
SUBSTITUTE HOUSE BILL 1750

State of Washington

54th Legislature

1995 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Hickel, Appelwick, Padden, Robertson and Delvin)

Read first time 02/22/95.

1 AN ACT Relating to administratively suspending, revoking, denying,
2 or placing in a probationary status a person's license, permit, or
3 privilege to drive; amending RCW 46.20.309, 46.20.308, 46.20.355, and
4 46.04.015; adding a new section to chapter 46.20 RCW; adding a new
5 section to chapter 46.61 RCW; recodifying RCW 46.20.309; repealing RCW
6 46.20.365; prescribing penalties; and providing an effective date.

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

8 **Sec. 1.** RCW 46.20.309 and 1994 c 275 s 10 are each amended to read
9 as follows:

10 ~~((1))~~ Notwithstanding any other provision of this title, a person
11 under the age of twenty-one may not drive, operate, or be in physical
12 control of a motor vehicle while having alcohol in his or her system in
13 a concentration of 0.02 or above.

14 ~~((2) A person under the age of twenty-one who drives or is in~~
15 ~~physical control of a motor vehicle within this state is deemed to have~~
16 ~~given consent, subject to the relevant portions of RCW 46.61.506, to be~~
17 ~~detained long enough, and be transported if necessary, to take a test~~
18 ~~or tests of that person's blood or breath for the purpose of~~
19 ~~determining the alcohol concentration in his or her system.~~

1 ~~(3) A test or tests may be administered at the direction of a law~~
2 ~~enforcement officer, who after stopping or detaining the driver, has~~
3 ~~reasonable grounds to believe that the driver was driving or in actual~~
4 ~~physical control of a motor vehicle while having alcohol in his or her~~
5 ~~system.~~

6 ~~(4) The law enforcement officer requesting the test or tests under~~
7 ~~subsection (2) of this section shall warn the person requested to~~
8 ~~submit to the test that a refusal to submit will result in that~~
9 ~~person's driver's license or driving privilege being revoked.~~

10 ~~(5) If the person refuses testing, or submits to a test that~~
11 ~~discloses an alcohol concentration of 0.02 or more, the law enforcement~~
12 ~~officer shall:~~

13 ~~(a) Serve the person notice in writing on behalf of the department~~
14 ~~of licensing of its intention to suspend, revoke, or deny the person's~~
15 ~~license, permit, or privilege to drive;~~

16 ~~(b) Serve the person notice in writing on behalf of the department~~
17 ~~of licensing of the person's right to a hearing, specifying the steps~~
18 ~~required to obtain a hearing;~~

19 ~~(c) Confiscate the person's Washington state license or permit to~~
20 ~~drive, if any, and issue a temporary license to replace any confiscated~~
21 ~~license or permit. The temporary license shall be valid for thirty~~
22 ~~days from the date of the traffic stop or until the suspension or~~
23 ~~revocation of the person's license or permit is sustained at a hearing~~
24 ~~as provided by subsection (7) of this section, whichever occurs first.~~
25 ~~No temporary license is valid to any greater degree than the license or~~
26 ~~permit it replaces;~~

27 ~~(d) Notify the department of licensing of the traffic stop, and~~
28 ~~transmit to the department any confiscated license or permit and a~~
29 ~~sworn report stating:~~

30 ~~(i) That the officer had reasonable grounds to believe the person~~
31 ~~was driving or in actual physical control of a motor vehicle within~~
32 ~~this state with alcohol in his or her system;~~

33 ~~(ii) That pursuant to this section a test of the person's alcohol~~
34 ~~concentration was administered or that the person refused to be tested;~~

35 ~~(iii) If administered, that the test indicated the person's alcohol~~
36 ~~concentration was 0.02 or higher; and~~

37 ~~(iv) Any other information that the department may require by rule.~~

38 ~~(6) Upon receipt of the sworn report of a law enforcement officer~~
39 ~~under subsection (5) of this section, the department shall suspend or~~

