

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6150

62nd Legislature
2012 Regular Session

Passed by the Senate March 8, 2012
YEAS 29 NAYS 20

President of the Senate

Passed by the House March 8, 2012
YEAS 51 NAYS 47

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6150** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6150

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Senate Transportation (originally sponsored by Senators Haugen, King, Eide, Hobbs, Shin, and Chase; by request of Department of Licensing)

READ FIRST TIME 02/07/12.

1 AN ACT Relating to supporting the driver's license, permit, and
2 identicard system, including the administration of a facial recognition
3 matching system; amending RCW 46.20.037, 46.20.055, 46.20.117,
4 46.20.120, 46.20.161, 46.20.181, 46.20.200, 46.20.049, 46.20.308, and
5 46.20.505; adding a new section to chapter 46.20 RCW; adding a new
6 section to chapter 46.04 RCW; repealing RCW 46.20.038; providing an
7 effective date; and providing an expiration date.

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

9 **Sec. 1.** RCW 46.20.037 and 2006 c 292 s 1 are each amended to read
10 as follows:

11 (1) ~~((No later than two years after full implementation of the
12 provisions of Title II of P.L. 109-13, improved security for driver's
13 licenses and personal identification cards (Real ID), as passed by
14 Congress May 10, 2005,))~~ The department ~~((shall))~~ may implement a
15 ~~((voluntary biometric))~~ facial recognition matching system for
16 ~~((driver's))~~ drivers' licenses, permits, and identicards. ~~((A
17 biometric))~~ Any facial recognition matching system ~~((shall))~~ selected
18 by the department must be used only to verify the identity of an
19 applicant for or holder of a ~~((renewal or duplicate))~~ driver's license,

1 ~~permit, or identicard ((by matching a biometric identifier submitted by~~
2 ~~the applicant against the biometric identifier submitted when the~~
3 ~~license was last issued. This project requires a full review by the~~
4 ~~information services board using the criteria for projects of the~~
5 ~~highest visibility and risk)) to determine whether the person has been~~
6 ~~issued a driver's license, permit, or identicard under a different name~~
7 ~~or names.~~

8 (2) Any ~~((biometric))~~ facial recognition matching system selected
9 by the department ~~((shall))~~ must be capable of highly accurate
10 matching, and ~~((shall))~~ must be compliant with ~~((biometric))~~
11 appropriate standards established by the American association of motor
12 vehicle administrators that exist on the effective date of this
13 section, or such subsequent date as may be provided by the department
14 by rule, consistent with the purposes of this section.

15 (3) ~~((The biometric matching system selected by the department must~~
16 ~~incorporate a process that allows the owner of a driver's license or~~
17 ~~identicard to present a personal identification number or other code~~
18 ~~along with the driver's license or identicard before the information~~
19 ~~may be verified by a third party, including a governmental entity.~~

20 (4) ~~Upon the establishment of a biometric driver's license and~~
21 ~~identicard system as described in this section, the department shall~~
22 ~~allow every person applying for an original, renewal, or duplicate~~
23 ~~driver's license or identicard to voluntarily submit a biometric~~
24 ~~identifier. Each applicant shall be informed of all ways in which the~~
25 ~~biometric identifier may be used, all parties to whom the identifier~~
26 ~~may be disclosed and the conditions of disclosure, the expected error~~
27 ~~rates for the biometric matching system which shall be regularly~~
28 ~~updated as the technology changes or empirical data is collected, and~~
29 ~~the potential consequences of those errors. The department shall adopt~~
30 ~~rules to allow applicants to verify the accuracy of the system at the~~
31 ~~time that biometric information is submitted, including the use of at~~
32 ~~least two separate devices.~~

33 (5) ~~The department may not disclose biometric information to the~~
34 ~~public or any governmental entity except when authorized by court~~
35 ~~order.~~

36 (6) ~~The department shall post notices in conspicuous locations at~~
37 ~~all department driver licensing offices, make written information~~
38 ~~available to all applicants at department driver licensing offices, and~~

1 provide information on the department's web site regarding the facial
2 recognition matching system. The notices, written information, and
3 information on the web site must address how the facial recognition
4 matching system works, all ways in which the department may use results
5 from the facial recognition matching system, how an investigation based
6 on results from the facial recognition matching system would be
7 conducted, and a person's right to appeal any determinations made under
8 this chapter.

