
ENGROSSED SUBSTITUTE HOUSE BILL 1504

State of Washington

66th Legislature

2019 Regular Session

By House Public Safety (originally sponsored by Representatives Klippert and Goodman)

READ FIRST TIME 02/11/19.

1 AN ACT Relating to impaired driving; amending RCW 9.94A.533,
2 9.94A.729, 10.21.055, 18.360.030, 38.52.430, 46.20.245, 46.20.3101,
3 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500, 46.61.503,
4 46.61.504, and 46.61.5055; reenacting and amending RCW 46.20.355;
5 repealing RCW 43.43.3951; prescribing penalties; and providing an
6 effective date.

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

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

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

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

18 (3) The following additional times shall be added to the standard
19 sentence range for felony crimes committed after July 23, 1995, if
20 the offender or an accomplice was armed with a firearm as defined in
21 RCW 9.41.010 and the offender is being sentenced for one of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall be added to the standard sentence range determined under
2 subsection (2) of this section:

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

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

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

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

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

17 (7) An additional two years shall be added to the standard
18 sentence range for vehicular homicide committed while under the
19 influence of intoxicating liquor or any drug as defined by RCW
20 46.61.502 for each prior offense as defined in RCW 46.61.5055.

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

26 An offender serving a sentence under this subsection may be
27 granted an extraordinary medical placement when authorized under RCW
28 9.94A.728(1)(c).

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

1 determined under subsection (2) of this section based on the felony
2 crime of conviction as classified under RCW 9A.28.020:

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

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

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

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

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

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

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

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

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

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

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

4 (9) An additional one-year enhancement shall be added to the
5 standard sentence range for the felony crimes of RCW 9A.44.073,
6 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
7 or after July 22, 2007, if the offender engaged, agreed, or offered
8 to engage the victim in the sexual conduct in return for a fee. If
9 the offender is being sentenced for more than one offense, the
10 one-year enhancement must be added to the total period of total
11 confinement for all offenses, regardless of which underlying offense
12 is subject to the enhancement. If the offender is being sentenced for
13 an anticipatory offense for the felony crimes of RCW 9A.44.073,
14 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
15 offender attempted, solicited another, or conspired to engage, agree,
16 or offer to engage the victim in the sexual conduct in return for a
17 fee, an additional one-year enhancement shall be added to the
18 standard sentence range determined under subsection (2) of this
19 section. For purposes of this subsection, "sexual conduct" means
20 sexual intercourse or sexual contact, both as defined in chapter
21 9A.44 RCW.

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

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

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

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

6 (12) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.831.

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

25 (14) An additional twelve months shall be added to the standard
26 sentence range for an offense that is also a violation of RCW
27 9.94A.832.

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

30 (1)(a) The term of the sentence of an offender committed to a
31 correctional facility operated by the department may be reduced by
32 earned release time in accordance with procedures that shall be
33 developed and adopted by the correctional agency having jurisdiction
34 in which the offender is confined. The earned release time shall be
35 for good behavior and good performance, as determined by the
36 correctional agency having jurisdiction. The correctional agency
37 shall not credit the offender with earned release credits in advance
38 of the offender actually earning the credits.

1 (b) Any program established pursuant to this section shall allow
2 an offender to earn early release credits for presentence
3 incarceration. If an offender is transferred from a county jail to
4 the department, the administrator of a county jail facility shall
5 certify to the department the amount of time spent in custody at the
6 facility and the number of days of early release credits lost or not
7 earned. The department may approve a jail certification from a
8 correctional agency that calculates early release time based on the
9 actual amount of confinement time served by the offender before
10 sentencing when an erroneous calculation of confinement time served
11 by the offender before sentencing appears on the judgment and
12 sentence. The department must adjust an offender's rate of early
13 release listed on the jail certification to be consistent with the
14 rate applicable to offenders in the department's facilities. However,
15 the department is not authorized to adjust the number of presentence
16 early release days that the jail has certified as lost or not earned.

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

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

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

29 (a) In the case of an offender sentenced pursuant to RCW
30 10.95.030(3) or 10.95.035, the offender may not receive any earned
31 early release time during the minimum term of confinement imposed by
32 the court; for any remaining portion of the sentence served by the
33 offender, the aggregate earned release time may not exceed ten
34 percent of the sentence.

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

39 (c) In the case of an offender convicted of a serious violent
40 offense, or a sex offense that is a class A felony, committed on or

1 after July 1, 2003, the aggregate earned release time may not exceed
2 ten percent of the sentence.

