

CERTIFICATION OF ENROLLMENT

SENATE BILL 5374

56th Legislature
1999 Regular Session

Passed by the Senate April 24, 1999
YEAS 44 NAYS 0

President of the Senate

Passed by the House April 24, 1999
YEAS 95 NAYS 0

**Speaker of the
House of Representatives**

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5374** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5374

AS AMENDED BY THE HOUSE

Passed Legislature - 1999 Regular Session

State of Washington **56th Legislature** **1999 Regular Session**
By Senators Heavey and Johnson; by request of Department of Licensing
Read first time 01/21/1999. Referred to Committee on Transportation.

1 AN ACT Relating to corrective amendments to certain drivers'
2 licensing statutes; amending RCW 46.20.289, 46.20.342, 46.65.060,
3 46.20.500, 46.20.505, 46.20.510, 46.20.515, 46.20.041, 46.20.055,
4 46.20.100, and 46.20.117; and reenacting and amending RCW 46.20.308,
5 46.20.391, 46.52.100, and 46.61.5055.

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

7 **Sec. 1.** RCW 46.20.289 and 1995 c 219 s 2 are each amended to read
8 as follows:

9 The department shall suspend all driving privileges of a person
10 when the department receives notice from a court under RCW
11 46.63.070(5), 46.63.110(5), or 46.64.025 that the person has failed to
12 respond to a notice of traffic infraction, failed to appear at a
13 requested hearing, violated a written promise to appear in court, or
14 has failed to comply with the terms of a notice of traffic infraction
15 or citation, other than for a notice of a violation of RCW 46.55.105 or
16 a standing, stopping, or parking violation. A suspension under this
17 section takes effect thirty days after the date the department mails
18 notice of the suspension, and remains in effect until the department
19 has received a certificate from the court showing that the case has

1 been adjudicated, and until the person meets the requirements of RCW
2 46.20.311. A suspension under this section does not take effect if,
3 prior to the effective date of the suspension, the department receives
4 a certificate from the court showing that the case has been
5 adjudicated.

6 **Sec. 2.** RCW 46.20.308 and 1998 c 213 s 1, 1998 c 209 s 1, 1998 c
7 207 s 7, and 1998 c 41 s 4 are each reenacted and amended to read as
8 follows:

9 (1) Any person who operates a motor vehicle within this state is
10 deemed to have given consent, subject to the provisions of RCW
11 46.61.506, to a test or tests of his or her breath or blood for the
12 purpose of determining the alcohol concentration or presence of any
13 drug in his or her breath or blood if arrested for any offense where,
14 at the time of the arrest, the arresting officer has reasonable grounds
15 to believe the person had been driving or was in actual physical
16 control of a motor vehicle while under the influence of intoxicating
17 liquor or any drug or was in violation of RCW 46.61.503.

18 (2) The test or tests of breath shall be administered at the
19 direction of a law enforcement officer having reasonable grounds to
20 believe the person to have been driving or in actual physical control
21 of a motor vehicle within this state while under the influence of
22 intoxicating liquor or any drug or the person to have been driving or
23 in actual physical control of a motor vehicle while having alcohol in
24 a concentration in violation of RCW 46.61.503 in his or her system and
25 being under the age of twenty-one. However, in those instances where
26 the person is incapable due to physical injury, physical incapacity, or
27 other physical limitation, of providing a breath sample or where the
28 person is being treated in a hospital, clinic, doctor's office,
29 emergency medical vehicle, ambulance, or other similar facility in
30 which a breath testing instrument is not present or where the officer
31 has reasonable grounds to believe that the person is under the
32 influence of a drug, a blood test shall be administered by a qualified
33 person as provided in RCW 46.61.506(4). The officer shall inform the
34 person of his or her right to refuse the breath or blood test, and of
35 his or her right to have additional tests administered by any qualified
36 person of his or her choosing as provided in RCW 46.61.506. The
37 officer shall warn the driver that:

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

3 (b) His or her license, permit, or privilege to drive will be
4 suspended, revoked, or denied if the test is administered and the test
5 indicates the alcohol concentration of the person's breath or blood is
6 0.08 or more, in the case of a person age twenty-one or over, or in
7 violation of RCW 46.61.502, 46.61.503, or 46.61.504 in the case of a
8 person under age twenty-one; and

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

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

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

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

31 (6) If, after arrest and after the other applicable conditions and
32 requirements of this section have been satisfied, a test or tests of
33 the person's blood or breath is administered and the test results
34 indicate that the alcohol concentration of the person's breath or blood
35 is 0.08 or more if the person is age twenty-one or over, or is in
36 violation of RCW 46.61.502, 46.61.503, or 46.61.504 if the person is
37 under the age of twenty-one, or the person refuses to submit to a test,
38 the arresting officer or other law enforcement officer at whose

1 direction any test has been given, or the department, where applicable,
2 if the arrest results in a test of the person's blood, shall:

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

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

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

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

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

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

31 (ii) That after receipt of the warnings required by subsection (2)
32 of this section the person refused to submit to a test of his or her
33 blood or breath, or a test was administered and the results indicated
34 that the alcohol concentration of the person's breath or blood was 0.08
35 or more if the person is age twenty-one or over, or was in violation of
36 RCW 46.61.502, 46.61.503, or 46.61.504 if the person is under the age
37 of twenty-one; and

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

1 (7) The department of licensing, upon the receipt of a sworn report
2 or report under a declaration authorized by RCW 9A.72.085 under
3 subsection (6)(e) of this section, shall suspend, revoke, or deny the
4 person's license, permit, or privilege to drive or any nonresident
5 operating privilege, as provided in RCW 46.20.3101, such suspension,
6 revocation, or denial to be effective beginning sixty days from the
7 date of arrest or from the date notice has been given in the event
8 notice is given by the department following a blood test, or when
9 sustained at a hearing pursuant to subsection (8) of this section,
10 whichever occurs first.

