
SENATE BILL 5782

State of Washington

69th Legislature

2025 Regular Session

By Senator Torres

1 AN ACT Relating to impaired driving; amending RCW 46.61.502,
2 46.61.504, and 46.61.5055; prescribing penalties; and providing an
3 effective date.

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

5 **Sec. 1.** RCW 46.61.502 and 2024 c 306 s 30 are each amended to
6 read as follows:

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

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

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

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

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

20 (2) The fact that a person charged with a violation of this
21 section is or has been entitled to use a drug under the laws of this

1 state shall not constitute a defense against a charge of violating
2 this section.

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

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

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

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

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

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

3 (a) The person has (~~three~~) two or more prior offenses within 15
4 years as defined in RCW 46.61.5055; or

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

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

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

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

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

13 **Sec. 2.** RCW 46.61.504 and 2024 c 306 s 32 are each amended to
14 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

5 (a) The person has (~~three~~) two or more prior offenses within 15
6 years as defined in RCW 46.61.5055; or

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

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

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

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

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

15 **Sec. 3.** RCW 46.61.5055 and 2024 c 306 s 31 are each amended to
16 read as follows:

17 (1) **No prior offenses in seven years.** Except as provided in RCW
18 46.61.502(6) or 46.61.504(6), a person who is convicted of a
19 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
20 within seven years shall be punished as follows:

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

26 (i) By imprisonment for not less than 24 consecutive hours nor
27 more than 364 days. In lieu of the mandatory minimum term of
28 imprisonment required under this subsection (1)(a)(i), the court, in
29 its discretion, may order not less than 15 days of electronic home
30 monitoring or a 90-day period of 24/7 sobriety program monitoring.
31 The court may consider the offender's pretrial 24/7 sobriety program
32 monitoring as fulfilling a portion of posttrial sentencing. The
33 offender shall pay the cost of electronic home monitoring. The county
34 or municipality in which the penalty is being imposed shall determine
35 the cost. The court may also require the offender's electronic home
36 monitoring device or other separate alcohol monitoring device to
37 include an alcohol detection breathalyzer, and the court may restrict
38 the amount of alcohol the offender may consume during the time the
39 offender is on electronic home monitoring; and

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

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

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

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

26 (2) **One prior offense in seven years.** Except as provided in RCW
27 46.61.502(6) or 46.61.504(6), a person who is convicted of a
28 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
29 within seven years shall be punished as follows:

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

35 (i) By imprisonment for not less than 30 days nor more than 364
36 days and 60 days of electronic home monitoring. Thirty days of
37 imprisonment and 60 days of electronic home monitoring may not be
38 suspended or converted unless the court finds that the imposition of
39 this mandatory minimum sentence would impose a substantial risk to
40 the offender's physical or mental well-being. If the offender shows

1 that the imposition of this mandatory minimum sentence would impose a
2 substantial risk to the offender's physical or mental well-being, in
3 lieu of the mandatory term of imprisonment and electronic home
4 monitoring under this subsection (2)(a)(i), the court may order a
5 minimum of either 180 days of electronic home monitoring or a 120-day
6 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300
7 through 36.28A.390. Whenever the mandatory minimum sentence is
8 suspended or converted, the court shall state in writing the reason
9 for granting the suspension or conversion and the facts upon which
10 the suspension or conversion is based. The court may consider the
11 offender's pretrial 24/7 sobriety program monitoring as fulfilling a
12 portion of posttrial sentencing. The court shall order an expanded
13 substance use disorder assessment and treatment, if deemed
14 appropriate by the assessment. The offender shall pay for the cost of
15 the electronic monitoring. The county or municipality where the
16 penalty is being imposed shall determine the cost. The court may also
17 require the offender's electronic home monitoring device include an
18 alcohol detection breathalyzer or other separate alcohol monitoring
19 device, and may restrict the amount of alcohol the offender may
20 consume during the time the offender is on electronic home
21 monitoring; and

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

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

30 (i) By imprisonment for not less than 45 days nor more than 364
31 days and 90 days of electronic home monitoring. Forty-five days of
32 imprisonment and 90 days of electronic home monitoring may not be
33 suspended or converted unless the court finds that the imposition of
34 this mandatory minimum sentence would impose a substantial risk to
35 the offender's physical or mental well-being. If the offender shows
36 that the imposition of this mandatory minimum sentence would impose a
37 substantial risk to the offender's physical or mental well-being, in
38 lieu of the mandatory minimum term of imprisonment and electronic
39 home monitoring under this subsection (2)(b)(i), the court may order
40 a minimum of either six months of electronic home monitoring or a