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

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

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

8 (A) A sex offense;

9 (B) A violent offense;

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

11 (D) A felony that is domestic violence as defined in RCW
12 10.99.020;

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

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

17 (G) A violation of, or an attempt, solicitation, or conspiracy to
18 violate, RCW 69.50.406 (delivery of a controlled substance to a
19 minor);

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

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

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

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

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

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

1 (b) The department shall, as a part of its program for release to
2 the community in lieu of earned release, require the offender to
3 propose a release plan that includes an approved residence and living
4 arrangement. All offenders with community custody terms eligible for
5 release to community custody in lieu of earned release shall provide
6 an approved residence and living arrangement prior to release to the
7 community;

8 (c) The department may deny transfer to community custody in lieu
9 of earned release time if the department determines an offender's
10 release plan, including proposed residence location and living
11 arrangements, may violate the conditions of the sentence or
12 conditions of supervision, place the offender at risk to violate the
13 conditions of the sentence, place the offender at risk to reoffend,
14 or present a risk to victim safety or community safety. The
15 department's authority under this section is independent of any
16 court-ordered condition of sentence or statutory provision regarding
17 conditions for community custody;

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

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

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

28 A voucher must be provided in conjunction with additional
29 transition support programming or services that enable an offender to
30 participate in services including, but not limited to, substance
31 abuse treatment, mental health treatment, sex offender treatment,
32 educational programming, or employment programming;

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

38 (f) For each offender who is the recipient of a rental voucher,
39 the department shall gather data as recommended by the Washington

1 state institute for public policy in order to best demonstrate
2 whether rental vouchers are effective in reducing recidivism.

3 (6) An offender serving a term of confinement imposed under RCW
4 9.94A.670(5)(a) is not eligible for earned release credits under this
5 section.

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

8 (1)(a) When any person charged with a violation of RCW 46.61.502,
9 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
10 offense as defined in RCW 46.61.5055 and the current offense involves
11 alcohol, is released from custody at arraignment or trial on bail or
12 personal recognizance, the court authorizing the release shall
13 require, as a condition of release that person comply with one of the
14 following four requirements:

15 (i) Have a functioning ignition interlock device installed on all
16 motor vehicles operated by the person, with proof of installation
17 filed with the court by the person or the certified interlock
18 provider within five business days of the date of release from
19 custody or as soon thereafter as determined by the court based on
20 availability within the jurisdiction; or

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

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

28 (iv) Have an ignition interlock device on all motor vehicles
29 operated by the person and that such person agrees not to operate any
30 motor vehicle without an ignition interlock device as required by the
31 court. Under this subsection (1)(a)(iv), the person must file a sworn
32 statement with the court upon release at arraignment that states the
33 person will not operate any motor vehicle without an ignition
34 interlock device while the ignition interlock restriction is imposed
35 by the court. Such person must also submit to 24/7 sobriety program
36 monitoring pursuant to (a)(ii) of this subsection, if available, or
37 alcohol monitoring, at the expense of the person, as provided in RCW
38 46.61.5055(5)(b) and (c).

1 (b) The court shall immediately notify the department of
2 licensing when an ignition interlock restriction is imposed(~~((i))~~)
3 as a condition of release (~~((pursuant to (a) of this subsection;))~~) or
4 (~~((ii))~~) after conviction in instances where a person is charged
5 with, or convicted of, a violation of RCW 46.61.502, 46.61.504,
6 46.61.520, or 46.61.522(~~(, and the offense involves alcohol)~~). If the
7 court imposes an ignition interlock restriction, the department of
8 licensing shall attach or imprint a notation on the driving record of
9 any person restricted under this section stating that the person may
10 operate only a motor vehicle equipped with a functioning ignition
11 interlock device.

12 (2) (a) Upon acquittal or dismissal of all pending or current
13 charges relating to a violation of RCW 46.61.502, 46.61.504,
14 46.61.520, or 46.61.522, or equivalent local ordinance, the court
15 shall authorize removal of the ignition interlock device and lift any
16 requirement to comply with electronic alcohol/drug monitoring imposed
17 under subsection (1) of this section. Nothing in this section limits
18 the authority of the court or department under RCW 46.20.720.

19 (b) If the court authorizes removal of an ignition interlock
20 device imposed under this section, the court shall immediately notify
21 the department of licensing regarding the lifting of the ignition
22 interlock restriction and the department of licensing shall release
23 any attachment, imprint, or notation on such person's driving record
24 relating to the ignition interlock requirement imposed under this
25 section.

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

31 **Sec. 4.** RCW 18.360.030 and 2017 c 336 s 16 are each amended to
32 read as follows:

33 (1) The secretary shall adopt rules specifying the minimum
34 qualifications for a medical assistant-certified, medical assistant-
35 hemodialysis technician, medical assistant-phlebotomist, and forensic
36 phlebotomist.

