
SUBSTITUTE HOUSE BILL 1276

State of Washington 64th Legislature 2015 Regular Session

By House Public Safety (originally sponsored by Representatives Klippert, Goodman, Hayes, Orwall, Moscoso, Pettigrew, Zeiger, Kilduff, and Fey)

READ FIRST TIME 02/04/15.

1 AN ACT Relating to impaired driving; amending RCW 10.21.055,
 2 46.20.385, 46.20.740, 46.20.308, 46.20.750, 46.25.120, 46.61.140,
 3 46.61.5055, 46.01.260, 43.43.395, 9.94A.533, 9.94A.729, 68.50.160,
 4 9.94A.589, 46.61.504, 46.61.503, 46.20.755, 36.28A.300, 36.28A.320,
 5 36.28A.330, 36.28A.370, 36.28A.390, 10.21.015, and 10.21.030;
 6 reenacting and amending RCW 46.52.130; adding a new section to
 7 chapter 46.61 RCW; repealing RCW 36.28A.310; and prescribing
 8 penalties.

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

10 **Conditions of release—Requirements—Ignition interlock device—24/7**
 11 **sobriety program monitoring**

12 **Sec. 1.** RCW 10.21.055 and 2013 2nd sp.s. c 35 s 1 are each
 13 amended to read as follows:

14 (1)(a) When any person charged with ((~~or arrested for~~)) a
 15 violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in
 16 which the person has a prior offense as defined in RCW 46.61.5055 and
 17 the current offense involves alcohol, is released from custody
 18 ((before))at arraignment or trial on bail or personal recognizance,
 19 the court authorizing the release shall require, as a condition of
 20 release((~~τ~~)) that person ((~~to (a)~~)): (i) Have a functioning ignition

1 interlock device installed on all motor vehicles operated by the
2 person, with proof of installation filed with the court by the person
3 or the certified interlock provider within five business days of the
4 date of release from custody or as soon thereafter as determined by
5 the court based on availability within the jurisdiction; or ~~((b))~~
6 (ii) comply with 24/7 sobriety program monitoring, as defined in RCW
7 36.28A.330; or both.

8 (b) The court shall immediately notify the department of
9 licensing when an ignition interlock restriction is imposed: (i) As a
10 condition of release pursuant to (a) of this subsection; or (ii) in
11 instances where a person is charged with or convicted of a violation
12 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, and the offense
13 involves alcohol. If the court imposes an ignition interlock
14 restriction, the department of licensing shall attach or imprint a
15 notation on the driving record of any person restricted under this
16 section stating that the person may operate only a motor vehicle
17 equipped with a functioning ignition interlock device.

18 (c) The person ordered to install the ignition interlock pursuant
19 to subsection (1)(a) of this section satisfies the requirement to
20 install an ignition interlock by filing a sworn statement with the
21 court before the date for the required ignition interlock
22 installation that states that the person agrees not to operate any
23 motor vehicle while the ignition interlock restriction is imposed by
24 the court; provided, that the ignition interlock requirement will
25 still be reported to the department pursuant to subsection (1)(b) of
26 this section and it will remain unlawful for the person to operate
27 any motor vehicle unless it is equipped with a fully functioning
28 ignition interlock device.

29 (2)(a) Upon acquittal or dismissal of all pending or current
30 charges relating to a violation of RCW 46.61.502, 46.61.504,
31 46.61.520, or 46.61.522, or equivalent local ordinance, the court
32 shall authorize removal of the ignition interlock device and lift any
33 requirement to comply with electronic alcohol/drug monitoring imposed
34 under subsection (1) of this section. Nothing in this section limits
35 the authority of the court or department under RCW 46.20.720.

36 (b) If the court authorizes removal of an ignition interlock
37 device imposed under (a) of this subsection the court shall
38 immediately notify the department of licensing regarding the lifting
39 of the ignition interlock restriction and the department of licensing
40 shall release any attachment, imprint, or notation on such person's

1 driving record relating to the ignition interlock requirement imposed
2 under this section.

3 (3) When an ignition interlock restriction imposed as a condition
4 of release is canceled, the court shall provide a defendant with a
5 written order confirming release of the restriction. The written
6 order shall serve as proof of release of the restriction until which
7 time the department of licensing updates the driving record.

8 **Ignition interlock driver's license—Application—Eligibility—**
9 **Cancellation—Costs—Rules**

10 **Sec. 2.** RCW 46.20.385 and 2013 2nd sp.s. c 35 s 20 are each
11 amended to read as follows:

12 (1)(a) ~~((Beginning January 1, 2009,))~~Any person licensed under
13 this chapter or who has a valid driver's license from another state,
14 who is convicted of: (i) A violation of RCW 46.61.502 or 46.61.504 or
15 an equivalent local or out-of-state statute or ordinance, or (ii) a
16 violation of RCW 46.61.520(1)(a) or an equivalent local or out-of-
17 state statute or ordinance, or (iii) a conviction for a violation of
18 RCW 46.61.520(1) (b) or (c) if the conviction is the result of a
19 charge that was originally filed as a violation of RCW
20 46.61.520(1)(a), or (iv) RCW 46.61.522(1)(b) or an equivalent local
21 or out-of-state statute or ordinance, or (v) RCW 46.61.522(1) (a) or
22 (c) if the conviction is the result of a charge that was originally
23 filed as a violation of RCW 46.61.522(1)(b) committed while under the
24 influence of intoxicating liquor or any drug, or (vi) who has had or
25 will have his or her license suspended, revoked, or denied under RCW
26 46.20.3101, or who is otherwise permitted under subsection (8) of
27 this section, may submit to the department an application for an
28 ignition interlock driver's license. The department, upon receipt of
29 the prescribed fee and upon determining that the petitioner is
30 eligible to receive the license, may issue an ignition interlock
31 driver's license.

32 (b) A person may apply for an ignition interlock driver's license
33 anytime, including immediately after receiving the notices under RCW
34 46.20.308 or after his or her license is suspended, revoked, or
35 denied. ~~((A person receiving an ignition interlock driver's license~~
36 ~~waives his or her right to a hearing or appeal under RCW 46.20.308.))~~

1 (c) An applicant under this subsection shall provide proof to the
2 satisfaction of the department that a functioning ignition interlock
3 device has been installed on all vehicles operated by the person.

4 (i) The department shall require the person to maintain the
5 device on all vehicles operated by the person and shall restrict the
6 person to operating only vehicles equipped with the device, for the
7 remainder of the period of suspension, revocation, or denial. Subject
8 to the provisions of RCW 46.20.720(3)(b)(ii), the installation of an
9 ignition interlock device is not necessary on vehicles owned, leased,
10 or rented by a person's employer and on those vehicles whose care
11 and/or maintenance is the temporary responsibility of the employer,
12 and driven at the direction of a person's employer as a requirement
13 of employment during working hours. The person must provide the
14 department with a declaration pursuant to RCW 9A.72.085 from his or
15 her employer stating that the person's employment requires the person
16 to operate a vehicle owned by the employer or other persons during
17 working hours.

18 (ii) Subject to any periodic renewal requirements established by
19 the department under this section and subject to any applicable
20 compliance requirements under this chapter or other law, an ignition
21 interlock driver's license granted upon a suspension or revocation
22 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
23 portion of any concurrent or consecutive suspension or revocation
24 that may be imposed as the result of administrative action and
25 criminal conviction arising out of the same incident.