9 (4) Results from the facial recognition matching system:

10 (a) Are not available for public inspection and copying under
11 chapter 42.56 RCW;

12 (b) May only be disclosed when authorized by a court order;

13 (c) May only be disclosed to a federal government agency if
14 specifically required under federal law; and

15 (d) May only be disclosed by the department to a government agency,
16 including a court or law enforcement agency, for use in carrying out
17 its functions if the department has determined that person has
18 committed one of the prohibited practices listed in RCW 46.20.0921 and
19 this determination has been confirmed by a hearings examiner under this
20 chapter or the person declined a hearing or did not attend a scheduled
21 hearing.

22 (5) All ((biometric)) personally identifying information ((shall))
23 derived from the facial recognition matching system must be stored with
24 appropriate security safeguards((, including but not limited to
25 encryption)). The office of the chief information officer shall
26 develop the appropriate security standards for the department's use of
27 the facial recognition matching system, subject to approval and
28 oversight by the technology services board.

29 ((+7)) (6) The department shall develop procedures to handle
30 instances in which the ((biometric)) facial recognition matching system
31 fails to verify the identity of an applicant for a renewal or duplicate
32 driver's license, permit, or identicard. These procedures ((shall))
33 must allow an applicant to prove identity without using ((a biometric
34 identifier.

35 (8) Any person who has voluntarily submitted a biometric identifier
36 may choose to discontinue participation in the biometric matching
37 program at any time, provided that the department utilizes a secure
38 procedure to prevent fraudulent requests for a renewal or duplicate

1 ~~driver's license or identicard. When the person discontinues~~
2 ~~participation, any previously collected biometric information shall be~~
3 ~~destroyed.~~

4 ~~(9) This section does not apply when an applicant renews his or her~~
5 ~~driver's license or identicard by mail or electronic commerce)) the~~
6 ~~facial recognition matching system.~~

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

9 (1) The department shall report to the governor and the legislature
10 by October 1st of each year, beginning October 1, 2012, on the
11 following numbers during the previous fiscal year: The number of
12 investigations initiated by the department based on results from the
13 facial recognition matching system; the number of determinations made
14 that a person has committed one of the prohibited practices in RCW
15 46.20.0921 after the completion of an investigation; the number of
16 determinations that were confirmed by a hearings examiner and the
17 number that were overturned by a hearings examiner; the number of cases
18 where a person declined a hearing or did not attend a scheduled
19 hearing; and the number of determinations that were referred to law
20 enforcement.

21 (2) This section expires June 30, 2017.

22 NEW SECTION. Sec. 3. A new section is added to chapter 46.04 RCW
23 to read as follows:

24 "Facial recognition matching system" means a system that compares
25 the biometric template derived from an image of an applicant or holder
26 of a driver's license, permit, or identicard with the biometric
27 templates derived from the images in the department's negative file.

28 NEW SECTION. Sec. 4. RCW 46.20.038 (Biometric matching system--
29 Funding) and 2004 c 273 s 4 are each repealed.

30 Sec. 5. RCW 46.20.055 and 2010 c 223 s 1 are each amended to read
31 as follows:

32 (1) **Driver's instruction permit.** The department may issue a
33 driver's instruction permit with or without a photograph to an
34 applicant who has successfully passed all parts of the examination

1 other than the driving test, provided the information required by RCW
2 46.20.091, paid ((a)) an application fee of twenty-five dollars, and
3 meets the following requirements:

4 (a) Is at least fifteen and one-half years of age; or

5 (b) Is at least fifteen years of age and:

6 (i) Has submitted a proper application; and

7 (ii) Is enrolled in a traffic safety education program offered,
8 approved, and accredited by the superintendent of public instruction or
9 offered by a driver training school licensed and inspected by the
10 department of licensing under chapter 46.82 RCW, that includes practice
11 driving.