1 120-day period of 24/7 sobriety program monitoring pursuant to RCW
2 36.28A.300 through 36.28A.390. Whenever the mandatory minimum
3 sentence is suspended or converted, the court shall state in writing
4 the reason for granting the suspension or conversion and the facts
5 upon which the suspension or conversion is based. The court may
6 consider the offender's pretrial 24/7 sobriety program monitoring as
7 fulfilling a portion of posttrial sentencing. The court shall order
8 an expanded substance use disorder assessment and treatment, if
9 deemed appropriate by the assessment. The offender shall pay for the
10 cost of the electronic monitoring. The county or municipality where
11 the penalty is being imposed shall determine the cost. The court may
12 also require the offender's electronic home monitoring device include
13 an alcohol detection breathalyzer or other separate alcohol
14 monitoring device, and may restrict the amount of alcohol the
15 offender may consume during the time the offender is on electronic
16 home monitoring; and

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

20 (3) **Two prior offenses 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 two prior
23 offenses 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 90 days nor more than 364
30 days, if available in that county or city, a six-month period of 24/7
31 sobriety program monitoring pursuant to RCW 36.28A.300 through
32 36.28A.390, and 120 days of electronic home monitoring. Ninety days
33 of imprisonment and 120 days of electronic home monitoring may not be
34 suspended or converted unless the court finds that the imposition of
35 this mandatory minimum sentence would impose a substantial risk to
36 the offender's physical or mental well-being. If the offender shows
37 that the imposition of this mandatory minimum sentence would impose a
38 substantial risk to the offender's physical or mental well-being, in
39 lieu of the mandatory minimum term of 90 days of imprisonment and 120
40 days of electronic home monitoring, the court may order 360 days of

1 electronic home monitoring or a 360-day period of 24/7 sobriety
2 monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever
3 the mandatory minimum sentence is suspended or converted, the court
4 shall state in writing the reason for granting the suspension or
5 conversion and the facts upon which the suspension or conversion is
6 based. The court shall order an expanded substance use disorder
7 assessment and treatment, if deemed appropriate by the assessment.
8 The offender shall pay for the cost of the electronic monitoring. The
9 county or municipality where the penalty is being imposed shall
10 determine the cost. The court may also require the offender's
11 electronic home monitoring device include an alcohol detection
12 breathalyzer or other separate alcohol monitoring device, and may
13 restrict the amount of alcohol the offender may consume during the
14 time the offender is on electronic home monitoring; and

15 (ii) By a fine of not less than \$1,000 nor more than \$5,000.
16 \$1,000 of the fine may not be suspended unless the court finds the
17 offender to be indigent; or

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

23 (i) By imprisonment for not less than 120 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 150 days of electronic home monitoring. One hundred
27 twenty days of imprisonment and 150 days of electronic home
28 monitoring may not be suspended or converted unless the court finds
29 that the imposition of this mandatory minimum sentence would impose a
30 substantial risk to the offender's physical or mental well-being. If
31 the offender shows that the imposition of this mandatory minimum
32 sentence would impose a substantial risk to the offender's physical
33 or mental well-being, in lieu of the mandatory minimum term of 120
34 days of imprisonment and 150 days of electronic home monitoring, the
35 court may order 360 days of electronic home monitoring or a 360-day
36 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through
37 36.28A.390. Whenever the mandatory minimum sentence is suspended or
38 converted, the court shall state in writing the reason for granting
39 the suspension or conversion and the facts upon which the suspension
40 or conversion is based. The offender shall pay for the cost of the

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

9 (ii) By a fine of not less than \$1,500 nor more than \$5,000.
10 \$1,500 (~~(dollars)~~) of the fine may not be suspended unless the court
11 finds the offender to be indigent.

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

15 (a) The person has (~~(three)~~) two or more prior offenses within 15
16 years; or

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

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

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

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

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

25 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
26 require any person convicted of a violation of RCW 46.61.502 or
27 46.61.504 or an equivalent local ordinance to comply with the rules
28 and requirements of the department regarding the installation and use
29 of a functioning ignition interlock device installed on all motor
30 vehicles operated by the person.

