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SECOND SUBSTITUTE HOUSE BILL 1501

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State of Washington

55th Legislature

1998 Regular Session

By House Committee on Transportation Policy & Budget (originally sponsored by Representatives Robertson, Scott and Mielke; by request of Department of Licensing)

Read first time 01/26/98. Referred to Committee on .

1 AN ACT Relating to drivers' licenses; amending RCW 46.20.265,  
2 46.20.285, 46.20.308, 46.20.355, 46.25.120, 46.29.040, 46.61.503,  
3 46.61.5152, 46.20.035, 46.20.091, 46.20.161, and 46.20.205; creating a  
4 new section; repealing RCW 46.61.5057; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** It is the intent and purpose of this act to  
7 clarify procedural issues and make technical corrections to statutes  
8 relating to drivers' licenses. This act should not be construed as  
9 changing existing public policy.

10 **Sec. 2.** RCW 46.20.265 and 1994 sp.s. c 7 s 439 are each amended to  
11 read as follows:

12 (1) In addition to any other authority to revoke driving privileges  
13 under this chapter, the department shall revoke all driving privileges  
14 of a juvenile when the department receives notice from a court pursuant  
15 to RCW 9.41.040(5), 13.40.265, 66.44.365, 69.41.065, 69.50.420,  
16 69.52.070, or a substantially similar municipal ordinance adopted by a  
17 local legislative authority, or from a diversion unit pursuant to RCW  
18 13.40.265. The revocation shall be imposed without hearing.

1 (2) The driving privileges of the juvenile revoked under subsection  
2 (1) of this section shall be revoked in the following manner:

3 (a) Upon receipt of the first notice, the department shall impose  
4 a revocation for one year, or until the juvenile reaches seventeen  
5 years of age, whichever is longer.

6 (b) Upon receipt of a second or subsequent notice, the department  
7 shall impose a revocation for two years or until the juvenile reaches  
8 eighteen years of age, whichever is longer.

9 (c) Each offense for which the department receives notice shall  
10 result in a separate period of revocation. All periods of revocation  
11 imposed under this section that could otherwise overlap shall run  
12 consecutively and no period of revocation imposed under this section  
13 shall begin before the expiration of all other periods of revocation  
14 imposed under this section or other law.

15 (3) If the department receives notice from a court that the  
16 juvenile's privilege to drive should be reinstated, the department  
17 shall immediately reinstate any driving privileges that have been  
18 revoked under this section if the minimum term of revocation as  
19 specified in RCW 13.40.265(1)(c), 66.44.365(3), 69.41.065(3),  
20 69.50.420(3), 69.52.070(3), or similar ordinance has expired, and  
21 subject to subsection (2)(c) of this section.

22 (4)(a) If the department receives notice pursuant to RCW  
23 13.40.265(2)(b) from a diversion unit that a juvenile has completed a  
24 diversion agreement for which the juvenile's driving privileges were  
25 revoked, the department shall reinstate any driving privileges revoked  
26 under this section as provided in (b) of this subsection, subject to  
27 subsection (2)(c) of this section.

28 (b) If the diversion agreement was for the juvenile's first  
29 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department  
30 shall not reinstate the juvenile's privilege to drive until the later  
31 of ninety days after the date the juvenile turns sixteen or ninety days  
32 after the juvenile entered into a diversion agreement for the offense.  
33 If the diversion agreement was for the juvenile's second or subsequent  
34 violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department  
35 shall not reinstate the juvenile's privilege to drive until the later  
36 of the date the juvenile turns seventeen or one year after the juvenile  
37 entered into the second or subsequent diversion agreement.

