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SENATE BILL 5060

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State of Washington

55th Legislature

1997 Regular Session

By Senators Haugen and Roach

Read first time 01/13/97. Referred to Committee on Law & Justice.

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

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

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

9 Except as expressly exempted by this chapter, it is a misdemeanor  
10 for a person to drive any motor vehicle upon a highway in this state  
11 (1) without a valid driver's license issued to Washington residents  
12 under the provisions of this chapter and (2)(a) without an expired  
13 driver's license or other valid identifying documentation under RCW  
14 46.20.035 in his or her possession at the time of the stop, or (b) the  
15 person is in violation of RCW 46.20.342(1) or 46.20.420. A violation  
16 of this section is a lesser included offense within the offenses  
17 described in RCW 46.20.342(1) or 46.20.420.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (2) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1           (c) "~~Exhibiting the effects of having consumed an illegal drug~~"  
2 means that a person by speech, manner, appearance, behavior, lack of  
3 coordination, or otherwise exhibits that he or she has consumed an  
4 illegal drug and either:

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

6           (ii) ~~Is shown by other evidence to have recently consumed an~~  
7 ~~illegal drug.~~

8           (d) "~~Illegal drug~~" means a controlled substance under chapter 69.50  
9 RCW for which the driver does not have a valid prescription or that is  
10 not being consumed in accordance with the prescription directions and  
11 warnings, or a legend drug under chapter 69.41 RCW for which the driver  
12 does not have a valid prescription or that is not being consumed in  
13 accordance with the prescription directions and warnings.

14           ~~(4))~~ (3) Any act prohibited by this section that also constitutes  
15 a crime under any other law of this state may be the basis of  
16 prosecution under such other law notwithstanding that it may also be  
17 the basis for prosecution under this section.

18           **Sec. 6.** RCW 13.40.0357 and 1996 c 205 s 6 are each amended to read  
19 as follows:

20   **SCHEDULE A**

21   **DESCRIPTION AND OFFENSE CATEGORY**

22	JUVENILE		JUVENILE DISPOSITION
23	DISPOSITION		CATEGORY FOR ATTEMPT,
24	OFFENSE		BAILJUMP, CONSPIRACY,
25	CATEGORY	DESCRIPTION (RCW CITATION)	OR SOLICITATION

26   .....

27   **Arson and Malicious Mischief**

28	A	Arson 1 (9A.48.020)	B+
29	B	Arson 2 (9A.48.030)	C
30	C	Reckless Burning 1 (9A.48.040)	D
31	D	Reckless Burning 2 (9A.48.050)	E
32	B	Malicious Mischief 1 (9A.48.070)	C
33	C	Malicious Mischief 2 (9A.48.080)	D
34	D	Malicious Mischief 3 (<\$50 is	
35		E class) (9A.48.090)	E

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

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



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

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

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

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

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

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

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

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

11 **SCHEDULE B**

12 **PRIOR OFFENSE INCREASE FACTOR**

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

15 **TIME SPAN**

16	OFFENSE	0-12	13-24	25 Months
17	CATEGORY	Months	Months	or More
18	.....			
19	A+	.9	.9	.9
20	A	.9	.8	.6
21	A-	.9	.8	.5
22	B+	.9	.7	.4
23	B	.9	.6	.3
24	C+	.6	.3	.2
25	C	.5	.2	.2
26	D+	.3	.2	.1
27	D	.2	.1	.1
28	E	.1	.1	.1

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

33 **SCHEDULE C**

34 **CURRENT OFFENSE POINTS**

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

3 **AGE**

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

17 **JUVENILE SENTENCING STANDARDS**

18 **SCHEDULE D-1**

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

22 **MINOR/FIRST OFFENDER**

23 **OPTION A**

24 **STANDARD RANGE**

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

1	60-69	6-9 months	and/or 32-48	and/or 0-\$50
2	70-79	6-9 months	and/or 40-56	and/or 0-\$50
3	80-89	9-12 months	and/or 48-64	and/or 10-\$100
4	90-109	9-12 months	and/or 56-72	and/or 10-\$100

5 OR

6 OPTION B  
7 STATUTORY OPTION

- 8 0-12 Months Community Supervision
- 9 0-150 Hours Community Service
- 10 0-100 Fine
- 11 Posting of a Probation Bond
- 12 A term of community supervision with a maximum of 150 hours, \$100.00
- 13 fine, and 12 months supervision.