11 (8) A person receiving notification under subsection (6)(b) of this
12 section may, within thirty days after the notice has been given,
13 request in writing a formal hearing before the department. The person
14 shall pay a fee of one hundred dollars as part of the request. If the
15 request is mailed, it must be postmarked within thirty days after
16 receipt of the notification. Upon timely receipt of such a request for
17 a formal hearing, including receipt of the required one hundred dollar
18 fee, the department shall afford the person an opportunity for a
19 hearing. Except as otherwise provided in this section, the hearing is
20 subject to and shall be scheduled and conducted in accordance with RCW
21 46.20.329 and 46.20.332. The hearing shall be conducted in the county
22 of the arrest, except that all or part of the hearing may, at the
23 discretion of the department, be conducted by telephone or other
24 electronic means. The hearing shall be held within sixty days
25 following the arrest or following the date notice has been given in the
26 event notice is given by the department following a blood test, unless
27 otherwise agreed to by the department and the person, in which case the
28 action by the department shall be stayed, and any valid temporary
29 license marked under subsection (6)(c) of this section extended, if the
30 person is otherwise eligible for licensing. For the purposes of this
31 section, the scope of the hearing shall cover the issues of whether a
32 law enforcement officer had reasonable grounds to believe the person
33 had been driving or was in actual physical control of a motor vehicle
34 within this state while under the influence of intoxicating liquor or
35 any drug or had been driving or was in actual physical control of a
36 motor vehicle within this state while having alcohol in his or her
37 system in a concentration in violation of RCW 46.61.503 and was under
38 the age of twenty-one, whether the person was placed under arrest, and
39 (a) whether the person refused to submit to the test or tests upon

1 request of the officer after having been informed that such refusal
2 would result in the revocation of the person's license, permit, or
3 privilege to drive, or (b) if a test or tests were administered,
4 whether the applicable requirements of this section were satisfied
5 before the administration of the test or tests, whether the person
6 submitted to the test or tests, or whether a test was administered
7 without express consent as permitted under this section, and whether
8 the test or tests indicated that the alcohol concentration of the
9 person's breath or blood was 0.08 or more if the person was age twenty-
10 one or over at the time of the arrest, or was in violation of RCW
11 46.61.502, 46.61.503, or 46.61.504 if the person was under the age of
12 twenty-one at the time of the arrest. The sworn report or report under
13 a declaration authorized by RCW 9A.72.085 submitted by a law
14 enforcement officer is prima facie evidence that the officer had
15 reasonable grounds to believe the person had been driving or was in
16 actual physical control of a motor vehicle within this state while
17 under the influence of intoxicating liquor or drugs, or both, or the
18 person had been driving or was in actual physical control of a motor
19 vehicle within this state while having alcohol in his or her system in
20 a concentration in violation of RCW 46.61.503 and was under the age of
21 twenty-one and that the officer complied with the requirements of this
22 section.

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

38 (9) If the suspension, revocation, or denial is sustained after
39 such a hearing, the person whose license, privilege, or permit is

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

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

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

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

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

29 **Sec. 3.** RCW 46.20.342 and 1993 c 501 s 6 are each amended to read
30 as follows:

31 (1) It is unlawful for any person to drive a motor vehicle in this
32 state while that person is in a suspended or revoked status or when his
33 or her privilege to drive is suspended or revoked in this or any other
34 state. Any person who has a valid Washington driver's license is not
35 guilty of a violation of this section.

36 (a) A person found to be an habitual offender under chapter 46.65
37 RCW, who violates this section while an order of revocation issued
38 under chapter 46.65 RCW prohibiting such operation is in effect, is

1 guilty of driving while license suspended or revoked in the first
2 degree, a gross misdemeanor. Upon the first such conviction, the
3 person shall be punished by imprisonment for not less than ten days.
4 Upon the second conviction, the person shall be punished by
5 imprisonment for not less than ninety days. Upon the third or
6 subsequent conviction, the person shall be punished by imprisonment for
7 not less than one hundred eighty days. If the person is also convicted
8 of the offense defined in RCW 46.61.502 or 46.61.504, when both
9 convictions arise from the same event, the minimum sentence of
10 confinement shall be not less than ninety days. The minimum sentence
11 of confinement required shall not be suspended or deferred. A
12 conviction under this subsection does not prevent a person from
13 petitioning for reinstatement as provided by RCW 46.65.080.

14 (b) A person who violates this section while an order of suspension
15 or revocation prohibiting such operation is in effect and while the
16 person is not eligible to reinstate his or her driver's license or
17 driving privilege, other than for a suspension for the reasons
18 described in (c) of this subsection, is guilty of driving while license
19 suspended or revoked in the second degree, a gross misdemeanor. This
20 subsection applies when a person's driver's license or driving
21 privilege has been suspended or revoked by reason of:

22 (i) A conviction of a felony in the commission of which a motor
23 vehicle was used;

24 (ii) A previous conviction under this section;

25 (iii) A notice received by the department from a court or diversion
26 unit as provided by RCW 46.20.265, relating to a minor who has
27 committed, or who has entered a diversion unit concerning an offense
28 relating to alcohol, legend drugs, controlled substances, or imitation
29 controlled substances;

30 (iv) A conviction of RCW 46.20.410, relating to the violation of
31 restrictions of an occupational driver's license;

32 (v) A conviction of RCW 46.20.420, relating to the operation of a
33 motor vehicle with a suspended or revoked license;

34 (vi) A conviction of RCW 46.52.020, relating to duty in case of
35 injury to or death of a person or damage to an attended vehicle;

36 (vii) A conviction of RCW 46.61.024, relating to attempting to
37 elude pursuing police vehicles;

