
SUBSTITUTE SENATE BILL 5060

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Haugen and Roach)

Read first time 02/19/97.

1 AN ACT Relating to clarifying driving statutes; amending RCW
2 46.20.021, 46.61.525, 13.40.0357, 46.55.113, 7.68.035, 10.31.100,
3 46.01.260, 46.61.005, and 46.61.5055; reenacting and amending RCW
4 46.63.020 and 46.52.130; adding new sections to chapter 46.20 RCW;
5 adding a new section to chapter 46.61 RCW; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.20 RCW
8 to read as follows:

9 Except as expressly exempted by this chapter, it is a misdemeanor
10 for a person to drive any motor vehicle upon a highway in this state
11 without a valid driver's license issued to Washington residents under
12 this chapter. This section does not apply if at the time of the stop
13 the person is not in violation of RCW 46.20.342(1) or 46.20.420 and has
14 in his or her possession an expired driver's license or other valid
15 identifying documentation under RCW 46.20.035. A violation of this
16 section is a lesser included offense within the offenses described in
17 RCW 46.20.342(1) or 46.20.420.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.20 RCW
2 to read as follows:

3 Except as expressly exempted by this chapter, it is a traffic
4 infraction and not a misdemeanor under section 1 of this act for a
5 person to drive any motor vehicle upon a highway in this state without
6 a valid driver's license issued to Washington residents under this
7 chapter in his or her possession if the person provides the citing
8 officer with an expired driver's license or other valid identifying
9 documentation under RCW 46.20.035 at the time of the stop and the
10 person is not in violation of RCW 46.20.342(1) or 46.20.420. A
11 violation of this section is subject to a penalty of two hundred fifty
12 dollars. If the person appears in person before the court or submits
13 by mail written proof that he or she obtained a valid license after
14 being cited, the court shall reduce the penalty to fifty dollars.

15 **Sec. 3.** RCW 46.20.021 and 1996 c 307 s 5 are each amended to read
16 as follows:

17 ~~(1) ((No person, except as expressly exempted by this chapter, may
18 drive any motor vehicle upon a highway in this state unless the person
19 has a valid driver's license issued to Washington residents under the
20 provisions of this chapter. A violation of this subsection is a
21 misdemeanor and is a lesser included offense within the offenses
22 described in RCW 46.20.342(1) or 46.20.420. However, if a person in
23 violation of this section provides the citing officer with an expired
24 driver's license or other valid identifying documentation under RCW
25 46.20.035 at the time of the stop and is not in violation of RCW
26 46.20.342(1) or 46.20.420, the violation of this section is an
27 infraction and is subject to a penalty of two hundred fifty dollars.
28 If the person appears in person before the court or submits by mail
29 written proof that he or she obtained a valid license after being
30 cited, the court shall reduce the penalty to fifty dollars.~~

31 ~~(2))~~ For the purposes of obtaining a valid driver's license, a
32 resident is a person who manifests an intent to live or be located in
33 this state on more than a temporary or transient basis. Evidence of
34 residency includes but is not limited to:

- 35 (a) Becoming a registered voter in this state; or
36 (b) Receiving benefits under one of the Washington public
37 assistance programs; or

1 (c) Declaring that he or she is a resident for the purpose of
2 obtaining a state license or tuition fees at resident rates.

3 ~~((+3))~~ (2) The term "Washington public assistance programs"
4 referred to in subsection ~~((+2))~~ (1)(b) of this section includes only
5 public assistance programs for which more than fifty percent of the
6 combined costs of benefits and administration are paid from state
7 funds. Programs which are not included within the term "Washington
8 public assistance programs" pursuant to the above criteria include, but
9 are not limited to the food stamp program under the federal food stamp
10 act of 1964; programs under the child nutrition act of 1966, 42 U.S.C.
11 Secs. 1771 through 1788; and aid to families with dependent children,
12 42 U.S.C. Secs. 601 through 606.

13 ~~((+4))~~ (3) No person shall receive a driver's license unless and
14 until he or she surrenders to the department all valid driver's
15 licenses in his or her possession issued to him or her by any other
16 jurisdiction. The department shall establish a procedure to invalidate
17 the surrendered photograph license and return it to the person. The
18 invalidated license, along with the valid temporary Washington driver's
19 license provided for in RCW 46.20.055(3), shall be accepted as proper
20 identification. The department shall notify the issuing department
21 that the licensee is now licensed in a new jurisdiction. No person
22 shall be permitted to have more than one valid driver's license at any
23 time.

24 ~~((+5))~~ (4) New Washington residents are allowed thirty days from
25 the date they become residents as defined in this section to procure a
26 valid Washington driver's license.

27 ~~((+6))~~ (5) Any person licensed as a driver under this chapter may
28 exercise the privilege thereby granted upon all streets and highways in
29 this state and shall not be required to obtain any other license to
30 exercise such privilege by any county, municipal or local board, or
31 body having authority to adopt local police regulations.

32 NEW SECTION. Sec. 4. A new section is added to chapter 46.61 RCW
33 to read as follows:

34 (1)(a) A person is guilty of negligent driving in the first degree
35 if he or she operates a motor vehicle in a manner that is both
36 negligent and endangers or is likely to endanger any person or
37 property, and exhibits the effects of having consumed liquor or an
38 illegal drug.

1 (b) It is an affirmative defense to negligent driving in the first
2 degree by means of exhibiting the effects of having consumed an illegal
3 drug that must be proved by the defendant by a preponderance of the
4 evidence, that the driver has a valid prescription for the drug
5 consumed, and has been consuming it according to the prescription
6 directions and warnings.

7 (c) Negligent driving in the first degree is a misdemeanor.

8 (2) For the purposes of this section:

9 (a) "Negligent" means the failure to exercise ordinary care, and is
10 the doing of some act that a reasonably careful person would not do
11 under the same or similar circumstances or the failure to do something
12 that a reasonably careful person would do under the same or similar
13 circumstances.

14 (b) "Exhibiting the effects of having consumed liquor" means that
15 a person has the odor of liquor on his or her breath, or that by
16 speech, manner, appearance, behavior, lack of coordination, or
17 otherwise exhibits that he or she has consumed liquor, and either:

18 (i) Is in possession of or in close proximity to a container that
19 has or recently had liquor in it; or

20 (ii) Is shown by other evidence to have recently consumed liquor.

21 (c) "Exhibiting the effects of having consumed an illegal drug"
22 means that a person by speech, manner, appearance, behavior, lack of
23 coordination, or otherwise exhibits that he or she has consumed an
24 illegal drug and either:

25 (i) Is in possession of an illegal drug; or

26 (ii) Is shown by other evidence to have recently consumed an
27 illegal drug.

28 (d) "Illegal drug" means a controlled substance under chapter 69.50
29 RCW for which the driver does not have a valid prescription or that is
30 not being consumed in accordance with the prescription directions and
31 warnings, or a legend drug under chapter 69.41 RCW for which the driver
32 does not have a valid prescription or that is not being consumed in
33 accordance with the prescription directions and warnings.

34 (3) Any act prohibited by this section that also constitutes a
35 crime under any other law of this state may be the basis of prosecution
36 under such other law notwithstanding that it may also be the basis for
37 prosecution under this section.

1 **Sec. 5.** RCW 46.61.525 and 1996 c 307 s 1 are each amended to read
2 as follows:

3 (1)(a) ~~((A person is guilty of negligent driving in the first~~
4 ~~degree if he or she operates a motor vehicle in a manner that is both~~
5 ~~negligent and endangers or is likely to endanger any person or~~
6 ~~property, and exhibits the effects of having consumed liquor or an~~
7 ~~illegal drug.~~

8 (b) ~~It is an affirmative defense to negligent driving in the first~~
9 ~~degree by means of exhibiting the effects of having consumed an illegal~~
10 ~~drug that must be proved by the defendant by a preponderance of the~~
11 ~~evidence, that the driver has a valid prescription for the drug~~
12 ~~consumed, and has been consuming it according to the prescription~~
13 ~~directions and warnings.~~

14 (c) ~~Negligent driving in the first degree is a misdemeanor.~~

15 (2)(a)) A person is guilty of negligent driving in the second
16 degree if, under circumstances not constituting negligent driving in
17 the first degree, he or she operates a motor vehicle in a manner that
18 is both negligent and endangers or is likely to endanger any person or
19 property.