1       **Sec. 3.** RCW 46.20.285 and 1996 c 199 s 5 are each amended to read  
2 as follows:

3       The department shall forthwith revoke the license of any driver for  
4 the period of one calendar year unless otherwise provided in this  
5 section, upon receiving a record of the driver's conviction of any of  
6 the following offenses, when the conviction has become final:

7       (1) For vehicular homicide the period of revocation shall be two  
8 years. The revocation period shall be tolled during any period of  
9 total confinement for the offense;

10       (2) Vehicular assault. The revocation period shall be tolled  
11 during any period of total confinement for the offense;

12       (3) Driving a motor vehicle while under the influence of  
13 intoxicating liquor or a narcotic drug, or under the influence of any  
14 other drug to a degree which renders the driver incapable of safely  
15 driving a motor vehicle, upon a showing by the department's records  
16 that the conviction is the first such conviction under RCW  
17 46.61.5055(1)(b) or a second or subsequent such conviction under RCW  
18 46.61.5055 for the driver within a period of five years. (~~Upon a~~  
19 ~~showing that the conviction is the third such conviction for the driver~~  
20 ~~within a period of five years, the period of revocation shall be two~~  
21 ~~years)) The revocation period shall be as provided in RCW 46.61.5055;~~

22       (4) Any felony in the commission of which a motor vehicle is used;

23       (5) Failure to stop and give information or render aid as required  
24 under the laws of this state in the event of a motor vehicle accident  
25 resulting in the death or personal injury of another or resulting in  
26 damage to a vehicle that is driven or attended by another;

27       (6) Perjury or the making of a false affidavit or statement under  
28 oath to the department under Title 46 RCW or under any other law  
29 relating to the ownership or operation of motor vehicles;

30       (7) Reckless driving upon a showing by the department's records  
31 that the conviction is the third such conviction for the driver within  
32 a period of two years.

33       **Sec. 4.** RCW 46.20.308 and 1995 c 332 s 1 are each amended to read  
34 as follows:

35       (1) Any person who operates a motor vehicle within this state is  
36 deemed to have given consent, subject to the provisions of RCW  
37 46.61.506, to a test or tests of his or her breath or blood for the  
38 purpose of determining the alcohol concentration or presence of any

1 drug in his or her breath or blood if arrested for any offense where,  
2 at the time of the arrest, the arresting officer has reasonable grounds  
3 to believe the person had been driving or was in actual physical  
4 control of a motor vehicle while under the influence of intoxicating  
5 liquor or any drug or was in violation of RCW 46.61.503.

6 (2) The test or tests of breath shall be administered at the  
7 direction of a law enforcement officer having reasonable grounds to  
8 believe the person to have been driving or in actual physical control  
9 of a motor vehicle within this state while under the influence of  
10 intoxicating liquor or any drug or the person to have been driving or  
11 in actual physical control of a motor vehicle while having alcohol in  
12 a concentration of 0.02 or more in his or her system and being under  
13 the age of twenty-one. However, in those instances where the person is  
14 incapable due to physical injury, physical incapacity, or other  
15 physical limitation, of providing a breath sample or where the person  
16 is being treated in a hospital, clinic, doctor's office, emergency  
17 medical vehicle, ambulance, or other similar facility in which a breath  
18 testing instrument is not present or where the officer has reasonable  
19 grounds to believe that the person is under the influence of a drug, a  
20 blood test shall be administered by a qualified person as provided in  
21 RCW 46.61.506(4). The officer shall inform the person of his or her  
22 right to refuse the breath or blood test, and of his or her right to  
23 have additional tests administered by any qualified person of his or  
24 her choosing as provided in RCW 46.61.506. The officer shall warn the  
25 driver that:

26 (a) His or her license, permit, or privilege to drive will be  
27 revoked or denied if he or she refuses to submit to the test;

28 (b) His or her license, permit, or privilege to drive will be  
29 suspended, revoked, denied, or placed in probationary status if the  
30 test is administered and the test indicates the alcohol concentration  
31 of the person's breath or blood is 0.10 or more, in the case of a  
32 person age twenty-one or over, or 0.02 or more in the case of a person  
33 under age twenty-one; and

34 (c) His or her refusal to take the test may be used in a criminal  
35 trial.

36 (3) Except as provided in this section, the test administered shall  
37 be of the breath only. If an individual is unconscious or is under  
38 arrest for the crime of vehicular homicide as provided in RCW 46.61.520  
39 or vehicular assault as provided in RCW 46.61.522, or if an individual

1 is under arrest for the crime of driving while under the influence of  
2 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest  
3 results from an accident in which there has been serious bodily injury  
4 to another person, a breath or blood test may be administered without  
5 the consent of the individual so arrested.