12 (2) **Waiver of written examination for instruction permit.** The
13 department may waive the written examination, if, at the time of
14 application, an applicant is enrolled in:

15 (a) A traffic safety education course as defined by RCW
16 28A.220.020(2); or

17 (b) A course of instruction offered by a licensed driver training
18 school as defined by RCW 46.82.280.

19 The department may require proof of registration in such a course
20 as it deems necessary.

21 (3) **Effect of instruction permit.** A person holding a driver's
22 instruction permit may drive a motor vehicle, other than a motorcycle,
23 upon the public highways if:

24 (a) The person has immediate possession of the permit;

25 (b) The person is not using a wireless communications device,
26 unless the person is using the device to report illegal activity,
27 summon medical or other emergency help, or prevent injury to a person
28 or property; and

29 (c) An approved instructor, or a licensed driver with at least five
30 years of driving experience, occupies the seat beside the driver.

31 (4) **Term of instruction permit.** A driver's instruction permit is
32 valid for one year from the date of issue.

33 (a) The department may issue one additional one-year permit.

34 (b) The department may issue a third driver's permit if it finds
35 after an investigation that the permittee is diligently seeking to
36 improve driving proficiency.

37 (c) A person applying ((to renew)) for an additional instruction

1 permit must submit the application to the department in person and pay
2 an application fee of twenty-five dollars for each issuance.

3 **Sec. 6.** RCW 46.20.117 and 2005 c 314 s 305 are each amended to
4 read as follows:

5 (1) **Issuance.** The department shall issue an identicard, containing
6 a picture, if the applicant:

7 (a) Does not hold a valid Washington driver's license;

8 (b) Proves his or her identity as required by RCW 46.20.035; and

9 (c) Pays the required fee. Except as provided in subsection (5) of
10 this section, the fee is ((twenty)) forty-five dollars from October 1,
11 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013,
12 unless an applicant is a recipient of continuing public assistance
13 grants under Title 74 RCW, who is referred in writing by the secretary
14 of social and health services. For those persons the fee must be the
15 actual cost of production of the identicard.

16 (2) **Design and term.** The identicard must:

17 (a) Be distinctly designed so that it will not be confused with the
18 official driver's license; and

19 (b) Except as provided in subsection (5) of this section, expire on
20 the ((fifth)) sixth anniversary of the applicant's birthdate after
21 issuance.

22 (3) **Renewal.** An application for identicard renewal may be
23 submitted by means of:

24 (a) Personal appearance before the department; or

25 (b) Mail or electronic commerce, if permitted by rule of the
26 department and if the applicant did not renew his or her identicard by
27 mail or by electronic commerce when it last expired. ~~((However, the~~
28 ~~department may accept an application for renewal of an identicard~~
29 ~~submitted by means of mail or electronic commerce only if specific~~
30 ~~authority and funding is provided for this purpose by June 30, 2004, in~~
31 ~~the omnibus transportation appropriations act.))~~

32 An identicard may not be renewed by mail or by electronic commerce
33 unless the renewal issued by the department includes a photograph of
34 the identicard holder.

35 (4) **Cancellation.** The department may cancel an identicard if the
36 holder of the identicard used the card or allowed others to use the
37 card in violation of RCW 46.20.0921.

1 (5) **Alternative issuance/renewal/extension.** The department may
2 issue or renew an identicard for a period other than five years from
3 October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or
4 may extend by mail or electronic commerce an identicard that has
5 already been issued, in order to evenly distribute, as nearly as
6 possible, the yearly renewal rate of identicard holders. The fee for
7 an identicard issued or renewed for a period other than five years from
8 October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or
9 that has been extended by mail or electronic commerce, is nine dollars
10 for each year that the identicard is issued, renewed, or extended. The
11 department may adopt any rules as are necessary to carry out this
12 subsection.

13 **Sec. 7.** RCW 46.20.120 and 2011 c 370 s 4 are each amended to read
14 as follows:

15 An applicant for a new or renewed driver's license must
16 successfully pass a driver licensing examination to qualify for a
17 driver's license. The department must ensure that examinations are
18 given at places and times reasonably available to the people of this
19 state. If the department does not administer driver licensing
20 examinations as a routine part of its licensing services within a
21 department region because adequate testing sites are provided by driver
22 training schools or school districts within that region, the department
23 shall, at a minimum, administer driver licensing examinations by
24 appointment to applicants eighteen years of age and older in at least
25 one licensing office within that region.