37 (~~((a))~~) The qualifications for a medical assistant-hemodialysis
38 technician must be equivalent to the qualifications for hemodialysis

1 technicians regulated pursuant to chapter 18.135 RCW as of January 1,
2 2012.

3 ~~((b) The qualifications for a forensic phlebotomist must include~~
4 ~~training consistent with the occupational safety and health~~
5 ~~administration guidelines and must include between twenty and thirty~~
6 ~~hours of work in a clinical setting with the completion of more than~~
7 ~~one hundred successful venipunctures. The secretary may not require~~
8 ~~more than forty hours of classroom training for initial training,~~
9 ~~which may include online preclass homework.))~~

10 (2) The secretary shall adopt rules that establish the minimum
11 requirements necessary for a health care practitioner, clinic, or
12 group practice to endorse a medical assistant as qualified to perform
13 the duties authorized by this chapter and be able to file an
14 attestation of that endorsement with the department.

15 (3) The medical quality assurance commission, the board of
16 osteopathic medicine and surgery, the podiatric medical board, the
17 nursing care quality assurance commission, the board of naturopathy,
18 and the optometry board shall each review and identify other
19 specialty assistive personnel not included in this chapter and the
20 tasks they perform. The department of health shall compile the
21 information from each disciplining authority listed in this
22 subsection and submit the compiled information to the legislature no
23 later than December 15, 2012.

24 **Sec. 5.** RCW 38.52.430 and 2012 c 183 s 6 are each amended to
25 read as follows:

26 A person whose intoxication causes an incident resulting in an
27 appropriate emergency response, and who, in connection with the
28 incident, has been found guilty of or has had their prosecution
29 deferred for (1) driving while under the influence of intoxicating
30 liquor or any drug, RCW 46.61.502; (2) physical control of a motor
31 vehicle while under the influence of intoxicating liquor or any drug,
32 RCW 46.61.504; (3) operating an aircraft under the influence of
33 intoxicants or drugs, RCW 47.68.220; ~~((3))~~ (4) use of a vessel
34 while under the influence of alcohol or drugs, RCW 79A.60.040;
35 ~~((4))~~ (5) vehicular homicide while under the influence of
36 intoxicating liquor or any drug, RCW 46.61.520(1)(a); or ~~((5))~~ (6)
37 vehicular assault while under the influence of intoxicating liquor or
38 any drug, RCW 46.61.522(1)(b), is liable for the expense of an
39 emergency response by a public agency to the incident.

1 The expense of an emergency response is a charge against the
2 person liable for expenses under this section. The charge constitutes
3 a debt of that person and is collectible by the public agency
4 incurring those costs in the same manner as in the case of an
5 obligation under a contract, expressed or implied. Following a
6 conviction of an offense listed in this section, and prior to
7 sentencing, the prosecution may present to the court information
8 setting forth the expenses incurred by the public agency for its
9 emergency response to the incident. Upon a finding by the court that
10 the expenses are reasonable, the court shall order the defendant to
11 reimburse the public agency. The cost reimbursement shall be included
12 in the sentencing order as an additional monetary obligation of the
13 defendant and may not be substituted for any other fine or cost
14 required or allowed by statute. The court may establish a payment
15 schedule for the payment of the cost reimbursement, separate from any
16 payment schedule imposed for other fines and costs. All payments for
17 the cost reimbursement must be remitted directly to the public agency
18 or agencies that incurred the cost associated with the emergency
19 response.

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

23 If more than one public agency makes a claim for payment from an
24 individual for an emergency response to a single incident under the
25 provisions of this section, and the sum of the claims exceeds the
26 amount recovered, the division of the amount recovered shall be
27 determined by an interlocal agreement consistent with the
28 requirements of chapter 39.34 RCW.

29 **Sec. 6.** RCW 46.20.245 and 2005 c 288 s 1 are each amended to
30 read as follows:

31 (1) Whenever the department proposes to withhold the driving
32 privilege of a person or disqualify a person from operating a
33 commercial motor vehicle and this action is made mandatory by the
34 provisions of this chapter or other law, the department must give
35 notice to the person in writing by posting in the United States mail,
36 appropriately addressed, postage prepaid, or by personal service.
37 Notice by mail is given upon deposit in the United States mail.
38 Notice given under this subsection must specify the date upon which

1 the driving privilege is to be withheld which shall not be less than
2 forty-five days after the original notice is given.

3 (2) For persons subject to suspension, revocation, or denial of a
4 driver's license who are eligible for full credit under RCW
5 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section
6 must also notify the person of the obligation to complete the
7 requirements under RCW 46.20.311 and pay the probationary license fee
8 under RCW 46.20.355 by the date specified in the notice in order to
9 avoid license suspension.

