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**SUBSTITUTE SENATE BILL 5067**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Lovick, McCune, Dhingra, Lias, Nobles, Orwall, Pedersen, Valdez, and Wellman; by request of Washington Traffic Safety Commission)

READ FIRST TIME 01/17/25.

1 AN ACT Relating to impaired driving; amending RCW 46.61.502,  
2 46.61.504, 46.61.5055, 46.61.506, 46.20.308, 46.20.3101, 46.25.090,  
3 38.38.760, and 79A.60.040; adding a new section to chapter 43.59 RCW;  
4 adding a new section to chapter 66.44 RCW; adding a new section to  
5 chapter 66.08 RCW; creating a new section; prescribing penalties;  
6 providing an effective date; and providing an expiration date.

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

8 NEW SECTION. **Sec. 1.** (1) The legislature finds that a per se  
9 0.05 blood alcohol concentration level is the standard throughout  
10 most of the world. Norway was the first country to establish a per se  
11 blood alcohol concentration limit of 0.05 in 1936. Since then, most  
12 countries have adopted blood alcohol concentration limits of 0.05 or  
13 lower. Eighty-four percent of the world's population lives in  
14 countries with a blood alcohol concentration limit of 0.05 or lower.  
15 Studies on the impacts of these laws around the world have found that  
16 reducing the limit from 0.08 to 0.05 results in an average reduction  
17 of fatalities involving alcohol-impaired driving by 11 percent  
18 annually. The national highway traffic safety administration found  
19 that a driver's risk of crash involvement at 0.05 is double the rate  
20 of a sober driver, which increases to three times the risk at 0.07.

1 (2) The legislature finds and declares that 2023 was the  
2 deadliest year on Washington roads since 1990. Washington state saw  
3 734 fatal crashes resulting in the death of more than 810 people.  
4 Half of all fatal crashes involve a driver impaired by drugs or  
5 alcohol, and the state saw a 59 percent increase in crashes involving  
6 an impaired driver between 2019 and 2023. This alarming upward trend  
7 must be addressed if Washington state is going to meet its goal of  
8 target zero.

9 (3) The increase in Washingtonians choosing to drive while  
10 impaired points to a need to adjust Washington's impaired driving  
11 laws. Utah lowered the blood alcohol concentration limit for  
12 operating a motor vehicle from 0.08 to 0.05 in 2018 and found that 22  
13 percent of people who drank alcohol said they changed their behavior  
14 as a result of the new law. Given the increase in traffic fatalities  
15 from impaired driving, the legislature declares that it is time to  
16 keep Washington's roads safer and lower the number of fatal crashes  
17 caused by impaired drivers by lowering the blood alcohol limit to  
18 0.05.

19 **Sec. 2.** RCW 46.61.502 and 2024 c 306 s 30 are each amended to  
20 read as follows:

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

24 (a) And the person has, within two hours after driving, an  
25 alcohol concentration of (~~0.08~~) 0.05 or higher as shown by analysis  
26 of the person's breath or blood made under RCW 46.61.506; or

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

30 (c) While the person is under the influence of or affected by  
31 intoxicating liquor, cannabis, or any drug; or

32 (d) While the person is under the combined influence of or  
33 affected by intoxicating liquor, cannabis, and any drug.

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

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

1 preponderance of the evidence, that the defendant consumed a  
2 sufficient quantity of alcohol after the time of driving and before  
3 the administration of an analysis of the person's breath or blood to  
4 cause the defendant's alcohol concentration to be (~~(0.08)~~) 0.05 or  
5 more within two hours after driving. The court shall not admit  
6 evidence of this defense unless the defendant notifies the  
7 prosecution prior to the omnibus or pretrial hearing in the case of  
8 the defendant's intent to assert the affirmative defense.

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

19 (4)(a) Analyses of blood or breath samples obtained more than two  
20 hours after the alleged driving may be used as evidence that within  
21 two hours of the alleged driving, a person had an alcohol  
22 concentration of (~~(0.08)~~) 0.05 or more in violation of subsection  
23 (1)(a) of this section, and in any case in which the analysis shows  
24 an alcohol concentration above 0.00 may be used as evidence that a  
25 person was under the influence of or affected by intoxicating liquor  
26 or any drug in violation of subsection (1)(c) or (d) of this section.

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

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

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

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

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

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

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

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

7 (iv) A violation of this subsection (6) or RCW 46.61.504(6).

8 **Sec. 3.** RCW 46.61.504 and 2024 c 306 s 32 are each amended to  
9 read as follows:

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

14 (a) And the person has, within two hours after being in actual  
15 physical control of the vehicle, an alcohol concentration of (~~(0.08)~~)  
16 0.05 or higher as shown by analysis of the person's breath or blood  
17 made under RCW 46.61.506; or

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

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

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

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

34 (3)(a) It is an affirmative defense to a violation of subsection  
35 (1)(a) of this section which the defendant must prove by a  
36 preponderance of the evidence that the defendant consumed a  
37 sufficient quantity of alcohol after the time of being in actual  
38 physical control of the vehicle and before the administration of an  
39 analysis of the person's breath or blood to cause the defendant's

1 alcohol concentration to be (~~0.08~~) 0.05 or more within two hours  
2 after being in such control. The court shall not admit evidence of  
3 this defense unless the defendant notifies the prosecution prior to  
4 the omnibus or pretrial hearing in the case of the defendant's intent  
5 to assert the affirmative defense.

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

17 (4) (a) Analyses of blood or breath samples obtained more than two  
18 hours after the alleged being in actual physical control of a vehicle  
19 may be used as evidence that within two hours of the alleged being in  
20 such control, a person had an alcohol concentration of (~~0.08~~) 0.05  
21 or more in violation of subsection (1)(a) of this section, and in any  
22 case in which the analysis shows an alcohol concentration above 0.00  
23 may be used as evidence that a person was under the influence of or  
24 affected by intoxicating liquor or any drug in violation of  
25 subsection (1)(c) or (d) of this section.

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

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

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

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

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

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

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

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

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

8 **Sec. 4.** RCW 46.61.5055 and 2024 c 306 s 31 are each amended to  
9 read as follows:

10 (1) **No prior offenses in seven years.** Except as provided in RCW  
11 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
12 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
13 within seven years shall be punished as follows:

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

19 (i) By imprisonment for not less than 24 consecutive hours nor  
20 more than 364 days. 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 15 days of electronic home  
23 monitoring or a 90-day period of 24/7 sobriety program monitoring.  
24 The court may consider the offender's pretrial 24/7 sobriety program  
25 monitoring as fulfilling a portion of posttrial sentencing. The  
26 offender shall pay the cost of electronic home monitoring. The county  
27 or municipality in which the penalty is being imposed shall determine  
28 the cost. The court may also require the offender's electronic home  
29 monitoring device or other separate alcohol monitoring device to  
30 include an alcohol detection breathalyzer, and the court may restrict  
31 the amount of alcohol the offender may consume during the time the  
32 offender is on electronic home monitoring; and

33 (ii) By a fine of not less than \$350 nor more than \$5,000. \$350  
34 of the fine may not be suspended unless the court finds the offender  
35 to be indigent; or

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

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

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

20 (2) **One prior offense in seven years.** Except as provided in RCW  
21 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
22 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
23 within seven years shall be punished as follows:

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

29 (i) By imprisonment for not less than 30 days nor more than 364  
30 days and 60 days of electronic home monitoring. Thirty days of  
31 imprisonment and 60 days of electronic home monitoring may not be  
32 suspended or converted unless the court finds that the imposition of  
33 this mandatory minimum sentence would impose a substantial risk to  
34 the offender's physical or mental well-being. If the offender shows  
35 that the imposition of this mandatory minimum sentence would impose a  
36 substantial risk to the offender's physical or mental well-being, in  
37 lieu of the mandatory term of imprisonment and electronic home  
38 monitoring under this subsection (2)(a)(i), the court may order a  
39 minimum of either 180 days of electronic home monitoring or a 120-day  
40 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300

1 through 36.28A.390. Whenever the mandatory minimum sentence is  
2 suspended or converted, the court shall state in writing the reason  
3 for granting the suspension or conversion and the facts upon which  
4 the suspension or conversion is based. The court may consider the  
5 offender's pretrial 24/7 sobriety program monitoring as fulfilling a  
6 portion of posttrial sentencing. The court shall order an expanded  
7 substance use disorder assessment and treatment, if deemed  
8 appropriate by the assessment. The offender shall pay for the cost of  
9 the electronic monitoring. The county or municipality where the  
10 penalty is being imposed shall determine the cost. The court may also  
11 require the offender's electronic home monitoring device include an  
12 alcohol detection breathalyzer or other separate alcohol monitoring  
13 device, and may restrict the amount of alcohol the offender may  
14 consume during the time the offender is on electronic home  
15 monitoring; and

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

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

24 (i) By imprisonment for not less than 45 days nor more than 364  
25 days and 90 days of electronic home monitoring. Forty-five days of  
26 imprisonment and 90 days of electronic home monitoring may not be  
27 suspended or converted unless the court finds that the imposition of  
28 this mandatory minimum sentence would impose a substantial risk to  
29 the offender's physical or mental well-being. If the offender shows  
30 that the imposition of this mandatory minimum sentence would impose a  
31 substantial risk to the offender's physical or mental well-being, in  
32 lieu of the mandatory minimum term of imprisonment and electronic  
33 home monitoring under this subsection (2)(b)(i), the court may order  
34 a minimum of either six months of electronic home monitoring or a  
35 120-day period of 24/7 sobriety program monitoring pursuant to RCW  
36 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
37 sentence is suspended or converted, the court shall state in writing  
38 the reason for granting the suspension or conversion and the facts  
39 upon which the suspension or conversion is based. The court may  
40 consider the offender's pretrial 24/7 sobriety program monitoring as

1 fulfilling a portion of posttrial sentencing. The court shall order  
2 an expanded substance use disorder assessment and treatment, if  
3 deemed appropriate by the assessment. The offender shall pay for the  
4 cost of the electronic monitoring. The county or municipality where  
5 the penalty is being imposed shall determine the cost. The court may  
6 also require the offender's electronic home monitoring device include  
7 an alcohol detection breathalyzer or other separate alcohol  
8 monitoring device, and may restrict the amount of alcohol the  
9 offender may consume during the time the offender is on electronic  
10 home monitoring; and

11 (ii) By a fine of not less than \$750 nor more than \$5,000. \$750  
12 of the fine may not be suspended unless the court finds the offender  
13 to be indigent.

14 (3) **Two prior offenses in seven years.** Except as provided in RCW  
15 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
16 violation of RCW 46.61.502 or 46.61.504 and who has two prior  
17 offenses within seven years shall be punished as follows:

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

23 (i) By imprisonment for not less than 90 days nor more than 364  
24 days, if available in that county or city, a six-month period of 24/7  
25 sobriety program monitoring pursuant to RCW 36.28A.300 through  
26 36.28A.390, and 120 days of electronic home monitoring. Ninety days  
27 of imprisonment and 120 days of electronic home monitoring may not be  
28 suspended or converted unless the court finds that the imposition of  
29 this mandatory minimum sentence would impose a substantial risk to  
30 the offender's physical or mental well-being. If the offender shows  
31 that the imposition of this mandatory minimum sentence would impose a  
32 substantial risk to the offender's physical or mental well-being, in  
33 lieu of the mandatory minimum term of 90 days of imprisonment and 120  
34 days of electronic home monitoring, the court may order 360 days of  
35 electronic home monitoring or a 360-day period of 24/7 sobriety  
36 monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever  
37 the mandatory minimum sentence is suspended or converted, the court  
38 shall state in writing the reason for granting the suspension or  
39 conversion and the facts upon which the suspension or conversion is  
40 based. The court shall order an expanded substance use disorder

1 assessment and treatment, if deemed appropriate by the assessment.  
2 The offender shall pay for the cost of the electronic monitoring. The  
3 county or municipality where the penalty is being imposed shall  
4 determine the cost. The court may also require the offender's  
5 electronic home monitoring device include an alcohol detection  
6 breathalyzer or other separate alcohol monitoring device, and may  
7 restrict the amount of alcohol the offender may consume during the  
8 time the offender is on electronic home monitoring; and

9 (ii) By a fine of not less than \$1,000 nor more than \$5,000.  
10 \$1,000 of the fine may not be suspended unless the court finds the  
11 offender to be indigent; or

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

17 (i) By imprisonment for not less than 120 days nor more than 364  
18 days, if available in that county or city, a six-month period of 24/7  
19 sobriety program monitoring pursuant to RCW 36.28A.300 through  
20 36.28A.390, and 150 days of electronic home monitoring. One hundred  
21 twenty days of imprisonment and 150 days of electronic home  
22 monitoring may not be suspended or converted unless the court finds  
23 that the imposition of this mandatory minimum sentence would impose a  
24 substantial risk to the offender's physical or mental well-being. If  
25 the offender shows that the imposition of this mandatory minimum  
26 sentence would impose a substantial risk to the offender's physical  
27 or mental well-being, in lieu of the mandatory minimum term of 120  
28 days of imprisonment and 150 days of electronic home monitoring, the  
29 court may order 360 days of electronic home monitoring or a 360-day  
30 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through  
31 36.28A.390. Whenever the mandatory minimum sentence is suspended or  
32 converted, the court shall state in writing the reason for granting  
33 the suspension or conversion and the facts upon which the suspension  
34 or conversion is based. The offender shall pay for the cost of the  
35 electronic monitoring. The court shall order an expanded substance  
36 use disorder assessment and treatment, if deemed appropriate by the  
37 assessment. The county or municipality where the penalty is being  
38 imposed shall determine the cost. The court may also require the  
39 offender's electronic home monitoring device include an alcohol  
40 detection breathalyzer or other separate alcohol monitoring device,

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

3 (ii) By a fine of not less than \$1,500 nor more than \$5,000.  
4 \$1,500 (~~dollars~~) of the fine may not be suspended unless the court  
5 finds the offender to be indigent.