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

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

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

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

31 (b) Serve notice in writing on the person on behalf of the  
32 department of his or her right to a hearing, specifying the steps he or  
33 she must take to obtain a hearing as provided by subsection (8) of this  
34 section;

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

37 (d) Serve notice in writing that the marked license or permit, if  
38 any, is a temporary license that is valid for sixty days from the date  
39 of arrest or from the date notice has been given in the event notice is

1 given by the department following a blood test, or until the  
2 suspension, revocation, or denial of the person's license, permit, or  
3 privilege to drive is sustained at a hearing pursuant to subsection (8)  
4 of this section, whichever occurs first. No temporary license is valid  
5 to any greater degree than the license or permit that it replaces; and

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

10 (i) That the officer had reasonable grounds to believe the arrested  
11 person had been driving or was in actual physical control of a motor  
12 vehicle within this state while under the influence of intoxicating  
13 liquor or drugs, or both, or was under the age of twenty-one years and  
14 had been driving or was in actual physical control of a motor vehicle  
15 while having an alcohol concentration of 0.02 or more;

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

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

23 (7) The department of licensing, upon the receipt of a sworn report  
24 or report under a declaration authorized by RCW 9A.72.085 under  
25 subsection (6)(e) of this section, shall suspend, revoke, deny, or  
26 place in probationary status the person's license, permit, or privilege  
27 to drive or any nonresident operating privilege, as provided in RCW  
28 46.20.3101, such suspension, revocation, denial, or placement in  
29 probationary status to be effective beginning sixty days from the date  
30 of arrest or from the date notice has been given in the event notice is  
31 given by the department following a blood test, or when sustained at a  
32 hearing pursuant to subsection (8) of this section, whichever occurs  
33 first.

34 (8) A person receiving notification under subsection (6)(b) of this  
35 section may, within thirty days after the notice has been given,  
36 request in writing a formal hearing before the department. The person  
37 shall pay a fee of one hundred dollars as part of the request. If the  
38 request is mailed, it must be postmarked within thirty days after  
39 receipt of the notification. Upon timely receipt of such a request for

1 a formal hearing, including receipt of the required one hundred dollar  
2 fee, the department shall afford the person an opportunity for a  
3 hearing. Except as otherwise provided in this section, the hearing is  
4 subject to and shall be scheduled and conducted in accordance with RCW  
5 46.20.329 and 46.20.332. The hearing shall be conducted in the county  
6 of the arrest, except that all or part of the hearing may, at the  
7 discretion of the department, be conducted by telephone or other  
8 electronic means. The hearing shall be held within sixty days  
9 following the arrest or following the date notice has been given in the  
10 event notice is given by the department following a blood test, unless  
11 otherwise agreed to by the department and the person, in which case the  
12 action by the department shall be stayed, and any valid temporary  
13 license marked under subsection (6)(c) of this section extended, if the  
14 person is otherwise eligible for licensing. For the purposes of this  
15 section, the scope of the hearing shall cover the issues of whether a  
16 law enforcement officer had reasonable grounds to believe the person  
17 had been driving or was in actual physical control of a motor vehicle  
18 within this state while under the influence of intoxicating liquor or  
19 any drug or had been driving or was in actual physical control of a  
20 motor vehicle within this state while having alcohol in his or her  
21 system in a concentration of 0.02 or more and was under the age of  
22 twenty-one, whether the person was placed under arrest, and (a) whether  
23 the person refused to submit to the test or tests upon request of the  
24 officer after having been informed that such refusal would result in  
25 the revocation of the person's license, permit, or privilege to drive,  
26 or (b) if a test or tests were administered, whether the applicable  
27 requirements of this section were satisfied before the administration  
28 of the test or tests, whether the person submitted to the test or  
29 tests, or whether a test was administered without express consent as  
30 permitted under this section, and whether the test or tests indicated  
31 that the alcohol concentration of the person's breath or blood was 0.10  
32 or more if the person was age twenty-one or over at the time of the  
33 arrest, or was 0.02 or more if the person was under the age of twenty-  
34 one at the time of the arrest. The sworn report or report under a  
35 declaration authorized by RCW 9A.72.085 submitted by a law enforcement  
36 officer is prima facie evidence that the officer had reasonable grounds  
37 to believe the person had been driving or was in actual physical  
38 control of a motor vehicle within this state while under the influence  
39 of intoxicating liquor or drugs, or both, or the person had been