26 (iii) The time period during which the person is licensed under
27 this section shall apply on a day-for-day basis toward satisfying the
28 period of time the ignition interlock device restriction is required
29 under RCW 46.20.720 (~~and~~), 46.61.5055, 10.05.140, 46.61.500(3), and
30 46.61.5249(4). Beginning with incidents occurring on or after
31 September 1, 2011, when calculating the period of time for the
32 restriction under RCW 46.20.720 (2) or (3), the department must also
33 give the person a day-for-day credit for the time period, beginning
34 from the date of the incident, during which the person kept an
35 ignition interlock device installed on all vehicles the person
36 operates. For the purposes of this subsection (1)(c)(iii), the term
37 "all vehicles" does not include vehicles that would be subject to the
38 employer exception under RCW 46.20.720(3).

39 (2) An applicant for an ignition interlock driver's license who
40 qualifies under subsection (1) of this section is eligible to receive

1 a license only if the applicant files satisfactory proof of financial
2 responsibility under chapter 46.29 RCW.

3 (3) Upon receipt of evidence that a holder of an ignition
4 interlock driver's license granted under this subsection no longer
5 has a functioning ignition interlock device installed on all vehicles
6 operated by the driver, the director shall give written notice by
7 first-class mail to the driver that the ignition interlock driver's
8 license shall be canceled. If at any time before the cancellation
9 goes into effect the driver submits evidence that a functioning
10 ignition interlock device has been installed on all vehicles operated
11 by the driver, the cancellation shall be stayed. If the cancellation
12 becomes effective, the driver may obtain, at no additional charge, a
13 new ignition interlock driver's license upon submittal of evidence
14 that a functioning ignition interlock device has been installed on
15 all vehicles operated by the driver.

16 (4) A person aggrieved by the decision of the department on the
17 application for an ignition interlock driver's license may request a
18 hearing as provided by rule of the department.

19 (5) The director shall cancel an ignition interlock driver's
20 license after receiving notice that the holder thereof has been
21 convicted of operating a motor vehicle in violation of its
22 restrictions, no longer meets the eligibility requirements, or has
23 been convicted of or found to have committed a separate offense or
24 any other act or omission that under this chapter would warrant
25 suspension or revocation of a regular driver's license. The
26 department must give notice of the cancellation as provided under RCW
27 46.20.245. A person whose ignition interlock driver's license has
28 been canceled under this section may reapply for a new ignition
29 interlock driver's license if he or she is otherwise qualified under
30 this section and pays the fee required under RCW 46.20.380.

31 (6)(a) Unless costs are waived by the ignition interlock company
32 or the person is indigent under RCW 10.101.010, the applicant shall
33 pay the cost of installing, removing, and leasing the ignition
34 interlock device and shall pay an additional fee of twenty dollars
35 per month. Payments shall be made directly to the ignition interlock
36 company. The company shall remit the additional twenty dollar fee to
37 the department.

38 (b) The department shall deposit the proceeds of the twenty
39 dollar fee into the ignition interlock device revolving account.
40 Expenditures from the account may be used only to administer and

1 operate the ignition interlock device revolving account program. The
2 department shall adopt rules to provide monetary assistance according
3 to greatest need and when funds are available.

4 (7) The department shall adopt rules to implement ignition
5 interlock licensing. The department shall consult with the
6 administrative office of the courts, the state patrol, the Washington
7 association of sheriffs and police chiefs, ignition interlock
8 companies, and any other organization or entity the department deems
9 appropriate.

10 (8)(a) Any person licensed under this chapter who is convicted of
11 a violation of RCW 46.61.500 when the charge was originally filed as
12 a violation of RCW 46.61.502 or 46.61.504, or an equivalent local
13 ordinance, may submit to the department an application for an
14 ignition interlock driver's license under this section.

15 (b) A person who does not have any driver's license under this
16 chapter, but who would otherwise be eligible under this section to
17 apply for an ignition interlock license, may submit to the department
18 an application for an ignition interlock license. The department may
19 require the person to take any driver's licensing examination under
20 this chapter and may require the person to also apply and qualify for
21 a temporary restricted driver's license under RCW 46.20.391.

22 **Notation on driving record—Verification of interlock—Penalty**

23 **Sec. 3.** RCW 46.20.740 and 2010 c 269 s 8 are each amended to
24 read as follows:

25 (1) The department shall attach or imprint a notation on the
26 driving record of any person restricted under RCW 46.20.720,
27 46.61.5055, or 10.05.140 stating that the person may operate only a
28 motor vehicle equipped with a functioning ignition interlock device.
29 The department shall determine the person's eligibility for licensing
30 based upon written verification by a company doing business in the
31 state that it has installed the required device on a vehicle owned or
32 operated by the person seeking reinstatement. If, based upon
33 notification from the interlock provider or otherwise, the department
34 determines that an ignition interlock required under this section is
35 no longer installed or functioning as required, the department shall
36 suspend the person's license or privilege to drive. Whenever the
37 license or driving privilege of any person is suspended or revoked as
38 a result of noncompliance with an ignition interlock requirement, the

1 suspension shall remain in effect until the person provides notice
2 issued by a company doing business in the state that a vehicle owned
3 or operated by the person is equipped with a functioning ignition
4 interlock device.

5 (2) It is a gross misdemeanor for a person with such a notation
6 on his or her driving record to operate a motor vehicle that is not
7 so equipped, unless the notation resulted from a restriction imposed
8 as a condition of release and the restriction has been released by
9 the court prior to driving.

10 (3) Any sentence imposed for a violation of subsection (2) of
11 this section shall be served consecutively with any sentence imposed
12 under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

13 **Implied consent—Test refusal—Procedures**

14 **Sec. 4.** RCW 46.20.308 and 2013 2nd sp.s. c 35 s 36 are each
15 amended to read as follows:

16 (1) Any person who operates a motor vehicle within this state is
17 deemed to have given consent, subject to the provisions of RCW
18 46.61.506, to a test or tests of his or her breath for the purpose of
19 determining the alcohol concentration(~~(, THC concentration, or~~
20 ~~presence of any drug)) in his or her breath if arrested for any~~
21 offense where, at the time of the arrest, the arresting officer has
22 reasonable grounds to believe the person had been driving or was in
23 actual physical control of a motor vehicle while under the influence
24 of intoxicating liquor or any drug or was in violation of RCW
25 46.61.503. (~~Neither consent nor this section precludes a police~~
26 ~~officer from obtaining a search warrant for a person's breath or~~
27 ~~blood.))~~

28 (2) The test or tests of breath shall be administered at the
29 direction of a law enforcement officer having reasonable grounds to
30 believe the person to have been driving or in actual physical control
31 of a motor vehicle within this state while under the influence of
32 intoxicating liquor or any drug or the person to have been driving or
33 in actual physical control of a motor vehicle while having alcohol
34 (~~or THC)) in a concentration in violation of RCW 46.61.503 in his or~~
35 her system and being under the age of twenty-one. Prior to
36 administering a breath test pursuant to this section, the officer
37 shall inform the person of his or her right under this section to
38 refuse the breath test, and of his or her right to have additional

1 tests administered by any qualified person of his or her choosing as
2 provided in RCW 46.61.506. The officer shall warn the driver, in
3 substantially the following language, that:

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

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

9 (c) If the driver submits to the test and the test is
10 administered, the driver's license, permit, or privilege to drive
11 will be suspended, revoked, or denied for at least ninety days if:

12 (i) The driver is age twenty-one or over and the test indicates
13 either that the alcohol concentration of the driver's breath is 0.08
14 or more (~~or that the THC concentration of the driver's blood is 5.00~~
15 ~~or more)); or~~

16 (ii) The driver is under age twenty-one and the test indicates
17 either that the alcohol concentration of the driver's breath is 0.02
18 or more (~~or that the THC concentration of the driver's blood is~~
19 ~~above 0.00)); or~~

20 (iii) The driver is under age twenty-one and the driver is in
21 violation of RCW 46.61.502 or 46.61.504; and

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

25 (3) (~~Except as provided in this section, the test administered~~
26 ~~shall be of the breath only. If an individual is unconscious or is~~
27 ~~under arrest for the crime of felony driving under the influence of~~
28 ~~intoxicating liquor or drugs under RCW 46.61.502(6), felony physical~~
29 ~~control of a motor vehicle while under the influence of intoxicating~~
30 ~~liquor or any drug under RCW 46.61.504(6), vehicular homicide as~~
31 ~~provided in RCW 46.61.520, or vehicular assault as provided in RCW~~
32 ~~46.61.522, or if an individual is under arrest for the crime of~~
33 ~~driving while under the influence of intoxicating liquor or drugs as~~
34 ~~provided in RCW 46.61.502, which arrest results from an accident in~~
35 ~~which there has been serious bodily injury to another person, a~~
36 ~~breath or blood test may be administered without the consent of the~~
37 ~~individual so arrested pursuant to a search warrant, a valid waiver~~
38 ~~of the warrant requirement, or when exigent circumstances exist.~~

39 (4)) If, following his or her arrest and receipt of warnings
40 under subsection (2) of this section, the person arrested

1 (~~refuses~~)exercises the right, granted herein, by refusing upon the
2 request of a law enforcement officer to submit to a test or tests of
3 his or her breath, no test shall be given except as otherwise
4 authorized by (~~a search warrant~~)law.

5 (4) Nothing in subsection (1), (2), or (3) of this section
6 precludes a law enforcement officer from obtaining a person's blood
7 to test for alcohol, marijuana, or any drug, pursuant to a search
8 warrant, a valid waiver of the warrant requirement, when exigent
9 circumstances exist, or under any other authority of law. Any blood
10 drawn for the purpose of determining the person's alcohol or
11 marijuana levels, or any drug, is drawn pursuant to this section when
12 the officer has reasonable grounds to believe that the person is in
13 physical control or driving a vehicle under the influence or in
14 violation of RCW 46.61.503.

15 (5) If, after arrest and after (~~the~~)any other applicable
16 conditions and requirements of this section have been satisfied, a
17 test or tests of the person's blood or breath is administered and the
18 test results indicate that the alcohol concentration of the person's
19 breath or blood is 0.08 or more, or the THC concentration of the
20 person's blood is 5.00 or more, if the person is age twenty-one or
21 over, or that the alcohol concentration of the person's breath or
22 blood is 0.02 or more, or the THC concentration of the person's blood
23 is above 0.00, if the person is under the age of twenty-one, or the
24 person refuses to submit to a test, the arresting officer or other
25 law enforcement officer at whose direction any test has been given,
26 or the department, where applicable, if the arrest results in a test
27 of the person's blood, shall:

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

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

37 (c) Serve notice in writing that the license or permit, if any,
38 is a temporary license that is valid for sixty days from the date of
39 arrest or from the date notice has been given in the event notice is
40 given by the department following a blood test, or until the

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

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

10 (i) That the officer had reasonable grounds to believe the
11 arrested person had been driving or was in actual physical control of
12 a motor vehicle within this state while under the influence of
13 intoxicating liquor or drugs, or both, or was under the age of
14 twenty-one years and had been driving or was in actual physical
15 control of a motor vehicle while having an alcohol or THC
16 concentration in violation of RCW 46.61.503;

17 (ii) That after receipt of ~~((the))~~any applicable warnings
18 required by subsection (2) of this section the person refused to
19 submit to a test of his or her breath, or a test was administered and
20 the results indicated that the alcohol concentration of the person's
21 breath or blood was 0.08 or more, or the THC concentration of the
22 person's blood was 5.00 or more, if the person is age twenty-one or
23 over, or that the alcohol concentration of the person's breath or
24 blood was 0.02 or more, or the THC concentration of the person's
25 blood was above 0.00, if the person is under the age of twenty-one;
26 and

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

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

39 (7) A person receiving notification under subsection (5)(b) of
40 this section may, within twenty days after the notice has been given,

1 request in writing a formal hearing before the department. The person
2 shall pay a fee of three hundred seventy-five dollars as part of the
3 request. If the request is mailed, it must be postmarked within
4 twenty days after receipt of the notification. Upon timely receipt of
5 such a request for a formal hearing, including receipt of the
6 required three hundred seventy-five dollar fee, the department shall
7 afford the person an opportunity for a hearing. The department may
8 waive the required three hundred seventy-five dollar fee if the
9 person is an indigent as defined in RCW 10.101.010. Except as
10 otherwise provided in this section, the hearing is subject to and
11 shall be scheduled and conducted in accordance with RCW 46.20.329 and
12 46.20.332. The hearing shall be conducted in the county of the
13 arrest, except that all or part of the hearing may, at the discretion
14 of the department, be conducted by telephone or other electronic
15 means. The hearing shall be held within sixty days following the
16 arrest or following the date notice has been given in the event
17 notice is given by the department following a blood test, unless
18 otherwise agreed to by the department and the person, in which case
19 the action by the department shall be stayed, and any valid temporary
20 license (~~marked~~) under subsection (5) of this section extended, if
21 the person is otherwise eligible for licensing. For the purposes of
22 this section, the scope of the hearing shall cover the issues of
23 whether a law enforcement officer had reasonable grounds to believe
24 the person had been driving or was in actual physical control of a
25 motor vehicle within this state while under the influence of
26 intoxicating liquor or any drug or had been driving or was in actual
27 physical control of a motor vehicle within this state while having
28 alcohol in his or her system in a concentration of 0.02 or more, or
29 THC in his or her system in a concentration above 0.00, if the person
30 was under the age of twenty-one, whether the person was placed under
31 arrest, and (a) whether the person refused to submit to the test or
32 tests upon request of the officer after having been informed that
33 such refusal would result in the revocation of the person's license,
34 permit, or privilege to drive, or (b) if a test or tests were
35 administered, whether the applicable requirements of this section
36 were satisfied before the administration of the test or tests,
37 whether the person submitted to the test or tests, or whether a test
38 was administered (~~without express consent~~) pursuant to a search
39 warrant, a valid waiver of the warrant requirement, when exigent
40 circumstances exist, or under any other authority of law as permitted

1 under this section, and whether the test or tests indicated that the
2 alcohol concentration of the person's breath or blood was 0.08 or
3 more, or the THC concentration of the person's blood was 5.00 or
4 more, if the person was age twenty-one or over at the time of the
5 arrest, or that the alcohol concentration of the person's breath or
6 blood was 0.02 or more, or the THC concentration of the person's
7 blood was above 0.00, if the person was under the age of twenty-one
8 at the time of the arrest. Where a person is found to be in actual
9 physical control of a motor vehicle while under the influence of
10 intoxicating liquor or any drug or was under the age of twenty-one at
11 the time of the arrest and was in physical control of a motor vehicle
12 while having alcohol in his or her system in a concentration of 0.02
13 or THC concentration above 0.00, the person may petition the hearing
14 officer to apply the affirmative defense found in RCW 46.61.504(3)
15 and 46.61.503(2). The driver shall have the burden to prove the
16 affirmative defense by a preponderance of the evidence. The sworn
17 report or report under a declaration authorized by RCW 9A.72.085
18 submitted by a law enforcement officer is prima facie evidence that
19 the officer had reasonable grounds to believe the person had been
20 driving or was in actual physical control of a motor vehicle within
21 this state while under the influence of intoxicating liquor or drugs,
22 or both, or the person had been driving or was in actual physical
23 control of a motor vehicle within this state while having alcohol in
24 his or her system in a concentration of 0.02 or more, or THC in his
25 or her system in a concentration above 0.00, and was under the age of
26 twenty-one and that the officer complied with the requirements of
27 this section.