26 (1) **Waiver.** The department may waive:

27 (a) All or any part of the examination of any person applying for
28 the renewal of a driver's license unless the department determines that
29 the applicant is not qualified to hold a driver's license under this
30 title; or

31 (b) All or any part of the examination involving operating a motor
32 vehicle if the applicant:

33 (i) Surrenders a valid driver's license issued by the person's
34 previous home state; or

35 (ii) Provides for verification a valid driver's license issued by
36 a foreign driver licensing jurisdiction with which the department has
37 an informal agreement under RCW 46.20.125; and

1 (iii) Is otherwise qualified to be licensed.

2 (2) **Fee.** Each applicant for a new license must pay an examination
3 fee of (~~twenty~~) thirty-five dollars.

4 (a) The examination fee is in addition to the fee charged for
5 issuance of the license.

6 (b) "New license" means a license issued to a driver:

7 (i) Who has not been previously licensed in this state; or

8 (ii) Whose last previous Washington license has been expired for
9 more than (~~five~~) six years.

10 (3) An application for driver's license renewal may be submitted by
11 means of:

12 (a) Personal appearance before the department; or

13 (b) Mail or electronic commerce, if permitted by rule of the
14 department and if the applicant did not renew his or her license by
15 mail or by electronic commerce when it last expired.

16 (4) A person whose license expired or will expire while he or she
17 is living outside the state, may:

18 (a) Apply to the department to extend the validity of his or her
19 license for no more than twelve months. If the person establishes to
20 the department's satisfaction that he or she is unable to return to
21 Washington before the date his or her license expires, the department
22 shall extend the person's license. The department may grant
23 consecutive extensions, but in no event may the cumulative total of
24 extensions exceed twelve months. An extension granted under this
25 section does not change the expiration date of the license for purposes
26 of RCW 46.20.181. The department shall charge a fee of five dollars
27 for each license extension;

28 (b) Apply to the department to renew his or her license by mail or,
29 if permitted by rule of the department, by electronic commerce even if
30 subsection (3)(b) of this section would not otherwise allow renewal by
31 that means. If the person establishes to the department's satisfaction
32 that he or she is unable to return to Washington within twelve months
33 of the date that his or her license expires, the department shall renew
34 the person's license by mail or, if permitted by rule of the
35 department, by electronic commerce.

36 (5) If a qualified person submits an application for renewal under
37 subsection (3)(b) or (4)(b) of this section, he or she is not required
38 to pass an examination nor provide an updated photograph. A license

1 renewed by mail or by electronic commerce that does not include a
2 photograph of the licensee must be labeled "not valid for
3 identification purposes."

4 (6) Driver training schools licensed by the department under
5 chapter 46.82 RCW may administer the portions of the driver licensing
6 examination that test the applicant's knowledge of traffic laws and
7 ability to safely operate a motor vehicle.

8 (7) School districts that offer a traffic safety education program
9 under chapter 28A.220 RCW may administer the portions of the driver
10 licensing examination that test the applicant's knowledge of traffic
11 laws and ability to safely operate a motor vehicle.

12 **Sec. 8.** RCW 46.20.161 and 2000 c 115 s 6 are each amended to read
13 as follows:

14 The department, upon receipt of a fee of (~~twenty-five~~) forty-five
15 dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars
16 after June 30, 2013, unless the driver's license is issued for a period
17 other than five years from October 1, 2012, to June 30, 2013, or six
18 years after June 30, 2013, in which case the fee shall be (~~five~~) nine
19 dollars for each year that the license is issued, which includes the
20 fee for the required photograph, shall issue to every qualifying
21 applicant a driver's license. A driver's license issued to a person
22 under the age of eighteen is an intermediate license, subject to the
23 restrictions imposed under RCW 46.20.075, until the person reaches the
24 age of eighteen. The license must include a distinguishing number
25 assigned to the licensee, the name of record, date of birth, Washington
26 residence address, photograph, a brief description of the licensee, and
27 either a facsimile of the signature of the licensee or a space upon
28 which the licensee shall write his or her usual signature with pen and
29 ink immediately upon receipt of the license. No license is valid until
30 it has been so signed by the licensee.