1 revoke the driver's license or driving privilege beginning thirty days
2 from the date of the traffic stop or beginning when the suspension,
3 revocation, or denial is sustained at a hearing as provided by
4 subsection (7) of this section. Within fifteen days after notice of a
5 suspension or revocation has been given, the person may, in writing,
6 request a formal hearing. If such a request is not made within the
7 prescribed time the right to a hearing is waived. Upon receipt of such
8 request, the department shall afford the person an opportunity for a
9 hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall
10 be conducted in the county of the arrest. For the purposes of this
11 section, the hearing shall cover the issues of whether a law
12 enforcement officer had reasonable grounds to believe the person had
13 been driving or was in actual physical control of a motor vehicle
14 within this state while having alcohol in his or her system, whether
15 the person refused to submit to the test or tests upon request of the
16 officer after having been informed that the refusal would result in the
17 revocation of the person's driver's license or driving privilege, and,
18 if the test or tests of the person's breath or blood was administered,
19 whether the results indicated an alcohol concentration of 0.02 or more.
20 The department shall order that the suspension or revocation of the
21 person's driver's license or driving privilege either be rescinded or
22 sustained. Any decision by the department suspending or revoking a
23 person's driver's license or driving privilege is stayed and does not
24 take effect while a formal hearing is pending under this section or
25 during the pendency of a subsequent appeal to superior court so long as
26 there is no conviction for a moving violation or no finding that the
27 person has committed a traffic infraction that is a moving violation
28 during the pendency of the hearing and appeal. If the suspension or
29 revocation of the person's driver's license or driving privilege is
30 sustained after the hearing, the person may file a petition in the
31 superior court of the county of arrest to review the final order of
32 suspension or revocation by the department in the manner provided in
33 RCW 46.20.334.

34 (7) The department shall suspend or revoke the driver's license or
35 driving privilege of a person as required by this section as follows:

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

37 (i) For a first refusal within five years, revocation for one year;

38 (ii) For a second or subsequent refusal within five years,
39 revocation or denial for two years.

1 ~~(b) In the case of an incident where a person has submitted to a~~
2 ~~test or tests indicating an alcohol concentration of 0.02 or more:~~

3 ~~(i) For a first incident within five years, suspension for ninety~~
4 ~~days;~~

5 ~~(ii) For a second or subsequent incident within five years,~~
6 ~~revocation for one year or until the person reaches age twenty-one~~
7 ~~whichever occurs later.~~

8 ~~(8) For purposes of this section, "alcohol concentration" means (a)~~
9 ~~grams of alcohol per two hundred ten liters of a person's breath, or~~
10 ~~(b) the percent by weight of alcohol in a person's blood.))~~

11 **Sec. 2.** RCW 46.20.308 and 1994 c 275 s 13 are each amended to read
12 as follows:

13 (1)(a) Any person who operates a motor vehicle within this state is
14 deemed to have given consent, subject to the provisions of RCW
15 46.61.506, to a test or tests of his or her breath or blood for the
16 purpose of determining the alcoholic content of his or her breath or
17 blood if arrested for any offense where, at the time of the arrest, the
18 arresting officer has reasonable grounds to believe the person had been
19 driving or was in actual physical control of a motor vehicle while
20 under the influence of intoxicating liquor.

21 (b) A person under the age of twenty-one who drives or is in
22 physical control of a motor vehicle within this state is deemed to have
23 given consent, subject to the relevant portions of RCW 46.61.506, to be
24 detained long enough, and be transported if necessary, to take a test
25 or tests of that person's blood or breath for the purpose of
26 determining the alcohol concentration in his or her system if requested
27 or signaled to stop by a law enforcement officer pursuant to RCW
28 46.20.309 where, at the time of the stop, the officer has reasonable
29 grounds to believe the person is under the age of twenty-one and had
30 been driving or was in actual physical control of a motor vehicle while
31 having alcohol in a concentration of 0.02 or more in his or her system.