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

1 shall order that the suspension, revocation, or denial either be
2 rescinded or sustained.

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

37 (9)(a) If a person whose driver's license, permit, or privilege
38 to drive has been or will be suspended, revoked, or denied under
39 subsection (6) of this section, other than as a result of a breath
40 test refusal, and who has not committed an offense for which he or

1 she was granted a deferred prosecution under chapter 10.05 RCW,
2 petitions a court for a deferred prosecution on criminal charges
3 arising out of the arrest for which action has been or will be taken
4 under subsection (6) of this section, or notifies the department of
5 licensing of the intent to seek such a deferred prosecution, then the
6 license suspension or revocation shall be stayed pending entry of the
7 deferred prosecution. The stay shall not be longer than one hundred
8 fifty days after the date charges are filed, or two years after the
9 date of the arrest, whichever time period is shorter. If the court
10 stays the suspension, revocation, or denial, it may impose conditions
11 on such stay. If the person is otherwise eligible for licensing, the
12 department shall issue a temporary license, or extend any valid
13 temporary license under subsection (5) of this section, for the
14 period of the stay. If a deferred prosecution treatment plan is not
15 recommended in the report made under RCW 10.05.050, or if treatment
16 is rejected by the court, or if the person declines to accept an
17 offered treatment plan, or if the person violates any condition
18 imposed by the court, then the court shall immediately direct the
19 department to cancel the stay and any temporary ((marked)) license or
20 extension of a temporary license issued under this subsection.

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

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

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

1 **Circumventing ignition interlock—Penalty**

2 **Sec. 5.** RCW 46.20.750 and 2005 c 200 s 2 are each amended to
3 read as follows:

4 (1) A person who is restricted to the use of a vehicle equipped
5 with an ignition interlock device (~~(and who tampers with the device~~
6 ~~or directs, authorizes, or requests another to tamper with the~~
7 ~~device, in order to circumvent the device by modifying, detaching,~~
8 ~~disconnecting, or otherwise disabling it,)) is guilty of a gross
9 misdemeanor if the restricted driver:~~

10 (a) Tampers with the device by modifying, detaching,
11 disconnecting, or otherwise disabling it to allow the restricted
12 driver to operate the vehicle;

13 (b) Uses or requests another person to use a filter or other
14 device to circumvent the ignition interlock or to start or operate
15 the vehicle to allow the restricted driver to operate the vehicle;

16 (c) Has, directs, authorizes, or requests another person to
17 tamper with the device by modifying, detaching, disconnecting, or
18 otherwise disabling it to allow the restricted driver to operate the
19 vehicle; or

20 (d) Has, allows, directs, authorizes, or requests another person
21 to blow or otherwise exhale into the device in order to circumvent
22 the device to allow the restricted driver to operate the vehicle.

23 (2) A person who knowingly assists another person who is
24 restricted to the use of a vehicle equipped with an ignition
25 interlock device to circumvent the device or to start and operate
26 that vehicle (~~(in violation of a court order))~~) is guilty of a gross
27 misdemeanor. The provisions of this subsection do not apply if the
28 starting of a motor vehicle, or the request to start a motor vehicle,
29 equipped with an ignition interlock device is done for the purpose of
30 safety or mechanical repair of the device or the vehicle and the
31 person subject to the court order does not operate the vehicle.

32 (3) Any sentence imposed for a violation of subsection (1) of
33 this section shall be served consecutively with any sentence imposed
34 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,
35 46.61.520(1)(a), or 46.61.522(1)(b).

36 **Commercial vehicles—Test for alcohol or drugs—Disqualification for**
37 **refusal of test or positive test—Procedures**

1 **Sec. 6.** RCW 46.25.120 and 2013 2nd sp.s. c 35 s 12 are each
2 amended to read as follows:

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

8 (2) A test or tests may be administered at the direction of a law
9 enforcement officer, who after stopping or detaining the commercial
10 motor vehicle driver, has (~~probable cause~~) reasonable grounds to
11 believe that driver was driving a commercial motor vehicle while
12 having alcohol in his or her system or while under the influence of
13 any drug.

14 (3) The law enforcement officer requesting the test under
15 subsection (1) of this section shall warn the person requested to
16 submit to the test that a refusal to submit will result in that
17 person being disqualified from operating a commercial motor vehicle
18 under RCW 46.25.090.

19 (4) A law enforcement officer who at the time of stopping or
20 detaining a commercial motor vehicle driver has reasonable grounds to
21 believe that driver was driving a commercial motor vehicle while
22 having alcohol, marijuana, or any drug in his or her system or while
23 under the influence of alcohol, marijuana, or any drug may obtain a
24 blood test pursuant to a search warrant, a valid waiver of the
25 warrant requirement, when exigent circumstances exist, or under any
26 other authority of law.

27 (5) If the person refuses testing, or (~~submits to~~) a test is
28 administered that discloses an alcohol concentration of 0.04 or more
29 or any measurable amount of THC concentration, the law enforcement
30 officer shall submit a sworn report to the department certifying that
31 the test was requested pursuant to subsection (1) of this section or
32 a blood test was administered pursuant to subsection (4) of this
33 section and that the person refused to submit to testing, or
34 (~~submitted to~~) a test was administered that disclosed an alcohol
35 concentration of 0.04 or more or any measurable amount of THC
36 concentration.

37 (~~(+5)~~)(6) Upon receipt of the sworn report of a law enforcement
38 officer under subsection (~~(+4)~~)(5) of this section, the department
39 shall disqualify the driver from driving a commercial motor vehicle
40 under RCW 46.25.090, subject to the hearing provisions of RCW

1 46.20.329 and 46.20.332. The hearing shall be conducted in the county
2 of the arrest. For the purposes of this section, the hearing shall
3 cover the issues of whether a law enforcement officer had reasonable
4 grounds to believe the person had been driving or was in actual
5 physical control of a commercial motor vehicle within this state
6 while having alcohol in the person's system or while under the
7 influence of any drug, whether the person refused to submit to the
8 test or tests upon request of the officer after having been informed
9 that the refusal would result in the disqualification of the person
10 from driving a commercial motor vehicle, if applicable, and, if the
11 test was administered, whether the results indicated an alcohol
12 concentration of 0.04 percent or more or any measurable amount of THC
13 concentration. The department shall order that the disqualification
14 of the person either be rescinded or sustained. Any decision by the
15 department disqualifying a person from driving a commercial motor
16 vehicle is stayed and does not take effect while a formal hearing is
17 pending under this section or during the pendency of a subsequent
18 appeal to superior court so long as there is no conviction for a
19 moving violation or no finding that the person has committed a
20 traffic infraction that is a moving violation during the pendency of
21 the hearing and appeal. If the disqualification of the person is
22 sustained after the hearing, the person who is disqualified may file
23 a petition in the superior court of the county of arrest to review
24 the final order of disqualification by the department in the manner
25 provided in RCW 46.20.334.