14 OR

15 OPTION C  
16 MANIFEST INJUSTICE

17 When a term of community supervision would effectuate a manifest  
18 injustice, another disposition may be imposed. When a judge imposes a  
19 sentence of confinement exceeding 30 days, the court shall sentence the  
20 juvenile to a maximum term and the provisions of RCW 13.40.030(2) shall  
21 be used to determine the range.

22 JUVENILE SENTENCING STANDARDS  
23 SCHEDULE D-2

24 This schedule may only be used for middle offenders. After the  
25 determination is made that a youth is a middle offender, the court has  
26 the discretion to select sentencing option A, B, or C.

27 MIDDLE OFFENDER

28 OPTION A  
29 STANDARD RANGE

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

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

25 **OR**

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

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

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

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

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

8 OR

9 OPTION C

10 MANIFEST INJUSTICE

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

15 JUVENILE SENTENCING STANDARDS

16 SCHEDULE D-3

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

20 SERIOUS OFFENDER

21 OPTION A

22 STANDARD RANGE

23	Points	Institution Time
24	.....	.....
25	0-129	8-12 weeks
26	130-149	13-16 weeks
27	150-199	21-28 weeks
28	200-249	30-40 weeks
29	250-299	52-65 weeks
30	300-374	80-100 weeks
31	375+	103-129 weeks
32	All A+ Offenses	180-224 weeks

33 OR



**OPTION B**  
**MANIFEST INJUSTICE**

1  
2  
3 A disposition outside the standard range shall be determined and shall  
4 be comprised of confinement or community supervision including posting  
5 a probation bond or a combination thereof. When a judge finds a  
6 manifest injustice and imposes a sentence of confinement exceeding 30  
7 days, the court shall sentence the juvenile to a maximum term, and the  
8 provisions of RCW 13.40.030(2) shall be used to determine the range.

9 **Sec. 7.** RCW 46.55.113 and 1996 c 89 s 1 are each amended to read  
10 as follows:

11 Whenever the driver of a vehicle is arrested for a violation of RCW  
12 46.61.502 or 46.61.504, the arresting officer may take custody of the  
13 vehicle and provide for its prompt removal to a place of safety. In  
14 addition, a police officer may take custody of a vehicle and provide  
15 for its prompt removal to a place of safety under any of the following  
16 circumstances:

17 (1) Whenever a police officer finds a vehicle standing upon the  
18 roadway in violation of any of the provisions of RCW 46.61.560, the  
19 officer may provide for the removal of the vehicle or require the  
20 driver or other person in charge of the vehicle to move the vehicle to  
21 a position off the roadway;

22 (2) Whenever a police officer finds a vehicle unattended upon a  
23 highway where the vehicle constitutes an obstruction to traffic or  
24 jeopardizes public safety;

25 (3) Whenever a police officer finds an unattended vehicle at the  
26 scene of an accident or when the driver of a vehicle involved in an  
27 accident is physically or mentally incapable of deciding upon steps to  
28 be taken to protect his or her property;

29 (4) Whenever the driver of a vehicle is arrested and taken into  
30 custody by a police officer;

31 (5) Whenever a police officer discovers a vehicle that the officer  
32 determines to be a stolen vehicle;

33 (6) Whenever a vehicle without a special license plate, card, or  
34 decal indicating that the vehicle is being used to transport a disabled  
35 person under RCW 46.16.381 is parked in a stall or space clearly and  
36 conspicuously marked under RCW 46.61.581 which space is provided on  
37 private property without charge or on public property;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (34) RCW 46.61.500 relating to reckless driving;

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

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

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

22 (38) RCW 46.61.522 relating to vehicular assault;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (iii) Deferred prosecutions granted under RCW 10.05.120.

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

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

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

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

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

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

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

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

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

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

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

28 Any violation of this section is a gross misdemeanor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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