10 (3) Within fifteen days after notice has been given to a person
11 under subsection (1) of this section, the person may request in
12 writing an administrative review before the department. If the
13 request is mailed, it must be postmarked within fifteen days after
14 the date the department has given notice. If a person fails to
15 request an administrative review within fifteen days after the date
16 the department gives notice, the person is considered to have
17 defaulted and loses his or her right to an administrative review
18 unless the department finds good cause for a request after the
19 fifteen-day period.

20 (a) An administrative review under this subsection shall consist
21 solely of an internal review of documents and records submitted or
22 available to the department, unless the person requests an interview
23 before the department, in which case all or any part of the
24 administrative review may, at the discretion of the department, be
25 conducted by telephone or other electronic means.

26 (b) The only issues to be addressed in the administrative review
27 are:

28 (i) Whether the records relied on by the department identify the
29 correct person; and

30 (ii) Whether the information transmitted from the court or other
31 reporting agency or entity regarding the person accurately describes
32 the action taken by the court or other reporting agency or entity.

33 (c) For the purposes of this section, the notice received from a
34 court or other reporting agency or entity, regardless of form or
35 format, is prima facie evidence that the information from the court
36 or other reporting agency or entity regarding the person is accurate.
37 A person requesting administrative review has the burden of showing
38 by a preponderance of the evidence that the person is not subject to
39 the withholding of the driving privilege.

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

4 (e) Judicial review of a department order affirming the action
5 subject to the notification requirements of subsection (1) of this
6 section after an administrative review shall be available in the same
7 manner as provided in RCW 46.20.308(~~((9))~~) (8). The department shall
8 certify its record to the court within thirty days after service upon
9 the department of the petition for judicial review. The action
10 subject to the notification requirements of subsection (1) of this
11 section shall not automatically be stayed during the judicial review.
12 If judicial relief is sought for a stay or other temporary remedy
13 from the department's action, the court shall not grant relief unless
14 the court finds that the appellant is likely to prevail in the appeal
15 and that without a stay the appellant will suffer irreparable injury.

16 (~~((3))~~) (4) The department may adopt rules that are considered
17 necessary or convenient by the department for purposes of
18 administering this section, including, but not limited to, rules
19 regarding expedited procedures for issuing orders and expedited
20 notice procedures.

21 (~~((4))~~) (5) This section does not apply where an opportunity for
22 an informal settlement, driver improvement interview, or formal
23 hearing is otherwise provided by law or rule of the department.

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

26 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
27 or deny the arrested person's license, permit, or privilege to drive
28 as follows:

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

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

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

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

5 (a) For a first incident within seven years, where there has not
6 been a previous incident within seven years that resulted in
7 administrative action under this section, suspension for ninety days,
8 unless the person successfully completes or is enrolled in a pretrial
9 24/7 sobriety program;

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

12 (3) In the case of an incident where a person under age twenty-
13 one has submitted to or been administered a test or tests indicating
14 that the alcohol concentration of the person's breath or blood was
15 0.02 or more, or that the THC concentration of the person's blood was
16 above 0.00:

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

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

22 (4) The department shall grant credit on a day-for-day basis for
23 ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~
24 ~~served))~~ imposed under this section for any portion of a suspension,
25 revocation, or denial ~~((imposed))~~ already served under RCW 46.61.5055
26 arising out of the same incident. If a person has already served a
27 suspension, revocation, or denial under RCW 46.61.5055 for a period
28 equal to or greater than the period imposed under this section, the
29 department shall provide notice of full credit, shall provide for no
30 further suspension or revocation under this section, and shall impose
31 no additional reissue fees for this credit.

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

34 (1) Upon receipt of an abstract indicating a deferred prosecution
35 has been granted under RCW 10.05.060, or upon receipt of a notice of
36 conviction of RCW 46.61.502 or 46.61.504, the department of licensing
37 shall order the person to surrender any nonprobationary Washington
38 state driver's license that may be in his or her possession. The
39 department shall revoke the license, permit, or privilege to drive of

1 any person who fails to surrender it as required by this section for
2 one year, unless the license has been previously surrendered to the
3 department, a law enforcement officer, or a court, or the person has
4 completed an affidavit of lost, stolen, destroyed, or previously
5 surrendered license, such revocation to take effect thirty days after
6 notice is given of the requirement for license surrender.

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

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

24 (4) If a person is eligible for full credit under RCW
25 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued
26 under RCW 46.20.245, has completed the requirements under RCW
27 46.20.311 and paid the fee under subsection (5) of this section, the
28 department shall issue a probationary license on the date specified
29 in the notice with no further action required of the person.

