sentence would impose a  
36 substantial risk to the offender's physical or mental well-being, in  
37 lieu of the mandatory minimum term of ninety days of imprisonment and  
38 one hundred twenty days of electronic home monitoring, the court may  
39 order ((at least an additional eight days in jail)) three hundred  
40 sixty days of electronic home monitoring or a three hundred sixty-day

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

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

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

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

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

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

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

32 (a) The person has three or more prior offenses within ten years;  
33 or

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

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

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

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



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

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

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

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

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

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

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

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

35 (a) Order the use of an ignition interlock or other device for an  
36 additional ((six)) twelve months for each passenger under the age of  
37 sixteen when the person is subject to the penalties under subsection  
38 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an  
39 ignition interlock device for an additional eighteen months for each  
40 passenger under the age of sixteen when the person is subject to the

1 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this  
2 section;

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

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

21 (d) In any case in which the person has two prior offenses within  
22 seven years, and except as provided in RCW 46.61.502(6) or  
23 46.61.504(6), order an additional ten days of imprisonment to be  
24 served consecutively for each passenger under the age of sixteen, and  
25 a fine of not less than three thousand dollars and not more than ten  
26 thousand dollars for each passenger under the age of sixteen. One  
27 thousand dollars of the fine for each passenger under the age of  
28 sixteen may not be suspended unless the court finds the offender to  
29 be indigent.

30 (7) **Other items courts must consider while setting penalties.** In  
31 exercising its discretion in setting penalties within the limits  
32 allowed by this section, the court shall particularly consider the  
33 following:

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

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

38 (c) Whether the driver was driving in the opposite direction of  
39 the normal flow of traffic on a multiple lane highway, as defined by

1 RCW 46.04.350, with a posted speed limit of forty-five miles per hour  
2 or greater; and

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

5 (8) **Treatment and information school.** An offender punishable  
6 under this section is subject to the ~~((alcohol))~~ substance use  
7 disorder assessment and treatment provisions of RCW 46.61.5056.

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

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

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

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

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

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

36 ~~((+i))~~ (A) Where there has been no prior offense within seven  
37 years, be revoked or denied by the department for one year or until  
38 the person is evaluated by ~~((an alcoholism))~~ a substance use disorder  
39 agency or probation department pursuant to RCW 46.20.311 and the  
40 person completes or is enrolled in a one hundred twenty day period of

1 24/7 sobriety program monitoring. In no circumstances shall the  
2 license revocation be for fewer than four days;

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

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

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

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

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

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

20 (b)(i) The department shall grant credit on a day-for-day basis  
21 for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~  
22 ~~served))~~ imposed under this subsection (9) for any portion of a  
23 suspension, revocation, or denial ~~((imposed))~~ already served under  
24 RCW 46.20.3101 arising out of the same incident.

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

34 (c) Upon receipt of a notice from the court under RCW 36.28A.390  
35 that a participant has been removed from a 24/7 sobriety program, the  
36 department must resume any suspension, revocation, or denial that had  
37 been terminated early under this subsection due to participation in  
38 the program, granting credit on a day-for-day basis for any portion  
39 of a suspension, revocation, or denial already served under RCW  
40 46.20.3101 or this section arising out of the same incident.

1        (d) Upon its own motion or upon motion by a person, a court may  
2 find, on the record, that notice to the department under RCW  
3 46.20.270 has been delayed for three years or more as a result of a  
4 clerical or court error. If so, the court may order that the person's  
5 license, permit, or nonresident privilege shall not be revoked,  
6 suspended, or denied for that offense. The court shall send notice of  
7 the finding and order to the department and to the person. Upon  
8 receipt of the notice from the court, the department shall not  
9 revoke, suspend, or deny the license, permit, or nonresident  
10 privilege of the person for that offense.

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

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

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

1 an ignition interlock device on the probationer's motor vehicle,  
2 (~~alcohol or drug~~) substance use disorder treatment, supervised  
3 probation, or other conditions that may be appropriate. The sentence  
4 may be imposed in whole or in part upon violation of a condition of  
5 probation during the suspension period.

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

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

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

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

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

29 (c) The court determines that there is reason to believe that the  
30 offender would violate the conditions of the electronic home  
31 monitoring penalty.

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

39 Whenever the combination of jail time and electronic home  
40 monitoring or alternative sentence would exceed three hundred sixty-

1 four days, the offender shall serve the jail portion of the sentence  
2 first, and the electronic home monitoring or alternative portion of  
3 the sentence shall be reduced so that the combination does not exceed  
4 three hundred sixty-four days.

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

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

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

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

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

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

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

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

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

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

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

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

37 (x) A conviction for a violation of RCW 46.61.520 committed while  
38 under the influence of intoxicating liquor or any drug, or a  
39 conviction for a violation of RCW 46.61.520 committed in a reckless  
40 manner or with the disregard for the safety of others if the

1 conviction is the result of a charge that was originally filed as a  
2 violation of RCW 46.61.520 committed while under the influence of  
3 intoxicating liquor or any drug;

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

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

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

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

22 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
23 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
24 ordinance, if the charge under which the deferred prosecution was  
25 granted was originally filed as a violation of RCW 46.61.502 or  
26 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
27 46.61.522;

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

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



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

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

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

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

13 (15) All fines imposed by this section apply to adult offenders  
14 only.