32 (2) The test or tests of breath shall be administered at the
33 direction of a law enforcement officer having reasonable grounds to
34 believe the person to have been driving or in actual physical control
35 of a motor vehicle within this state while under the influence of
36 intoxicating liquor or the person to have been driving or in actual
37 physical control of a motor vehicle while having alcohol in a
38 concentration of 0.02 or more in his or her system and being under the

1 age of twenty-one. However, in those instances where: (a) The person
2 is incapable due to physical injury, physical incapacity, or other
3 physical limitation, of providing a breath sample; or (b) ~~((as a result~~
4 ~~of a traffic accident))~~ the person is being treated ~~((for a medical~~
5 ~~condition))~~ in a hospital, clinic, doctor's office, or other similar
6 facility in which a breath testing instrument is not present, a blood
7 test shall be administered by a qualified person as provided in RCW
8 46.61.506(4). The officer shall inform the person of his or her right
9 to refuse the breath or blood test, and of his or her right to have
10 additional tests administered by any qualified person of his or her
11 choosing as provided in RCW 46.61.506. The officer shall warn the
12 driver that ~~((a))~~ (i) his or her license, permit, or privilege to
13 drive will be revoked or denied if he or she refuses to submit to the
14 test, ~~((and (b) that))~~ (ii) if the person is age twenty-one or over,
15 his or her license, permit, or privilege to drive will be revoked,
16 denied, or placed in probationary status and the person will be subject
17 to possible criminal penalties if the test is administered and the test
18 indicates the alcohol concentration of the person's breath or blood is
19 0.10 or more, (iii) if the person is under the age of twenty-one, his
20 or her license, permit, or privilege to drive will be suspended,
21 revoked, or denied and the person will be subject to possible criminal
22 penalties if the test is administered and the test indicates the
23 alcohol concentration of the person's breath or blood is 0.02 or more,
24 and (iv) his or her refusal to take the test may be used in a criminal
25 trial.

26 (3) Except as provided in this section, the test administered shall
27 be of the breath only. If an individual is unconscious or is under
28 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
29 or vehicular assault as provided in RCW 46.61.522, or if an individual
30 is under arrest for the crime of driving while under the influence of
31 intoxicating liquor or drugs as provided in RCW 46.61.502 or is under
32 detention for driving with alcohol in his or her system as provided in
33 RCW 46.20.309 (as recodified by this act), which arrest or detention
34 results from an accident in which there has been serious bodily injury
35 to another person ~~((has been injured and there is a reasonable~~
36 likelihood that such other person may die as a result of injuries
37 sustained in the accident)), a breath or blood test may be administered
38 without the consent of the individual so arrested or detained.

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

7 (5) If, following his or her arrest or detention and receipt of
8 warnings under subsection (2) of this section, the person arrested or
9 detained refuses upon the request of a law enforcement officer to
10 submit to a test or tests of his or her breath or blood, no test shall
11 be given except as authorized under subsection (3) or (4) of this
12 section.

13 (6) If, after arrest or detention and after the other applicable
14 conditions and requirements of this section have been satisfied, a test
15 or tests of the person's blood or breath is administered and the test
16 results indicate that the alcohol concentration of the person's breath
17 or blood is 0.10 or more if the person is age twenty-one or over, or is
18 0.02 or more if the person is under the age of twenty-one, or the
19 person refuses to submit to a test, the arresting officer or other law
20 enforcement officer at whose direction any test has been given, or the
21 department, where applicable, if the arrest or detention results in a
22 test of the person's blood, shall:

23 (a) Serve notice in writing on the person on behalf of the
24 department of its intention to suspend, revoke, deny, or place in
25 probationary status the person's license, permit, or privilege to drive
26 as required by subsection (7) of this section;

27 (b) Serve notice in writing on the person on behalf of the
28 department of his or her right to a hearing, specifying the steps he or
29 she must take to obtain a hearing. Within fifteen days after the
30 notice has been given, the person may, in writing, request a formal
31 hearing as provided by subsection (8) of this section. If such request
32 is made by mail it must be postmarked within fifteen days after the
33 notice has been given. The person shall pay a fee of one hundred
34 dollars, which is nonrefundable except as provided in subsection (9) of
35 this section, as part of the request;

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

38 (d) Serve notice in writing that the marked license or permit, if
39 any, is a temporary license to be effective twelve hours after the time