20 (b) It is an affirmative defense to negligent driving in the second
21 degree that must be proved by the defendant by a preponderance of the
22 evidence, that the driver was operating the motor vehicle on private
23 property with the consent of the owner in a manner consistent with the
24 owner's consent.

25 (c) Negligent driving in the second degree is a traffic infraction
26 and is subject to a penalty of two hundred fifty dollars.

27 ((3)) (2) For the purposes of this section(3)

28 (a) ~~"Negligent"~~), "negligent" means the failure to exercise
29 ordinary care, and is the doing of some act that a reasonably careful
30 person would not do under the same or similar circumstances or the
31 failure to do something that a reasonably careful person would do under
32 the same or similar circumstances.

33 ((b) ~~"Exhibiting the effects of having consumed liquor" means that~~
34 ~~a person has the odor of liquor on his or her breath, or that by~~
35 ~~speech, manner, appearance, behavior, lack of coordination, or~~
36 ~~otherwise exhibits that he or she has consumed liquor, and either:~~

37 (i) ~~Is in possession of or in close proximity to a container that~~
38 ~~has or recently had liquor in it; or~~

39 (ii) ~~Is shown by other evidence to have recently consumed liquor.~~

1	<i>E</i>	<i>Tampering with Fire Alarm</i>	
2		<i>Apparatus (9.40.100)</i>	<i>E</i>
3	<i>A</i>	<i>Possession of Incendiary Device</i>	
4		<i>(9.40.120)</i>	<i>B+</i>
5		<i>Assault and Other Crimes</i>	
6		<i>Involving Physical Harm</i>	
7	<i>A</i>	<i>Assault 1 (9A.36.011)</i>	<i>B+</i>
8	<i>B+</i>	<i>Assault 2 (9A.36.021)</i>	<i>C+</i>
9	<i>C+</i>	<i>Assault 3 (9A.36.031)</i>	<i>D+</i>
10	<i>D+</i>	<i>Assault 4 (9A.36.041)</i>	<i>E</i>
11	<i>D+</i>	<i>Reckless Endangerment</i>	
12		<i>(9A.36.050)</i>	<i>E</i>
13	<i>C+</i>	<i>Promoting Suicide Attempt</i>	
14		<i>(9A.36.060)</i>	<i>D+</i>
15	<i>D+</i>	<i>Coercion (9A.36.070)</i>	<i>E</i>
16	<i>C+</i>	<i>Custodial Assault (9A.36.100)</i>	<i>D+</i>
17		<i>Burglary and Trespass</i>	
18	<i>B+</i>	<i>Burglary 1 (9A.52.020)</i>	<i>C+</i>
19	<i>B</i>	<i>Burglary 2 (9A.52.030)</i>	<i>C</i>
20	<i>D</i>	<i>Burglary Tools (Possession of)</i>	
21		<i>(9A.52.060)</i>	<i>E</i>
22	<i>D</i>	<i>Criminal Trespass 1 (9A.52.070)</i>	<i>E</i>
23	<i>E</i>	<i>Criminal Trespass 2 (9A.52.080)</i>	<i>E</i>
24	<i>D</i>	<i>Vehicle Prowling (9A.52.100)</i>	<i>E</i>
25		<i>Drugs</i>	
26	<i>E</i>	<i>Possession/Consumption of Alcohol</i>	
27		<i>(66.44.270)</i>	<i>E</i>
28	<i>C</i>	<i>Illegally Obtaining Legend Drug</i>	
29		<i>(69.41.020)</i>	<i>D</i>
30	<i>C+</i>	<i>Sale, Delivery, Possession of Legend</i>	
31		<i>Drug with Intent to Sell</i>	
32		<i>(69.41.030)</i>	<i>D+</i>
33	<i>E</i>	<i>Possession of Legend Drug</i>	
34		<i>(69.41.030)</i>	<i>E</i>

1	B+	Violation of Uniform Controlled	
2		Substances Act - Narcotic or	
3		Methamphetamine Sale	
4		(69.50.401(a)(1)(i) or (ii))	B+
5	C	Violation of Uniform Controlled	
6		Substances Act - Nonnarcotic Sale	
7		(69.50.401(a)(1)(iii))	C
8	E	Possession of Marihuana <40 grams	
9		(69.50.401(e))	E
10	C	Fraudulently Obtaining Controlled	
11		Substance (69.50.403)	C
12	C+	Sale of Controlled Substance	
13		for Profit (69.50.410)	C+
14	E	Unlawful Inhalation (9.47A.020)	E
15	B	Violation of Uniform Controlled	
16		Substances Act - Narcotic or	
17		Methamphetamine	
18		Counterfeit Substances	
19		(69.50.401(b)(1)(i) or (ii))	B
20	C	Violation of Uniform Controlled	
21		Substances Act - Nonnarcotic	
22		Counterfeit Substances	
23		(69.50.401(b)(1) (iii), (iv),	
24		(v))	C
25	C	Violation of Uniform Controlled	
26		Substances Act - Possession of a	
27		Controlled Substance	
28		(69.50.401(d))	C
29	C	Violation of Uniform Controlled	
30		Substances Act - Possession of a	
31		Controlled Substance	
32		(69.50.401(c))	C
33		Firearms and Weapons	
34	E	Carrying Loaded Pistol Without	
35		Permit (9.41.050)	E
36	C	Possession of Firearms by	
37		Minor (<18) (9.41.040(1)	
38		(b)((iv)) (iii))	C

1	<i>D+</i>	<i>Possession of Dangerous Weapon</i>	
2		<i>(9.41.250)</i>	<i>E</i>
3	<i>D</i>	<i>Intimidating Another Person by use</i>	
4		<i>of Weapon (9.41.270)</i>	<i>E</i>
5		<i>Homicide</i>	
6	<i>A+</i>	<i>Murder 1 (9A.32.030)</i>	<i>A</i>
7	<i>A+</i>	<i>Murder 2 (9A.32.050)</i>	<i>B+</i>
8	<i>B+</i>	<i>Manslaughter 1 (9A.32.060)</i>	<i>C+</i>
9	<i>C+</i>	<i>Manslaughter 2 (9A.32.070)</i>	<i>D+</i>
10	<i>B+</i>	<i>Vehicular Homicide (46.61.520)</i>	<i>C+</i>
11		<i>Kidnapping</i>	
12	<i>A</i>	<i>Kidnap 1 (9A.40.020)</i>	<i>B+</i>
13	<i>B+</i>	<i>Kidnap 2 (9A.40.030)</i>	<i>C+</i>
14	<i>C+</i>	<i>Unlawful Imprisonment</i>	
15		<i>(9A.40.040)</i>	<i>D+</i>
16		<i>Obstructing Governmental Operation</i>	
17	<i>E</i>	<i>Obstructing a</i>	
18		<i>Law Enforcement Officer</i>	
19		<i>(9A.76.020)</i>	<i>E</i>
20	<i>E</i>	<i>Resisting Arrest (9A.76.040)</i>	<i>E</i>
21	<i>B</i>	<i>Introducing Contraband 1</i>	
22		<i>(9A.76.140)</i>	<i>C</i>
23	<i>C</i>	<i>Introducing Contraband 2</i>	
24		<i>(9A.76.150)</i>	<i>D</i>
25	<i>E</i>	<i>Introducing Contraband 3</i>	
26		<i>(9A.76.160)</i>	<i>E</i>
27	<i>B+</i>	<i>Intimidating a Public Servant</i>	
28		<i>(9A.76.180)</i>	<i>C+</i>
29	<i>B+</i>	<i>Intimidating a Witness</i>	
30		<i>(9A.72.110)</i>	<i>C+</i>
31		<i>Public Disturbance</i>	
32	<i>C+</i>	<i>Riot with Weapon (9A.84.010)</i>	<i>D+</i>
33	<i>D+</i>	<i>Riot Without Weapon</i>	
34		<i>(9A.84.010)</i>	<i>E</i>
35	<i>E</i>	<i>Failure to Disperse (9A.84.020)</i>	<i>E</i>
36	<i>E</i>	<i>Disorderly Conduct (9A.84.030)</i>	<i>E</i>