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

37 ~~((+5))~~ (6) A probationary license shall enable the department
38 and law enforcement personnel to determine that the person is on
39 probationary status. The fact that a person's driving privilege is in
40 probationary status or that the person has been issued a probationary

1 license shall not be a part of the person's record that is available
2 to insurance companies.

3 **Sec. 9.** RCW 46.20.720 and 2017 c 336 s 5 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:

24 (i) Due to a conviction of a violation of RCW 46.61.502 or
25 46.61.504 or an equivalent local or out-of-state statute or
26 ordinance; or

27 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
28 46.61.500 or an equivalent local ordinance if the person is required
29 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
30 ignition interlock device on all vehicles operated by the person; or

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

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

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

7 (a) Subsection (1)(a) of this section shall remain in effect
8 until:

9 (i) The court has authorized the removal of the device under RCW
10 10.21.055; or

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

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

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

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

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

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

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

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

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

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

37 (g) The period of restriction under (c) and (d) of this
38 subsection based on incidents occurring on or after June 9, 2016,
39 must be tolled for any period in which the person does not have an
40 ignition interlock device installed on a vehicle owned or operated by

1 the person unless the person receives a determination from the
2 department that the person is unable to operate an ignition interlock
3 device due to a physical disability. The department's determination
4 that a person is unable to operate an ignition interlock device must
5 be reasonable and be based upon good and substantial evidence. This
6 determination is subject to review by a court of competent
7 jurisdiction. The department may charge a person seeking a medical
8 exemption under this subsection a reasonable fee for the assessment.

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

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

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

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

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

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

38 (b) The department must also give the person a day-for-day credit
39 for any time period, beginning from the date of the incident, during
40 which the person kept an ignition interlock device installed on all

1 vehicles the person operates, other than those subject to the
2 employer exemption under subsection (6) of this section.

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

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

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

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

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

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

3 **Sec. 10.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each
4 amended to read as follows:

5 (1) The department shall attach or imprint a notation on the
6 driving record of any person restricted under RCW 46.20.720,
7 46.61.5055, or 10.05.140 stating that the person may operate only a
8 motor vehicle equipped with a functioning ignition interlock device.
9 The department shall determine the person's eligibility for licensing
10 based upon written verification by a company doing business in the
11 state that it has installed the required device on a vehicle owned or
12 operated by the person seeking reinstatement. If, based upon
13 notification from the interlock provider or otherwise, the department
14 determines that an ignition interlock required under this section is
15 no longer installed or functioning as required, the department shall
16 suspend the person's license or privilege to drive. Whenever the
17 license or driving privilege of any person is suspended or revoked as
18 a result of noncompliance with an ignition interlock requirement, the
19 suspension shall remain in effect until the person provides notice
20 issued by a company doing business in the state that a vehicle owned
21 or operated by the person is equipped with a functioning ignition
22 interlock device.

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

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

33 **Sec. 11.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each
34 amended to read as follows:

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

1 (a) Tamper with the device by modifying, detaching,
2 disconnecting, or otherwise disabling it to allow the restricted
3 driver to operate the vehicle;

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

7 (c) Has, directs, authorizes, or requests another person to
8 tamper with the device by modifying, detaching, disconnecting, or
9 otherwise disabling it to allow the restricted driver to operate the
10 vehicle; or

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

14 (2) A person who knowingly assists another person who is
15 restricted to the use of a vehicle equipped with an ignition
16 interlock device to circumvent the device or to start and operate
17 that vehicle is guilty of a gross misdemeanor. The provisions of this
18 subsection do not apply if the starting of a motor vehicle, or the
19 request to start a motor vehicle, equipped with an ignition interlock
20 device is done for the purpose of safety or mechanical repair of the
21 device or the vehicle and the person subject to the court order does
22 not operate the vehicle.

23 (3) Any sentence imposed for a violation of subsection (1) of
24 this section shall be served consecutively with any sentence imposed
25 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,
26 46.61.520(1)(a), or 46.61.522(1)(b).

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

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

32 (1) Whenever the driver of a vehicle is arrested for a violation
33 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary
34 impoundment, pursuant to the terms and conditions of an applicable
35 local ordinance or state agency rule at the direction of a law
36 enforcement officer.