31 **Sec. 9.** RCW 46.20.181 and 1999 c 308 s 3 are each amended to read
32 as follows:

33 (1) Except as provided in subsection (4) or (5) of this section,
34 every driver's license expires on the (~~fifth~~) sixth anniversary of
35 the licensee's birthdate following the issuance of the license.

1 (2) A person may renew his or her license on or before the
2 expiration date by submitting an application as prescribed by the
3 department and paying a fee of (~~twenty-five~~) forty-five dollars from
4 October 1, 2012, to June 30, 2013, and fifty-four dollars after June
5 30, 2013. This fee includes the fee for the required photograph.

6 (3) A person renewing his or her driver's license more than sixty
7 days after the license has expired shall pay a penalty fee of ten
8 dollars in addition to the renewal fee, unless his or her license
9 expired when:

10 (a) The person was outside the state and he or she renews the
11 license within sixty days after returning to this state; or

12 (b) The person was incapacitated and he or she renews the license
13 within sixty days after the termination of the incapacity.

14 (4) (~~During the period from July 1, 2000, to July 1, 2006,~~) The
15 department may issue or renew a driver's license for a period other
16 than five years from October 1, 2012, to June 30, 2013, or six years
17 after June 30, 2013, or may extend by mail or electronic commerce a
18 license that has already been issued, in order to evenly distribute, as
19 nearly as possible, the yearly renewal rate of licensed drivers. The
20 fee for a driver's license issued or renewed for a period other than
21 five years from October 1, 2012, to June 30, 2013, or six years after
22 June 30, 2013, or that has been extended by mail or electronic
23 commerce, is (~~five~~) nine dollars for each year that the license is
24 issued, renewed, or extended. The department may adopt any rules as
25 are necessary to carry out this subsection.

26 (5) A driver's license that includes a hazardous materials
27 endorsement under chapter 46.25 RCW may expire on an anniversary of the
28 licensee's birthdate other than the sixth year following issuance or
29 renewal of the license in order to match, as nearly as possible, the
30 validity of certification from the federal transportation security
31 administration that the licensee has been determined not to pose a
32 security risk. The fee for a driver's license issued or renewed for a
33 period other than five years from October 1, 2012, to June 30, 2013, or
34 six years after June 30, 2013, is nine dollars for each year that the
35 license is issued or renewed, not including any endorsement fees. The
36 department may adjust the expiration date of a driver's license that
37 has previously been issued to conform to the provisions of this
38 subsection if a hazardous materials endorsement is added to the license

1 subsequent to its issuance. If the validity of the driver's license is
2 extended, the licensee must pay a fee of nine dollars for each year
3 that the license is extended.

4 (6) The department may adopt any rules as are necessary to carry
5 out this section.

6 **Sec. 10.** RCW 46.20.200 and 2002 c 352 s 14 are each amended to
7 read as follows:

8 (1) If an instruction permit, identicard, or a driver's license is
9 lost or destroyed, the person to whom it was issued may obtain a
10 duplicate of it upon furnishing proof of such fact satisfactory to the
11 department and payment of a fee of ~~((fifteen))~~ twenty dollars to the
12 department.

13 (2) A replacement permit, identicard, or driver's license may be
14 obtained to change or correct material information upon payment of a
15 fee of ten dollars and surrender of the permit, identicard, or driver's
16 license being replaced.

17 **Sec. 11.** RCW 46.20.049 and 2011 c 227 s 6 are each amended to read
18 as follows:

19 There shall be an additional fee for issuing any class of
20 commercial driver's license in addition to the prescribed fee required
21 for the issuance of the original driver's license. The additional fee
22 for each class shall be ~~((sixty-one))~~ eighty-five dollars from October
23 1, 2012, to June 30, 2013, and one hundred two dollars after June 30,
24 2013, for the original commercial driver's license or subsequent
25 renewals. If the commercial driver's license is issued, renewed, or
26 extended for a period other than five years from October 1, 2012, to
27 June 30, 2013, or six years after June 30, 2013, the fee for each class
28 shall be ~~((twelve))~~ seventeen dollars ~~((and twenty cents))~~ for each
29 year that the commercial driver's license is issued, renewed, or
30 extended. The fee shall be deposited in the highway safety fund.