1		Sex Crimes	
2	A	<i>Rape 1 (9A.44.040)</i>	B+
3	A-	<i>Rape 2 (9A.44.050)</i>	B+
4	C+	<i>Rape 3 (9A.44.060)</i>	D+
5	A-	<i>Rape of a Child 1 (9A.44.073)</i>	B+
6	B	<i>Rape of a Child 2 (9A.44.076)</i>	C+
7	B	<i>Incest 1 (9A.64.020(1))</i>	C
8	C	<i>Incest 2 (9A.64.020(2))</i>	D
9	D+	<i>Indecent Exposure</i>	
10		<i>(Victim <14) (9A.88.010)</i>	E
11	E	<i>Indecent Exposure</i>	
12		<i>(Victim 14 or over) (9A.88.010)</i>	E
13	B+	<i>Promoting Prostitution 1</i>	
14		<i>(9A.88.070)</i>	C+
15	C+	<i>Promoting Prostitution 2</i>	
16		<i>(9A.88.080)</i>	D+
17	E	<i>O & A (Prostitution) (9A.88.030)</i>	E
18	B+	<i>Indecent Liberties (9A.44.100)</i>	C+
19	B+	<i>Child Molestation 1 (9A.44.083)</i>	C+
20	C+	<i>Child Molestation 2 (9A.44.086)</i>	C
21		Theft, Robbery, Extortion, and Forgery	
22	B	<i>Theft 1 (9A.56.030)</i>	C
23	C	<i>Theft 2 (9A.56.040)</i>	D
24	D	<i>Theft 3 (9A.56.050)</i>	E
25	B	<i>Theft of Livestock (9A.56.080)</i>	C
26	C	<i>Forgery (9A.60.020)</i>	D
27	A	<i>Robbery 1 (9A.56.200)</i>	B+
28	B+	<i>Robbery 2 (9A.56.210)</i>	C+
29	B+	<i>Extortion 1 (9A.56.120)</i>	C+
30	C+	<i>Extortion 2 (9A.56.130)</i>	D+
31	B	<i>Possession of Stolen Property 1</i>	
32		<i>(9A.56.150)</i>	C
33	C	<i>Possession of Stolen Property 2</i>	
34		<i>(9A.56.160)</i>	D
35	D	<i>Possession of Stolen Property 3</i>	
36		<i>(9A.56.170)</i>	E
37	C	<i>Taking Motor Vehicle Without</i>	
38		<i>Owner's Permission (9A.56.070)</i>	D

1		Motor Vehicle Related Crimes	
2	E	<i>Driving Without a License</i>	
3		<i>((46.20.021)) Section 1 of this act</i>	E
4	C	<i>Hit and Run - Injury</i>	
5		<i>(46.52.020(4))</i>	D
6	D	<i>Hit and Run-Attended</i>	
7		<i>(46.52.020(5))</i>	E
8	E	<i>Hit and Run-Unattended</i>	
9		<i>(46.52.010)</i>	E
10	C	<i>Vehicular Assault (46.61.522)</i>	D
11	C	<i>Attempting to Elude Pursuing</i>	
12		<i>Police Vehicle (46.61.024)</i>	D
13	E	<i>Reckless Driving (46.61.500)</i>	E
14	D	<i>Driving While Under the Influence</i>	
15		<i>(46.61.502 and 46.61.504)</i>	E
16	D	<i>Vehicle Prowling (9A.52.100)</i>	E
17	C	<i>Taking Motor Vehicle Without</i>	
18		<i>Owner's Permission (9A.56.070)</i>	D
19		Other	
20	B	<i>Bomb Threat (9.61.160)</i>	C
21	C	<i>Escape 1 (9A.76.110)</i>	C
22	C	<i>Escape 2 (9A.76.120)</i>	C
23	D	<i>Escape 3 (9A.76.130)</i>	E
24	E	<i>Obscene, Harassing, Etc.,</i>	
25		<i>Phone Calls (9.61.230)</i>	E
26	A	<i>Other Offense Equivalent to an</i>	
27		<i>Adult Class A Felony</i>	B+
28	B	<i>Other Offense Equivalent to an</i>	
29		<i>Adult Class B Felony</i>	C
30	C	<i>Other Offense Equivalent to an</i>	
31		<i>Adult Class C Felony</i>	D
32	D	<i>Other Offense Equivalent to an</i>	
33		<i>Adult Gross Misdemeanor</i>	E
34	E	<i>Other Offense Equivalent to an</i>	
35		<i>Adult Misdemeanor</i>	E
36	V	<i>Violation of Order of Restitution,</i>	
37		<i>Community Supervision, or</i>	
38		<i>Confinement (13.40.200)</i>	V

1 Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses
2 and the standard range is established as follows:

3 1st escape or attempted escape during 12-month period - 4 weeks
4 confinement

5 2nd escape or attempted escape during 12-month period - 8 weeks
6 confinement

7 3rd and subsequent escape or attempted escape during 12-month
8 period - 12 weeks confinement

9 If the court finds that a respondent has violated terms of an order,
10 it may impose a penalty of up to 30 days of confinement.

11 **SCHEDULE B**

12 **PRIOR OFFENSE INCREASE FACTOR**

13 For use with all CURRENT OFFENSES occurring on or after July 1,
14 1989.

15 **TIME SPAN**

<i>OFFENSE</i>	<i>0-12</i>	<i>13-24</i>	<i>25 Months</i>
<i>CATEGORY</i>	<i>Months</i>	<i>Months</i>	<i>or More</i>
.....			
<i>A+</i>	<i>.9</i>	<i>.9</i>	<i>.9</i>
<i>A</i>	<i>.9</i>	<i>.8</i>	<i>.6</i>
<i>A-</i>	<i>.9</i>	<i>.8</i>	<i>.5</i>
<i>B+</i>	<i>.9</i>	<i>.7</i>	<i>.4</i>
<i>B</i>	<i>.9</i>	<i>.6</i>	<i>.3</i>
<i>C+</i>	<i>.6</i>	<i>.3</i>	<i>.2</i>
<i>C</i>	<i>.5</i>	<i>.2</i>	<i>.2</i>
<i>D+</i>	<i>.3</i>	<i>.2</i>	<i>.1</i>
<i>D</i>	<i>.2</i>	<i>.1</i>	<i>.1</i>
<i>E</i>	<i>.1</i>	<i>.1</i>	<i>.1</i>

29 Prior history - Any offense in which a diversion agreement or counsel
30 and release form was signed, or any offense which has been adjudicated
31 by court to be correct prior to the commission of the current
32 offense(s).