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

1 (a) Whenever a police officer finds a vehicle standing upon the
2 roadway in violation of any of the provisions of RCW 46.61.560, the
3 officer may provide for the removal of the vehicle or require the
4 driver or other person in charge of the vehicle to move the vehicle
5 to a position off the roadway;

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

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

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

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

17 (f) Whenever a vehicle without a special license plate, placard,
18 or decal indicating that the vehicle is being used to transport a
19 person with disabilities under RCW 46.19.010 is parked in a stall or
20 space clearly and conspicuously marked under RCW 46.61.581 which
21 space is provided on private property without charge or on public
22 property;

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

27 (h) When a vehicle is illegally occupying a truck, commercial
28 loading zone, restricted parking zone, bus, loading, hooded-meter,
29 taxi, street construction or maintenance, or other similar zone
30 where, by order of the director of transportation or chiefs of police
31 or fire or their designees, parking is limited to designated classes
32 of vehicles or is prohibited during certain hours, on designated days
33 or at all times, if the zone has been established with signage for at
34 least twenty-four hours and where the vehicle is interfering with the
35 proper and intended use of the zone. Signage must give notice to the
36 public that a vehicle will be removed if illegally parked in the
37 zone;

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

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

5 (3) When an arrest is made for a violation of RCW 46.20.342, if
6 the vehicle is a commercial vehicle or farm transport vehicle and the
7 driver of the vehicle is not the owner of the vehicle, before the
8 summary impoundment directed under subsection (1) of this section,
9 the police officer shall attempt in a reasonable and timely manner to
10 contact the owner of the vehicle and may release the vehicle to the
11 owner if the owner is reasonably available, as long as the owner was
12 not in the vehicle at the time of the stop and arrest and the owner
13 has not received a prior release under this subsection or RCW
14 46.55.120(1) ~~((a))~~ (b) (ii).

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

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

27 **Sec. 13.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to
28 read as follows:

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

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

38 (b) When a reckless driving conviction is a result of a charge
39 that was originally filed as a violation of RCW 46.61.502 or

1 46.61.504, or an equivalent local ordinance, the department shall
2 grant credit on a day-for-day basis for any portion of a suspension,
3 revocation, or denial already served under an administrative action
4 arising out of the same incident. In the case of a person whose day-
5 for-day credit is for a period equal to or greater than the period of
6 suspension required under this section, the department shall provide
7 notice of full credit, shall provide for no further suspension under
8 this section, and shall impose no additional reissue fees for this
9 credit. During any period of suspension, revocation, or denial due to
10 a conviction for reckless driving as the result of a charge
11 originally filed as a violation of RCW 46.61.502 or 46.61.504, any
12 person who has obtained an ignition interlock driver's license under
13 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the
14 provision of the ignition interlock driver's license without
15 obtaining a separate temporary restricted driver's license under RCW
16 46.20.391.

17 (3) (a) Except as provided under (b) of this subsection, a person
18 convicted of reckless driving who has one or more prior offenses as
19 defined in RCW 46.61.5055(14) within seven years shall be required,
20 under RCW 46.20.720, to install an ignition interlock device on all
21 vehicles operated by the person if the conviction is the result of a
22 charge that was originally filed as a violation of RCW 46.61.502,
23 46.61.504, or an equivalent local ordinance.

24 (b) A person convicted of reckless driving shall be required,
25 under RCW 46.20.720, to install an ignition interlock device on all
26 vehicles operated by the person if the conviction is the result of a
27 charge that was originally filed as a violation of RCW 46.61.520
28 committed while under the influence of intoxicating liquor or any
29 drug or RCW 46.61.522 committed while under the influence of
30 intoxicating liquor or any drug.

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

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

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

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

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

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

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

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

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

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

31 **Sec. 15.** RCW 46.61.504 and 2017 c 335 s 2 are each amended to
32 read as follows:

33 (1) A person is guilty of being in actual physical control of a
34 motor vehicle while under the influence of intoxicating liquor or any
35 drug if the person has actual physical control of a vehicle within
36 this state:

37 (a) And the person has, within two hours after being in actual
38 physical control of the vehicle, an alcohol concentration of 0.08 or

1 higher as shown by analysis of the person's breath or blood made
2 under RCW 46.61.506; or

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

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

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

11 (2) The fact that a person charged with a violation of this
12 section is or has been entitled to use a drug under the laws of this
13 state does not constitute a defense against any charge of violating
14 this section. No person may be convicted under this section and it is
15 an affirmative defense to any action pursuant to RCW 46.20.308 to
16 suspend, revoke, or deny the privilege to drive if, prior to being
17 pursued by a law enforcement officer, the person has moved the
18 vehicle safely off the roadway. A vehicle is safely off the roadway
19 if:

20 (a) The suspected impaired person is not in the driver's seat of
21 the vehicle;

22 (b) The vehicle is not parked in an area designated for through
23 traffic or in any place not authorized for motor vehicle traffic or
24 parking; and

25 (c) The vehicle's engine is off.