26 ~~((+6))~~(7) If a motor carrier or employer who is required to have
27 a testing program under 49 C.F.R. 382 knows that a commercial driver
28 in his or her employ has refused to submit to testing under this
29 section and has not been disqualified from driving a commercial motor
30 vehicle, the employer may notify law enforcement or his or her
31 medical review officer or breath alcohol technician that the driver
32 has refused to submit to the required testing.

33 ~~((+7))~~(8) The hearing provisions of this section do not apply to
34 those persons disqualified from driving a commercial motor vehicle
35 under RCW 46.25.090(7).

36 **Open container law for marijuana**

37 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.61
38 RCW to read as follows:

1 (1)(a) It is a traffic infraction:

2 (i) For the registered owner of a motor vehicle, or the driver if
3 the registered owner is not then present, or passengers in the
4 vehicle, to keep marijuana in a motor vehicle when the vehicle is
5 upon a highway, unless it is (A) in the trunk of the vehicle, (B) in
6 some other area of the vehicle not normally occupied or directly
7 accessible by the driver or passengers if the vehicle does not have a
8 trunk, or (C) in a package, container, or receptacle that has not
9 been opened or the seal broken or contents partially removed. A
10 utility compartment or glove compartment is deemed to be within the
11 area occupied by the driver and passengers;

12 (ii) To consume marijuana in any manner including, but not
13 limited to, smoking or ingesting in a motor vehicle when the vehicle
14 is upon the public highway; or

15 (iii) To place marijuana in a container specifically labeled by
16 the manufacturer of the container as containing a nonmarijuana
17 substance and to then violate (a)(i) of this subsection.

18 (b) There is a rebuttable presumption that it is a traffic
19 infraction if the original container of marijuana is incorrectly
20 labeled and there is a subsequent violation of (a)(i) of this
21 subsection.

22 (2) As used in this section, "marijuana" or "marihuana" means all
23 parts of the plant *Cannabis*, whether growing or not; the seeds
24 thereof; the resin extracted from any part of the plant; and every
25 compound, manufacture, salt, derivative, mixture, or preparation of
26 the plant, its seeds, or resin. The term does not include the mature
27 stalks of the plant, fiber produced from the stalks, oil or cake made
28 from the seeds of the plant, any other compound, manufacture, salt,
29 derivative, mixture, or preparation of the mature stalks, except the
30 resin extracted therefrom, fiber, oil, or cake, or the sterilized
31 seed of the plant which is incapable of germination.

32 **Driving on roadways laned for traffic**

33 **Sec. 8.** RCW 46.61.140 and 1965 ex.s. c 155 s 23 are each amended
34 to read as follows:

35 Whenever any roadway has been divided into two or more clearly
36 marked lanes for traffic the following rules in addition to all
37 others consistent herewith shall apply:

1 (1) A vehicle shall be driven (~~as nearly as practicable~~)
2 entirely within a single lane and shall not be moved from such lane
3 until the driver has first ascertained that such movement can be made
4 with safety.

5 (2) Upon a roadway which is divided into three lanes and provides
6 for two-way movement of traffic, a vehicle shall not be driven in the
7 center lane except when overtaking and passing another vehicle
8 traveling in the same direction when such center lane is clear of
9 traffic within a safe distance, or in preparation for making a left
10 turn or where such center lane is at the time allocated exclusively
11 to traffic moving in the same direction that the vehicle is
12 proceeding and such allocation is designated by official traffic-
13 control devices.

14 (3) Official traffic-control devices may be erected directing
15 slow moving or other specified traffic to use a designated lane or
16 designating those lanes to be used by traffic moving in a particular
17 direction regardless of the center of the roadway and drivers of
18 vehicles shall obey the directions of every such device.

19 (4) Official traffic-control devices may be installed prohibiting
20 the changing of lanes on sections of roadway and drivers of vehicles
21 shall obey the directions of every such device.

22 (5) It is an affirmative defense to a violation of this section,
23 which the driver must establish by a preponderance of the evidence,
24 that the vehicle crossed into another lane as a result of an act,
25 omission, or occurrence outside of the driver's immediate control and
26 only to the minimum extent reasonably necessary under the
27 circumstances.

28 Alcohol and drug violators—Penalty schedule

29 **Sec. 9.** RCW 46.61.5055 and 2014 c 100 s 1 are each amended to
30 read as follows:

31 (1) **No prior offenses in seven years.** Except as provided in RCW
32 46.61.502(6) or 46.61.504(6), a person who is convicted of a
33 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
34 within seven years shall be punished as follows:

35 (a) **Penalty for alcohol concentration less than 0.15.** In the case
36 of a person whose alcohol concentration was less than 0.15, or for
37 whom for reasons other than the person's refusal to take a test

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

3 (i) By imprisonment for not less than one day nor more than three
4 hundred sixty-four days. Twenty-four consecutive hours of the
5 imprisonment may not be suspended unless the court finds that the
6 imposition of this mandatory minimum sentence would impose a
7 substantial risk to the offender's physical or mental well-being.
8 Whenever the mandatory minimum sentence is suspended, the court shall
9 state in writing the reason for granting the suspension and the facts
10 upon which the suspension is based. In lieu of the mandatory minimum
11 term of imprisonment required under this subsection (1)(a)(i), the
12 court may order not less than fifteen days of electronic home
13 monitoring. The offender shall pay the cost of electronic home
14 monitoring. The county or municipality in which the penalty is being
15 imposed shall determine the cost. The court may also require the
16 offender's electronic home monitoring device or other separate
17 alcohol monitoring device to include an alcohol detection
18 breathalyzer, and the court may restrict the amount of alcohol the
19 offender may consume during the time the offender is on electronic
20 home monitoring, and if available in the county or city, the court
21 may also order the offender to not less than thirty days of the 24/7
22 sobriety program monitoring pursuant to chapter 36.28A RCW; and

23 (ii) By a fine of not less than three hundred fifty dollars nor
24 more than five thousand dollars. Three hundred fifty dollars of the
25 fine may not be suspended unless the court finds the offender to be
26 indigent; or

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

32 (i) By imprisonment for not less than two days nor more than
33 three hundred sixty-four days. Forty-eight consecutive hours of the
34 imprisonment may not be suspended unless the court finds that the
35 imposition of this mandatory minimum sentence would impose a
36 substantial risk to the offender's physical or mental well-being.
37 Whenever the mandatory minimum sentence is suspended, the court shall
38 state in writing the reason for granting the suspension and the facts
39 upon which the suspension is based. In lieu of the mandatory minimum
40 term of imprisonment required under this subsection (1)(b)(i), the

1 court may order not less than thirty days of electronic home
2 monitoring. The offender shall pay the cost of electronic home
3 monitoring. The county or municipality in which the penalty is being
4 imposed shall determine the cost. The court may also require the
5 offender's electronic home monitoring device to include an alcohol
6 detection breathalyzer or other separate alcohol monitoring device,
7 and the court may restrict the amount of alcohol the offender may
8 consume during the time the offender is on electronic home
9 monitoring, and if available in the county or city, the court may
10 also order the offender to not less than thirty days of the 24/7
11 sobriety program monitoring pursuant to chapter 36.28A RCW; and

12 (ii) By a fine of not less than five hundred dollars nor more
13 than five thousand dollars. Five hundred dollars of the fine may not
14 be suspended unless the court finds the offender to be indigent.