33 **SCHEDULE C**

34 **CURRENT OFFENSE POINTS**

1 For use with all CURRENT OFFENSES occurring on or after July 1,
 2 1989.

3 **AGE**

4	<i>OFFENSE</i>	<i>12 &</i>					
5	<i>CATEGORY</i>	<i>Under</i>	<i>13</i>	<i>14</i>	<i>15</i>	<i>16</i>	<i>17</i>
6						
7	<i>A+</i>	<i>STANDARD RANGE 180-224 WEEKS</i>					
8	<i>A</i>	<i>250</i>	<i>300</i>	<i>350</i>	<i>375</i>	<i>375</i>	<i>375</i>
9	<i>A-</i>	<i>150</i>	<i>150</i>	<i>150</i>	<i>200</i>	<i>200</i>	<i>200</i>
10	<i>B+</i>	<i>110</i>	<i>110</i>	<i>120</i>	<i>130</i>	<i>140</i>	<i>150</i>
11	<i>B</i>	<i>45</i>	<i>45</i>	<i>50</i>	<i>50</i>	<i>57</i>	<i>57</i>
12	<i>C+</i>	<i>44</i>	<i>44</i>	<i>49</i>	<i>49</i>	<i>55</i>	<i>55</i>
13	<i>C</i>	<i>40</i>	<i>40</i>	<i>45</i>	<i>45</i>	<i>50</i>	<i>50</i>
14	<i>D+</i>	<i>16</i>	<i>18</i>	<i>20</i>	<i>22</i>	<i>24</i>	<i>26</i>
15	<i>D</i>	<i>14</i>	<i>16</i>	<i>18</i>	<i>20</i>	<i>22</i>	<i>24</i>
16	<i>E</i>	<i>4</i>	<i>4</i>	<i>4</i>	<i>6</i>	<i>8</i>	<i>10</i>

17 **JUVENILE SENTENCING STANDARDS**
 18 **SCHEDULE D-1**

19 This schedule may only be used for minor/first offenders. After the
 20 determination is made that a youth is a minor/first offender, the court
 21 has the discretion to select sentencing option A, B, or C.

22 **MINOR/FIRST OFFENDER**

23 **OPTION A**
 24 **STANDARD RANGE**

25	<i>Community</i>			
26	<i>Community</i>	<i>Service</i>		
27	<i>Points</i>	<i>Supervision</i>	<i>Hours</i>	<i>Fine</i>
28			
29	<i>1-9</i>	<i>0-3 months</i>	<i>and/or 0-8</i>	<i>and/or 0-\$10</i>
30	<i>10-19</i>	<i>0-3 months</i>	<i>and/or 0-8</i>	<i>and/or 0-\$10</i>
31	<i>20-29</i>	<i>0-3 months</i>	<i>and/or 0-16</i>	<i>and/or 0-\$10</i>
32	<i>30-39</i>	<i>0-3 months</i>	<i>and/or 8-24</i>	<i>and/or 0-\$25</i>
33	<i>40-49</i>	<i>3-6 months</i>	<i>and/or 16-32</i>	<i>and/or 0-\$25</i>
34	<i>50-59</i>	<i>3-6 months</i>	<i>and/or 24-40</i>	<i>and/or 0-\$25</i>

	<i>Points</i>	<i>Community Supervision</i>	<i>Community Service Hours</i>	<i>Fine</i>	<i>Confinement Days Weeks</i>
1					
2					
3					
4				
5	1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
6	10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
7	20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
8	30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
9	40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
10	50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
11	60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
12	70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
13	80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
14	90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
15	110-129				8-12
16	130-149				13-16
17	150-199				21-28
18	200-249				30-40
19	250-299				52-65
20	300-374				80-100
21	375+				103-129

22 Middle offenders with 110 points or more do not have to be committed.
 23 They may be assigned community supervision under option B.
 24 All A+ offenses 180-224 weeks

25 **OR**

26 **OPTION B**
 27 **STATUTORY OPTION**

- 28 0-12 Months Community Supervision
- 29 0-150 Hours Community Service
- 30 0-100 Fine
- 31 Posting of a Probation Bond

32 If the offender has less than 110 points, the court may impose a
 33 determinate disposition of community supervision and/or up to 30 days
 34 confinement; in which case, if confinement has been imposed, the court
 35 shall state either aggravating or mitigating factors as set forth in
 36 RCW 13.40.150.

37 If the middle offender has 110 points or more, the court may impose
 38 a disposition under option A and may suspend the disposition on the
 39 condition that the offender serve up to thirty days of confinement and

1 follow all conditions of community supervision. If the offender fails
2 to comply with the terms of community supervision, the court may impose
3 sanctions pursuant to RCW 13.40.200 or may revoke the suspended
4 disposition and order execution of the disposition. If the court
5 imposes confinement for offenders with 110 points or more, the court
6 shall state either aggravating or mitigating factors set forth in RCW
7 13.40.150.

8 OR

9 OPTION C

10 MANIFEST INJUSTICE

11 If the court determines that a disposition under A or B would
12 effectuate a manifest injustice, the court shall sentence the juvenile
13 to a maximum term and the provisions of RCW 13.40.030(2) shall be used
14 to determine the range.

15 JUVENILE SENTENCING STANDARDS

16 SCHEDULE D-3

17 This schedule may only be used for serious offenders. After the
18 determination is made that a youth is a serious offender, the court has
19 the discretion to select sentencing option A or B.

20 SERIOUS OFFENDER

21 OPTION A

22 STANDARD RANGE

23 *Points* *Institution Time*

24

25	<i>0-129</i>	<i>8-12 weeks</i>
26	<i>130-149</i>	<i>13-16 weeks</i>
27	<i>150-199</i>	<i>21-28 weeks</i>
28	<i>200-249</i>	<i>30-40 weeks</i>
29	<i>250-299</i>	<i>52-65 weeks</i>
30	<i>300-374</i>	<i>80-100 weeks</i>
31	<i>375+</i>	<i>103-129 weeks</i>
32	<i>All A+ Offenses</i>	<i>180-224 weeks</i>

33 OR

1 (7) Upon determining that a person is operating a motor vehicle
2 without a valid driver's license in violation of ((RCW 46.20.021))
3 section 1 of this act or with a license that has been expired for
4 ninety days or more, or with a suspended or revoked license in
5 violation of RCW 46.20.342 or 46.20.420.

6 Nothing in this section may derogate from the powers of police
7 officers under the common law. For the purposes of this section, a
8 place of safety may include the business location of a registered tow
9 truck operator.

10 **Sec. 8.** RCW 46.63.020 and 1996 c 307 s 6, 1996 c 287 s 7, 1996 c
11 93 s 3, 1996 c 87 s 21, and 1996 c 31 s 3 are each reenacted and
12 amended to read as follows:

13 Failure to perform any act required or the performance of any act
14 prohibited by this title or an equivalent administrative regulation or
15 local law, ordinance, regulation, or resolution relating to traffic
16 including parking, standing, stopping, and pedestrian offenses, is
17 designated as a traffic infraction and may not be classified as a
18 criminal offense, except for an offense contained in the following
19 provisions of this title or a violation of an equivalent administrative
20 regulation or local law, ordinance, regulation, or resolution:

21 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
22 vehicle while under the influence of intoxicating liquor or a
23 controlled substance;

24 (2) RCW 46.09.130 relating to operation of nonhighway vehicles;

25 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
26 while under the influence of intoxicating liquor or narcotics or
27 habit-forming drugs or in a manner endangering the person of another;

28 (4) RCW 46.10.130 relating to the operation of snowmobiles;

29 (5) Chapter 46.12 RCW relating to certificates of ownership and
30 registration and markings indicating that a vehicle has been destroyed
31 or declared a total loss;

32 (6) RCW 46.16.010 relating to initial registration of motor
33 vehicles;

34 (7) RCW 46.16.011 relating to permitting unauthorized persons to
35 drive;

36 (8) RCW 46.16.160 relating to vehicle trip permits;