1 driving or was in actual physical control of a motor vehicle within  
2 this state while having alcohol in his or her system in a concentration  
3 of 0.02 or more and was under the age of twenty-one and that the  
4 officer complied with the requirements of this section.

5 A hearing officer shall conduct the hearing, may issue subpoenas  
6 for the attendance of witnesses and the production of documents, and  
7 shall administer oaths to witnesses. The hearing officer shall not  
8 issue a subpoena for the attendance of a witness at the request of the  
9 person unless the request is accompanied by the fee required by RCW  
10 5.56.010 for a witness in district court. The sworn report or report  
11 under a declaration authorized by RCW 9A.72.085 of the law enforcement  
12 officer and any other evidence accompanying the report shall be  
13 admissible without further evidentiary foundation and the  
14 certifications authorized by the criminal rules for courts of limited  
15 jurisdiction shall be admissible without further evidentiary  
16 foundation. The person may be represented by counsel, may question  
17 witnesses, may present evidence, and may testify. The department shall  
18 order that the suspension, revocation, denial, or placement in  
19 probationary status either be rescinded or sustained.

20 (9) If the suspension, revocation, denial, or placement in  
21 probationary status is sustained after such a hearing, the person whose  
22 license, privilege, or permit is suspended, revoked, denied, or placed  
23 in probationary status has the right to file a petition in the superior  
24 court of the county of arrest to review the final order of revocation  
25 by the department in the same manner as an appeal from a decision of a  
26 court of limited jurisdiction. Notice of appeal must be filed within  
27 thirty days after the date the final order is served or the right to  
28 appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other  
29 statutes or rules referencing de novo review, the appeal shall be  
30 limited to a review of the record of the administrative hearing. The  
31 appellant must pay the costs associated with obtaining the record of  
32 the hearing before the hearing officer. The filing of the appeal does  
33 not stay the effective date of the suspension, revocation, denial, or  
34 placement in probationary status. A petition filed under this  
35 subsection must include the petitioner's grounds for requesting review.  
36 Upon granting petitioner's request for review, the court shall review  
37 the department's final order of suspension, revocation, denial, or  
38 placement in probationary status as expeditiously as possible. The  
39 review must be limited to a determination of whether the department has



1 committed any errors of law. The superior court shall accept those  
2 factual determinations supported by substantial evidence in the record:  
3 (a) That were expressly made by the department; or (b) that may  
4 reasonably be inferred from the final order of the department. The  
5 superior court may reverse, affirm, or modify the decision of the  
6 department or remand the case back to the department for further  
7 proceedings. The decision of the superior court must be in writing and  
8 filed in the clerk's office with the other papers in the case. The  
9 court shall state the reasons for the decision. If judicial relief is  
10 sought for a stay or other temporary remedy from the department's  
11 action, the court shall not grant such relief unless the court finds  
12 that the appellant is likely to prevail in the appeal and that without  
13 a stay the appellant will suffer irreparable injury. If the court  
14 stays the suspension, revocation, denial, or placement in probationary  
15 status it may impose conditions on such stay.