38 (viii) A conviction of RCW 46.61.500, relating to reckless driving;

1 (ix) A conviction of RCW 46.61.502 or 46.61.504, relating to a
2 person under the influence of intoxicating liquor or drugs;
3 (x) A conviction of RCW 46.61.520, relating to vehicular homicide;
4 (xi) A conviction of RCW 46.61.522, relating to vehicular assault;
5 (xii) A conviction of RCW 46.61.527(4), relating to reckless
6 endangerment of roadway workers;
7 (xiii) A conviction of RCW 46.61.530, relating to racing of
8 vehicles on highways;
9 (~~(xiii)~~) (xiv) A conviction of RCW 46.61.685, relating to leaving
10 children in an unattended vehicle with motor running;
11 (~~(xiv)~~) (xv) A conviction of RCW 46.64.048, relating to
12 attempting, aiding, abetting, coercing, and committing crimes; (~~or~~
13 ~~(xv)~~) (xvi) An administrative action taken by the department under
14 chapter 46.20 RCW; or
15 (xvii) A conviction of a local law, ordinance, regulation, or
16 resolution of a political subdivision of this state, the federal
17 government, or any other state, of an offense substantially similar to
18 a violation included in this subsection.
19 (c) A person who violates this section when his or her driver's
20 license or driving privilege is, at the time of the violation,
21 suspended or revoked solely because (i) the person must furnish proof
22 of satisfactory progress in a required alcoholism or drug treatment
23 program, (ii) the person must furnish proof of financial responsibility
24 for the future as provided by chapter 46.29 RCW, (iii) the person has
25 failed to comply with the provisions of chapter 46.29 RCW relating to
26 uninsured accidents, (iv) the person has failed to respond to a notice
27 of traffic infraction, failed to appear at a requested hearing,
28 violated a written promise to appear in court, or has failed to comply
29 with the terms of a notice of traffic infraction or citation, as
30 provided in RCW 46.20.289, (v) the person has committed an offense in
31 another state that, if committed in this state, would not be grounds
32 for the suspension or revocation of the person's driver's license, or
33 (vi) the person has been suspended or revoked by reason of one or more
34 of the items listed in (b) of this subsection, but was eligible to
35 reinstate his or her driver's license or driving privilege at the time
36 of the violation, or any combination of (i) through (vi), is guilty of
37 driving while license suspended or revoked in the third degree, a
38 misdemeanor.

1 (2) Upon receiving a record of conviction of any person or upon
2 receiving an order by any juvenile court or any duly authorized court
3 officer of the conviction of any juvenile under this section, the
4 department shall:

5 (a) For a conviction of driving while suspended or revoked in the
6 first degree, as provided by subsection (1)(a) of this section, extend
7 the period of administrative revocation imposed under chapter 46.65 RCW
8 for an additional period of one year from and after the date the person
9 would otherwise have been entitled to apply for a new license or have
10 his or her driving privilege restored; or

11 (b) For a conviction of driving while suspended or revoked in the
12 second degree, as provided by subsection (1)(b) of this section, not
13 issue a new license or restore the driving privilege for an additional
14 period of one year from and after the date the person would otherwise
15 have been entitled to apply for a new license or have his or her
16 driving privilege restored; or

17 (c) Not extend the period of suspension or revocation if the
18 conviction was under subsection (1)(c) of this section. If the
19 conviction was under subsection (1) (a) or (b) of this section and the
20 court recommends against the extension and the convicted person has
21 obtained a valid driver's license, the period of suspension or
22 revocation shall not be extended.

23 **Sec. 4.** RCW 46.20.391 and 1998 c 209 s 4 and 1998 c 207 s 9 are
24 each reenacted and amended to read as follows:

25 (1) Any person licensed under this chapter who is convicted of an
26 offense relating to motor vehicles for which suspension or revocation
27 of the driver's license is mandatory, other than vehicular homicide or
28 vehicular assault, or who has had his or her license suspended under
29 RCW 46.20.3101 (2)(a) or (3)(a), may submit to the department an
30 application for an occupational driver's license. The department, upon
31 receipt of the prescribed fee and upon determining that the petitioner
32 is engaged in an occupation or trade that makes it essential that the
33 petitioner operate a motor vehicle, may issue an occupational driver's
34 license and may set definite restrictions as provided in RCW 46.20.394.
35 No person may petition for, and the department shall not issue, an
36 occupational driver's license that is effective during the first thirty
37 days of any suspension or revocation imposed either for a violation of
38 RCW 46.61.502 or 46.61.504 or (~~pursuant to~~) under RCW 46.20.3101

1 (2)(a) or (3)(a), or for both a violation of RCW 46.61.502 or 46.61.504
2 and under RCW 46.20.3101 (2)(a) or (3)(a) where the action arises from
3 the same incident. A person aggrieved by the decision of the
4 department on the application for an occupational driver's license may
5 request a hearing as provided by rule of the department.

6 (2) An applicant for an occupational driver's license is eligible
7 to receive such license only if:

8 (a) Within one year immediately preceding the date of the offense
9 that gave rise to the present conviction, the applicant has not
10 committed any offense relating to motor vehicles for which suspension
11 or revocation of a driver's license is mandatory; and

12 (b) Within seven years immediately preceding the date of the
13 offense that gave rise to the present conviction or incident, the
14 applicant has not committed any of the following offenses: (i) Driving
15 or being in actual physical control of a motor vehicle while under the
16 influence of intoxicating liquor; (ii) vehicular homicide under RCW
17 46.61.520; or (iii) vehicular assault under RCW 46.61.522; and

18 (c) The applicant is engaged in an occupation or trade that makes
19 it essential that he or she operate a motor vehicle; and

20 (d) The applicant files satisfactory proof of financial
21 responsibility (~~((pursuant to))~~) under chapter 46.29 RCW.