6 (4) **Three or more prior offenses in 15 years.** A person who is  
7 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be  
8 punished under chapter 9.94A RCW if:

9 (a) The person has three or more prior offenses within 15 years;  
10 or

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

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

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

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

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

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

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

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

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

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

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

8 (6) **Penalty for having a minor passenger in vehicle.** If a person  
9 who is convicted of a violation of RCW 46.61.502 or 46.61.504  
10 committed the offense while one or more passengers under the age of  
11 16 were in the vehicle, the court shall:

12 (a) Order the use of an ignition interlock or other device for an  
13 additional 12 months for each passenger under the age of 16 when the  
14 person is subject to the penalties under subsection (1)(a), (2)(a),  
15 or (3)(a) of this section; and order the use of an ignition interlock  
16 device for an additional 18 months for each passenger under the age  
17 of 16 when the person is subject to the penalties under subsection  
18 (1)(b), (2)(b), (3)(b), or (4) of this section;

19 (b) In any case in which the person has no prior offenses within  
20 seven years, and except as provided in RCW 46.61.502(6) or  
21 46.61.504(6), order an additional 24 hours of imprisonment to be  
22 served consecutively for each passenger under the age of 16, and a  
23 fine of not less than \$1,000 and not more than \$5,000 for each  
24 passenger under the age of 16. \$1,000 of the fine for each passenger  
25 under the age of 16 may not be suspended unless the court finds the  
26 offender to be indigent;

27 (c) In any case in which the person has one prior offense within  
28 seven years, and except as provided in RCW 46.61.502(6) or  
29 46.61.504(6), order an additional five days of imprisonment to be  
30 served consecutively for each passenger under the age of 16, and a  
31 fine of not less than \$2,000 and not more than \$5,000 for each  
32 passenger under the age of 16. One thousand dollars of the fine for  
33 each passenger under the age of 16 may not be suspended unless the  
34 court finds the offender to be indigent;

35 (d) In any case in which the person has two prior offenses within  
36 seven years, and except as provided in RCW 46.61.502(6) or  
37 46.61.504(6), order an additional ten days of imprisonment to be  
38 served consecutively for each passenger under the age of 16, and a  
39 fine of not less than \$3,000 and not more than \$10,000 for each  
40 passenger under the age of 16. \$1,000 of the fine for each passenger

1 under the age of 16 may not be suspended unless the court finds the  
2 offender to be indigent.

3 (7) **Other items courts must consider while setting penalties.** In  
4 exercising its discretion in setting penalties within the limits  
5 allowed by this section, the court shall particularly consider the  
6 following:

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

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

11 (c) Whether the driver was driving in the opposite direction of  
12 the normal flow of traffic on a multiple lane highway, as defined by  
13 RCW 46.04.350, with a posted speed limit of 45 miles per hour or  
14 greater; and

15 (d) Whether a child passenger under the age of 16 was an occupant  
16 in the driver's vehicle.

17 (8) **Treatment and information school.** An offender punishable  
18 under this section is subject to the substance use disorder  
19 assessment and treatment provisions of RCW 46.61.5056.

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

24 (i) **Penalty for alcohol concentration less than 0.15.** If the  
25 person's alcohol concentration was less than 0.15, or if for reasons  
26 other than the person's refusal to take a test offered under RCW  
27 46.20.308 there is no test result indicating the person's alcohol  
28 concentration:

29 (A) Where there has been no prior offense within seven years, be  
30 suspended or denied by the department for 90 days or until the person  
31 is evaluated by a substance use disorder agency or probation  
32 department pursuant to RCW 46.20.311 and the person completes or is  
33 enrolled in a 90-day period of 24/7 sobriety program monitoring. In  
34 no circumstances shall the license suspension be for fewer than two  
35 days;

36 (B) Where there has been one prior offense within seven years, be  
37 revoked or denied by the department for two years or until the person  
38 is evaluated by a substance use disorder agency or probation  
39 department pursuant to RCW 46.20.311 and the person completes or is  
40 enrolled in a six-month period of 24/7 sobriety program monitoring.

1 In no circumstances shall the license suspension be for less than one  
2 year; or

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

5 (ii) **Penalty for alcohol concentration at least 0.15.** If the  
6 person's alcohol concentration was at least 0.15:

7 (A) Where there has been no prior offense within seven years, be  
8 revoked or denied by the department for one year or until the person  
9 is evaluated by a substance use disorder agency or probation  
10 department pursuant to RCW 46.20.311 and the person completes or is  
11 enrolled in a one hundred twenty day period of 24/7 sobriety program  
12 monitoring. In no circumstances shall the license revocation be for  
13 fewer than four days;

14 (B) Where there has been one prior offense within seven years, be  
15 revoked or denied by the department for 900 days; or

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

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

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

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

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

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

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

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

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

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

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

26 (11) **Conditions of probation.** (a) In addition to any  
27 nonsuspendable and nondeferrable jail sentence required by this  
28 section, whenever the court imposes up to 364 days in jail, the court  
29 shall also suspend but shall not defer a period of confinement for a  
30 period not exceeding five years. The court shall impose conditions of  
31 probation that include: (i) Not driving a motor vehicle within this  
32 state without a valid license to drive; (ii) not driving a motor  
33 vehicle within this state without proof of liability insurance or  
34 other financial responsibility for the future pursuant to RCW  
35 46.30.020; (iii) not driving or being in physical control of a motor  
36 vehicle within this state while having an alcohol concentration of  
37 (~~0.08~~) 0.05 or more or a THC concentration of 5.00 nanograms per  
38 milliliter of whole blood or higher, within two hours after driving;  
39 (iv) not refusing to submit to a test of his or her breath or blood  
40 to determine alcohol or drug concentration upon request of a law

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

12 (b) For each violation of mandatory conditions of probation under  
13 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall  
14 order the convicted person to be confined for 30 days, which shall  
15 not be suspended or deferred.

16 (c)(i) Except as provided in (c)(ii) of this subsection, for each  
17 incident involving a violation of a mandatory condition of probation  
18 imposed under this subsection, the license, permit, or privilege to  
19 drive of the person shall be suspended by the court for 30 days or,  
20 if such license, permit, or privilege to drive already is suspended,  
21 revoked, or denied at the time the finding of probation violation is  
22 made, the suspension, revocation, or denial then in effect shall be  
23 extended by 30 days. The court shall notify the department of any  
24 suspension, revocation, or denial or any extension of a suspension,  
25 revocation, or denial imposed under this subsection. The person may  
26 apply for an ignition interlock driver's license under RCW 46.20.385  
27 during the suspension period.

28 (ii) For each incident involving a violation of RCW  
29 46.20.342(1)(c), the court has discretion not to impose a suspension  
30 when the person provides the court with proof that the violation has  
31 been cured within 30 days. The court is not required to notify the  
32 department of the violation unless it is not cured within 30 days.

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

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

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

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

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

12 Whenever the combination of jail time and electronic home  
13 monitoring or alternative sentence would exceed 364 days, the  
14 offender shall serve the jail portion of the sentence first, and the  
15 electronic home monitoring or alternative portion of the sentence  
16 shall be reduced so that the combination does not exceed 364 days.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (d) "Within 15 years" means that the arrest for a prior offense  
23 occurred within 15 years before or after the arrest for the current  
24 offense.

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

27 **Sec. 5.** RCW 46.61.506 and 2020 c 80 s 33 are each amended to  
28 read as follows:

29 (1) Upon the trial of any civil or criminal action or proceeding  
30 arising out of acts alleged to have been committed by any person  
31 while driving or in actual physical control of a vehicle while under  
32 the influence of intoxicating liquor or any drug, if the person's  
33 alcohol concentration is less than (~~(0.08)~~) 0.05 or the person's THC  
34 concentration is less than 5.00, it is evidence that may be  
35 considered with other competent evidence in determining whether the  
36 person was under the influence of intoxicating liquor or any drug.

37 (2)(a) The breath analysis of the person's alcohol concentration  
38 shall be based upon grams of alcohol per (~~(two hundred ten)~~) 210  
39 liters of breath.