16 (10) If a person whose driver's license, permit, or privilege to  
17 drive has been or will be suspended, revoked, denied, or placed in  
18 probationary status under subsection (7) of this section, other than as  
19 a result of a breath or blood test refusal, and who has not committed  
20 an offense within the last five years for which he or she was granted  
21 a deferred prosecution under chapter 10.05 RCW, petitions a court for  
22 a deferred prosecution on criminal charges arising out of the arrest  
23 for which action has been or will be taken under subsection (7) of this  
24 section, the court may direct the department to stay any actual or  
25 proposed suspension, revocation, denial, or placement in probationary  
26 status for at least forty-five days but not more than ninety days. If  
27 the court stays the suspension, revocation, denial, or placement in  
28 probationary status, it may impose conditions on such stay. If the  
29 person is otherwise eligible for licensing, the department shall issue  
30 a temporary license, or extend any valid temporary license marked under  
31 subsection (6) of this section, for the period of the stay. If a  
32 deferred prosecution treatment plan is not recommended in the report  
33 made under RCW 10.05.050, or if treatment is rejected by the court, or  
34 if the person declines to accept an offered treatment plan, or if the  
35 person violates any condition imposed by the court, then the court  
36 shall immediately direct the department to cancel the stay and any  
37 temporary marked license or extension of a temporary license issued  
38 under this subsection.

1 A suspension, revocation, or denial imposed under this section,  
2 other than as a result of a breath or blood test refusal, shall be  
3 stayed if the person is accepted for deferred prosecution as provided  
4 in chapter 10.05 RCW for the incident upon which the suspension,  
5 revocation, or denial is based. If the deferred prosecution is  
6 terminated, the stay shall be lifted and the suspension, revocation, or  
7 denial reinstated. If the deferred prosecution is completed, the stay  
8 shall be lifted and the suspension, revocation, or denial canceled.

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

15 **Sec. 5.** RCW 46.20.355 and 1995 1st sp.s. c 17 s 1 are each amended  
16 to read as follows:

17 (1) Upon placing a license, permit, or privilege to drive in  
18 probationary status under RCW 46.20.3101(2)(a), or upon receipt of an  
19 abstract indicating a deferred prosecution has been granted under RCW  
20 10.05.060, or upon receipt of a notice of conviction of RCW 46.61.502  
21 or 46.61.504, the department of licensing shall order the person to  
22 surrender any nonprobationary Washington state driver's license that  
23 may be in his or her possession. The department shall revoke the  
24 license, permit, or privilege to drive of any person who fails to  
25 surrender it as required by this section for one year, unless the  
26 license has been previously surrendered to the department, a law  
27 enforcement officer, or a court, or the person has completed an  
28 affidavit of lost, stolen, destroyed, or previously surrendered  
29 license, such revocation to take effect thirty days after notice is  
30 given of the requirement for license surrender.

31 (2) The department shall place a person's driving privilege in  
32 probationary status as required by RCW 10.05.060, 46.20.308, or  
33 46.61.5055 for a period of five years from the date the probationary  
34 status is required to go into effect.

35 (3) Following receipt of an abstract indicating a deferred  
36 prosecution has been granted under RCW 10.05.060, or following receipt  
37 of a sworn report under RCW 46.20.308 that requires immediate placement  
38 in probationary status under RCW 46.20.3101(2)(a), or upon

1 reinstatement or reissuance of a driver's license suspended or revoked  
2 as the result of a conviction of RCW 46.61.502 or 46.61.504, the  
3 department shall require the person to obtain a probationary license in  
4 order to operate a motor vehicle in the state of Washington, except as  
5 otherwise exempt under RCW 46.20.025. The department shall not issue  
6 the probationary license unless the person is otherwise qualified for  
7 licensing, and the person must renew the probationary license on the  
8 same cycle as the person's regular license would have been renewed  
9 until the expiration of the five-year probationary status period  
10 imposed under subsection (2) of this section.

11 (4) For each original issue or renewal of a probationary license  
12 under this section, the department shall charge a fee of fifty dollars  
13 in addition to any other licensing fees required. Except for when  
14 renewing a probationary license, the department shall waive the  
15 requirement to obtain an additional probationary license and the fifty-  
16 dollar fee if the person has a probationary license in his or her  
17 possession at the time a new probationary license is required.

18 (5) A probationary license shall enable the department and law  
19 enforcement personnel to determine that the person is on probationary  
20 status. The fact that a person's driving privilege is in probationary  
21 status or that the person has been issued a probationary license shall  
22 not be a part of the person's record that is available to insurance  
23 companies.