22 (3) The director shall cancel an occupational driver's license upon
23 receipt of notice that the holder thereof has been convicted of
24 operating a motor vehicle in violation of its restrictions, or of
25 (~~((an))~~) a separate offense that (~~((pursuant to))~~) under chapter 46.20 RCW
26 would warrant suspension or revocation of a regular driver's license.
27 The cancellation is effective as of the date of the conviction, and
28 continues with the same force and effect as any suspension or
29 revocation under this title.

30 **Sec. 5.** RCW 46.52.100 and 1998 c 204 s 1 and 1998 c 165 s 9 are
31 each reenacted and amended to read as follows:

32 Every district court, municipal court, and clerk of superior court
33 shall keep or cause to be kept a record of every traffic complaint,
34 traffic citation, notice of infraction, or other legal form of traffic
35 charge deposited with or presented to the court or a traffic violations
36 bureau, and shall keep a record of every official action by the court
37 or its traffic violations bureau in reference thereto, including but
38 not limited to a record of every conviction, forfeiture of bail,

1 judgment of acquittal, finding that a traffic infraction has been
2 committed, dismissal of a notice of infraction, and the amount of fine,
3 forfeiture, or penalty resulting from every traffic complaint,
4 citation, or notice of infraction deposited with or presented to the
5 district court, municipal court, superior court, or traffic violations
6 bureau. In the case of a record of a conviction for a violation of RCW
7 46.61.502 or 46.61.504, and notwithstanding any other provision of law,
8 the record shall be maintained by the court permanently.

9 The Monday following the conviction, forfeiture of bail, or finding
10 that a traffic infraction was committed for violation of any provisions
11 of this chapter or other law regulating the operating of vehicles on
12 highways, every magistrate of the court or clerk of the court of record
13 in which such conviction was had, bail was forfeited, or the finding
14 made shall prepare and immediately forward to the director of licensing
15 at Olympia an abstract of the record of the court covering the case(~~(7~~
16 ~~which abstract must be certified by the person so required to prepare~~
17 ~~the same to be true and correct)~~). Report need not be made of any
18 finding involving the illegal parking or standing of a vehicle.

19 The abstract must be made upon a form or forms furnished by the
20 director and shall include the name and address of the party charged,
21 the number, if any, of the party's driver's or chauffeur's license, the
22 registration number of the vehicle involved if required by the
23 director, the nature of the offense, the date of hearing, the plea, the
24 judgment, whether the offense was an alcohol-related offense as defined
25 in RCW 46.01.260(2), whether the incident that gave rise to the offense
26 charged resulted in any fatality, whether bail forfeited, whether the
27 determination that a traffic infraction was committed was contested,
28 and the amount of the fine, forfeiture, or penalty as the case may be.

29 Every court of record shall also forward a like report to the
30 director upon the conviction of any person of a felony in the
31 commission of which a vehicle was used.

32 The failure of any such judicial officer to comply with any of the
33 requirements of this section shall constitute misconduct in office and
34 shall be grounds for removal therefrom.

35 The director shall keep all abstracts received hereunder at the
36 director's office in Olympia and the same shall be open to public
37 inspection during reasonable business hours.

38 Venue in all district courts shall be before one of the two nearest
39 district judges in incorporated cities and towns nearest to the point

1 the violation allegedly occurred: PROVIDED, That in counties with
2 populations of one hundred twenty-five thousand or more such cases may
3 be tried in the county seat at the request of the defendant.

4 It shall be the duty of the officer, prosecuting attorney, or city
5 attorney signing the charge or information in any case involving a
6 charge of driving under the influence of intoxicating liquor or any
7 drug immediately to make request to the director for an abstract of
8 convictions and forfeitures which the director shall furnish.

9 **Sec. 6.** RCW 46.61.5055 and 1998 c 215 s 1, 1998 c 214 s 1, 1998 c
10 211 s 1, 1998 c 210 s 4, 1998 c 207 s 1, and 1998 c 206 s 1 are each
11 reenacted and amended to read as follows:

12 (1) A person who is convicted of a violation of RCW 46.61.502 or
13 46.61.504 and who has no prior offense within seven years shall be
14 punished as follows:

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

19 (i) By imprisonment for not less than one day nor more than one
20 year. Twenty-four consecutive hours of the imprisonment may not be
21 suspended or deferred unless the court finds that the imposition of
22 this mandatory minimum sentence would impose a substantial risk to the
23 offender's physical or mental well-being. Whenever the mandatory
24 minimum sentence is suspended or deferred, the court shall state in
25 writing the reason for granting the suspension or deferral and the
26 facts upon which the suspension or deferral is based. In lieu of the
27 mandatory minimum term of imprisonment required under this subsection
28 (1)(a)(i), the court may order not less than fifteen days of electronic
29 home monitoring. The offender shall pay the cost of electronic home
30 monitoring. The county or municipality in which the penalty is being
31 imposed shall determine the cost. The court may also require the
32 offender's electronic home monitoring device to include an alcohol
33 detection breathalyzer, and the court may restrict the amount of
34 alcohol the offender may consume during the time the offender is on
35 electronic home monitoring; and

36 (ii) By a fine of not less than three hundred fifty dollars nor
37 more than five thousand dollars. Three hundred fifty dollars of the

1 fine may not be suspended or deferred unless the court finds the
2 offender to be indigent; ((and

3 ~~(iii) By suspension of the offender's license or permit to drive,~~
4 ~~or suspension of any nonresident privilege to drive, for a period of~~
5 ~~ninety days. The period of license, permit, or privilege suspension~~
6 ~~may not be suspended. The court shall notify the department of~~
7 ~~licensing of the conviction, and upon receiving notification of the~~
8 ~~conviction the department shall suspend the offender's license, permit,~~
9 ~~or privilege;)) or~~