1 (b) The blood analysis of the person's THC concentration shall be  
2 based upon nanograms per milliliter of whole blood.

3 (c) The foregoing provisions of this section shall not be  
4 construed as limiting the introduction of any other competent  
5 evidence bearing upon the question whether the person was under the  
6 influence of intoxicating liquor or any drug.

7 (3) Analysis of the person's blood or breath to be considered  
8 valid under the provisions of this section or RCW 46.61.502 or  
9 46.61.504 shall have been performed according to methods approved by  
10 the state toxicologist and by an individual possessing a valid permit  
11 issued by the state toxicologist for this purpose. The state  
12 toxicologist is directed to approve satisfactory techniques or  
13 methods, to supervise the examination of individuals to ascertain  
14 their qualifications and competence to conduct such analyses, and to  
15 issue permits which shall be subject to termination or revocation at  
16 the discretion of the state toxicologist.

17 (4) (a) A breath test performed by any instrument approved by the  
18 state toxicologist shall be admissible at trial or in an  
19 administrative proceeding if the prosecution or department produces  
20 prima facie evidence of the following:

21 (i) The person who performed the test was authorized to perform  
22 such test by the state toxicologist;

23 (ii) The person being tested did not vomit or have anything to  
24 eat, drink, or smoke for at least (~~(fifteen))~~ 15 minutes prior to  
25 administration of the test;

26 (iii) The person being tested did not have any foreign  
27 substances, not to include dental work or piercings, fixed or  
28 removable, in his or her mouth at the beginning of the (~~(fifteen-~~  
29 ~~minute))~~ 15-minute observation period;

30 (iv) Prior to the start of the test, the temperature of any  
31 liquid simulator solution utilized as an external standard, as  
32 measured by a thermometer approved of by the state toxicologist was  
33 (~~(thirty-four))~~ 34 degrees centigrade plus or minus 0.3 degrees  
34 centigrade;

35 (v) The internal standard test resulted in the message  
36 "verified";

37 (vi) The two breath samples agree to within plus or minus (~~(ten))~~  
38 10 percent of their mean to be determined by the method approved by  
39 the state toxicologist;

1 (vii) The result of the test of the liquid simulator solution  
2 external standard or dry gas external standard result did lie between  
3 (~~.072 to .088~~) .045 to .055 inclusive; and

4 (viii) All blank tests gave results of .000.

5 (b) For purposes of this section, "prima facie evidence" is  
6 evidence of sufficient circumstances that would support a logical and  
7 reasonable inference of the facts sought to be proved. In assessing  
8 whether there is sufficient evidence of the foundational facts, the  
9 court or administrative tribunal is to assume the truth of the  
10 prosecution's or department's evidence and all reasonable inferences  
11 from it in a light most favorable to the prosecution or department.

12 (c) Nothing in this section shall be deemed to prevent the  
13 subject of the test from challenging the reliability or accuracy of  
14 the test, the reliability or functioning of the instrument, or any  
15 maintenance procedures. Such challenges, however, shall not preclude  
16 the admissibility of the test once the prosecution or department has  
17 made a prima facie showing of the requirements contained in (a) of  
18 this subsection. Instead, such challenges may be considered by the  
19 trier of fact in determining what weight to give to the test result.

20 (5) When a blood test is administered under the provisions of RCW  
21 46.20.308, the withdrawal of blood for the purpose of determining its  
22 alcohol or drug content may be performed only by a physician licensed  
23 under chapter 18.71 RCW; an osteopathic physician licensed under  
24 chapter 18.57 RCW; a registered nurse, licensed practical nurse, or  
25 advanced registered nurse practitioner licensed under chapter 18.79  
26 RCW; a physician assistant licensed under chapter 18.71A RCW; an  
27 advanced emergency medical technician or paramedic certified under  
28 chapter 18.71 RCW; or a medical assistant-certified or medical  
29 assistant-phlebotomist certified under chapter 18.360 RCW, a person  
30 holding another credential under Title 18 RCW whose scope of practice  
31 includes performing venous blood draws, or a forensic phlebotomist  
32 certified under chapter 18.360 RCW. When the blood test is performed  
33 outside the state of Washington, the withdrawal of blood for the  
34 purpose of determining its alcohol or drug content may be performed  
35 by any person who is authorized by the out-of-state jurisdiction to  
36 perform venous blood draws. Proof of qualification to draw blood may  
37 be established through the department of health's provider credential  
38 search. This limitation shall not apply to the taking of breath  
39 specimens.

1 (6) When a venous blood sample is performed by a forensic  
2 phlebotomist certified under chapter 18.360 RCW, it must be done  
3 under the following conditions:

4 (a) If taken at the scene, it must be performed in an ambulance  
5 or aid service vehicle licensed by the department of health under  
6 chapter 18.73 RCW.

7 (b) The collection of blood samples must not interfere with the  
8 provision of essential medical care.

9 (c) The blood sample must be collected using sterile equipment  
10 and the skin area of puncture must be thoroughly cleansed and  
11 disinfected.

12 (d) The person whose blood is collected must be seated, reclined,  
13 or lying down when the blood is collected.

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

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

28 **Sec. 6.** RCW 46.20.308 and 2022 c 16 s 38 are each amended to  
29 read as follows:

30 (1) Any person who operates a motor vehicle within this state is  
31 deemed to have given consent, subject to the provisions of RCW  
32 46.61.506, to a test or tests of his or her breath for the purpose of  
33 determining the alcohol concentration in his or her breath if  
34 arrested for any offense where, at the time of the arrest, the  
35 arresting officer has reasonable grounds to believe the person had  
36 been driving or was in actual physical control of a motor vehicle  
37 while under the influence of intoxicating liquor or any drug or was  
38 in violation of RCW 46.61.503.

1           (2) The test or tests of breath shall be administered at the  
2 direction of a law enforcement officer having reasonable grounds to  
3 believe the person to have been driving or in actual physical control  
4 of a motor vehicle within this state while under the influence of  
5 intoxicating liquor or any drug or the person to have been driving or  
6 in actual physical control of a motor vehicle while having alcohol in  
7 a concentration in violation of RCW 46.61.503 in his or her system  
8 and being under the age of (~~twenty-one~~) 21. Prior to administering  
9 a breath test pursuant to this section, the officer shall inform the  
10 person of his or her right under this section to refuse the breath  
11 test, and of his or her right to have additional tests administered  
12 by any qualified person of his or her choosing as provided in RCW  
13 46.61.506. The officer shall warn the driver, in substantially the  
14 following language, that:

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

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

20           (c) If the driver submits to the test and the test is  
21 administered, the driver's license, permit, or privilege to drive  
22 will be suspended, revoked, or denied for at least (~~ninety~~) 90 days  
23 if:

24           (i) The driver is age (~~twenty-one~~) 21 or over and the test  
25 indicates either that the alcohol concentration of the driver's  
26 breath is (~~0.08~~) 0.05 or more; or

27           (ii) The driver is under age (~~twenty-one~~) 21 and the test  
28 indicates either that the alcohol concentration of the driver's  
29 breath is 0.02 or more; or

30           (iii) The driver is under age (~~twenty-one~~) 21 and the driver is  
31 in violation of RCW 46.61.502 or 46.61.504; and

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

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

1 (4) Nothing in subsection (1), (2), or (3) of this section  
2 precludes a law enforcement officer from obtaining a person's blood  
3 to test for alcohol, cannabis, or any drug, pursuant to a search  
4 warrant, a valid waiver of the warrant requirement, when exigent  
5 circumstances exist, or under any other authority of law. Any blood  
6 drawn for the purpose of determining the person's alcohol, cannabis  
7 levels, or any drug, is drawn pursuant to this section when the  
8 officer has reasonable grounds to believe that the person is in  
9 physical control or driving a vehicle under the influence or in  
10 violation of RCW 46.61.503.