15 (2) **One prior offense in seven years.** Except as provided in RCW
16 46.61.502(6) or 46.61.504(6), a person who is convicted of a
17 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
18 within seven years shall be punished as follows:

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

24 (i) By imprisonment for not less than thirty days nor more than
25 three hundred sixty-four days and sixty days of electronic home
26 monitoring. In lieu of the mandatory minimum term of sixty days
27 electronic home monitoring, the court may order at least an
28 additional four days in jail or, if available in that county or city,
29 a six-month period of 24/7 sobriety program monitoring pursuant to
30 RCW 36.28A.300 through 36.28A.390, and the court shall order an
31 expanded alcohol assessment and treatment, if deemed appropriate by
32 the assessment. 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 or other separate alcohol monitoring device,
37 and may restrict the amount of alcohol the offender may consume
38 during the time the offender is on electronic home monitoring. Thirty
39 days of imprisonment and sixty days of electronic home monitoring may
40 not be suspended unless the court finds that the imposition of this

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

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

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

14 (i) By imprisonment for not less than forty-five days nor more
15 than three hundred sixty-four days and ninety days of electronic home
16 monitoring. In lieu of the mandatory minimum term of ninety days
17 electronic home monitoring, the court may order at least an
18 additional six days in jail or, if available in that county or city,
19 a six-month period of 24/7 sobriety program monitoring pursuant to
20 RCW 36.28A.300 through 36.28A.390, and the court shall order an
21 expanded alcohol assessment and treatment, if deemed appropriate by
22 the assessment. The offender shall pay for the cost of the electronic
23 monitoring. The county or municipality where the penalty is being
24 imposed shall determine the cost. The court may also require the
25 offender's electronic home monitoring device include an alcohol
26 detection breathalyzer or other separate alcohol monitoring device,
27 and may restrict the amount of alcohol the offender may consume
28 during the time the offender is on electronic home monitoring. Forty-
29 five days of imprisonment and ninety days of electronic home
30 monitoring may not be suspended unless the court finds that the
31 imposition of this mandatory minimum sentence would impose a
32 substantial risk to the offender's physical or mental well-being.
33 Whenever the mandatory minimum sentence is suspended, the court shall
34 state in writing the reason for granting the suspension and the facts
35 upon which the suspension is based; and

36 (ii) By a fine of not less than seven hundred fifty dollars nor
37 more than five thousand dollars. Seven hundred fifty dollars of the
38 fine may not be suspended unless the court finds the offender to be
39 indigent.

1 (3) **Two or three prior offenses in seven years.** Except as
2 provided in RCW 46.61.502(6) or 46.61.504(6), a person who is
3 convicted of a violation of RCW 46.61.502 or 46.61.504 and who has
4 two or three prior offenses within seven years shall be punished as
5 follows:

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

11 (i) By imprisonment for not less than ninety days nor more than
12 three hundred sixty-four days, if available in that county or city, a
13 six-month period of 24/7 sobriety program monitoring pursuant to RCW
14 36.28A.300 through 36.28A.390, and one hundred twenty days of
15 electronic home monitoring. In lieu of the mandatory minimum term of
16 one hundred twenty days of electronic home monitoring, the court may
17 order at least an additional eight days in jail. The court shall
18 order an expanded alcohol assessment and treatment, if deemed
19 appropriate by the assessment. The offender shall pay for the cost of
20 the electronic monitoring. The county or municipality where the
21 penalty is being imposed shall determine the cost. The court may also
22 require the offender's electronic home monitoring device include an
23 alcohol detection breathalyzer or other separate alcohol monitoring
24 device, and may restrict the amount of alcohol the offender may
25 consume during the time the offender is on electronic home
26 monitoring. Ninety days of imprisonment and one hundred twenty days
27 of electronic home monitoring may not be suspended unless the court
28 finds that the imposition of this mandatory minimum sentence would
29 impose a substantial risk to the offender's physical or mental well-
30 being. Whenever the mandatory minimum sentence is suspended, the
31 court shall state in writing the reason for granting the suspension
32 and the facts upon which the suspension is based; and

33 (ii) By a fine of not less than one thousand dollars nor more
34 than five thousand dollars. One thousand dollars of the fine may not
35 be suspended unless the court finds the offender to be indigent; or

36 (b) **Penalty for alcohol concentration at least 0.15.** In the case
37 of a person whose alcohol concentration was at least 0.15, or for
38 whom by reason of the person's refusal to take a test offered
39 pursuant to RCW 46.20.308 there is no test result indicating the
40 person's alcohol concentration:

1 (i) By imprisonment for not less than one hundred twenty days nor
2 more than three hundred sixty-four days, if available in that county
3 or city, a six-month period of 24/7 sobriety program monitoring
4 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
5 days of electronic home monitoring. In lieu of the mandatory minimum
6 term of one hundred fifty days of electronic home monitoring, the
7 court may order at least an additional ten days in jail. The offender
8 shall pay for the cost of the electronic monitoring. The court shall
9 order an expanded alcohol assessment and treatment, if deemed
10 appropriate by the assessment. The county or municipality where the
11 penalty is being imposed shall determine the cost. The court may also
12 require the offender's electronic home monitoring device include an
13 alcohol detection breathalyzer or other separate alcohol monitoring
14 device, and may restrict the amount of alcohol the offender may
15 consume during the time the offender is on electronic home
16 monitoring. One hundred twenty days of imprisonment and one hundred
17 fifty days of electronic home monitoring may not be suspended unless
18 the court finds that the imposition of this mandatory minimum
19 sentence would impose a substantial risk to the offender's physical
20 or mental well-being. Whenever the mandatory minimum sentence is
21 suspended, the court shall state in writing the reason for granting
22 the suspension and the facts upon which the suspension is based; and

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

27 (4) **Four or more prior offenses in ten years.** A person who is
28 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be
29 punished under chapter 9.94A RCW if:

30 (a) The person has four or more prior offenses within ten years;
31 or

32 (b) The person has ever previously been convicted of:

33 (i) A violation of RCW 46.61.520 committed while under the
34 influence of intoxicating liquor or any drug;

35 (ii) A violation of RCW 46.61.522 committed while under the
36 influence of intoxicating liquor or any drug;

37 (iii) An out-of-state offense comparable to the offense specified
38 in (b)(i) or (ii) of this subsection; or

39 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).

40 (5) **Monitoring.**

1 (a) **Ignition interlock device.** The court shall require any person
2 convicted of a violation of RCW 46.61.502 or 46.61.504 or an
3 equivalent local ordinance to comply with the rules and requirements
4 of the department regarding the installation and use of a functioning
5 ignition interlock device installed on all motor vehicles operated by
6 the person.