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

14 (i) By imprisonment for not less than two days nor more than one
15 year. Two consecutive days of the imprisonment may not be suspended or
16 deferred unless the court finds that the imposition of this mandatory
17 minimum sentence would impose a substantial risk to the offender's
18 physical or mental well-being. Whenever the mandatory minimum sentence
19 is suspended or deferred, the court shall state in writing the reason
20 for granting the suspension or deferral and the facts upon which the
21 suspension or deferral is based. In lieu of the mandatory minimum term
22 of imprisonment required under this subsection (1)(b)(i), the court may
23 order not less than thirty days of electronic home monitoring. The
24 offender shall pay the cost of electronic home monitoring. The county
25 or municipality in which the penalty is being imposed shall determine
26 the cost. The court may also require the offender's electronic home
27 monitoring device to include an alcohol detection breathalyzer, and the
28 court may restrict the amount of alcohol the offender may consume
29 during the time the offender is on electronic home monitoring; and

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

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

1 the department shall suspend the offender's license, permit, or
2 privilege; and

3 (iv)) By a court-ordered restriction under RCW 46.20.720.

4 (2) A person who is convicted of a violation of RCW 46.61.502 or
5 46.61.504 and who has one prior offense within seven years shall be
6 punished as follows:

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

11 (i) By imprisonment for not less than thirty days nor more than one
12 year and sixty days of electronic home monitoring. The offender shall
13 pay for the cost of the electronic monitoring. The county or
14 municipality where the penalty is being imposed shall determine the
15 cost. The court may also require the offender's electronic home
16 monitoring device include an alcohol detection breathalyzer, and may
17 restrict the amount of alcohol the offender may consume during the time
18 the offender is on electronic home monitoring. Thirty days of
19 imprisonment and sixty days of electronic home monitoring may not be
20 suspended or deferred unless the court finds that the imposition of
21 this mandatory minimum sentence would impose a substantial risk to the
22 offender's physical or mental well-being. Whenever the mandatory
23 minimum sentence is suspended or deferred, the court shall state in
24 writing the reason for granting the suspension or deferral and the
25 facts upon which the suspension or deferral is based; and

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

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

37 (iv)) By a court-ordered restriction under RCW 46.20.720; or

38 (b) In the case of a person whose alcohol concentration was at
39 least 0.15, or for whom by reason of the person's refusal to take a

1 test offered pursuant to RCW 46.20.308 there is no test result
2 indicating the person's alcohol concentration:

3 (i) By imprisonment for not less than forty-five days nor more than
4 one year and ninety days of electronic home monitoring. The offender
5 shall pay for the cost of the electronic monitoring. The county or
6 municipality where the penalty is being imposed shall determine the
7 cost. The court may also require the offender's electronic home
8 monitoring device include an alcohol detection breathalyzer, and may
9 restrict the amount of alcohol the offender may consume during the time
10 the offender is on electronic home monitoring. Forty-five days of
11 imprisonment and ninety days of electronic home monitoring 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 seven hundred fifty dollars nor
19 more than five thousand dollars. Seven 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 revocation of the offender's license or permit to drive,
23 or suspension of any nonresident privilege to drive, for a period of
24 nine hundred days. The period of license, permit, or privilege
25 revocation may not be suspended. The court shall notify the department
26 of licensing of the conviction, and upon receiving notification of the
27 conviction the department shall revoke the offender's license, permit,
28 or privilege; and~~

29 ~~(iv))~~) By a court-ordered restriction under RCW 46.20.720.

30 (3) A person who is convicted of a violation of RCW 46.61.502 or
31 46.61.504 and who has two or more prior offenses within seven years
32 shall be punished as follows:

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

37 (i) By imprisonment for not less than ninety days nor more than one
38 year and one hundred twenty days of electronic home monitoring. The
39 offender shall pay for the cost of the electronic monitoring. The

1 county or municipality where the penalty is being imposed shall
2 determine the cost. The court may also require the offender's
3 electronic home monitoring device include an alcohol detection
4 breathalyzer, and may restrict the amount of alcohol the offender may
5 consume during the time the offender is on electronic home monitoring.
6 Ninety days of imprisonment and one hundred twenty days of electronic
7 home monitoring may not be suspended or deferred unless the court finds
8 that the imposition of this mandatory minimum sentence would impose a
9 substantial risk to the offender's physical or mental well-being.
10 Whenever the mandatory minimum sentence is suspended or deferred, the
11 court shall state in writing the reason for granting the suspension or
12 deferral and the facts upon which the suspension or deferral is based;
13 and

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

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

25 ~~(iv)))~~ By a court-ordered restriction under RCW 46.20.720; or

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

30 (i) By imprisonment for not less than one hundred twenty days nor
31 more than one year and one hundred fifty days of electronic home
32 monitoring. The offender shall pay for the cost of the electronic
33 monitoring. The county or municipality where the penalty is being
34 imposed shall determine the cost. The court may also require the
35 offender's electronic home monitoring device include an alcohol
36 detection breathalyzer, and may restrict the amount of alcohol the
37 offender may consume during the time the offender is on electronic home
38 monitoring. One hundred twenty days of imprisonment and one hundred
39 fifty days of electronic home monitoring may not be suspended or

1 deferred unless the court finds that the imposition of this mandatory
2 minimum sentence would impose a substantial risk to the offender's
3 physical or mental well-being. Whenever the mandatory minimum sentence
4 is suspended or deferred, the court shall state in writing the reason
5 for granting the suspension or deferral and the facts upon which the
6 suspension or deferral is based; and

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

11 ~~(iii) ((By revocation of the offender's license or permit to drive,
12 or suspension of any nonresident privilege to drive, for a period of
13 four years. The period of license, permit, or privilege revocation may
14 not be suspended. The court shall notify the department of licensing
15 of the conviction, and upon receiving notification of the conviction
16 the department shall revoke the offender's license, permit, or
17 privilege; and~~

18 ~~(iv)))~~ By a court-ordered restriction under RCW 46.20.720.

