

**RCW 79A.60.040 Operation of vessel in a reckless manner—
Operation of a vessel under the influence of intoxicating liquor,
cannabis, or any drug—Consent to breath or blood test—Penalty.** (1)
It is unlawful for any person to operate a vessel in a reckless
manner.

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

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

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

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

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

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

(4) (a) Any person who operates a vessel within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of the person's breath for the purpose of determining the alcohol concentration in the person's breath if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person was operating a vessel while under the influence of intoxicating liquor or a combination of intoxicating liquor and any other drug.

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

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

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

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

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

(7) For the purposes of this subsection, "cannabis" has the meaning provided in RCW 69.50.101. [2022 c 16 s 136; 2014 c 132 s 1; 2013 c 278 s 1; 1998 c 213 s 7; 1993 c 244 s 8. Prior: 1990 c 231 s 3; 1990 c 31 s 1; 1987 c 373 s 6; 1986 c 153 s 6; 1985 c 267 s 2. Formerly RCW 88.12.025, 88.12.100, and 88.02.095.]

Intent—Finding—2022 c 16: See note following RCW 69.50.101.

Effective date—1998 c 213: See note following RCW 46.20.308.

Intent—1993 c 244: See note following RCW 79A.60.010.

Effective date—Severability—1990 c 231: See notes following RCW 79A.60.170.

Legislative finding, purpose—Severability—1987 c 373: See notes following RCW 46.61.502.