31 **Sec. 12.** RCW 46.20.308 and 2008 c 282 s 2 are each amended to read
32 as follows:

33 (1) Any person who operates a motor vehicle within this state is
34 deemed to have given consent, subject to the provisions of RCW
35 46.61.506, to a test or tests of his or her breath or blood for the

1 purpose of determining the alcohol concentration or presence of any
2 drug in his or her breath or blood if arrested for any offense where,
3 at the time of the arrest, the arresting officer has reasonable grounds
4 to believe the person had been driving or was in actual physical
5 control of a motor vehicle while under the influence of intoxicating
6 liquor or any drug or was in violation of RCW 46.61.503. Neither
7 consent nor this section precludes a police officer from obtaining a
8 search warrant for a person's breath or blood.

9 (2) The test or tests of breath shall be administered at the
10 direction of a law enforcement officer having reasonable grounds to
11 believe the person to have been driving or in actual physical control
12 of a motor vehicle within this state while under the influence of
13 intoxicating liquor or any drug or the person to have been driving or
14 in actual physical control of a motor vehicle while having alcohol in
15 a concentration in violation of RCW 46.61.503 in his or her system and
16 being under the age of twenty-one. However, in those instances where
17 the person is incapable due to physical injury, physical incapacity, or
18 other physical limitation, of providing a breath sample or where the
19 person is being treated in a hospital, clinic, doctor's office,
20 emergency medical vehicle, ambulance, or other similar facility or
21 where the officer has reasonable grounds to believe that the person is
22 under the influence of a drug, a blood test shall be administered by a
23 qualified person as provided in RCW 46.61.506(5). The officer shall
24 inform the person of his or her right to refuse the breath or blood
25 test, and of his or her right to have additional tests administered by
26 any qualified person of his or her choosing as provided in RCW
27 46.61.506. The officer shall warn the driver, in substantially the
28 following language, that:

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

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

34 (c) If the driver submits to the test and the test is administered,
35 the driver's license, permit, or privilege to drive will be suspended,
36 revoked, or denied for at least ninety days if the driver is age
37 twenty-one or over and the test indicates the alcohol concentration of
38 the driver's breath or blood is 0.08 or more, or if the driver is under

1 age twenty-one and the test indicates the alcohol concentration of the
2 driver's breath or blood is 0.02 or more, or if the driver is under age
3 twenty-one and the driver is in violation of RCW 46.61.502 or
4 46.61.504; and

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

8 (3) Except as provided in this section, the test administered shall
9 be of the breath only. If an individual is unconscious or is under
10 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
11 or vehicular assault as provided in RCW 46.61.522, or if an individual
12 is under arrest for the crime of driving while under the influence of
13 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest
14 results from an accident in which there has been serious bodily injury
15 to another person, a breath or blood test may be administered without
16 the consent of the individual so arrested.

17 (4) Any person who is dead, unconscious, or who is otherwise in a
18 condition rendering him or her incapable of refusal, shall be deemed
19 not to have withdrawn the consent provided by subsection (1) of this
20 section and the test or tests may be administered, subject to the
21 provisions of RCW 46.61.506, and the person shall be deemed to have
22 received the warnings required under subsection (2) of this section.

23 (5) If, following his or her arrest and receipt of warnings under
24 subsection (2) of this section, the person arrested refuses upon the
25 request of a law enforcement officer to submit to a test or tests of
26 his or her breath or blood, no test shall be given except as authorized
27 under subsection (3) or (4) of this section.