15 **Sec. 16.** RCW 46.61.5056 and 2018 c 201 s 9010 are each amended  
16 to read as follows:

17 (1) A person subject to (~~alcohol~~) substance use disorder  
18 assessment and treatment under RCW 46.61.5055 shall be required by  
19 the court to complete a course in an alcohol and drug information  
20 school licensed or certified by the department of health or to  
21 complete more intensive treatment in a substance use disorder  
22 treatment program licensed or certified by the department of health,  
23 as determined by the court. The court shall notify the department of  
24 licensing whenever it orders a person to complete a course or  
25 treatment program under this section.

26 (2) A diagnostic evaluation and treatment recommendation shall be  
27 prepared under the direction of the court by a substance use disorder  
28 treatment program licensed or certified by the department of health  
29 or a qualified probation department approved by the department of  
30 social and health services. A copy of the report shall be forwarded  
31 to the court and the department of licensing. Based on the diagnostic  
32 evaluation, the court shall determine whether the person shall be  
33 required to complete a course in an alcohol and drug information  
34 school licensed or certified by the department of health or more  
35 intensive treatment in an approved substance use disorder treatment  
36 program licensed or certified by the department of health.

37 (3) Standards for approval for (~~alcohol~~) substance use disorder  
38 treatment programs shall be prescribed by the department of health.

1 The department of health shall periodically review the costs of  
2 alcohol and drug information schools and treatment programs.

3 (4) Any agency that provides treatment ordered under RCW  
4 46.61.5055, shall immediately report to the appropriate probation  
5 department where applicable, otherwise to the court, and to the  
6 department of licensing any noncompliance by a person with the  
7 conditions of his or her ordered treatment. The court shall notify  
8 the department of licensing and the department of health of any  
9 failure by an agency to so report noncompliance. Any agency with  
10 knowledge of noncompliance that fails to so report shall be fined two  
11 hundred fifty dollars by the department of health. Upon three such  
12 failures by an agency within one year, the department of health shall  
13 revoke the agency's license or certification under this section.

14 (5) The department of licensing and the department of health may  
15 adopt such rules as are necessary to carry out this section.

16 **Sec. 17.** RCW 46.61.524 and 2008 c 231 s 46 are each amended to  
17 read as follows:

18 As provided for under RCW 46.20.285, the department shall revoke  
19 the license, permit to drive, or a nonresident privilege of a person  
20 convicted of vehicular homicide under RCW 46.61.520 or vehicular  
21 assault under RCW 46.61.522. The department shall determine the  
22 eligibility of a person convicted of vehicular homicide under RCW  
23 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to  
24 receive a license based upon the report provided by the designated  
25 (~~(alcoholism)~~) substance use disorder treatment facility or probation  
26 department designated pursuant to RCW 9.94A.703(4)(b), and shall deny  
27 reinstatement until satisfactory progress in an approved program has  
28 been established and the person is otherwise qualified.

29 **Sec. 18.** RCW 46.68.041 and 2004 c 95 s 15 are each amended to  
30 read as follows:

31 (1) Except as provided in subsection (2) of this section, the  
32 department shall forward all funds accruing under the provisions of  
33 chapter 46.20 RCW together with a proper identifying, detailed report  
34 to the state treasurer who shall deposit such moneys to the credit of  
35 the highway safety fund.

36 (2) (~~(Sixty-three)~~) Fifty-six percent of each fee collected by  
37 the department under RCW 46.20.311 (1)(e)(ii), (2)(b)(ii), and (3)(b)  
38 shall be deposited in the impaired driving safety account.

1        NEW SECTION.        **Sec. 19.**        RCW 43.43.3951 (Ignition interlock  
2 devices—Limited exemption for companies not using devices employing  
3 fuel cell technology) and 2010 c 268 s 3 are each repealed.

4        NEW SECTION.        **Sec. 20.**        Sections 2, 3, 5 through 12, and 14  
5 through 18 of this act take effect January 1, 2022."

**3SHB 1504** - S COMM AMD  
By Committee on Law & Justice

**ADOPTED 03/03/2020**

6        On page 1, line 1 of the title, after "driving;" strike the  
7 remainder of the title and insert "amending RCW 9.94A.533, 9.94A.729,  
8 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.311, 46.20.385,  
9 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500, 46.61.5055,  
10 46.61.5056, 46.61.524, and 46.68.041; reenacting and amending RCW  
11 46.20.355; repealing RCW 43.43.3951; prescribing penalties; and  
12 providing an effective date."

EFFECT: (1) Clarifies requirements for the portion of a sentence representing a minor child enhancement when the minor enhancement increases the sentence to exceed the statutory maximum for the offense.

(2) Reduces the driver's license reinstatement fee for alcohol-related suspensions to \$170. Adjusts the percent of each driving license reinstatement fee for alcohol-related suspensions that is deposited in the impaired driving safety account to maintain the current amount of funding distributed to the impaired driving safety account and address the increased costs born by the highway safety fund.

(3) Amends the effective date to include the new section 18.

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