1 of arrest or detention and valid for forty-five days from the date of
2 arrest or detention or from the date notice has been given in the event
3 notice is given by the department following a blood test, or until the
4 suspension, revocation, denial, or placement in probationary status of
5 the person's license, permit, or privilege to drive is sustained at a
6 hearing pursuant to subsection (8) of this section, whichever occurs
7 first. No temporary license is valid to any greater degree than the
8 license or permit that it replaces; and

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

13 (i) That the officer had reasonable grounds to believe the arrested
14 or detained person had been driving or was in actual physical control
15 of a motor vehicle within this state while under the influence of
16 intoxicating liquor or drugs, or both, or had been driving or was in
17 actual physical control of a motor vehicle within this state with
18 alcohol in a concentration of 0.02 or more in his or her system and is
19 under the age of twenty-one;

20 (ii) That after receipt of the warnings required by subsection (2)
21 of this section the person refused to submit to a test of his or her
22 blood or breath, or a test was administered and the results indicated
23 that the alcohol concentration of the person's breath or blood was 0.10
24 or more if the person is age twenty-one or over, or was 0.02 or more if
25 the person is under the age of twenty-one; and

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

27 (7) The department of licensing, upon the receipt of a sworn report
28 ((of the law enforcement officer that the officer had reasonable
29 grounds to believe the arrested person had been driving or was in
30 actual physical control of a motor vehicle within this state while
31 under the influence of intoxicating liquor and that the person had
32 refused to submit to the test or tests upon the request of the law
33 enforcement officer after being informed that refusal would result in
34 the revocation of the person's privilege to drive)) or report under a
35 declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this
36 section, shall suspend, revoke, deny, or place in probationary status
37 the person's license ((or)), permit, or privilege to drive or any
38 nonresident operating privilege, as provided in section 3 of this act,
39 such suspension, revocation, denial, or placement in probationary

1 status to be effective beginning forty-five days from the date of
2 arrest or detention or from the date notice has been given in the event
3 notice is given by the department following a blood test, or when
4 sustained at a hearing pursuant to subsection (8) of this section,
5 whichever occurs first.

6 ~~((7) Upon revoking the license or permit to drive or the~~
7 ~~nonresident operating privilege of any person, the department shall~~
8 ~~immediately notify the person involved in writing by personal service~~
9 ~~or by certified mail of its decision and the grounds therefor, and of~~
10 ~~the person's right to a hearing, specifying the steps he or she must~~
11 ~~take to obtain a hearing. Within fifteen days after the notice has~~
12 ~~been given, the person may, in writing, request a formal hearing. The~~
13 ~~person shall pay a fee of one hundred dollars as part of the request.))~~

14 (8) Upon timely receipt of ((such)) a request for a formal hearing
15 and ((such)) payment of the required fee, the department shall afford
16 the person an opportunity for a hearing ((as provided in)). Except as
17 otherwise provided in this section, the hearing is subject to and shall
18 be scheduled and conducted in accordance with RCW 46.20.329 and
19 46.20.332. The hearing shall be conducted in the county of the arrest
20 or detention, except that all or part of the hearing may, at the
21 discretion of the department, be conducted by telephone or other
22 electronic means. The hearing shall be held within forty-five days
23 following the arrest or detention or following the date notice has been
24 given in the event notice is given by the department following a blood
25 test, unless otherwise agreed to by the department and the person, in
26 which case the action by the department shall be stayed, and any valid
27 temporary license marked under subsection (6)(d) of this section
28 extended, if the person is otherwise eligible for licensing. For the
29 purposes of this section, the scope of ((such)) the hearing shall cover
30 the issues of whether a law enforcement officer had reasonable grounds
31 to believe the person had been driving or was in actual physical
32 control of a motor vehicle within this state while under the influence
33 of intoxicating liquor or had been driving or was in actual physical
34 control of a motor vehicle within this state while having alcohol in
35 his or her system and was under the age of twenty-one, whether the
36 person was placed under arrest or detention, and (a) whether the person
37 refused to submit to the test or tests upon request of the officer
38 after having been informed that such refusal would result in the
39 revocation of the person's license, permit, or privilege to drive, or