- 1 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or
2 acquisition of a special placard or license plate for disabled persons'
3 parking;
- 4 (10) (~~RCW 46.20.021~~) Section 1 of this act relating to driving
5 without a valid driver's license(~~(, unless the person cited for the~~
6 ~~violation provided the citing officer with an expired driver's license~~
7 ~~or other valid identifying documentation under RCW 46.20.035 at the~~
8 ~~time of the stop and was not in violation of RCW 46.20.342(1) or~~
9 ~~46.20.420, in which case the violation is an infraction)~~);
- 10 (11) RCW 46.20.091 relating to false statements regarding a
11 driver's license or instruction permit;
- 12 (12) RCW 46.20.336 relating to the unlawful possession and use of
13 a driver's license;
- 14 (13) RCW 46.20.342 relating to driving with a suspended or revoked
15 license or status;
- 16 (14) RCW 46.20.410 relating to the violation of restrictions of an
17 occupational driver's license;
- 18 (15) RCW 46.20.420 relating to the operation of a motor vehicle
19 with a suspended or revoked license;
- 20 (16) RCW 46.20.750 relating to assisting another person to start a
21 vehicle equipped with an ignition interlock device;
- 22 (17) RCW 46.25.170 relating to commercial driver's licenses;
- 23 (18) Chapter 46.29 RCW relating to financial responsibility;
- 24 (19) RCW 46.30.040 relating to providing false evidence of
25 financial responsibility;
- 26 (20) RCW 46.37.435 relating to wrongful installation of
27 sunscreening material;
- 28 (21) RCW 46.44.180 relating to operation of mobile home pilot
29 vehicles;
- 30 (22) RCW 46.48.175 relating to the transportation of dangerous
31 articles;
- 32 (23) RCW 46.52.010 relating to duty on striking an unattended car
33 or other property;
- 34 (24) RCW 46.52.020 relating to duty in case of injury to or death
35 of a person or damage to an attended vehicle;
- 36 (25) RCW 46.52.090 relating to reports by repairmen, storagemen,
37 and appraisers;
- 38 (26) RCW 46.52.100 relating to driving under the influence of
39 liquor or drugs;

1 (27) RCW 46.52.130 relating to confidentiality of the driving
2 record to be furnished to an insurance company, an employer, and an
3 alcohol/drug assessment or treatment agency;

4 (28) RCW 46.55.020 relating to engaging in the activities of a
5 registered tow truck operator without a registration certificate;

6 (29) RCW 46.55.035 relating to prohibited practices by tow truck
7 operators;

8 (30) RCW 46.61.015 relating to obedience to police officers,
9 flagmen, or fire fighters;

10 (31) RCW 46.61.020 relating to refusal to give information to or
11 cooperate with an officer;

12 (32) RCW 46.61.022 relating to failure to stop and give
13 identification to an officer;

14 (33) RCW 46.61.024 relating to attempting to elude pursuing police
15 vehicles;

16 (34) RCW 46.61.500 relating to reckless driving;

17 (35) RCW 46.61.502 and 46.61.504 relating to persons under the
18 influence of intoxicating liquor or drugs;

19 (36) RCW 46.61.503 relating to a person under age twenty-one
20 driving a motor vehicle after consuming alcohol;

21 (37) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

22 (38) RCW 46.61.522 relating to vehicular assault;

23 (39) ((~~RCW 46.61.525(1)~~)) Section 4 of this act relating to first
24 degree negligent driving;

25 (40) RCW 46.61.527(4) relating to reckless endangerment of roadway
26 workers;

27 (41) RCW 46.61.530 relating to racing of vehicles on highways;

28 (42) RCW 46.61.685 relating to leaving children in an unattended
29 vehicle with the motor running;

30 (43) RCW 46.64.010 relating to unlawful cancellation of or attempt
31 to cancel a traffic citation;

32 (44) RCW 46.64.048 relating to attempting, aiding, abetting,
33 coercing, and committing crimes;

34 (45) Chapter 46.65 RCW relating to habitual traffic offenders;

35 (46) RCW 46.68.010 relating to false statements made to obtain a
36 refund;

37 (47) Chapter 46.70 RCW relating to unfair motor vehicle business
38 practices, except where that chapter provides for the assessment of
39 monetary penalties of a civil nature;

1 (48) Chapter 46.72 RCW relating to the transportation of passengers
2 in for hire vehicles;

3 (49) RCW 46.72A.060 relating to limousine carrier insurance;

4 (50) RCW 46.72A.070 relating to operation of a limousine without a
5 vehicle certificate;

6 (51) RCW 46.72A.080 relating to false advertising by a limousine
7 carrier;

8 (52) Chapter 46.80 RCW relating to motor vehicle wreckers;

9 (53) Chapter 46.82 RCW relating to driver's training schools;

10 (54) RCW 46.87.260 relating to alteration or forgery of a cab card,
11 letter of authority, or other temporary authority issued under chapter
12 46.87 RCW;

13 (55) RCW 46.87.290 relating to operation of an unregistered or
14 unlicensed vehicle under chapter 46.87 RCW.

15 **Sec. 9.** RCW 7.68.035 and 1996 c 122 s 2 are each amended to read
16 as follows:

17 (1)(a) Whenever any person is found guilty in any superior court of
18 having committed a crime, except as provided in subsection (2) of this
19 section, there shall be imposed by the court upon such convicted person
20 a penalty assessment. The assessment shall be in addition to any other
21 penalty or fine imposed by law and shall be five hundred dollars for
22 each case or cause of action that includes one or more convictions of
23 a felony or gross misdemeanor and two hundred fifty dollars for any
24 case or cause of action that includes convictions of only one or more
25 misdemeanors.

26 (b) Whenever any juvenile is adjudicated of any offense in any
27 juvenile offense disposition under Title 13 RCW, except as provided in
28 subsection (2) of this section, there shall be imposed upon the
29 juvenile offender a penalty assessment. The assessment shall be in
30 addition to any other penalty or fine imposed by law and shall be one
31 hundred dollars for each case or cause of action that includes one or
32 more adjudications for a felony or gross misdemeanor and seventy-five
33 dollars for each case or cause of action that includes adjudications of
34 only one or more misdemeanors.

35 (2) The assessment imposed by subsection (1) of this section shall
36 not apply to motor vehicle crimes defined in Title 46 RCW except those
37 defined in the following sections: RCW 46.61.520, 46.61.522,
38 46.61.024, 46.52.090, 46.70.140, 46.61.502, 46.61.504, 46.52.100,

1 46.20.410, 46.52.020, 46.10.130, 46.09.130, section 4 of this act,
2 46.61.525, 46.61.685, 46.61.530, 46.61.500, 46.61.015, 46.52.010,
3 46.44.180, 46.10.090(2), and 46.09.120(2).

4 (3) Whenever any person accused of having committed a crime posts
5 bail in superior court pursuant to the provisions of chapter 10.19 RCW
6 and such bail is forfeited, there shall be deducted from the proceeds
7 of such forfeited bail a penalty assessment, in addition to any other
8 penalty or fine imposed by law, equal to the assessment which would be
9 applicable under subsection (1) of this section if the person had been
10 convicted of the crime.

11 (4) Such penalty assessments shall be paid by the clerk of the
12 superior court to the county treasurer who shall monthly transmit the
13 money as provided in RCW 10.82.070. Each county shall deposit fifty
14 percent of the money it receives per case or cause of action under
15 subsection (1) of this section and retains under RCW 10.82.070, not
16 less than one and seventy-five one-hundredths percent of the remaining
17 money it retains under RCW 10.82.070 and the money it retains under
18 chapter 3.62 RCW, and all money it receives under subsection (7) of
19 this section into a fund maintained exclusively for the support of
20 comprehensive programs to encourage and facilitate testimony by the
21 victims of crimes and witnesses to crimes. A program shall be
22 considered "comprehensive" only after approval of the department upon
23 application by the county prosecuting attorney. The department shall
24 approve as comprehensive only programs which:

25 (a) Provide comprehensive services to victims and witnesses of all
26 types of crime with particular emphasis on serious crimes against
27 persons and property. It is the intent of the legislature to make
28 funds available only to programs which do not restrict services to
29 victims or witnesses of a particular type or types of crime and that
30 such funds supplement, not supplant, existing local funding levels;

31 (b) Are administered by the county prosecuting attorney either
32 directly through the prosecuting attorney's office or by contract
33 between the county and agencies providing services to victims of crime;

34 (c) Make a reasonable effort to inform the known victim or his
35 surviving dependents of the existence of this chapter and the procedure
36 for making application for benefits;

37 (d) Assist victims in the restitution and adjudication process; and

1 (e) Assist victims of violent crimes in the preparation and
2 presentation of their claims to the department of labor and industries
3 under this chapter.

4 Before a program in any county west of the Cascade mountains is
5 submitted to the department for approval, it shall be submitted for
6 review and comment to each city within the county with a population of
7 more than one hundred fifty thousand. The department will consider if
8 the county's proposed comprehensive plan meets the needs of crime
9 victims in cases adjudicated in municipal, district or superior courts
10 and of crime victims located within the city and county.