28 (6) If, after arrest and after the other applicable conditions and
29 requirements of this section have been satisfied, a test or tests of
30 the person's blood or breath is administered and the test results
31 indicate that the alcohol concentration of the person's breath or blood
32 is 0.08 or more if the person is age twenty-one or over, or 0.02 or
33 more if the person is under the age of twenty-one, or the person
34 refuses to submit to a test, the arresting officer or other law
35 enforcement officer at whose direction any test has been given, or the
36 department, where applicable, if the arrest results in a test of the
37 person's blood, shall:

1 (a) Serve notice in writing on the person on behalf of the
2 department of its intention to suspend, revoke, or deny the person's
3 license, permit, or privilege to drive as required by subsection (7) of
4 this section;

5 (b) Serve notice in writing on the person on behalf of the
6 department of his or her right to a hearing, specifying the steps he or
7 she must take to obtain a hearing as provided by subsection (8) of this
8 section and that the person waives the right to a hearing if he or she
9 receives an ignition interlock driver's license;

10 (c) Mark the person's Washington state driver's license or permit
11 to drive, if any, in a manner authorized by the department;

12 (d) Serve notice in writing that the marked license or permit, if
13 any, is a temporary license that is valid for sixty days from the date
14 of arrest or from the date notice has been given in the event notice is
15 given by the department following a blood test, or until the
16 suspension, revocation, or denial of the person's license, permit, or
17 privilege to drive is sustained at a hearing pursuant to subsection (8)
18 of this section, whichever occurs first. No temporary license is valid
19 to any greater degree than the license or permit that it replaces; and

20 (e) Immediately notify the department of the arrest and transmit to
21 the department within seventy-two hours, except as delayed as the
22 result of a blood test, a sworn report or report under a declaration
23 authorized by RCW 9A.72.085 that states:

24 (i) That the officer had reasonable grounds to believe the arrested
25 person had been driving or was in actual physical control of a motor
26 vehicle within this state while under the influence of intoxicating
27 liquor or drugs, or both, or was under the age of twenty-one years and
28 had been driving or was in actual physical control of a motor vehicle
29 while having an alcohol concentration in violation of RCW 46.61.503;

30 (ii) That after receipt of the warnings required by subsection (2)
31 of this section the person refused to submit to a test of his or her
32 blood or breath, or a test was administered and the results indicated
33 that the alcohol concentration of the person's breath or blood was 0.08
34 or more if the person is age twenty-one or over, or was 0.02 or more if
35 the person is under the age of twenty-one; and

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

37 (7) The department of licensing, upon the receipt of a sworn report
38 or report under a declaration authorized by RCW 9A.72.085 under

1 subsection (6)(e) of this section, shall suspend, revoke, or deny the
2 person's license, permit, or privilege to drive or any nonresident
3 operating privilege, as provided in RCW 46.20.3101, such suspension,
4 revocation, or denial to be effective beginning sixty days from the
5 date of arrest or from the date notice has been given in the event
6 notice is given by the department following a blood test, or when
7 sustained at a hearing pursuant to subsection (8) of this section,
8 whichever occurs first.

9 (8) A person receiving notification under subsection (6)(b) of this
10 section may, within twenty days after the notice has been given,
11 request in writing a formal hearing before the department. The person
12 shall pay a fee of (~~two~~) three hundred seventy-five dollars as part
13 of the request. If the request is mailed, it must be postmarked within
14 twenty days after receipt of the notification. Upon timely receipt of
15 such a request for a formal hearing, including receipt of the required
16 (~~two~~) three hundred seventy-five dollar fee, the department shall
17 afford the person an opportunity for a hearing. The department may
18 waive the required (~~two~~) three hundred seventy-five dollar fee if the
19 person is an indigent as defined in RCW 10.101.010. Except as
20 otherwise provided in this section, the hearing is subject to and shall
21 be scheduled and conducted in accordance with RCW 46.20.329 and
22 46.20.332. The hearing shall be conducted in the county of the arrest,
23 except that all or part of the hearing may, at the discretion of the
24 department, be conducted by telephone or other electronic means. The
25 hearing shall be held within sixty days following the arrest or
26 following the date notice has been given in the event notice is given
27 by the department following a blood test, unless otherwise agreed to by
28 the department and the person, in which case the action by the
29 department shall be stayed, and any valid temporary license marked
30 under subsection (6)(c) of this section extended, if the person is
31 otherwise eligible for licensing. For the purposes of this section,
32 the scope of the hearing shall cover the issues of whether a law
33 enforcement officer had reasonable grounds to believe the person had
34 been driving or was in actual physical control of a motor vehicle
35 within this state while under the influence of intoxicating liquor or
36 any drug or had been driving or was in actual physical control of a
37 motor vehicle within this state while having alcohol in his or her
38 system in a concentration of 0.02 or more if the person was under the