19 (4) In exercising its discretion in setting penalties within the
20 limits allowed by this section, the court shall particularly consider
21 the following:

22 (a) Whether the person's driving at the time of the offense was
23 responsible for injury or damage to another or another's property; and

24 (b) Whether the person was driving or in physical control of a
25 vehicle with one or more passengers at the time of the offense.

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

28 (6) The license, permit, or nonresident privilege of a person
29 convicted of driving or being in physical control of a motor vehicle
30 while under the influence of intoxicating liquor or drugs must:

31 (a) If the person's alcohol concentration was less than 0.15, or if
32 for reasons other than the person's refusal to take a test offered
33 under RCW 46.20.308 there is no test result indicating the person's
34 alcohol concentration:

35 (i) Where there has been no prior offense within seven years, be
36 suspended or denied by the department for ninety days;

37 (ii) Where there has been one prior offense within seven years, be
38 revoked or denied by the department for two years; or

1 (iii) Where there have been two or more prior offenses within seven
2 years, be revoked or denied by the department for three years;

3 (b) If the person's alcohol concentration was at least 0.15, or if
4 by reason of the person's refusal to take a test offered under RCW
5 46.20.308 there is no test result indicating the person's alcohol
6 concentration:

7 (i) Where there has been no prior offense within seven years, be
8 revoked or denied by the department for one year;

9 (ii) Where there has been one prior offense within seven years, be
10 revoked or denied by the department for nine hundred days; or

11 (iii) Where there have been two or more prior offenses within seven
12 years, be revoked or denied by the department for four years.

13 For purposes of this subsection, the department shall refer to the
14 driver's record maintained under RCW 46.52.120 when determining the
15 existence of prior offenses.

16 (7) After expiration of any period of suspension ((or)),
17 revocation, or denial of the offender's license, permit, or privilege
18 to drive required by this section, the department shall place the
19 offender's driving privilege in probationary status pursuant to RCW
20 46.20.355.

21 ((+7)) (8)(a) In addition to any nonsuspendable and nondeferrable
22 jail sentence required by this section, whenever the court imposes less
23 than one year in jail, the court shall also suspend but shall not defer
24 a period of confinement for a period not exceeding five years. The
25 court shall impose conditions of probation that include: (i) Not
26 driving a motor vehicle within this state without a valid license to
27 drive and proof of financial responsibility for the future; (ii) not
28 driving a motor vehicle within this state while having an alcohol
29 concentration of 0.08 or more within two hours after driving; and (iii)
30 not refusing to submit to a test of his or her breath or blood to
31 determine alcohol concentration upon request of a law enforcement
32 officer who has reasonable grounds to believe the person was driving or
33 was in actual physical control of a motor vehicle within this state
34 while under the influence of intoxicating liquor. The court may impose
35 conditions of probation that include nonrepetition, installation of an
36 ignition interlock or other biological or technical device on the
37 probationer's motor vehicle, alcohol or drug treatment, supervised
38 probation, or other conditions that may be appropriate. The sentence

1 may be imposed in whole or in part upon violation of a condition of
2 probation during the suspension period.

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

7 (c) For each incident involving a violation of a mandatory
8 condition of probation imposed under this subsection, the license,
9 permit, or privilege to drive of the person shall be suspended by the
10 court for thirty days or, if such license, permit, or privilege to
11 drive already is suspended, revoked, or denied at the time the finding
12 of probation violation is made, the suspension, revocation, or denial
13 then in effect shall be extended by thirty days. The court shall
14 notify the department of any suspension, revocation, or denial or any
15 extension of a suspension, revocation, or denial imposed under this
16 subsection.

17 (~~((8))~~) (9) For purposes of this section:

18 (a) "Electronic home monitoring" shall not be considered
19 confinement as defined in RCW 9.94A.030;

20 (b) A "prior offense" means any of the following:

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

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

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

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

29 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or
30 9A.36.050 or an equivalent local ordinance, if the conviction is the
31 result of a charge that was originally filed as a violation of RCW
32 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
33 46.61.520 or 46.61.522;

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

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

1 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
2 prosecution for a violation of RCW 46.61.5249, or an equivalent local
3 ordinance, if the charge under which the deferred prosecution was
4 granted was originally filed as a violation of RCW 46.61.502 or
5 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
6 46.61.522; and

7 (c) "Within seven years" means that the arrest for a prior offense
8 occurred within seven years of the arrest for the current offense.

9 **Sec. 7.** RCW 46.65.060 and 1985 c 101 s 2 are each amended to read
10 as follows:

11 If the department finds that such person is not an habitual
12 offender under this chapter, the proceeding shall be dismissed, but if
13 the department finds that such person is an habitual offender, the
14 department shall revoke the operator's license for a period of ((five))
15 seven years: PROVIDED, That the department may stay the date of the
16 revocation if it finds that the traffic offenses upon which it is based
17 were caused by or are the result of alcoholism and/or drug addiction as
18 evaluated by a program approved by the department of social and health
19 services, and that since his or her last offense he or she has
20 undertaken and followed a course of treatment for alcoholism and/or
21 drug treatment in a program approved by the department of social and
22 health services; such stay shall be subject to terms and conditions as
23 are deemed reasonable by the department. Said stay shall continue as
24 long as there is no further conviction for any of the offenses listed
25 in RCW 46.65.020(1). Upon a subsequent conviction for any offense
26 listed in RCW 46.65.020(1) or violation of any of the terms or
27 conditions of the original stay order, the stay shall be removed and
28 the department shall revoke the operator's license for a period of
29 ((five)) seven years.

