**5002-S2 AMS FORT S4684.1 - NOT FOR FLOOR USE**

**2SSB 5002** - S AMD TO S AMD (S-4427.2/24) **619**

By Senator Fortunato

**NOT CONSIDERED 03/07/2024**

Beginning on page 1, line 3, strike all of sections 1 through 3

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 5, line 31, after "**than**" strike "**0.15**" and insert "((**~~0.15~~**)) **0.10**"

On page 5, line 32, after "than" strike "0.15" and insert "((~~0.15~~)) 0.10"

On page 6, line 16, after "indigent;" strike "or" and insert "((~~or~~))"

On page 6, line 17, after "(b)" insert "**Penalty for alcohol concentration at least 0.10.** In the case of a person whose alcohol concentration was at least 0.10:

(i) By imprisonment for not less than 48 consecutive hours nor more than 364 days. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court, in its discretion, may order not less than 30 days of electronic home monitoring or 120-day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program testing as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than $500 nor more than $5,000. $500 of the fine may not be suspended unless the court finds the offender to be indigent; or

(c)"

Correct any internal references accordingly.

On page 6, line 17, after "**least**" strike "**0.15**" and insert "((**~~0.15~~**)) **0.12**"

On page 6, line 18, after "least" strike "0.15" and insert "((~~0.15~~)) 0.12"

On page 6, line 38, after "~~dollars~~))" strike "$500" and insert "$1,245"

On page 7, line 7, after "**than**" strike "**0.15**" and insert "((**~~0.15~~**)) **0.10**"

On page 7, line 8, after "than" strike "0.15" and insert "((~~0.15~~)) 0.10"

On page 8, line 4, after "indigent;" strike "or" and insert "((~~or~~))"

On page 8, line 5, after "(b)" insert "**Penalty for alcohol concentration at least 0.10.** In the case of a person whose alcohol concentration was at least 0.10:

(i) By imprisonment for not less than 40 days nor more than 364 days. In lieu of the mandatory minimum term of imprisonment required under this subsection (2)(b)(i), the court, in its discretion, may order not less than 40 days of electronic home monitoring or 120-day period of 24/7 sobriety program monitoring. The court may consider the offender's pretrial 24/7 sobriety program testing as fulfilling a portion of posttrial sentencing. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than $600 nor more than $5,000. $500 of the fine may not be suspended unless the court finds the offender to be indigent; or

(c)"

Correct any internal references accordingly.

On page 8, line 5, after "**least**" strike "**0.15**" and insert "((**~~0.15~~**)) **0.12**"

On page 8, line 6, after "least" strike "0.15" and insert "((~~0.15~~)) 0.12"

On page 9, line 7, after "**than**" strike "**0.15**" and insert "((**~~0.15~~**)) **0.10**"

On page 9, line 8, after "than" strike "0.15" and insert "((~~0.15~~)) 0.10"

On page 10, line 4, after "indigent;" strike "or" and insert "((~~or~~))"

On page 10, line 5, after "**least**" strike "**0.15**" and insert "((**~~0.15~~**)) **0.10**"

On page 10 line 6, after "least" strike "0.15" and insert "((~~0.15~~)) 0.10"

On page 10, line 10, after "~~twenty~~))" strike "120" and insert "105"

On page 10, line 22, after "~~twenty~~))" strike "120" and insert "105"

On page 10, at the beginning of line 40, after "~~dollars~~))" strike "$1,500" and insert "$1,250"

On page 11, line 1, after "~~five~~" strike "~~hundred~~)) $1,500 dollars" and insert "~~hundred dollars~~)) $1,000"

On page 11, line 2, after "indigent" insert "; or

(c) **Penalty for alcohol concentration at least 0.12.** In the case of a person whose alcohol concentration was at least 0.12, or for whom by reason of the person's refusal to take a test offered pursuant to RCW 46.20.308 there is no test result indicating the person's alcohol concentration:

(i) By imprisonment for not less than 120 days nor more than 364 days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and 150 days of electronic home monitoring. 120 days of imprisonment and 150 days of electronic home monitoring may not be suspended or converted unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. If the offender shows that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being, in lieu of the mandatory minimum term of 120 days of imprisonment and 150 days of electronic home monitoring, the court may order 360 days of electronic home monitoring or 360-day period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum sentence is suspended or converted, the court shall state in writing the reason for granting the suspension or conversion and the facts upon which the suspension or conversion is based. The offender shall pay the cost of the electronic monitoring. The court shall order an expanded substance use disorder assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

(ii) By a fine of not less than $1,500 nor more than $5,000. $1,500 of the fine may not be suspended unless the court finds the offender to be indigent"

Beginning on page 19, line 24, strike all of sections 5 through 10

Renumber the remaining sections consecutively and correct any internal references accordingly.

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By Senator Fortunato

**NOT CONSIDERED 03/07/2024**

On page 38, beginning on line 6, after "RCW" strike all material through "79A.60.040" on line 8 and insert "46.61.5055"

On page 38, line 10, after "RCW;" strike "creating a new section;"

EFFECT: (1) Removes the intent section with findings supporting a 0.05 alcohol concentration.

(2) Retains the legal limit of 0.08 alcohol concentration.

(3) Changes the penalty schedule for violations of alcohol concentration:

(a) Adds 0.10 as a penalty threshold; and

(b) Reduces the 0.15 penalty threshold to 0.12.