7 (b) **Monitoring devices.** If the court orders that a person refrain
8 from consuming any alcohol, the court may order the person to submit
9 to alcohol monitoring through an alcohol detection breathalyzer
10 device, transdermal sensor device, or other technology designed to
11 detect alcohol in a person's system. The person shall pay for the
12 cost of the monitoring, unless the court specifies that the cost of
13 monitoring will be paid with funds that are available from an
14 alternative source identified by the court. The county or
15 municipality where the penalty is being imposed shall determine the
16 cost.

17 (c) **Ignition interlock device substituted for 24/7 sobriety**
18 **program monitoring.** In any county or city where a 24/7 sobriety
19 program is available and verified by the Washington association of
20 sheriffs and police chiefs, the court shall:

21 (i) Order the person to install and use a functioning ignition
22 interlock or other device in lieu of such period of 24/7 sobriety
23 program monitoring;

24 (ii) Order the person to a period of 24/7 sobriety program
25 monitoring pursuant to subsections (1) through (3) of this section;
26 or

27 (iii) Order the person to install and use a functioning ignition
28 interlock or other device in addition to a period of 24/7 sobriety
29 program monitoring pursuant to subsections (1) through (3) of this
30 section.

31 (6) **Penalty for having a minor passenger in vehicle.** If a person
32 who is convicted of a violation of RCW 46.61.502 or 46.61.504
33 committed the offense while a passenger under the age of sixteen was
34 in the vehicle, the court shall:

35 (a) Order the use of an ignition interlock or other device for an
36 additional six months;

37 (b) In any case in which the person has no prior offenses within
38 seven years, and except as provided in RCW 46.61.502(6) or
39 46.61.504(6), order an additional twenty-four hours of imprisonment
40 and a fine of not less than one thousand dollars and not more than

1 five thousand dollars. One thousand dollars of the fine may not be
2 suspended unless the court finds the offender to be indigent;

3 (c) In any case in which the person has one prior offense within
4 seven years, and except as provided in RCW 46.61.502(6) or
5 46.61.504(6), order an additional five days of imprisonment and a
6 fine of not less than two thousand dollars and not more than five
7 thousand dollars. One thousand dollars of the fine may not be
8 suspended unless the court finds the offender to be indigent;

9 (d) In any case in which the person has two or three prior
10 offenses within seven years, and except as provided in RCW
11 46.61.502(6) or 46.61.504(6), order an additional ten days of
12 imprisonment and a fine of not less than three thousand dollars and
13 not more than ten thousand dollars. One thousand dollars of the fine
14 may not be suspended unless the court finds the offender to be
15 indigent.

16 (7) **Other items courts must consider while setting penalties.** In
17 exercising its discretion in setting penalties within the limits
18 allowed by this section, the court shall particularly consider the
19 following:

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

22 (b) Whether at the time of the offense the person was driving or
23 in physical control of a vehicle with one or more passengers;

24 (c) Whether the driver was driving in the opposite direction of
25 the normal flow of traffic on a multiple lane highway, as defined by
26 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
27 or greater; and

28 (d) Whether a child passenger under the age of sixteen was an
29 occupant in the driver's vehicle.

30 (8) **Treatment and information school.** An offender punishable
31 under this section is subject to the alcohol assessment and treatment
32 provisions of RCW 46.61.5056.

33 (9) **Driver's license privileges of the defendant.** The license,
34 permit, or nonresident privilege of a person convicted of driving or
35 being in physical control of a motor vehicle while under the
36 influence of intoxicating liquor or drugs must:

37 (a) **Penalty for alcohol concentration less than 0.15.** If the
38 person's alcohol concentration was less than 0.15, or if for reasons
39 other than the person's refusal to take a test offered under RCW

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

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

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

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

9 (b) **Penalty for alcohol concentration at least 0.15.** If the
10 person's alcohol concentration was at least 0.15:

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

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

15 (iii) Where there have been two or more prior offenses within
16 seven years, be revoked or denied by the department for four years;
17 or

18 (c) **Penalty for refusing to take test.** If by reason of the
19 person's refusal to take a test offered under RCW 46.20.308, there is
20 no test result indicating the person's alcohol concentration:

21 (i) Where there have been no prior offenses within seven years,
22 be revoked or denied by the department for two years;

23 (ii) Where there has been one prior offense within seven years,
24 be revoked or denied by the department for three years; or

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

27 The department shall grant credit on a day-for-day basis for any
28 portion of a suspension, revocation, or denial already served under
29 this subsection for a suspension, revocation, or denial imposed under
30 RCW 46.20.3101 arising out of the same incident.

31 Upon its own motion or upon motion by a person, a court may find,
32 on the record, that notice to the department under RCW 46.20.270 has
33 been delayed for three years or more as a result of a clerical or
34 court error. If so, the court may order that the person's license,
35 permit, or nonresident privilege shall not be revoked, suspended, or
36 denied for that offense. The court shall send notice of the finding
37 and order to the department and to the person. Upon receipt of the
38 notice from the court, the department shall not revoke, suspend, or
39 deny the license, permit, or nonresident privilege of the person for
40 that offense.

1 For purposes of this subsection (9), the department shall refer
2 to the driver's record maintained under RCW 46.52.120 when
3 determining the existence of prior offenses.

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

9 (11) **Conditions of probation.** (a) In addition to any
10 nonsuspendable and nondeferrable jail sentence required by this
11 section, whenever the court imposes up to three hundred sixty-four
12 days in jail, the court shall also suspend but shall not defer a
13 period of confinement for a period not exceeding five years. The
14 court shall impose conditions of probation that include: (i) Not
15 driving a motor vehicle within this state without a valid license to
16 drive (~~(and)~~); (ii) not driving a motor vehicle within this state
17 without proof of liability insurance or other financial
18 responsibility for the future pursuant to RCW 46.30.020; (~~(+ii))~~
19 (iii) not driving or being in physical control of a motor vehicle
20 within this state while having an alcohol concentration of 0.08 or
21 more or a THC concentration of 5.00 nanograms per milliliter of whole
22 blood or higher, within two hours after driving; (~~(and-(iii))~~)(iv)
23 not refusing to submit to a test of his or her breath or blood to
24 determine alcohol or drug concentration upon request of a law
25 enforcement officer who has reasonable grounds to believe the person
26 was driving or was in actual physical control of a motor vehicle
27 within this state while under the influence of intoxicating liquor or
28 drug; and (v) not driving a motor vehicle in this state without a
29 functioning ignition interlock device as required by the department
30 under RCW 46.20.720(3). The court may impose conditions of probation
31 that include nonrepetition, installation of an ignition interlock
32 device on the probationer's motor vehicle, alcohol or drug treatment,
33 supervised probation, or other conditions that may be appropriate.
34 The sentence may be imposed in whole or in part upon violation of a
35 condition of probation during the suspension period.

36 (b) For each violation of mandatory conditions of probation under
37 (a)(i), (ii), (~~(+))~~ (iii), (iv), or (v) of this subsection, the
38 court shall order the convicted person to be confined for thirty
39 days, which shall not be suspended or deferred.

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

11 (12) **Waiver of electronic home monitoring.** A court may waive the
12 electronic home monitoring requirements of this chapter when:

13 (a) The offender does not have a dwelling, telephone service, or
14 any other necessity to operate an electronic home monitoring system.
15 However, if a court determines that an alcohol monitoring device
16 utilizing wireless reporting technology is reasonably available, the
17 court may require the person to obtain such a device during the
18 period of required electronic home monitoring;

19 (b) The offender does not reside in the state of Washington; or

20 (c) The court determines that there is reason to believe that the
21 offender would violate the conditions of the electronic home
22 monitoring penalty.