1 (b) if a test or tests were administered, whether the applicable
2 requirements of this section were satisfied before the administration
3 of the test or tests, whether the person submitted to the test or
4 tests, or whether a test was administered without express consent as
5 permitted under this section, and whether the test or tests indicated
6 that the alcohol concentration of the person's breath or blood was 0.10
7 or more if the person was age twenty-one or over at the time of the
8 arrest, or was 0.02 or more if the person was under the age of twenty-
9 one at the time of the arrest or detention. The sworn report or report
10 under a declaration authorized by RCW 9A.72.085 submitted by a law
11 enforcement officer is prima facie evidence that the officer had
12 reasonable grounds to believe the person had been driving or was in
13 actual physical control of a motor vehicle within this state while
14 under the influence of intoxicating liquor or drugs, or both, or the
15 person had been driving or was in actual physical control of a motor
16 vehicle within this state while having alcohol in his or her system and
17 was under the age of twenty-one, and that the officer complied with the
18 requirements of this section.

19 A hearing officer shall conduct the hearing, may issue subpoenas
20 for the attendance of witnesses and the production of documents, and
21 shall administer oaths to witnesses. The hearing officer shall not
22 issue a subpoena for the attendance of a witness at the request of the
23 person unless the request is accompanied by the fee required by RCW
24 5.56.010 for a witness in district court. The sworn report or report
25 under a declaration authorized by RCW 9A.72.085 of the law enforcement
26 officer and any other evidence accompanying the report shall be
27 admissible without further evidentiary foundation and the
28 certifications authorized by the criminal rules for courts of limited
29 jurisdiction shall be admissible without further evidentiary
30 foundation. The person may be represented by counsel, may question
31 witnesses, may present evidence, and may testify. The department shall
32 order that the suspension, revocation, denial, or placement in
33 probationary status either be rescinded or sustained. ((Any decision
34 by the department revoking a person's driving privilege shall be stayed
35 and shall not take effect while a formal hearing is pending as provided
36 in this section or during the pendency of a subsequent appeal to
37 superior court so long as there is no conviction for a moving violation
38 or no finding that the person has committed a traffic infraction that
39 is a moving violation during pendency of the hearing and appeal.

1 (8)) (9) Failure of the person to request a hearing or pay the
2 required fee within the time limit established by subsection (6) of
3 this section, or failure to appear or participate in such a hearing,
4 constitutes a default and results in the loss of that person's right to
5 a hearing. The department shall not refund any fee paid by the person
6 requesting a hearing unless the department lacks proper jurisdiction in
7 the case or denies the request due to a late filing, or unless the
8 person withdraws the request no later than three days prior to the
9 scheduled hearing date as established by the department.

10 (10) If the suspension, revocation, denial, or placement in
11 probationary status is sustained after such a hearing, the person whose
12 license, privilege, or permit is suspended, revoked, denied, or placed
13 in probationary status has the right to file a petition in the superior
14 court of the county of arrest or detention to review the final order of
15 revocation by the department in the same manner ((provided in RCW
16 46.20.334)) as an appeal from a decision of a court of limited
17 jurisdiction. The appellant must pay the costs associated with
18 obtaining the record of the hearing before the hearing officer. The
19 filing of the appeal does not stay the effective date of the
20 suspension, revocation, denial, or placement in probationary status.
21 A petition filed under this subsection must include the petitioner's
22 grounds for requesting review. Upon granting petitioner's request for
23 review, the court shall review the department's final order of
24 suspension, revocation, denial, or placement in probationary status as
25 expeditiously as possible. If judicial relief is sought for a stay or
26 other temporary remedy from the department's action, the court shall
27 not grant such relief unless the court finds that the appellant is
28 likely to prevail in the appeal and that without a stay the appellant
29 will suffer irreparable injury. If the court stays the suspension,
30 revocation, denial, or placement in probationary status, it may impose
31 conditions on such stay.