26 (3) (a) It is an affirmative defense to a violation of subsection
27 (1)(a) of this section which the defendant must prove by a
28 preponderance of the evidence that the defendant consumed a
29 sufficient quantity of alcohol after the time of being in actual
30 physical control of the vehicle and before the administration of an
31 analysis of the person's breath or blood to cause the defendant's
32 alcohol concentration to be 0.08 or more within two hours after being
33 in such control. The court shall not admit evidence of this defense
34 unless the defendant notifies the prosecution prior to the omnibus or
35 pretrial hearing in the case of the defendant's intent to assert the
36 affirmative defense.

37 (b) It is an affirmative defense to a violation of subsection
38 (1)(b) of this section, which the defendant must prove by a
39 preponderance of the evidence, that the defendant consumed a
40 sufficient quantity of marijuana after the time of being in actual

1 physical control of the vehicle and before the administration of an
2 analysis of the person's blood to cause the defendant's THC
3 concentration to be 5.00 or more within two hours after being in
4 control of the vehicle. The court shall not admit evidence of this
5 defense unless the defendant notifies the prosecution prior to the
6 omnibus or pretrial hearing in the case of the defendant's intent to
7 assert the affirmative defense.

8 (4) (a) Analyses of blood or breath samples obtained more than two
9 hours after the alleged being in actual physical control of a vehicle
10 may be used as evidence that within two hours of the alleged being in
11 such control, a person had an alcohol concentration of 0.08 or more
12 in violation of subsection (1) (a) of this section, and in any case in
13 which the analysis shows an alcohol concentration above 0.00 may be
14 used as evidence that a person was under the influence of or affected
15 by intoxicating liquor or any drug in violation of subsection (1) (c)
16 or (d) of this section.

17 (b) Analyses of blood samples obtained more than two hours after
18 the alleged being in actual physical control of a vehicle may be used
19 as evidence that within two hours of the alleged being in control of
20 the vehicle, a person had a THC concentration of 5.00 or more in
21 violation of subsection (1) (b) of this section, and in any case in
22 which the analysis shows a THC concentration above 0.00 may be used
23 as evidence that a person was under the influence of or affected by
24 marijuana in violation of subsection (1) (c) or (d) of this section.

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

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

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

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

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

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

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

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

1 **Sec. 16.** RCW 46.61.5055 and 2018 c 201 s 9009 are each amended
2 to read as follows:

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

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

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

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

38 (b) **Penalty for alcohol concentration at least 0.15.** In the case
39 of a person whose alcohol concentration was at least 0.15, or for
40 whom by reason of the person's refusal to take a test offered

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

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

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

28 (2) **One prior offense in seven years.** Except as provided in RCW
29 46.61.502(6) or 46.61.504(6), a person who is convicted of a
30 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
31 within seven years shall be punished as follows:

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

37 (i) By imprisonment for not less than thirty days nor more than
38 three hundred sixty-four days and sixty days of electronic home
39 monitoring. Thirty days of imprisonment and sixty days of electronic
40 home monitoring may not be suspended unless the court finds that the

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

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

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

38 (i) By imprisonment for not less than forty-five days nor more
39 than three hundred sixty-four days and ninety days of electronic home
40 monitoring. Forty-five days of imprisonment and ninety days of

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

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

36 (3) **Two prior offenses in seven years.** Except as provided in RCW
37 46.61.502(6) or 46.61.504(6), a person who is convicted of a
38 violation of RCW 46.61.502 or 46.61.504 and who has two prior
39 offenses within seven years shall be punished as follows:

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

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

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

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

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

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

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

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

11 (a) The person has three or more prior offenses within ten years;
12 or

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

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

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

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

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

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

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

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

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

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

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

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

15 (a) Order the use of an ignition interlock or other device for an
16 additional ((six)) twelve months for each passenger under the age of
17 sixteen when the person is subject to the penalties under subsection
18 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an
19 ignition interlock device for an additional eighteen months for each
20 passenger under the age of sixteen when the person is subject to the
21 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this
22 section;

23 (b) In any case in which the person has no prior offenses within
24 seven years, and except as provided in RCW 46.61.502(6) or
25 46.61.504(6), order an additional twenty-four hours of imprisonment
26 to be served consecutively for each passenger under the age of
27 sixteen, and a fine of not less than one thousand dollars and not
28 more than five thousand dollars for each passenger under the age of
29 sixteen. One thousand dollars of the fine for each passenger under
30 the age of sixteen may not be suspended unless the court finds the
31 offender to be indigent;