24 **Sec. 6.** RCW 46.25.120 and 1990 c 250 s 50 are each amended to read  
25 as follows:

26 (1) A person who drives a commercial motor vehicle within this  
27 state is deemed to have given consent, subject to RCW 46.61.506, to  
28 take a test or tests of that person's blood or breath for the purpose  
29 of determining that person's alcohol concentration or the presence of  
30 other drugs.

31 (2) A test or tests may be administered at the direction of a law  
32 enforcement officer, who after stopping or detaining the commercial  
33 motor vehicle driver, has probable cause to believe that driver was  
34 driving a commercial motor vehicle while having alcohol in his or her  
35 system.

36 (3) The law enforcement officer requesting the test under  
37 subsection (1) of this section shall warn the person requested to  
38 submit to the test that a refusal to submit will result in that person

1 being disqualified from operating a commercial motor vehicle under RCW  
2 46.25.090.

3 (4) If the person refuses testing, or submits to a test that  
4 discloses an alcohol concentration of 0.04 or more, the law enforcement  
5 officer shall submit a sworn report to the department certifying that  
6 the test was requested pursuant to subsection (1) of this section and  
7 that the person refused to submit to testing, or submitted to a test  
8 that disclosed an alcohol concentration of 0.04 or more.

9 (5) Upon receipt of the sworn report of a law enforcement officer  
10 under subsection (4) of this section, the department shall disqualify  
11 the driver from driving a commercial motor vehicle under RCW 46.25.090,  
12 subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The  
13 hearing shall be conducted in the county of the arrest. For the  
14 purposes of this section, the hearing shall cover the issues of whether  
15 a law enforcement officer had reasonable grounds to believe the person  
16 had been driving or was in actual physical control of a commercial  
17 motor vehicle within this state while having alcohol in the person's  
18 system, whether the person refused to submit to the test or tests upon  
19 request of the officer after having been informed that the refusal  
20 would result in the disqualification of the person from driving a  
21 commercial motor vehicle, and, if the test was administered, whether  
22 the results indicated an ~~((alcoholic))~~ alcohol concentration ~~((in that~~  
23 ~~person's blood))~~ of 0.04 percent or more. The department shall order  
24 that the disqualification of the person either be rescinded or  
25 sustained. Any decision by the department disqualifying a person from  
26 driving a commercial motor vehicle is stayed and does not take effect  
27 while a formal hearing is pending under this section or during the  
28 pendency of a subsequent appeal to superior court so long as there is  
29 no conviction for a moving violation or no finding that the person has  
30 committed a traffic infraction that is a moving violation during the  
31 pendency of the hearing and appeal. If the disqualification of the  
32 person is sustained after the hearing, the person who is disqualified  
33 may file a petition in the superior court of the county of arrest to  
34 review the final order of disqualification by the department in the  
35 manner provided in RCW 46.20.334.

36 **Sec. 7.** RCW 46.29.040 and 1963 c 169 s 4 are each amended to read  
37 as follows:

1 Any order of the director under the provisions of this chapter  
2 shall be subject to review, at the instance of any party in interest,  
3 by appeal to the superior court of Thurston county, or at his option to  
4 the superior court of the county of his residence. The scope of such  
5 review shall be limited to that prescribed by RCW 7.16.120 governing  
6 review by certiorari. Notice of appeal must be filed within (~~ten~~)  
7 thirty days after (~~receipt~~) service of the notice of such order. The  
8 court shall determine whether the filing of the appeal shall operate as  
9 a stay of any such order of the director. Upon the filing the notice  
10 of appeal the court shall issue an order to the director to show cause  
11 why the order should not be reversed or modified. The order to show  
12 cause shall be returnable not less than ten nor more than thirty days  
13 after the date of service thereof upon the director. The court after  
14 hearing the matter may modify, affirm or reverse the order of the  
15 director in whole or in part.

16 **Sec. 8.** RCW 46.61.503 and 1995 c 332 s 2 are each amended to read  
17 as follows:

18 (1) Notwithstanding any other provision of this title, a person is  
19 guilty of driving or being in physical control of a motor vehicle after  
20 consuming alcohol if the person operates or is in physical control of  
21 a motor vehicle within this state and the person:

22 (a) Is under the age of twenty-one;

23 (b) Has, within two hours after operating or being in physical  
24 control of the motor vehicle, an alcohol concentration of 0.02 or more,  
25 as shown by analysis of the person's breath or blood made under RCW  
26 46.61.506.