11 (5) If, after arrest and after any other applicable conditions  
12 and requirements of this section have been satisfied, a test or tests  
13 of the person's blood or breath is administered and the test results  
14 indicate that the alcohol concentration of the person's breath or  
15 blood is ~~((0.08))~~ 0.05 or more, or the THC concentration of the  
16 person's blood is 5.00 or more, if the person is age ~~((twenty-one))~~  
17 21 or over, or that the alcohol concentration of the person's breath  
18 or blood is 0.02 or more, or the THC concentration of the person's  
19 blood is above 0.00, if the person is under the age of ~~((twenty-one))~~  
20 21, or the person refuses to submit to a test, the arresting officer  
21 or other law enforcement officer at whose direction any test has been  
22 given, or the department, where applicable, if the arrest results in  
23 a test of the person's blood, shall:

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

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

32 (c) Serve notice in writing that the license or permit, if any,  
33 is a temporary license that is valid for ~~((thirty))~~ 30 days from the  
34 date of arrest or from the date notice has been given in the event  
35 notice is given by the department following a blood test, or until  
36 the suspension, revocation, or denial of the person's license,  
37 permit, or privilege to drive is sustained at a hearing pursuant to  
38 subsection (7) of this section, whichever occurs first. No temporary  
39 license is valid to any greater degree than the license or permit  
40 that it replaces; and

1 (d) Immediately notify the department of the arrest and transmit  
2 to the department within (~~(seventy-two)~~) 72 hours, except as delayed  
3 as the result of a blood test, a sworn report or report under a  
4 declaration authorized by chapter 5.50 RCW that states:

5 (i) That the officer had reasonable grounds to believe the  
6 arrested person had been driving or was in actual physical control of  
7 a motor vehicle within this state while under the influence of  
8 intoxicating liquor or drugs, or both, or was under the age of  
9 (~~(twenty-one)~~) 21 years and had been driving or was in actual  
10 physical control of a motor vehicle while having an alcohol or THC  
11 concentration in violation of RCW 46.61.503;

12 (ii) That after receipt of any applicable warnings required by  
13 subsection (2) of this section the person refused to submit to a test  
14 of his or her breath, or a test was administered and the results  
15 indicated that the alcohol concentration of the person's breath or  
16 blood was (~~(0.08)~~) 0.05 or more, or the THC concentration of the  
17 person's blood was 5.00 or more, if the person is age (~~(twenty-one)~~)  
18 21 or over, or that the alcohol concentration of the person's breath  
19 or blood was 0.02 or more, or the THC concentration of the person's  
20 blood was above 0.00, if the person is under the age of (~~(twenty-~~  
21 ~~one)~~) 21; and

22 (iii) Any other information that the director may require by  
23 rule.

24 (6) The department of licensing, upon the receipt of a sworn  
25 report or report under a declaration authorized by chapter 5.50 RCW  
26 under subsection (5)(d) of this section, shall suspend, revoke, or  
27 deny the person's license, permit, or privilege to drive or any  
28 nonresident operating privilege, as provided in RCW 46.20.3101, such  
29 suspension, revocation, or denial to be effective beginning thirty  
30 days from the date of arrest or from the date notice has been given  
31 in the event notice is given by the department following a blood  
32 test, or when sustained at a hearing pursuant to subsection (7) of  
33 this section, whichever occurs first.

34 (7) A person receiving notification under subsection (5)(b) of  
35 this section may, within seven days after the notice has been given,  
36 request in writing a formal hearing before the department. The person  
37 shall pay a fee of (~~(three hundred seventy-five dollars)~~) \$375 as  
38 part of the request. If the request is mailed, it must be postmarked  
39 within seven days after receipt of the notification. Upon timely  
40 receipt of such a request for a formal hearing, including receipt of

1 the required (~~three hundred seventy five dollar~~) \$375 fee, the  
2 department shall afford the person an opportunity for a hearing. The  
3 department may waive the required (~~three hundred seventy five~~  
4 ~~dollar~~) \$375 fee if the person is an indigent as defined in RCW  
5 10.101.010. Except as otherwise provided in this section, the hearing  
6 is subject to and shall be scheduled and conducted in accordance with  
7 RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the  
8 county of the arrest, except that all or part of the hearing may, at  
9 the discretion of the department, be conducted by telephone or other  
10 electronic means. The hearing shall be held within (~~thirty~~) 30  
11 days, excluding Saturdays, Sundays, and legal holidays, following the  
12 date of timely receipt of such request for a formal hearing before  
13 the department or (~~thirty~~) 30 days, excluding Saturdays, Sundays,  
14 and legal holidays following the date notice has been given in the  
15 event notice is given by the department following a blood test,  
16 unless otherwise agreed to by the department and the person, in which  
17 case the action by the department shall be stayed, and any valid  
18 temporary license under subsection (5) of this section extended, if  
19 the person is otherwise eligible for licensing. Unless otherwise  
20 agreed to by the department and the person, the department must give  
21 five days notice of the hearing to the person. For the purposes of  
22 this section, the scope of the hearing shall cover the issues of  
23 whether a law enforcement officer had reasonable grounds to believe  
24 the person had been driving or was in actual physical control of a  
25 motor vehicle within this state while under the influence of  
26 intoxicating liquor or any drug or had been driving or was in actual  
27 physical control of a motor vehicle within this state while having  
28 alcohol in his or her system in a concentration of 0.02 or more, or  
29 THC in his or her system in a concentration above 0.00, if the person  
30 was under the age of (~~twenty one~~) 21, whether the person was placed  
31 under arrest, and (a) whether the person refused to submit to the  
32 test or tests upon request of the officer after having been informed  
33 that such refusal would result in the revocation of the person's  
34 license, permit, or privilege to drive, or (b) if a test or tests  
35 were administered, whether the applicable requirements of this  
36 section were satisfied before the administration of the test or  
37 tests, whether the person submitted to the test or tests, or whether  
38 a test was administered pursuant to a search warrant, a valid waiver  
39 of the warrant requirement, when exigent circumstances exist, or  
40 under any other authority of law as permitted under this section, and

1 whether the test or tests indicated that the alcohol concentration of  
2 the person's breath or blood was (~~(0.08)~~) 0.05 or more, or the THC  
3 concentration of the person's blood was 5.00 or more, if the person  
4 was age (~~(twenty-one)~~) 21 or over at the time of the arrest, or that  
5 the alcohol concentration of the person's breath or blood was 0.02 or  
6 more, or the THC concentration of the person's blood was above 0.00,  
7 if the person was under the age of (~~(twenty-one)~~) 21 at the time of  
8 the arrest. Where a person is found to be in actual physical control  
9 of a motor vehicle while under the influence of intoxicating liquor  
10 or any drug or was under the age of (~~(twenty-one)~~) 21 at the time of  
11 the arrest and was in physical control of a motor vehicle while  
12 having alcohol in his or her system in a concentration of 0.02 or THC  
13 concentration above 0.00, the person may petition the hearing officer  
14 to apply the affirmative defense found in RCW 46.61.504(3) and  
15 46.61.503(2). The driver has the burden to prove the affirmative  
16 defense by a preponderance of the evidence. The sworn report or  
17 report under a declaration authorized by chapter 5.50 RCW submitted  
18 by a law enforcement officer is prima facie evidence that the officer  
19 had reasonable grounds to believe the person had been driving or was  
20 in actual physical control of a motor vehicle within this state while  
21 under the influence of intoxicating liquor or drugs, or both, or the  
22 person had been driving or was in actual physical control of a motor  
23 vehicle within this state while having alcohol in his or her system  
24 in a concentration of 0.02 or more, or THC in his or her system in a  
25 concentration above 0.00, and was under the age of (~~(twenty-one)~~) 21  
26 and that the officer complied with the requirements of this section.