32 (c) In any case in which the person has one prior offense within
33 seven years, and except as provided in RCW 46.61.502(6) or
34 46.61.504(6), order an additional five days of imprisonment to be
35 served consecutively for each passenger under the age of sixteen, and
36 a fine of not less than two thousand dollars and not more than five
37 thousand dollars for each passenger under the age of sixteen. One
38 thousand dollars of the fine for each passenger under the age of
39 sixteen may not be suspended unless the court finds the offender to
40 be indigent;

1 (d) In any case in which the person has two prior offenses within
2 seven years, and except as provided in RCW 46.61.502(6) or
3 46.61.504(6), order an additional ten days of imprisonment to be
4 served consecutively for each passenger under the age of sixteen, and
5 a fine of not less than three thousand dollars and not more than ten
6 thousand dollars for each passenger under the age of sixteen. One
7 thousand dollars of the fine for each passenger under the age of
8 sixteen may not be suspended unless the court finds the offender to
9 be indigent.

10 (7) **Other items courts must consider while setting penalties.** In
11 exercising its discretion in setting penalties within the limits
12 allowed by this section, the court shall particularly consider the
13 following:

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

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

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

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

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

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

31 ((+a)) (i) **Penalty for alcohol concentration less than 0.15.** If
32 the person's alcohol concentration was less than 0.15, or if for
33 reasons other than the person's refusal to take a test offered under
34 RCW 46.20.308 there is no test result indicating the person's alcohol
35 concentration:

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

1 In no circumstances shall the license suspension be for fewer than
2 two days;

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

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

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

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

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

25 ~~((+iii))~~ (C) Where there have been two or more prior offenses
26 within seven years, be revoked or denied by the department for four
27 years; or

28 ~~((+e))~~ (iii) **Penalty for refusing to take test.** If by reason of
29 the person's refusal to take a test offered under RCW 46.20.308,
30 there is no test result indicating the person's alcohol
31 concentration:

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

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

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

39 (b)(i) The department shall grant credit on a day-for-day basis
40 for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~

1 served)) imposed under this subsection (9) for any portion of a
2 suspension, revocation, or denial ((imposed)) already served under
3 RCW 46.20.3101 arising out of the same incident.

4 (ii) If a person has already served a suspension, revocation, or
5 denial under RCW 46.20.3101 for a period equal to or greater than the
6 period imposed under this subsection (9), the department shall
7 provide notice of full credit, shall provide for no further
8 suspension or revocation under this subsection provided the person
9 has completed the requirements under RCW 46.20.311 and paid the
10 probationary license fee under RCW 46.20.355 by the date specified in
11 the notice under RCW 46.20.245, and shall impose no additional
12 reissue fees for this credit.

13 (c) Upon receipt of a notice from the court under RCW 36.28A.390
14 that a participant has been removed from a 24/7 sobriety program, the
15 department must resume any suspension, revocation, or denial that had
16 been terminated early under this subsection due to participation in
17 the program, granting credit on a day-for-day basis for any portion
18 of a suspension, revocation, or denial already served under RCW
19 46.20.3101 or this section arising out of the same incident.

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

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

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

38 **(11) Conditions of probation.** (a) In addition to any
39 nonsuspendable and nondeferrable jail sentence required by this
40 section, whenever the court imposes up to three hundred sixty-four

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

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

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

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

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

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

8 (c) The court determines that there is reason to believe that the
9 offender would violate the conditions of the electronic home
10 monitoring penalty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
5 prosecution for a violation of RCW 46.61.5249, or an equivalent local
6 ordinance, if the charge under which the deferred prosecution was
7 granted was originally filed as a violation of RCW 46.61.502 or
8 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
9 46.61.522;

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

16 (xvii) A deferred sentence imposed in a prosecution for a
17 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
18 equivalent local ordinance, if the charge under which the deferred
19 sentence was imposed was originally filed as a violation of RCW
20 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
21 violation of RCW 46.61.520 or 46.61.522;

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

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

28 (c) "Within seven years" means that the arrest for a prior
29 offense occurred within seven years before or after the arrest for
30 the current offense; and

31 (d) "Within ten years" means that the arrest for a prior offense
32 occurred within ten years before or after the arrest for the current
33 offense.

34 (15) All fines imposed by this section apply to adult offenders
35 only.

36 NEW SECTION. **Sec. 17.** RCW 43.43.3951 (Ignition interlock
37 devices—Limited exemption for companies not using devices employing
38 fuel cell technology) and 2010 c 268 s 3 are each repealed.

1 NEW SECTION. **Sec. 18.** Sections 2, 3, 6 through 11, 13, and 16
2 of this act take effect January 1, 2020.

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