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

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

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

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

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

14 (6) **Penalty for having a minor passenger in vehicle.** If a person
15 who is convicted of a violation of RCW 46.61.502 or 46.61.504
16 committed the offense while one or more passengers under the age of
17 16 were in the vehicle, the court shall:

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

25 (b) In any case in which the person has no prior offenses within
26 seven years, and except as provided in RCW 46.61.502(6) or
27 46.61.504(6), order an additional 24 hours of imprisonment to be
28 served consecutively for each passenger under the age of 16, and a
29 fine of not less than \$1,000 and not more than \$5,000 for each
30 passenger under the age of 16. \$1,000 of the fine for each passenger
31 under the age of 16 may not be suspended unless the court finds the
32 offender to be indigent;

33 (c) In any case in which the person has one prior offense within
34 seven years, and except as provided in RCW 46.61.502(6) or
35 46.61.504(6), order an additional five days of imprisonment to be
36 served consecutively for each passenger under the age of 16, and a
37 fine of not less than \$2,000 and not more than \$5,000 for each
38 passenger under the age of 16. One thousand dollars of the fine for
39 each passenger under the age of 16 may not be suspended unless the
40 court finds the offender to be indigent;

1 (d) In any case in which the person has two prior offenses within
2 seven years, and except as provided in RCW 46.61.502(6) or
3 46.61.504(6), order an additional ten days of imprisonment to be
4 served consecutively for each passenger under the age of 16, and a
5 fine of not less than \$3,000 and not more than \$10,000 for each
6 passenger under the age of 16. \$1,000 of the fine for each passenger
7 under the age of 16 may not be suspended unless the court finds the
8 offender to be indigent.

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

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

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

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

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

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

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

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

35 (A) Where there has been no prior offense within seven years, be
36 suspended or denied by the department for 90 days or until the person
37 is evaluated by a substance use disorder agency or probation
38 department pursuant to RCW 46.20.311 and the person completes or is
39 enrolled in a 90-day period of 24/7 sobriety program monitoring. In

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

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

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

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

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

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

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

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

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

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

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

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

38 (ii) If a person has already served a suspension, revocation, or
39 denial under RCW 46.20.3101 for a period equal to or greater than the
40 period imposed under this subsection (9), the department shall

1 provide notice of full credit, shall provide for no further
2 suspension or revocation under this subsection provided the person
3 has completed the requirements under RCW 46.20.311 and paid the
4 probationary license fee under RCW 46.20.355 by the date specified in
5 the notice under RCW 46.20.245, and shall impose no additional
6 reissue fees for this credit.

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

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

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

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

32 (11) **Conditions of probation.** (a) In addition to any
33 nonsuspendable and nondeferrable jail sentence required by this
34 section, whenever the court imposes up to 364 days in jail, the court
35 shall also suspend but shall not defer a period of confinement for a
36 period not exceeding five years. The court shall impose conditions of
37 probation that include: (i) Not driving a motor vehicle within this
38 state without a valid license to drive; (ii) not driving a motor
39 vehicle within this state without proof of liability insurance or
40 other financial responsibility for the future pursuant to RCW

1 46.30.020; (iii) not driving or being in physical control of a motor
2 vehicle within this state while having an alcohol concentration of
3 0.08 or more or a THC concentration of 5.00 nanograms per milliliter
4 of whole blood or higher, within two hours after driving; (iv) not
5 refusing to submit to a test of his or her breath or blood to
6 determine alcohol or drug concentration upon request of a law
7 enforcement officer who has reasonable grounds to believe the person
8 was driving or was in actual physical control of a motor vehicle
9 within this state while under the influence of intoxicating liquor or
10 drug; and (v) not driving a motor vehicle in this state without a
11 functioning ignition interlock device as required by the department
12 under RCW 46.20.720. The court may impose conditions of probation
13 that include nonrepetition, installation of an ignition interlock
14 device on the probationer's motor vehicle, substance use disorder
15 treatment, supervised probation, or other conditions that may be
16 appropriate. The sentence may be imposed in whole or in part upon
17 violation of a condition of probation during the suspension period.

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

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

34 (ii) For each incident involving a violation of RCW
35 46.20.342(1)(c), the court has discretion not to impose a suspension
36 when the person provides the court with proof that the violation has
37 been cured within 30 days. The court is not required to notify the
38 department of the violation unless it is not cured within 30 days.

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

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

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

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

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

18 Whenever the combination of jail time and electronic home
19 monitoring or alternative sentence would exceed 364 days, the
20 offender shall serve the jail portion of the sentence first, and the
21 electronic home monitoring or alternative portion of the sentence
22 shall be reduced so that the combination does not exceed 364 days.

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

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

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

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

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

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

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

39 (v) A conviction for a violation of RCW 79A.60.040(1) or an
40 equivalent local ordinance committed in a reckless manner if the

1 conviction is the result of a charge that was originally filed as a
2 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (c) "Within seven years" means that the arrest for a prior
26 offense occurred within seven years before or after the arrest for
27 the current offense; and

28 (d) "Within 15 years" means that the arrest for a prior offense
29 occurred within 15 years before or after the arrest for the current
30 offense.

31 (15) All fines imposed by this section apply to adult offenders
32 only.

33 NEW SECTION. **Sec. 4.** This act takes effect January 1, 2026.

--- END ---