27 A hearing officer shall conduct the hearing, may issue subpoenas  
28 for the attendance of witnesses and the production of documents, and  
29 shall administer oaths to witnesses. The hearing officer shall not  
30 issue a subpoena for the attendance of a witness at the request of  
31 the person unless the request is accompanied by the fee required by  
32 RCW 5.56.010 for a witness in district court. The sworn report or  
33 report under a declaration authorized by chapter 5.50 RCW of the law  
34 enforcement officer and any other evidence accompanying the report  
35 shall be admissible without further evidentiary foundation and the  
36 certifications authorized by the criminal rules for courts of limited  
37 jurisdiction shall be admissible without further evidentiary  
38 foundation. The person may be represented by counsel, may question  
39 witnesses, may present evidence, and may testify. The department

1 shall order that the suspension, revocation, or denial either be  
2 rescinded or sustained.

3 (8) If the suspension, revocation, or denial is sustained after  
4 such a hearing, the person whose license, privilege, or permit is  
5 suspended, revoked, or denied has the right to file a petition in the  
6 superior court of the county of arrest to review the final order of  
7 revocation by the department in the same manner as an appeal from a  
8 decision of a court of limited jurisdiction. Notice of appeal must be  
9 filed within (~~thirty~~) 30 days after the date the final order is  
10 served or the right to appeal is waived. Notwithstanding RCW  
11 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo  
12 review, the appeal shall be limited to a review of the record of the  
13 administrative hearing. The appellant must pay the costs associated  
14 with obtaining the record of the hearing before the hearing officer.  
15 The filing of the appeal does not stay the effective date of the  
16 suspension, revocation, or denial. A petition filed under this  
17 subsection must include the petitioner's grounds for requesting  
18 review. Upon granting petitioner's request for review, the court  
19 shall review the department's final order of suspension, revocation,  
20 or denial as expeditiously as possible. The review must be limited to  
21 a determination of whether the department has committed any errors of  
22 law. The superior court shall accept those factual determinations  
23 supported by substantial evidence in the record: (a) That were  
24 expressly made by the department; or (b) that may reasonably be  
25 inferred from the final order of the department. The superior court  
26 may reverse, affirm, or modify the decision of the department or  
27 remand the case back to the department for further proceedings. The  
28 decision of the superior court must be in writing and filed in the  
29 clerk's office with the other papers in the case. The court shall  
30 state the reasons for the decision. If judicial relief is sought for  
31 a stay or other temporary remedy from the department's action, the  
32 court shall not grant such relief unless the court finds that the  
33 appellant is likely to prevail in the appeal and that without a stay  
34 the appellant will suffer irreparable injury. If the court stays the  
35 suspension, revocation, or denial it may impose conditions on such  
36 stay.

37 (9) (a) If a person whose driver's license, permit, or privilege  
38 to drive has been or will be suspended, revoked, or denied under  
39 subsection (6) of this section, other than as a result of a breath  
40 test refusal, and who has not committed an offense for which he or

1 she was granted a deferred prosecution under chapter 10.05 RCW,  
2 petitions a court for a deferred prosecution on criminal charges  
3 arising out of the arrest for which action has been or will be taken  
4 under subsection (6) of this section, or notifies the department of  
5 licensing of the intent to seek such a deferred prosecution, then the  
6 license suspension or revocation shall be stayed pending entry of the  
7 deferred prosecution. The stay shall not be longer than (~~one hundred~~  
8 ~~fifty~~) 150 days after the date charges are filed, or two years after  
9 the date of the arrest, whichever time period is shorter. If the  
10 court stays the suspension, revocation, or denial, it may impose  
11 conditions on such stay. If the person is otherwise eligible for  
12 licensing, the department shall issue a temporary license, or extend  
13 any valid temporary license under subsection (5) of this section, for  
14 the period of the stay. If a deferred prosecution treatment plan is  
15 not recommended in the report made under RCW 10.05.050, or if  
16 treatment is rejected by the court, or if the person declines to  
17 accept an offered treatment plan, or if the person violates any  
18 condition imposed by the court, then the court shall immediately  
19 direct the department to cancel the stay and any temporary license or  
20 extension of a temporary license issued under this subsection.

21 (b) A suspension, revocation, or denial imposed under this  
22 section, other than as a result of a breath test refusal, shall be  
23 stayed if the person is accepted for deferred prosecution as provided  
24 in chapter 10.05 RCW for the incident upon which the suspension,  
25 revocation, or denial is based. If the deferred prosecution is  
26 terminated, the stay shall be lifted and the suspension, revocation,  
27 or denial reinstated. If the deferred prosecution is completed, the  
28 stay shall be lifted and the suspension, revocation, or denial  
29 canceled.

30 (c) The provisions of (b) of this subsection relating to a stay  
31 of a suspension, revocation, or denial and the cancellation of any  
32 suspension, revocation, or denial do not apply to the suspension,  
33 revocation, denial, or disqualification of a person's commercial  
34 driver's license or privilege to operate a commercial motor vehicle.

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

1       **Sec. 7.** RCW 46.20.3101 and 2020 c 330 s 6 are each amended to  
2 read as follows:

3       Pursuant to RCW 46.20.308, the department shall suspend, revoke,  
4 or deny the arrested person's license, permit, or privilege to drive  
5 as follows:

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

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

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

16       (2) In the case of an incident where a person has submitted to or  
17 been administered a test or tests indicating that the alcohol  
18 concentration of the person's breath or blood was (~~(0.08)~~) 0.05 or  
19 more, or that the THC concentration of the person's blood was 5.00 or  
20 more:

21       (a) For a first incident within seven years, where there has not  
22 been a previous incident within seven years that resulted in  
23 administrative action under this section, suspension for (~~(ninety)~~)  
24 90 days, unless the person successfully completes or is enrolled in a  
25 pretrial 24/7 sobriety program;

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

28       (3) In the case of an incident where a person under age (~~(twenty-~~  
29 ~~one)~~) 21 has submitted to or been administered a test or tests  
30 indicating that the alcohol concentration of the person's breath or  
31 blood was 0.02 or more, or that the THC concentration of the person's  
32 blood was above 0.00:

33       (a) For a first incident within seven years, suspension or denial  
34 for (~~(ninety)~~) 90 days;

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

38       (4) The department shall grant credit on a day-for-day basis for  
39 a suspension, revocation, or denial imposed under this section for  
40 any portion of a suspension, revocation, or denial already served

1 under RCW 46.61.5055 arising out of the same incident. If a person  
2 has already served a suspension, revocation, or denial under RCW  
3 46.61.5055 for a period equal to or greater than the period imposed  
4 under this section, the department shall provide notice of full  
5 credit, shall provide for no further suspension or revocation under  
6 this section, and shall impose no additional reissue fees for this  
7 credit.