11 (5) Upon submission to the department of a letter of intent to
12 adopt a comprehensive program, the prosecuting attorney shall retain
13 the money deposited by the county under subsection (4) of this section
14 until such time as the county prosecuting attorney has obtained
15 approval of a program from the department. Approval of the
16 comprehensive plan by the department must be obtained within one year
17 of the date of the letter of intent to adopt a comprehensive program.
18 The county prosecuting attorney shall not make any expenditures from
19 the money deposited under subsection (4) of this section until approval
20 of a comprehensive plan by the department. If a county prosecuting
21 attorney has failed to obtain approval of a program from the department
22 under subsection (4) of this section or failed to obtain approval of a
23 comprehensive program within one year after submission of a letter of
24 intent under this section, the county treasurer shall monthly transmit
25 one hundred percent of the money deposited by the county under
26 subsection (4) of this section to the state treasurer for deposit in
27 the public safety and education account established under RCW
28 43.08.250.

29 (6) County prosecuting attorneys are responsible to make every
30 reasonable effort to insure that the penalty assessments of this
31 chapter are imposed and collected.

32 (7) Every city and town shall transmit monthly one and seventy-five
33 one-hundredths percent of all money, other than money received for
34 parking infractions, retained under RCW 3.46.120, 3.50.100, and
35 35.20.220 to the county treasurer for deposit as provided in subsection
36 (4) of this section.

37 **Sec. 10.** RCW 10.31.100 and 1996 c 248 s 4 are each amended to read
38 as follows:

1 A police officer having probable cause to believe that a person has
2 committed or is committing a felony shall have the authority to arrest
3 the person without a warrant. A police officer may arrest a person
4 without a warrant for committing a misdemeanor or gross misdemeanor
5 only when the offense is committed in the presence of the officer,
6 except as provided in subsections (1) through (10) of this section.

7 (1) Any police officer having probable cause to believe that a
8 person has committed or is committing a misdemeanor or gross
9 misdemeanor, involving physical harm or threats of harm to any person
10 or property or the unlawful taking of property or involving the use or
11 possession of cannabis, or involving the acquisition, possession, or
12 consumption of alcohol by a person under the age of twenty-one years
13 under RCW 66.44.270, or involving criminal trespass under RCW 9A.52.070
14 or 9A.52.080, shall have the authority to arrest the person.

15 (2) A police officer shall arrest and take into custody, pending
16 release on bail, personal recognizance, or court order, a person
17 without a warrant when the officer has probable cause to believe that:

18 (a) An order has been issued of which the person has knowledge
19 under RCW 10.99.040(2), 10.99.050, 26.09.050, 26.09.060, 26.10.040,
20 26.10.115, 26.44.063, chapter 26.26 RCW, or chapter 26.50 RCW
21 restraining the person and the person has violated the terms of the
22 order restraining the person from acts or threats of violence or
23 restraining the person from going onto the grounds of or entering a
24 residence, workplace, school, or day care or, in the case of an order
25 issued under RCW 26.44.063, imposing any other restrictions or
26 conditions upon the person; or

27 (b) The person is sixteen years or older and within the preceding
28 four hours has assaulted a family or household member as defined in RCW
29 10.99.020 and the officer believes: (i) A felonious assault has
30 occurred; (ii) an assault has occurred which has resulted in bodily
31 injury to the victim, whether the injury is observable by the
32 responding officer or not; or (iii) that any physical action has
33 occurred which was intended to cause another person reasonably to fear
34 imminent serious bodily injury or death. Bodily injury means physical
35 pain, illness, or an impairment of physical condition. When the
36 officer has probable cause to believe that family or household members
37 have assaulted each other, the officer is not required to arrest both
38 persons. The officer shall arrest the person whom the officer believes
39 to be the primary physical aggressor. In making this determination,

1 the officer shall make every reasonable effort to consider: (i) The
2 intent to protect victims of domestic violence under RCW 10.99.010;
3 (ii) the comparative extent of injuries inflicted or serious threats
4 creating fear of physical injury; and (iii) the history of domestic
5 violence between the persons involved.

6 (3) Any police officer having probable cause to believe that a
7 person has committed or is committing a violation of any of the
8 following traffic laws shall have the authority to arrest the person:

9 (a) RCW 46.52.010, relating to duty on striking an unattended car
10 or other property;

11 (b) RCW 46.52.020, relating to duty in case of injury to or death
12 of a person or damage to an attended vehicle;

13 (c) RCW 46.61.500 or 46.61.530, relating to reckless driving or
14 racing of vehicles;

15 (d) RCW 46.61.502 or 46.61.504, relating to persons under the
16 influence of intoxicating liquor or drugs;

17 (e) RCW 46.20.342, relating to driving a motor vehicle while
18 operator's license is suspended or revoked;

19 (f) (~~RCW 46.61.525~~) Section 4 of this act, relating to operating
20 a motor vehicle in a negligent manner.

21 (4) A law enforcement officer investigating at the scene of a motor
22 vehicle accident may arrest the driver of a motor vehicle involved in
23 the accident if the officer has probable cause to believe that the
24 driver has committed in connection with the accident a violation of any
25 traffic law or regulation.

26 (5) Any police officer having probable cause to believe that a
27 person has committed or is committing a violation of RCW 88.12.025
28 shall have the authority to arrest the person.

29 (6) An officer may act upon the request of a law enforcement
30 officer in whose presence a traffic infraction was committed, to stop,
31 detain, arrest, or issue a notice of traffic infraction to the driver
32 who is believed to have committed the infraction. The request by the
33 witnessing officer shall give an officer the authority to take
34 appropriate action under the laws of the state of Washington.

35 (7) Any police officer having probable cause to believe that a
36 person has committed or is committing any act of indecent exposure, as
37 defined in RCW 9A.88.010, may arrest the person.

38 (8) A police officer may arrest and take into custody, pending
39 release on bail, personal recognizance, or court order, a person

1 without a warrant when the officer has probable cause to believe that
2 an order has been issued of which the person has knowledge under
3 chapter 10.14 RCW and the person has violated the terms of that order.

4 (9) Any police officer having probable cause to believe that a
5 person has, within twenty-four hours of the alleged violation,
6 committed a violation of RCW 9A.50.020 may arrest such person.

7 (10) A police officer having probable cause to believe that a
8 person illegally possesses or illegally has possessed a firearm or
9 other dangerous weapon on private or public elementary or secondary
10 school premises shall have the authority to arrest the person.

11 For purposes of this subsection, the term "firearm" has the meaning
12 defined in RCW 9.41.010 and the term "dangerous weapon" has the meaning
13 defined in RCW 9.41.250 and 9.41.280(1) (c) through (e).

14 (11) Except as specifically provided in subsections (2), (3), (4),
15 and (6) of this section, nothing in this section extends or otherwise
16 affects the powers of arrest prescribed in Title 46 RCW.

17 (12) No police officer may be held criminally or civilly liable for
18 making an arrest pursuant to RCW 10.31.100 (2) or (8) if the police
19 officer acts in good faith and without malice.

20 **Sec. 11.** RCW 46.01.260 and 1996 c 199 s 4 are each amended to read
21 as follows:

22 (1) Except as provided in subsection (2) of this section, the
23 director, in his or her discretion, may destroy applications for
24 vehicle licenses, copies of vehicle licenses issued, applications for
25 drivers' licenses, copies of issued drivers' licenses, certificates of
26 title and registration or other documents, records or supporting papers
27 on file in his or her office which have been microfilmed or
28 photographed or are more than five years old. If the applications for
29 vehicle licenses are renewal applications, the director may destroy
30 such applications when the computer record thereof has been updated.

31 (2)(a) The director shall not destroy records of convictions or
32 adjudications of RCW 46.61.520 and 46.61.522 and shall maintain such
33 records permanently on file.