32 (11) If a person whose driver's license, permit, or privilege to
33 drive has been or will be suspended, revoked, or denied under
34 subsection (7) of this section, other than as a result of a breath test
35 refusal, and who has not committed an offense within the last five
36 years for which he or she was granted a deferred prosecution under
37 chapter 10.05 RCW, petitions a court for a deferred prosecution on
38 criminal charges arising out of the arrest for which action has been or
39 will be taken under subsection (7) of this section, the court may

1 direct the department to stay any actual or proposed suspension,
2 revocation, or denial for at least forty-five days but not more than
3 ninety days. If the court stays the suspension, revocation, or denial,
4 it may impose conditions on such stay. If the person is otherwise
5 eligible for licensing, the department shall issue a temporary license,
6 or extend any valid temporary license marked under subsection (6) of
7 this section, for the period of the stay. If a deferred prosecution
8 treatment plan is not recommended in the report made under RCW
9 10.05.050, or if treatment is rejected by the court, or if the person
10 declines to accept an offered treatment plan, or if the person violates
11 any condition imposed by the court, then the court shall immediately
12 direct the department to cancel the stay and any temporary license or
13 extension of a temporary license marked under this subsection.

14 A suspension, revocation, or denial imposed under this section,
15 other than as a result of a breath test refusal, shall be stayed if the
16 person is accepted for deferred prosecution as provided in chapter
17 10.05 RCW for the incident upon which the suspension, revocation, or
18 denial is based. If the deferred prosecution is terminated, the stay
19 shall be lifted and the suspension, revocation, or denial reinstated.
20 If the deferred prosecution is completed, the stay shall be lifted and
21 the suspension, revocation, or denial canceled.

22 ((+9)) (12) When it has been finally determined under the
23 procedures of this section that a nonresident's privilege to operate a
24 motor vehicle in this state has been suspended, revoked, or denied,
25 the department shall give information in writing of the action taken to the
26 motor vehicle administrator of the state of the person's residence and
27 of any state in which he or she has a license.

28 NEW SECTION. Sec. 3. A new section is added to chapter 46.20 RCW
29 to read as follows:

30 (1) Pursuant to RCW 46.20.308, the department shall suspend,
31 revoke, deny, or place in probationary status the arrested or detained
32 person's license, permit to drive, driving privilege, or any
33 nonresident privilege as follows:

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

35 (i) For a first refusal within five years, where there has not been
36 a previous incident within five years that resulted in administrative
37 action under this section, revocation or denial for one year;

1 (ii) For a second or subsequent refusal within five years, or for
2 a first refusal where there has been one or more previous incidents
3 within five years that have resulted in administrative action under
4 this section, revocation or denial for two years or until the person
5 reaches age twenty-one, whichever is longer. A revocation imposed
6 under this subsection (1)(a)(ii) shall run consecutively to the period
7 of any suspension, revocation, or denial imposed pursuant to a criminal
8 conviction arising out of the same incident.

9 (b) In the case of an incident where a person has submitted to or
10 been administered a test or tests indicating that the alcohol
11 concentration of the person's breath or blood was 0.10 or more:

12 (i) For a first incident within five years, placement in
13 probationary status as provided in RCW 46.20.355;

14 (ii) For a second or subsequent incident within five years,
15 revocation or denial for two years.

16 (c) In the case of an incident where a person under age twenty-one
17 has submitted to or been administered a test or tests indicating that
18 the alcohol concentration of the person's breath or blood was more than
19 0.02:

20 (i) For a first incident within five years, suspension or denial
21 for ninety days;

22 (ii) For a second or subsequent incident within five years,
23 revocation or denial for one year or until the person reaches age
24 twenty-one, whichever is longer.

25 (2) Upon completion of any suspension, revocation, or denial period
26 imposed under this section, the department shall place the person's
27 privilege to drive in probationary status as provided in RCW 46.20.355.