1 age of twenty-one, whether the person was placed under arrest, and (a)
2 whether the person refused to submit to the test or tests upon request
3 of the officer after having been informed that such refusal would
4 result in the revocation of the person's license, permit, or privilege
5 to drive, or (b) if a test or tests were administered, whether the
6 applicable requirements of this section were satisfied before the
7 administration of the test or tests, whether the person submitted to
8 the test or tests, or whether a test was administered without express
9 consent as permitted under this section, and whether the test or tests
10 indicated that the alcohol concentration of the person's breath or
11 blood was 0.08 or more if the person was age twenty-one or over at the
12 time of the arrest, or 0.02 or more if the person was under the age of
13 twenty-one at the time of the arrest. The sworn report or report under
14 a declaration authorized by RCW 9A.72.085 submitted by a law
15 enforcement officer is prima facie evidence that the officer had
16 reasonable grounds to believe the person had been driving or was in
17 actual physical control of a motor vehicle within this state while
18 under the influence of intoxicating liquor or drugs, or both, or the
19 person had been driving or was in actual physical control of a motor
20 vehicle within this state while having alcohol in his or her system in
21 a concentration of 0.02 or more and was under the age of twenty-one and
22 that the officer complied with the requirements of this section.

23 A hearing officer shall conduct the hearing, may issue subpoenas
24 for the attendance of witnesses and the production of documents, and
25 shall administer oaths to witnesses. The hearing officer shall not
26 issue a subpoena for the attendance of a witness at the request of the
27 person unless the request is accompanied by the fee required by RCW
28 5.56.010 for a witness in district court. The sworn report or report
29 under a declaration authorized by RCW 9A.72.085 of the law enforcement
30 officer and any other evidence accompanying the report shall be
31 admissible without further evidentiary foundation and the
32 certifications authorized by the criminal rules for courts of limited
33 jurisdiction shall be admissible without further evidentiary
34 foundation. The person may be represented by counsel, may question
35 witnesses, may present evidence, and may testify. The department shall
36 order that the suspension, revocation, or denial either be rescinded or
37 sustained.

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

34 (10)(a) If a person whose driver's license, permit, or privilege to
35 drive has been or will be suspended, revoked, or denied under
36 subsection (7) of this section, other than as a result of a breath or
37 blood test refusal, and who has not committed an offense for which he
38 or she was granted a deferred prosecution under chapter 10.05 RCW,

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

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

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

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

1 **Sec. 13.** RCW 46.20.505 and 2007 c 97 s 1 are each amended to read
2 as follows:

3 Every person applying for a special endorsement of a driver's
4 license authorizing such person to drive a two or three-wheeled
5 motorcycle or a motor-driven cycle shall pay a fee of five dollars,
6 which is not refundable. In addition, the endorsement fee for the
7 initial motorcycle endorsement shall not exceed (~~ten~~) twelve
8 dollars(~~, and~~), unless the endorsement is issued for a period other
9 than six years, in which case the endorsement fee shall not exceed two
10 dollars for each year the initial motorcycle endorsement is issued.
11 The subsequent renewal endorsement fee shall not exceed (~~twenty-five~~)
12 thirty dollars, unless the endorsement is renewed or extended for a
13 period other than (~~five~~) six years, in which case the subsequent
14 renewal endorsement fee shall not exceed five dollars for each year
15 that the endorsement is renewed or extended. Fees collected under this
16 section shall be deposited in the motorcycle safety education account
17 of the highway safety fund.

18 NEW SECTION. **Sec. 14.** Sections 5 through 13 of this act take
19 effect October 1, 2012.

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