27 (2) It is an affirmative defense to a violation of subsection (1)  
28 of this section which the defendant must prove by a preponderance of  
29 the evidence that the defendant consumed a sufficient quantity of  
30 alcohol after the time of driving or being in physical control and  
31 before the administration of an analysis of the person's breath or  
32 blood to cause the defendant's alcohol concentration to be 0.02 or more  
33 within two hours after driving or being in physical control. The court  
34 shall not admit evidence of this defense unless the defendant notifies  
35 the prosecution prior to the earlier of: (a) Seven days prior to  
36 trial; or (b) the omnibus or pretrial hearing in the case of the  
37 defendant's intent to assert the affirmative defense.

1 (3) Analyses of blood or breath samples obtained more than two  
2 hours after the alleged driving or being in physical control may be  
3 used as evidence that within two hours of the alleged driving or being  
4 in physical control, a person had an alcohol concentration of 0.02 or  
5 more in violation of subsection (1) of this section.

6 (4) A violation of this section is a misdemeanor.

7 **Sec. 9.** RCW 46.61.5152 and 1994 c 275 s 40 are each amended to  
8 read as follows:

9 In addition to penalties that may be imposed under RCW  
10 (~~46.61.5051, 46.61.5052, or 46.61.5053~~) 46.61.5055, the court may  
11 require a person who is convicted of a violation of RCW 46.61.502 or  
12 46.61.504 or who enters a deferred prosecution program under RCW  
13 10.05.020 based on a violation of RCW 46.61.502 or 46.61.504, to attend  
14 an educational program focusing on the emotional, physical, and  
15 financial suffering of victims who were injured by persons convicted of  
16 driving while under the influence of intoxicants.

17 **Sec. 10.** RCW 46.20.035 and 1993 c 452 s 1 are each amended to read  
18 as follows:

19 (1) The department may not issue an identicard or a Washington  
20 state driver's license, except as provided in RCW 46.20.116, unless the  
21 applicant has satisfied the department regarding his or her identity.  
22 Except as provided in subsection (2) of this section, an applicant has  
23 not satisfied the identity requirements of this section unless he or  
24 she displays or provides the department with at least one of the  
25 following pieces of valid identifying documentation:

26 (a) A valid or recently expired driver's license or instruction  
27 permit that contains the signature, date of birth, and a photograph of  
28 the applicant;

29 (b) A Washington state identicard or an identification card issued  
30 by another state that contains the signature and a photograph of the  
31 applicant;

32 (c) An identification card issued by the United States, a state, or  
33 an agency of either the United States or a state, of a kind commonly  
34 used to identify the members of employees of the government agency,  
35 that contains the signature and a photograph of the applicant;

36 (d) A military identification card that contains the signature and  
37 a photograph of the applicant;

1 (e) A United States passport that contains the signature and a  
2 photograph of the applicant;

3 (f) An immigration and naturalization service form that contains  
4 the signature and photograph of the applicant; or

5 (g) If the applicant is a minor, an affidavit of the applicant's  
6 parent or guardian where the parent or guardian displays or provides at  
7 least one piece of identifying documentation as specified in this  
8 subsection along with additional documentation establishing the  
9 relationship between the parent or guardian and the applicant.

10 (2) A person unable to provide identifying documentation as  
11 specified in subsection (1) of this section may request that the  
12 department review other available documentation in order to ascertain  
13 identity. The department may waive the requirement for specific  
14 identifying documentation under subsection (1) of this section if it  
15 finds that other documentation clearly establishes the identity of the  
16 applicant.

17 (3) The form of an applicant's name, as established under this  
18 section, must be the person's name of record for the purposes of this  
19 chapter.