30 **Sec. 8.** RCW 46.20.500 and 1997 c 328 s 3 are each amended to read
31 as follows:

32 No person may drive a motorcycle or a motor-driven cycle unless
33 such person has a valid driver's license specially endorsed by the
34 director to enable the holder to drive such vehicles(~~(, nor may a~~
35 ~~person drive a motorcycle of a larger engine displacement than that~~
36 ~~authorized by such special endorsement or by an instruction permit for~~
37 ~~such category)). However, a person sixteen years of age or older,~~

1 holding a valid driver's license of any class issued by the state of
2 the person's residence, may operate a moped without taking any special
3 examination for the operation of a moped. No driver's license is
4 required for operation of an electric-assisted bicycle if the operator
5 is at least sixteen years of age. Persons under sixteen years of age
6 may not operate an electric-assisted bicycle.

7 **Sec. 9.** RCW 46.20.505 and 1993 c 115 s 1 are each amended to read
8 as follows:

9 Every person applying for a special endorsement (~~((or a new category~~
10 ~~of endorsement))~~) of a driver's license authorizing such person to drive
11 a motorcycle or a motor-driven cycle shall pay an examination fee of
12 two dollars which is not refundable. In addition, the endorsement fee
13 for the initial (~~((or new category))~~) motorcycle endorsement shall be six
14 dollars and the subsequent renewal endorsement fee shall be fourteen
15 dollars. The initial (~~((or new category))~~) and renewal endorsement fees
16 shall be deposited in the motorcycle safety education account of the
17 highway safety fund.

18 **Sec. 10.** RCW 46.20.510 and 1999 c 6 s 25 are each amended to read
19 as follows:

20 (1) (~~**Categories.**— There are three categories for the special~~
21 ~~motorcycle endorsement of a driver's license. Category one is for~~
22 ~~motorcycles or motor-driven cycles having an engine displacement of one~~
23 ~~hundred fifty cubic centimeters or less. Category two is for~~
24 ~~motorcycles having an engine displacement of five hundred cubic~~
25 ~~centimeters or less. Category three includes categories one and two,~~
26 ~~and is for motorcycles having an engine displacement of five hundred~~
27 ~~one cubic centimeters or more.~~

28 (2)) **Motorcycle instruction permit.** A person holding a valid
29 driver's license who wishes to learn to ride a motorcycle (~~((or obtain~~
30 ~~an endorsement of a larger category))~~) may apply for a motorcycle
31 instruction permit. The department may issue a motorcycle instruction
32 permit after the applicant has successfully passed all parts of the
33 motorcycle examination other than the driving test. The director shall
34 collect a two dollar and fifty cent fee for the motorcycle instruction
35 permit or renewal, and deposit the fee in the motorcycle safety
36 education account of the highway safety fund.

1 (~~(3)~~) (2) **Effect of motorcycle instruction permit.** A person
2 holding a motorcycle instruction permit may drive a motorcycle upon the
3 public highways if the person has immediate possession of the permit
4 and a valid driver's license (~~(with current endorsement, if any)~~). An
5 individual with a motorcyclist's instruction permit may not carry
6 passengers(~~(7)~~) and may not operate a motorcycle during the hours of
7 darkness (~~(or on a fully controlled, limited access facility, and shall~~
8 ~~be under the direct visual supervision of a person with a motorcycle~~
9 ~~endorsement of the appropriate category and at least five years' riding~~
10 ~~experience)~~).

11 (~~(4)~~) (3) **Term of motorcycle instruction permit.** A motorcycle
12 instruction permit is valid for ninety days from the date of issue.

13 (a) The department may issue one additional ninety-day permit.

14 (b) The department may issue a third motorcycle instruction permit
15 if it finds after an investigation that the permittee is diligently
16 seeking to improve driving proficiency.

17 **Sec. 11.** RCW 46.20.515 and 1982 c 77 s 4 are each amended to read
18 as follows:

19 The motorcycle endorsement examination (~~(for each displacement~~
20 ~~category shall)~~) must emphasize maneuvers necessary for on-street
21 operation, including emergency braking and turning as may be required
22 to avoid an impending collision.

23 **Sec. 12.** RCW 46.20.041 and 1999 c 6 s 9 are each amended to read
24 as follows:

25 (1) If the department has reason to believe that a person is
26 suffering from a physical or mental disability or disease that may
27 affect that person's ability to drive a motor vehicle, the department
28 must evaluate whether the person is able to safely drive a motor
29 vehicle. As part of the evaluation:

30 (a) The department shall permit the person to demonstrate
31 personally that notwithstanding the disability or disease he or she is
32 able to safely drive a motor vehicle.

33 (b) The department may require the person to obtain a statement
34 signed by a licensed physician or other proper authority designated by
35 the department certifying the person's condition.

36 (i) The (~~(certificate)~~) statement is for the confidential use of
37 the director and the chief of the Washington state patrol and for other

1 public officials designated by law. It is exempt from public
2 inspection and copying notwithstanding chapter 42.17 RCW.

3 (ii) The ~~((certificate))~~ statement may not be offered as evidence
4 in any court except when appeal is taken from the order of the director
5 canceling or withholding a person's driving privilege. However, the
6 department may make the ~~((certificate))~~ statement available to the
7 director of the department of retirement systems for use in determining
8 eligibility for or continuance of disability benefits and it may be
9 offered and admitted as evidence in any administrative proceeding or
10 court action concerning the disability benefits.