28 **Sec. 4.** RCW 46.20.355 and 1994 c 275 s 8 are each amended to read
29 as follows:

30 (1) Upon notification of a conviction under RCW 46.61.502 or
31 46.61.504 for which the issuance of a probationary driver's license is
32 required, or upon receipt of a sworn report or report under a
33 declaration authorized by RCW 9A.72.085 under RCW 46.20.308, or upon
34 receipt of an abstract indicating a deferred prosecution has been
35 granted under RCW 10.05.060, the department of licensing shall order
36 the person to surrender (~~his or her~~) any Washington state driver's
37 license that may be in his or her possession. The department shall
38 revoke the license, permit, or privilege to drive of any person who

1 fails to surrender it as required by this section for one year, unless
2 the license has been previously surrendered to the department, a law
3 enforcement officer, or a court, or the person has completed an
4 affidavit of lost, stolen, destroyed, or previously surrendered
5 license, such revocation to take effect thirty days after notice is
6 given of the requirement for license surrender.

7 ~~(2) ((Upon receipt of the surrendered license, and following the~~
8 ~~expiration of any period of license suspension or revocation, or~~
9 ~~following receipt of a sworn statement under RCW 46.20.365 that~~
10 ~~requires issuance of a probationary license, the department shall issue~~
11 ~~the person a probationary license if otherwise qualified. The~~
12 ~~probationary license shall be renewed on the same cycle as the person's~~
13 ~~regular license would have been renewed until five years after the date~~
14 ~~of its issuance.))~~ The department shall place a person's driving
15 privilege in probationary status as required by RCW 10.05.060,
16 46.20.308, section 3 of this act, 46.61.5051, 46.61.5052, or 46.61.5053
17 for a period of five years from the date the probationary status is
18 required to go into effect.

19 (3) Following the expiration of any period of suspension,
20 revocation, or denial after which placement in probationary status is
21 required, or following receipt of an abstract indicating a deferred
22 prosecution has been granted under RCW 10.05.060, or following receipt
23 of a sworn report under RCW 46.20.308 that requires immediate placement
24 in probationary status under section 3(1)(b)(i) of this act, the
25 department shall require the person to obtain a probationary license in
26 order to operate a motor vehicle in the state of Washington, except as
27 otherwise exempt under RCW 46.20.025. The department shall not issue
28 the probationary license unless the person is otherwise qualified for
29 licensing, and must be renewed on the same cycle as the person's
30 regular license would have been renewed until the expiration of the
31 five-year probationary status period imposed under subsection (2) of
32 this section.

33 (4) For each original issue or ((reissue)) renewal of a
34 probationary license under this section, the department ((may)) shall
35 charge ((the)) a fee ((authorized under RCW 46.20.311 for the
36 reissuance of a license following a revocation for a violation of RCW
37 46.61.502 or 46.61.504)) of fifty dollars in addition to any other
38 licensing fees required. Except for when renewing a probationary
39 license, the department shall waive the fifty-dollar fee if the person

1 has a probationary license in his or her possession at the time a new
2 probationary license is required.

3 (~~(4)~~) (5) A probationary license shall enable the department and
4 law enforcement personnel to determine that the person is on
5 probationary status(~~(, including the period of that status,)~~) for a
6 violation of RCW 46.61.502 or 46.61.504 (~~(or 46.20.365)~~), or as
7 required under RCW 10.05.060, 46.20.308, or section 3 of this act.
8 (~~That~~) The fact that a person's driving privilege is in probationary
9 status or that the person has been issued a probationary license shall
10 not be a part of the person's record that is available to insurance
11 companies.

12 **Sec. 5.** RCW 46.04.015 and 1994 c 275 s 1 are each amended to read
13 as follows:

14 "Alcohol concentration" means (1) grams of alcohol per two hundred
15 ten liters of a person's breath, or (2) (~~(the percent by weight of~~
16 ~~alcohol in)~~) grams of alcohol per one hundred milliliters of a person's
17 blood.

18 NEW SECTION. **Sec. 6.** RCW 46.20.309 is recodified as a section in
19 chapter 46.61 RCW.

20 NEW SECTION. **Sec. 7.** RCW 46.20.365 and 1994 c 275 s 12 are each
21 repealed.

22 NEW SECTION. **Sec. 8.** If any provision of this act or its
23 application to any person or circumstance is held invalid, the
24 remainder of the act or the application of the provision to other
25 persons or circumstances is not affected.

26 NEW SECTION. **Sec. 9.** This act shall take effect September 1,
27 1995.

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