20 **Sec. 11.** RCW 46.20.091 and 1996 c 287 s 5 are each amended to read  
21 as follows:

22 (1) Every application for an instruction permit or for an original  
23 driver's license shall be made upon a form prescribed and furnished by  
24 the department which shall be sworn to and signed by the applicant  
25 before a person authorized to administer oaths. An applicant making a  
26 false statement under this subsection is guilty of false swearing, a  
27 gross misdemeanor, under RCW 9A.72.040. Every application for an  
28 instruction permit containing a photograph shall be accompanied by a  
29 fee of five dollars. The department shall forthwith transmit the fees  
30 collected for instruction permits and temporary drivers' permits to the  
31 state treasurer.

32 (2) Every such application shall state the ((full)) name of record,  
33 date of birth, sex, and Washington residence address of the applicant,  
34 and briefly describe the applicant, and shall state whether the  
35 applicant has theretofore been licensed as a driver or chauffeur, and,  
36 if so, when and by what state or country, and whether any such license  
37 has ever been suspended or revoked, or whether an application has ever  
38 been refused, and, if so, the date of and reason for such suspension,

1 revocation, or refusal, and shall state such additional information as  
2 the department shall require, including a statement that identifying  
3 documentation presented by the applicant is valid.

4 (3) Whenever application is received from a person previously  
5 licensed in another jurisdiction, the department shall request a copy  
6 of such driver's record from such other jurisdiction. When received,  
7 the driving record shall become a part of the driver's record in this  
8 state.

9 (4) Whenever the department receives request for a driving record  
10 from another licensing jurisdiction, the record shall be forwarded  
11 without charge if the other licensing jurisdiction extends the same  
12 privilege to the state of Washington. Otherwise there shall be a  
13 reasonable charge for transmittal of the record, the amount to be fixed  
14 by the director of the department.

15 **Sec. 12.** RCW 46.20.161 and 1990 c 250 s 40 are each amended to  
16 read as follows:

17 The department, upon receipt of a fee of fourteen dollars, which  
18 includes the fee for the required photograph, shall issue to every  
19 applicant qualifying therefor a driver's license, which license shall  
20 bear thereon a distinguishing number assigned to the licensee, the  
21 (~~full~~) name of record, date of birth, Washington residence address,  
22 photograph, and a brief description of the licensee, and either a  
23 facsimile of the signature of the licensee or a space upon which the  
24 licensee shall write his usual signature with pen and ink immediately  
25 upon receipt of the license. No license is valid until it has been so  
26 signed by the licensee.

27 **Sec. 13.** RCW 46.20.205 and 1996 c 30 s 4 are each amended to read  
28 as follows:

29 Whenever any person after applying for or receiving a driver's  
30 license or identicard moves from the address named in the application  
31 or in the license or identicard issued to him or her or when the name  
32 of record of a licensee or holder of an identicard is changed by  
33 marriage or otherwise, the person shall within ten days thereafter  
34 notify the department in writing on a form provided by the department  
35 of his or her old and new addresses or of such former and new names and  
36 of the number of any license then held by him or her. The written  
37 notification, or other means as designated by rule of the department,



1 is the exclusive means by which the address of record maintained by the  
2 department concerning the licensee or identicard holder may be changed.  
3 The form must contain a place for the person to indicate that the  
4 address change is not for voting purposes. The department of licensing  
5 shall notify the secretary of state by the means described in RCW  
6 29.07.270(3) of all change of address information received by means of  
7 this form except information on persons indicating that the change is  
8 not for voting purposes. Any notice regarding the cancellation,  
9 suspension, revocation, disqualification, probation, or nonrenewal of  
10 the driver's license, commercial driver's license, driving privilege,  
11 or identicard mailed to the address of record of the licensee or  
12 identicard holder is effective notwithstanding the licensee's or  
13 identicard holder's failure to receive the notice. The department of  
14 licensing shall not change the name of record of a person under this  
15 section unless the person has again satisfied the department regarding  
16 his or her identity in the manner provided by RCW 46.20.035.

17 NEW SECTION. Sec. 14. RCW 46.61.5057 and 1994 c 275 s 11 are each  
18 repealed.

19 NEW SECTION. Sec. 15. This act takes effect July 1, 1998.

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