34 (b) The director shall not, within ten years from the date of
35 conviction, adjudication, or entry of deferred prosecution, destroy
36 records of the following:

37 (i) Convictions or adjudications of the following offenses: RCW
38 46.61.502 or 46.61.504;

1 (ii) If the offense was originally charged as one of the offenses
2 designated in (a) or (b)(i) of this subsection, convictions or
3 adjudications of the following offenses: RCW 46.61.500 or
4 (~~46.61.525,~~) section 4 of this act or any other violation that was
5 originally charged as one of the offenses designated in (a) or (b)(i)
6 of this subsection; or

7 (iii) Deferred prosecutions granted under RCW 10.05.120.

8 (c) For purposes of RCW 46.52.100 and 46.52.130, offenses subject
9 to this subsection shall be considered "alcohol-related" offenses.

10 **Sec. 12.** RCW 46.52.130 and 1996 c 307 s 4 and 1996 c 183 s 2 are
11 each reenacted and amended to read as follows:

12 A certified abstract of the driving record shall be furnished only
13 to the individual named in the abstract, an employer or prospective
14 employer or an agent acting on behalf of an employer or prospective
15 employer, the insurance carrier that has insurance in effect covering
16 the employer or a prospective employer, the insurance carrier that has
17 insurance in effect covering the named individual, the insurance
18 carrier to which the named individual has applied, an alcohol/drug
19 assessment or treatment agency approved by the department of social and
20 health services, to which the named individual has applied or been
21 assigned for evaluation or treatment, or city and county prosecuting
22 attorneys. City attorneys and county prosecuting attorneys may provide
23 the driving record to alcohol/drug assessment or treatment agencies
24 approved by the department of social and health services to which the
25 named individual has applied or been assigned for evaluation or
26 treatment. The director, upon proper request, shall furnish a
27 certified abstract covering the period of not more than the last three
28 years to insurance companies. Upon proper request, the director shall
29 furnish a certified abstract covering a period of not more than the
30 last five years to state approved alcohol/drug assessment or treatment
31 agencies, except that the certified abstract shall also include records
32 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a
33 period of not more than the last ten years. Upon proper request, a
34 certified abstract of the full driving record maintained by the
35 department shall be furnished to a city or county prosecuting attorney,
36 to the individual named in the abstract or to an employer or
37 prospective employer or an agent acting on behalf of an employer or
38 prospective employer of the named individual. The abstract, whenever

1 possible, shall include an enumeration of motor vehicle accidents in
2 which the person was driving; the total number of vehicles involved;
3 whether the vehicles were legally parked or moving; whether the
4 vehicles were occupied at the time of the accident; any reported
5 convictions, forfeitures of bail, or findings that an infraction was
6 committed based upon a violation of any motor vehicle law; and the
7 status of the person's driving privilege in this state. The
8 enumeration shall include any reports of failure to appear in response
9 to a traffic citation or failure to respond to a notice of infraction
10 served upon the named individual by an arresting officer. Certified
11 abstracts furnished to prosecutors and alcohol/drug assessment or
12 treatment agencies shall also indicate whether a recorded violation is
13 an alcohol-related offense as defined in RCW 46.01.260(2) that was
14 originally charged as one of the alcohol-related offenses designated in
15 RCW 46.01.260(2)((+a)) (b)(i).

16 The abstract provided to the insurance company shall exclude any
17 information, except that related to the commission of misdemeanors or
18 felonies by the individual, pertaining to law enforcement officers or
19 fire fighters as defined in RCW 41.26.030, or any officer of the
20 Washington state patrol, while driving official vehicles in the
21 performance of occupational duty. The abstract provided to the
22 insurance company shall include convictions for section 4 of this act
23 and RCW 46.61.525 ((+1) and (+2)) except that the abstract shall report
24 them only as negligent driving without reference to whether they are
25 for first or second degree negligent driving. The abstract provided to
26 the insurance company shall exclude any deferred prosecution under RCW
27 10.05.060, except that if a person is removed from a deferred
28 prosecution under RCW 10.05.090, the abstract shall show the deferred
29 prosecution as well as the removal.

30 The director shall collect for each abstract the sum of four
31 dollars and fifty cents which shall be deposited in the highway safety
32 fund.

33 Any insurance company or its agent receiving the certified abstract
34 shall use it exclusively for its own underwriting purposes and shall
35 not divulge any of the information contained in it to a third party.
36 No policy of insurance may be canceled, nonrenewed, denied, or have the
37 rate increased on the basis of such information unless the policyholder
38 was determined to be at fault. No insurance company or its agent for
39 underwriting purposes relating to the operation of commercial motor

1 vehicles may use any information contained in the abstract relative to
2 any person's operation of motor vehicles while not engaged in such
3 employment, nor may any insurance company or its agent for underwriting
4 purposes relating to the operation of noncommercial motor vehicles use
5 any information contained in the abstract relative to any person's
6 operation of commercial motor vehicles.

7 Any employer or prospective employer or an agent acting on behalf
8 of an employer or prospective employer receiving the certified abstract
9 shall use it exclusively for his or her own purpose to determine
10 whether the licensee should be permitted to operate a commercial
11 vehicle or school bus upon the public highways of this state and shall
12 not divulge any information contained in it to a third party.

13 Any alcohol/drug assessment or treatment agency approved by the
14 department of social and health services receiving the certified
15 abstract shall use it exclusively for the purpose of assisting its
16 employees in making a determination as to what level of treatment, if
17 any, is appropriate. The agency, or any of its employees, shall not
18 divulge any information contained in the abstract to a third party.

19 Release of a certified abstract of the driving record of an
20 employee or prospective employee requires a statement signed by: (1)
21 The employee or prospective employee that authorizes the release of the
22 record, and (2) the employer attesting that the information is
23 necessary to determine whether the licensee should be employed to
24 operate a commercial vehicle or school bus upon the public highways of
25 this state. If the employer or prospective employer authorizes an
26 agent to obtain this information on their behalf, this must be noted in
27 the statement.

28 Any violation of this section is a gross misdemeanor.

29 **Sec. 13.** RCW 46.61.005 and 1990 c 291 s 4 are each amended to read
30 as follows:

31 The provisions of this chapter relating to the operation of
32 vehicles refer exclusively to the operation of vehicles upon highways
33 except:

34 (1) Where a different place is specifically referred to in a given
35 section.

36 (2) The provisions of RCW 46.52.010 through 46.52.090 ((and)),
37 46.61.500 through 46.61.525, and section 4 of this act shall apply upon
38 highways and elsewhere throughout the state.

1 **Sec. 14.** RCW 46.61.5055 and 1996 c 307 s 3 are each amended to
2 read as follows:

3 (1) A person who is convicted of a violation of RCW 46.61.502 or
4 46.61.504 and who has no prior offense within five years shall be
5 punished as follows:

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

10 (i) By imprisonment for not less than one day nor more than one
11 year. Twenty-four consecutive hours of the imprisonment may not be
12 suspended or deferred unless the court finds that the imposition of
13 this mandatory minimum sentence would impose a substantial risk to the
14 offender's physical or mental well-being. Whenever the mandatory
15 minimum sentence is suspended or deferred, the court shall state in
16 writing the reason for granting the suspension or deferral and the
17 facts upon which the suspension or deferral is based; and

18 (ii) By a fine of not less than three hundred fifty dollars nor
19 more than five thousand dollars. Three hundred fifty dollars of the
20 fine may not be suspended or deferred unless the court finds the
21 offender to be indigent; and

22 (iii) By suspension of the offender's license or permit to drive,
23 or suspension of any nonresident privilege to drive, for a period of
24 ninety days. The period of license, permit, or privilege suspension
25 may not be suspended. The court shall notify the department of
26 licensing of the conviction, and upon receiving notification of the
27 conviction the department shall suspend the offender's license, permit,
28 or privilege; or

29 (b) In the case of a person whose alcohol concentration was at
30 least 0.15, or for whom by reason of the person's refusal to take a
31 test offered pursuant to RCW 46.20.308 there is no test result
32 indicating the person's alcohol concentration:

33 (i) By imprisonment for not less than two days nor more than one
34 year. Two consecutive days of the imprisonment may not be suspended or
35 deferred unless the court finds that the imposition of this mandatory
36 minimum sentence would impose a substantial risk to the offender's
37 physical or mental well-being. Whenever the mandatory minimum sentence
38 is suspended or deferred, the court shall state in writing the reason

1 for granting the suspension or deferral and the facts upon which the
2 suspension or deferral is based; and

3 (ii) By a fine of not less than five hundred dollars nor more than
4 five thousand dollars. Five hundred dollars of the fine may not be
5 suspended or deferred unless the court finds the offender to be
6 indigent; and

7 (iii) By suspension of the offender's license or permit to drive,
8 or suspension of any nonresident privilege to drive, for a period of
9 one hundred twenty days. The period of license, permit, or privilege
10 suspension may not be suspended. The court shall notify the department
11 of licensing of the conviction, and upon receiving notification of the
12 conviction the department shall suspend the offender's license, permit,
13 or privilege.