8 **Sec. 8.** RCW 46.25.090 and 2023 c 35 s 6 are each amended to read  
9 as follows:

10 (1) A person is disqualified from driving a commercial motor  
11 vehicle for a period of not less than one year if a report has been  
12 received by the department pursuant to RCW 46.20.308 or 46.25.120, or  
13 if the person has been convicted of a first violation, within this or  
14 any other jurisdiction, of:

15 (a) Driving a motor vehicle under the influence of alcohol or any  
16 drug;

17 (b) Driving a commercial motor vehicle while the alcohol  
18 concentration in the person's system is 0.04 or more or any  
19 measurable amount of THC concentration, or driving a noncommercial  
20 motor vehicle while the alcohol concentration in the person's system  
21 is (~~0.08~~) 0.05 or more, or is 0.02 or more if the person is under  
22 age 21, or with a THC concentration of 5.00 nanograms per milliliter  
23 of whole blood or more, or a THC concentration above 0.00 if the  
24 person is under the age of 21, as determined by any testing methods  
25 approved by law in this state or any other state or jurisdiction;

26 (c) Leaving the scene of an accident involving a motor vehicle  
27 driven by the person;

28 (d) Using a motor vehicle in the commission of a felony;

29 (e) Refusing to submit to a test or tests to determine the  
30 driver's alcohol concentration or the presence of any drug while  
31 driving a motor vehicle;

32 (f) Driving a commercial motor vehicle when, as a result of prior  
33 violations committed while operating a commercial motor vehicle, the  
34 driver's commercial driver's license is revoked, suspended, or  
35 canceled, or the driver is disqualified from operating a commercial  
36 motor vehicle;

37 (g) Causing a fatality through the negligent operation of a  
38 commercial motor vehicle, including but not limited to the crimes of  
39 vehicular homicide and negligent homicide.

1 If any of the violations set forth in this subsection occurred  
2 while transporting hazardous material, the person is disqualified for  
3 a period of not less than three years.

4 (2) A person is disqualified for life if it has been determined  
5 that the person has committed or has been convicted of two or more  
6 violations of any of the offenses specified in subsection (1) of this  
7 section, or any combination of those offenses, arising from two or  
8 more separate incidents.

9 (3) The department may adopt rules, in accordance with federal  
10 regulations, establishing guidelines, including conditions, under  
11 which a disqualification for life under subsection (2) of this  
12 section may be reduced to a period of not less than 10 years.

13 (4) A person is disqualified from driving a commercial motor  
14 vehicle for life who:

15 (a) Uses a motor vehicle in the commission of a felony involving  
16 the manufacture, distribution, or dispensing of a controlled  
17 substance, as defined by chapter 69.50 RCW, or possession with intent  
18 to manufacture, distribute, or dispense a controlled substance, as  
19 defined by chapter 69.50 RCW; or

20 (b) Uses a motor vehicle in the commission of any trafficking  
21 offense under RCW 9A.40.100, which offenses are deemed consistent  
22 with felonies involving severe forms of trafficking in persons as  
23 described by the federal motor carrier safety administration.

24 (5)(a) A person is disqualified from driving a commercial motor  
25 vehicle for a period of:

26 (i) Not less than 60 days if:

27 (A) Convicted of or found to have committed a second serious  
28 traffic violation while driving a commercial motor vehicle; or

29 (B) Convicted of reckless driving, where there has been a prior  
30 serious traffic violation; or

31 (ii) Not less than 120 days if:

32 (A) Convicted of or found to have committed a third or subsequent  
33 serious traffic violation while driving a commercial motor vehicle;  
34 or

35 (B) Convicted of reckless driving, where there has been two or  
36 more prior serious traffic violations.

37 (b) The disqualification period under (a)(ii) of this subsection  
38 must be in addition to any other previous period of disqualification.

39 (c) For purposes of determining prior serious traffic violations  
40 under this subsection, each conviction of or finding that a driver

1 has committed a serious traffic violation while driving a commercial  
2 motor vehicle or noncommercial motor vehicle, arising from a separate  
3 incident occurring within a three-year period, must be counted.

4 (6) A person is disqualified from driving a commercial motor  
5 vehicle for a period of:

6 (a) Not less than 180 days nor more than one year if convicted of  
7 or found to have committed a first violation of an out-of-service  
8 order while driving a commercial vehicle;

9 (b) Not less than two years nor more than five years if, during a  
10 10-year period, the person is convicted of or is found to have  
11 committed two violations of out-of-service orders while driving a  
12 commercial motor vehicle in separate incidents;

13 (c) Not less than three years nor more than five years if, during  
14 a 10-year period, the person is convicted of or is found to have  
15 committed three or more violations of out-of-service orders while  
16 driving commercial motor vehicles in separate incidents;

17 (d) Not less than 180 days nor more than two years if the person  
18 is convicted of or is found to have committed a first violation of an  
19 out-of-service order while transporting hazardous materials, or while  
20 operating motor vehicles designed to transport 16 or more passengers,  
21 including the driver. A person is disqualified for a period of not  
22 less than three years nor more than five years if, during a 10-year  
23 period, the person is convicted of or is found to have committed  
24 subsequent violations of out-of-service orders, in separate  
25 incidents, while transporting hazardous materials, or while operating  
26 motor vehicles designed to transport ((~~sixteen~~)) 16 or more  
27 passengers, including the driver.

28 (7)(a) A person is disqualified from driving a commercial motor  
29 vehicle for the period of time specified in (b) of this subsection if  
30 he or she is convicted of or is found to have committed one of the  
31 following six offenses at a railroad-highway grade crossing while  
32 operating a commercial motor vehicle in violation of a federal,  
33 state, or local law or regulation:

34 (i) For drivers who are not required to always stop, failing to  
35 slow down and check that the tracks are clear of an approaching train  
36 or other on-track equipment;

37 (ii) For drivers who are not required to always stop, failing to  
38 stop before reaching the crossing, if the tracks are not clear;

39 (iii) For drivers who are always required to stop, failing to  
40 stop before driving onto the crossing;

1 (iv) For all drivers, failing to have sufficient space to drive  
2 completely through the crossing without stopping;

3 (v) For all drivers, failing to obey a traffic control device or  
4 the directions of an enforcement officer at the crossing;

5 (vi) For all drivers, failing to negotiate a crossing because of  
6 insufficient undercarriage clearance.

7 (b) A person is disqualified from driving a commercial motor  
8 vehicle for a period of:

9 (i) Not less than 60 days if the driver is convicted of or is  
10 found to have committed a first violation of a railroad-highway grade  
11 crossing violation;

12 (ii) Not less than 120 days if the driver is convicted of or is  
13 found to have committed a second railroad-highway grade crossing  
14 violation in separate incidents within a three-year period;

15 (iii) Not less than one year if the driver is convicted of or is  
16 found to have committed a third or subsequent railroad-highway grade  
17 crossing violation in separate incidents within a three-year period.