11 (2) On the basis of the evaluation the department may:

12 (a) Issue or renew a driver's license to the person without
13 restrictions;

14 (b) Cancel or withhold the driving privilege from the person; or

15 (c) Issue a restricted driver's license to the person. The
16 restrictions must be suitable to the licensee's driving ability. The
17 restrictions may include:

18 (i) Special mechanical control devices on the motor vehicle
19 operated by the licensee;

20 (ii) Limitations on the type of motor vehicle that the licensee may
21 operate; or

22 (iii) Other restrictions determined by the department to be
23 appropriate to assure the licensee's safe operation of a motor vehicle.

24 (3) The department may either issue a special restricted license or
25 may set forth the restrictions upon the usual license form.

26 (4) The department may suspend or revoke a restricted license upon
27 receiving satisfactory evidence of any violation of the restrictions.
28 In that event the licensee is entitled to a driver improvement
29 interview and a hearing as provided by RCW 46.20.322 or 46.20.328.

30 (5) Operating a motor vehicle in violation of the restrictions
31 imposed in a restricted license is a traffic infraction.

32 **Sec. 13.** RCW 46.20.055 and 1999 c 6 s 11 are each amended to read
33 as follows:

34 (1) **Driver's instruction permit.** ~~((a) A person who is at least
35 fifteen and one-half years of age may apply to the department for a
36 driver's instruction permit.))~~ The department may issue a driver's
37 instruction permit ~~((after the))~~ with a photograph to an applicant who
38 has successfully passed all parts of the examination other than the

1 driving test, provided the information required by RCW 46.20.091,
2 ~~((and))~~ paid a five-dollar fee~~((-))~~, and meets the following
3 requirements:

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

5 ~~((The department may issue a driver's instruction permit to an~~
6 ~~applicant who))~~ Is at least fifteen years of age ((if he or she)) and:

7 (i) Has submitted a proper application; and

8 (ii) Is enrolled in a traffic safety education program approved and
9 accredited by the superintendent of public instruction that includes
10 practice driving.

11 (2) **Nonphoto permit fee.** An applicant who meets the requirements
12 of subsection (1) of this section other than payment of the five-dollar
13 fee may obtain a driver's instruction permit without a photograph by
14 paying a fee of four dollars.

15 (3) **Waiver of written examination for instruction permit.** The
16 department may waive the written examination, if, at the time of
17 application, an applicant is enrolled in:

18 (a) A traffic safety education course as defined by RCW
19 28A.220.020(2); or

20 (b) A course of instruction offered by a licensed driver training
21 school as defined by RCW 46.82.280(1).

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

24 ~~((+3))~~ (4) **Effect of instruction permit.** A person holding a
25 driver's instruction permit may drive a motor vehicle, other than a
26 motorcycle, upon the public highways if:

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

28 ~~((The seat beside the driver is occupied by))~~ An approved
29 instructor, or a licensed driver with at least five years of driving
30 experience, occupies the seat beside the driver.

31 ~~((+4))~~ (5) **Term of instruction permit.** A driver's instruction
32 permit is valid for one year from the date of issue.

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

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

37 **Sec. 14.** RCW 46.20.100 and 1999 c 6 s 16 are each amended to read
38 as follows:

1 (1) **Application.** The application of a person under the age of
2 eighteen years for a driver's license or a motorcycle endorsement must
3 be signed by a parent or guardian with custody of the minor. If the
4 (~~minor~~) person under the age of eighteen has no father, mother, or
5 guardian, then the application must be signed by the minor's employer.

6 (2) **Traffic safety education requirement.** For a person under the
7 age of eighteen years to obtain a driver's license he or she must meet
8 the traffic safety education requirements of this subsection.

9 (a) To meet the traffic safety education requirement for a driver's
10 license the applicant must satisfactorily complete a traffic safety
11 education course as defined in RCW 28A.220.020. The course must meet
12 the standards established by the office of the state superintendent of
13 public instruction. The traffic safety education course may be
14 provided by:

15 (i) A recognized secondary school; or

16 (ii) A commercial driving enterprise that is annually approved by
17 the office of the superintendent of public instruction.

18 (b) To meet the traffic safety education requirement for a
19 motorcycle endorsement, the applicant must successfully complete a
20 motorcycle safety education course that meets the standards established
21 by the department of licensing.

22 (c) The department may waive the traffic safety education
23 requirement for a driver's license if the applicant demonstrates to the
24 department's satisfaction that:

25 (i) He or she was unable to take or complete a traffic safety
26 education course;

27 (ii) A need exists for the applicant to operate a motor vehicle;
28 and

29 (iii) He or she has the ability to operate a motor vehicle in such
30 a manner as not to jeopardize the safety of persons or property(~~(~~
31 ~~under rules adopted by)~~).

32 The department may adopt rules to implement this subsection (2)(c) in
33 concert with the supervisor of the traffic safety education section of
34 the office of the superintendent of public instruction.

35 (d) The department may waive the traffic safety education
36 requirement if the applicant was licensed to drive a motor vehicle or
37 motorcycle outside this state and provides proof that he or she has had
38 education equivalent to that required under this subsection.

1 **Sec. 15.** RCW 46.20.117 and 1999 c 6 s 18 are each amended to read
2 as follows:

3 (1) **Issuance.** The department shall issue (~~(a resident of the state~~
4 ~~of Washington))~~ an identicard, containing a picture, if (~~(he or she))~~
5 the applicant:

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

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

8 (c) Pays the required fee. The fee is four dollars unless an
9 applicant is a recipient of continuing public assistance grants under
10 Title 74 RCW, who is referred in writing by the secretary of social and
11 health services. For those persons the fee must be the actual cost of
12 production of the identicard.

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

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

16 (b) Expire on the fifth anniversary of the applicant's birthdate
17 after issuance.

18 (3) **Cancellation.** The department may cancel an identicard if the
19 holder of the identicard used the card or allowed others to use the
20 card in violation of RCW 46.20.336 (as recodified by chapter 6, Laws of
21 1999).

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