14 (2) A person who is convicted of a violation of RCW 46.61.502 or
15 46.61.504 and who has one prior offense within five years shall be
16 punished as follows:

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

21 (i) By imprisonment for not less than thirty days nor more than one
22 year. Thirty days of the imprisonment may not be suspended or deferred
23 unless the court finds that the imposition of this mandatory minimum
24 sentence would impose a substantial risk to the offender's physical or
25 mental well-being. Whenever the mandatory minimum sentence is
26 suspended or deferred, the court shall state in writing the reason for
27 granting the suspension or deferral and the facts upon which the
28 suspension or deferral is based; and

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

33 (iii) By revocation of the offender's license or permit to drive,
34 or suspension of any nonresident privilege to drive, for a period of
35 one year. The period of license, permit, or privilege revocation may
36 not be suspended. The court shall notify the department of licensing
37 of the conviction, and upon receiving notification of the conviction
38 the department shall revoke the offender's license, permit, or
39 privilege; or

1 (b) In the case of a person whose alcohol concentration was at
2 least 0.15, or for whom by reason of the person's refusal to take a
3 test offered pursuant to RCW 46.20.308 there is no test result
4 indicating the person's alcohol concentration:

5 (i) By imprisonment for not less than forty-five days nor more than
6 one year. Forty-five days of the imprisonment may not be suspended or
7 deferred unless the court finds that the imposition of this mandatory
8 minimum sentence would impose a substantial risk to the offender's
9 physical or mental well-being. Whenever the mandatory minimum sentence
10 is suspended or deferred, the court shall state in writing the reason
11 for granting the suspension or deferral and the facts upon which the
12 suspension or deferral is based; and

13 (ii) By a fine of not less than seven hundred fifty dollars nor
14 more than five thousand dollars. Seven hundred fifty dollars of the
15 fine may not be suspended or deferred unless the court finds the
16 offender to be indigent; and

17 (iii) By revocation of the offender's license or permit to drive,
18 or suspension of any nonresident privilege to drive, for a period of
19 four hundred fifty days. The period of license, permit, or privilege
20 revocation may not be suspended. The court shall notify the department
21 of licensing of the conviction, and upon receiving notification of the
22 conviction the department shall revoke the offender's license, permit,
23 or privilege.

24 (3) A person who is convicted of a violation of RCW 46.61.502 or
25 46.61.504 and who has two or more prior offenses within five years
26 shall be punished as follows:

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

31 (i) By imprisonment for not less than ninety days nor more than one
32 year. Ninety days of the imprisonment may not be suspended or deferred
33 unless the court finds that the imposition of this mandatory minimum
34 sentence would impose a substantial risk to the offender's physical or
35 mental well-being. Whenever the mandatory minimum sentence is
36 suspended or deferred, the court shall state in writing the reason for
37 granting the suspension or deferral and the facts upon which the
38 suspension or deferral is based; and

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

5 (iii) By revocation of the offender's license or permit to drive,
6 or suspension of any nonresident privilege to drive, for a period of
7 two years. The period of license, permit, or privilege revocation may
8 not be suspended. The court shall notify the department of licensing
9 of the conviction, and upon receiving notification of the conviction
10 the department shall revoke the offender's license, permit, or
11 privilege; or

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

16 (i) By imprisonment for not less than one hundred twenty days nor
17 more than one year. One hundred twenty days of the imprisonment may
18 not be suspended or deferred unless the court finds that the imposition
19 of this mandatory minimum sentence would impose a substantial risk to
20 the offender's physical or mental well-being. Whenever the mandatory
21 minimum sentence is suspended or deferred, the court shall state in
22 writing the reason for granting the suspension or deferral and the
23 facts upon which the suspension or deferral is based; and

24 (ii) By a fine of not less than one thousand five hundred dollars
25 nor more than five thousand dollars. One thousand five hundred dollars
26 of the fine may not be suspended or deferred unless the court finds the
27 offender to be indigent; and

28 (iii) By revocation of the offender's license or permit to drive,
29 or suspension of any nonresident privilege to drive, for a period of
30 three years. The period of license, permit, or privilege revocation
31 may not be suspended. The court shall notify the department of
32 licensing of the conviction, and upon receiving notification of the
33 conviction the department shall revoke the offender's license, permit,
34 or privilege.

35 (4) In exercising its discretion in setting penalties within the
36 limits allowed by this section, the court shall particularly consider
37 whether the person's driving at the time of the offense was responsible
38 for injury or damage to another or another's property.

1 (5) An offender punishable under this section is subject to the
2 alcohol assessment and treatment provisions of RCW 46.61.5056.

3 (6) After expiration of any period of suspension or revocation of
4 the offender's license, permit, or privilege to drive required by this
5 section, the department shall place the offender's driving privilege in
6 probationary status pursuant to RCW 46.20.355.

7 (7)(a) In addition to any nonsuspendable and nondeferrable jail
8 sentence required by this section, whenever the court imposes less than
9 one year in jail, the court shall also suspend but shall not defer a
10 period of confinement for a period not exceeding two years. The court
11 shall impose conditions of probation that include: (i) Not driving a
12 motor vehicle within this state without a valid license to drive and
13 proof of financial responsibility for the future; (ii) not driving a
14 motor vehicle within this state while having an alcohol concentration
15 of 0.08 or more within two hours after driving; and (iii) not refusing
16 to submit to a test of his or her breath or blood to determine alcohol
17 concentration upon request of a law enforcement officer who has
18 reasonable grounds to believe the person was driving or was in actual
19 physical control of a motor vehicle within this state while under the
20 influence of intoxicating liquor. The court may impose conditions of
21 probation that include nonrepetition, alcohol or drug treatment,
22 supervised probation, or other conditions that may be appropriate. The
23 sentence may be imposed in whole or in part upon violation of a
24 condition of probation during the suspension period.

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

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

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

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

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

5 (iii) A conviction for a violation of RCW 46.61.520 committed while
6 under the influence of intoxicating liquor or any drug;

7 (iv) A conviction for a violation of RCW 46.61.522 committed while
8 under the influence of intoxicating liquor or any drug;

9 (v) A conviction for a violation of ((RCW 46.61.525(1))) section 4
10 of this act or an equivalent local ordinance, if the conviction is the
11 result of a charge that was originally filed as a violation of RCW
12 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
13 46.61.520 or 46.61.522;

14 (vi) An out-of-state conviction for a violation that would have
15 been a violation of (a)(i), (ii), (iii), (iv), or (v) of this
16 subsection if committed in this state;

17 (vii) A deferred prosecution under chapter 10.05 RCW granted in a
18 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
19 equivalent local ordinance; or

20 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
21 prosecution for a violation of ((RCW 46.61.525(1))) section 4 of this
22 act, or an equivalent local ordinance, if the charge under which the
23 deferred prosecution was granted was originally filed as a violation of
24 RCW 46.61.502 or ((46.61.502)) 46.61.504, or an equivalent local
25 ordinance, or of RCW 46.61.520 or 46.61.522.

26 (b) "Within five years" means that the arrest for a prior offense
27 occurred within five years of the arrest for the current offense.

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