18 (8) A person is disqualified from driving a commercial motor  
19 vehicle for not more than one year if a report has been received by  
20 the department from the federal motor carrier safety administration  
21 that the person's driving has been determined to constitute an  
22 imminent hazard as defined by 49 C.F.R. 383.5. A person who is  
23 simultaneously disqualified from driving a commercial motor vehicle  
24 under this subsection and under other provisions of this chapter, or  
25 under 49 C.F.R. 383.52, shall serve those disqualification periods  
26 concurrently.

27 (9) Within 10 days after suspending, revoking, or canceling a  
28 commercial driver's license or disqualifying a driver from operating  
29 a commercial motor vehicle, the department shall update its records  
30 to reflect that action.

31 **Sec. 9.** RCW 38.38.760 and 2009 c 378 s 24 are each amended to  
32 read as follows:

33 (1) Any person subject to this code who:

34 (a) Operates or physically controls any vehicle, aircraft, or  
35 vessel in a reckless or wanton manner or while impaired by a  
36 substance described in RCW 38.38.762; or

37 (b) Operates or is in actual physical control of any vehicle,  
38 aircraft, or vessel while drunk or when the alcohol concentration in

1 the person's blood or breath is equal to or exceeds the applicable  
2 limit under subsection (2) of this section; or

3 (c) Operates or is in actual physical control of any vehicle,  
4 aircraft, or vessel in a reckless or wanton manner  
5 shall be punished as a court-martial may direct.

6 (2) For purposes of subsection (1) of this section, the blood  
7 alcohol content limit with respect to alcohol concentration in a  
8 person's blood is (~~(0.08)~~) 0.05 grams of alcohol per (~~(one hundred)~~)  
9 100 milliliters of blood and with respect to alcohol concentration in  
10 a person's breath is (~~(0.08)~~) 0.05 grams of alcohol per (~~(two hundred~~  
11 ~~ten)~~) 210 liters of breath, as shown by chemical analysis.

12 (3) For purposes of this section, "blood alcohol content limit"  
13 means the amount of alcohol concentration in a person's blood or  
14 breath at which operation or control of a vehicle, aircraft, or  
15 vessel is prohibited.

16 **Sec. 10.** RCW 79A.60.040 and 2022 c 16 s 136 are each amended to  
17 read as follows:

18 (1) It is unlawful for any person to operate a vessel in a  
19 reckless manner.

20 (2) It is unlawful for a person to operate a vessel while under  
21 the influence of intoxicating liquor, cannabis, or any drug. A person  
22 is considered to be under the influence of intoxicating liquor,  
23 cannabis, or any drug if, within two hours of operating a vessel:

24 (a) The person has an alcohol concentration of (~~(0.08)~~) 0.05 or  
25 higher as shown by analysis of the person's breath or blood made  
26 under RCW 46.61.506; or

27 (b) The person has a THC concentration of 5.00 or higher as shown  
28 by analysis of the person's blood made under RCW 46.61.506; or

29 (c) The person is under the influence of or affected by  
30 intoxicating liquor, cannabis, or any drug; or

31 (d) The person is under the combined influence of or affected by  
32 intoxicating liquor, cannabis, and any drug.

33 (3) The fact that any person charged with a violation of this  
34 section is or has been entitled to use such drug under the laws of  
35 this state shall not constitute a defense against any charge of  
36 violating this section.

37 (4)(a) Any person who operates a vessel within this state is  
38 deemed to have given consent, subject to the provisions of RCW  
39 46.61.506, to a test or tests of the person's breath for the purpose

1 of determining the alcohol concentration in the person's breath if  
2 arrested for any offense where, at the time of the arrest, the  
3 arresting officer has reasonable grounds to believe the person was  
4 operating a vessel while under the influence of intoxicating liquor  
5 or a combination of intoxicating liquor and any other drug.

6 (b) When an arrest results from an accident in which there has  
7 been serious bodily injury to another person or death or the  
8 arresting officer has reasonable grounds to believe the person was  
9 operating a vessel while under the influence of THC or any other  
10 drug, a blood test may be administered with the consent of the  
11 arrested person and a valid waiver of the warrant requirement or  
12 without the consent of the person so arrested pursuant to a search  
13 warrant or when exigent circumstances exist.

14 (c) Neither consent nor this section precludes a police officer  
15 from obtaining a search warrant for a person's breath or blood.

16 (d) An arresting officer may administer field sobriety tests when  
17 circumstances permit.

18 (5) The test or tests of breath must be administered pursuant to  
19 RCW 46.20.308. The officer shall warn the person that if the person  
20 refuses to take the test, the person will be issued a class 1 civil  
21 infraction under RCW 7.80.120.

22 (6) A violation of subsection (1) of this section is a  
23 misdemeanor. A violation of subsection (2) of this section is a gross  
24 misdemeanor. In addition to the statutory penalties imposed, the  
25 court may order the defendant to pay restitution for any damages or  
26 injuries resulting from the offense.

27 (7) For the purposes of this subsection, "cannabis" has the  
28 meaning provided in RCW 69.50.101.

29 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.59  
30 RCW to read as follows:

31 The Washington traffic safety commission shall develop and  
32 implement a public information campaign related to this act. In  
33 developing and implementing the public information campaign, the  
34 commission must:

35 (1) Ensure television, radio, and online advertisements are  
36 provided in all areas of the state;

37 (2) Include multiple print advertisements in the largest  
38 newspapers in each county;

1 (3) Provide content of the public information campaign in the top  
2 nine most significant non-English-speaking languages spoken in the  
3 state;

4 (4) Consider equity outcomes on overburdened communities as  
5 defined in RCW 70A.02.010; and

6 (5) Ensure that at least 10 percent of the advertisements are  
7 developed in conjunction with in-state hospitality stakeholders and  
8 educate drivers about safe alternatives to driving while patronizing  
9 hospitality businesses.

10 NEW SECTION. **Sec. 12.** A new section is added to chapter 66.44  
11 RCW to read as follows:

12 The legislature finds that current civil law relating to civil  
13 liability is that a licensed commercial vendor or quasi-commercial  
14 vendor owes a duty to third persons not to sell, serve, or furnish  
15 alcohol to a person who is apparently under the influence of alcohol,  
16 or who is obviously intoxicated. This current civil law is both  
17 statutory and also developed in case law. The legislature further  
18 finds that civil liability to third persons under the civil law does  
19 not depend upon a finding of the blood or breath alcohol  
20 concentration. Therefore, nothing in this act shall be construed to  
21 change current civil law for civil liability of a licensed commercial  
22 vendor or quasi-commercial vendor.

23 NEW SECTION. **Sec. 13.** A new section is added to chapter 66.08  
24 RCW to read as follows:

25 (1) The Washington state institute for public policy must conduct  
26 an evaluation of the impacts of this act during the first two years  
27 of implementation. By March 1, 2029, the institute must submit a  
28 report to the appropriate committees of the legislature detailing the  
29 results of its evaluation. The evaluation must include, but is not  
30 limited to, the impact of this act on:

31 (a) The number of serious and fatal traffic crashes;

32 (b) Driving under the influence arrests and adjudications for  
33 driving under the influence offenses;

34 (c) Equity outcomes on overburdened communities as defined in RCW  
35 70A.02.010;

36 (d) Sales and other business effects on the hospitality industry  
37 in the state; and

1 (e) Sales and other business effects on breweries, wineries, and  
2 distilleries in the state.

3 (2) This section expires November 1, 2029.

4 NEW SECTION. **Sec. 14.** This act takes effect July 1, 2026.

--- END ---