23 Whenever the mandatory minimum term of electronic home monitoring
24 is waived, the court shall state in writing the reason for granting
25 the waiver and the facts upon which the waiver is based, and shall
26 impose an alternative sentence with similar punitive consequences.
27 The alternative sentence may include, but is not limited to, use of
28 an ignition interlock device, the 24/7 sobriety program monitoring,
29 additional jail time, work crew, or work camp.

30 Whenever the combination of jail time and electronic home
31 monitoring or alternative sentence would exceed three hundred sixty-
32 four days, the offender shall serve the jail portion of the sentence
33 first, and the electronic home monitoring or alternative portion of
34 the sentence shall be reduced so that the combination does not exceed
35 three hundred sixty-four days.

36 (13) **Extraordinary medical placement.** An offender serving a
37 sentence under this section, whether or not a mandatory minimum term
38 has expired, may be granted an extraordinary medical placement by the
39 jail administrator subject to the standards and limitations set forth
40 in RCW 9.94A.728(3).

1 (14) **Definitions.** For purposes of this section and RCW 46.61.502
2 and 46.61.504:

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

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

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

8 (iii) A conviction for a violation of RCW 46.25.110 or an
9 equivalent local ordinance;

10 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
11 equivalent local ordinance;

12 (v) A conviction for a violation of RCW 79A.60.040(1) or an
13 equivalent local ordinance committed in a reckless manner if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 79A.60.040(2) or an equivalent local ordinance;

16 (vi) A conviction for a violation of RCW 47.68.220 or an
17 equivalent local ordinance committed while under the influence of
18 intoxicating liquor or any drug;

19 ~~((vi))~~ (vii) A conviction for a violation of RCW 47.68.220 or an
20 equivalent local ordinance committed in a careless or reckless manner
21 if the conviction is the result of a charge that was originally filed
22 as a violation of RCW 47.68.220 or an equivalent local ordinance
23 while under the influence of intoxicating liquor or any drug;

24 (viii) A conviction for a violation of RCW 46.61.503 or an
25 equivalent local ordinance;

26 (ix) A conviction for a violation of RCW 79A.60.060(2)(b) or an
27 equivalent local ordinance;

28 (x) A conviction for a violation of RCW 79A.60.060(2)(a) or an
29 equivalent local ordinance if the conviction is the result of a
30 charge that was originally filed as a violation of RCW
31 79A.60.060(2)(b) or an equivalent local ordinance;

32 (xi) A conviction for a violation of RCW 79A.60.050(1)(a) or an
33 equivalent local ordinance;

34 (xii) A conviction for a violation of RCW 79A.60.050(1) (b) or
35 (c), or an equivalent local ordinance if the conviction is the result
36 of a charge that was originally filed as a violation of RCW
37 79A.60.050(1)(a) or an equivalent local ordinance;

38 (xiii) A conviction for a violation of RCW 46.09.470(2) or an
39 equivalent local ordinance;

1 ~~((vii))~~(xiv) A conviction for a violation of RCW 46.10.490(2)
2 or an equivalent local ordinance;

3 ~~((viii))~~(xv) A conviction for a violation of RCW 46.61.520
4 committed while under the influence of intoxicating liquor or any
5 drug, or a conviction for a violation of RCW 46.61.520 committed in a
6 reckless manner or with the disregard for the safety of others if the
7 conviction is the result of a charge that was originally filed as a
8 violation of RCW 46.61.520 committed while under the influence of
9 intoxicating liquor or any drug;

10 ~~((ix))~~(xvi) A conviction for a violation of RCW 46.61.522
11 committed while under the influence of intoxicating liquor or any
12 drug, or a conviction for a violation of RCW 46.61.522 committed in a
13 reckless manner or with the disregard for the safety of others if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 46.61.522 committed while under the influence of
16 intoxicating liquor or any drug;

17 ~~((x))~~(xvii) A conviction for a violation of RCW 46.61.5249,
18 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the
19 conviction is the result of a charge that was originally filed as a
20 violation of RCW 46.61.502 or 46.61.504, or an equivalent local
21 ordinance, or of RCW 46.61.520 or 46.61.522;

22 ~~((xi))~~(xviii) An out-of-state conviction for a violation that
23 would have been a violation of (a)(i), (ii), ~~((viii))~~(xv), ~~((ix))~~
24 (xvi), or ~~((x))~~(xvii) of this subsection if committed in this
25 state;

26 ~~((xii))~~(xix) A deferred prosecution under chapter 10.05 RCW
27 granted in a prosecution for a violation of RCW 46.61.502, 46.61.504,
28 or an equivalent local ordinance;

29 ~~((xiii))~~(xx) A deferred prosecution under chapter 10.05 RCW
30 granted in a prosecution for a violation of RCW 46.61.5249, or an
31 equivalent local ordinance, if the charge under which the deferred
32 prosecution was granted was originally filed as a violation of RCW
33 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
34 46.61.520 or 46.61.522;

35 ~~((xiv))~~(xxi) A deferred prosecution granted in another state
36 for a violation of driving or having physical control of a vehicle
37 while under the influence of intoxicating liquor or any drug if the
38 out-of-state deferred prosecution is equivalent to the deferred
39 prosecution under chapter 10.05 RCW, including a requirement that the
40 defendant participate in a chemical dependency treatment program; or

1 (~~(xv)~~)(xxii) A deferred sentence imposed in a prosecution for a
2 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
3 equivalent local ordinance, if the charge under which the deferred
4 sentence was imposed was originally filed as a violation of RCW
5 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
6 violation of RCW 46.61.520 or 46.61.522;

7 If a deferred prosecution is revoked based on a subsequent
8 conviction for an offense listed in this subsection (14)(a), the
9 subsequent conviction shall not be treated as a prior offense of the
10 revoked deferred prosecution for the purposes of sentencing;

11 (b) "Treatment" means alcohol or drug treatment approved by the
12 department of social and health services;

13 (c) "Within seven years" means that the arrest for a prior
14 offense occurred within seven years before or after the arrest for
15 the current offense; and

16 (d) "Within ten years" means that the arrest for a prior offense
17 occurred within ten years before or after the arrest for the current
18 offense.

19 **Sec. 10.** RCW 46.01.260 and 2010 c 161 s 208 are each amended to
20 read as follows:

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

30 (2)(a) The director shall not destroy records of convictions or
31 adjudications of RCW 46.61.502, 46.61.503, 46.61.504, 46.61.520, and
32 46.61.522, or records of deferred prosecutions granted under RCW
33 10.05.120 and shall maintain such records permanently on file.

34 (b) The director shall not, within fifteen years from the date of
35 conviction or adjudication, destroy records if the offense was
36 originally charged as one of the offenses designated in (a) of this
37 subsection, convictions or adjudications of the following offenses:
38 RCW 46.61.500 or 46.61.5249 or any other violation that was

1 originally charged as one of the offenses designated in (a) of this
2 subsection.

3 (c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject
4 to this subsection shall be considered "alcohol-related" offenses.

5 **Ignition interlock devices—Standards—Compliance**

6 **Sec. 11.** RCW 43.43.395 and 2013 2nd sp.s. c 35 s 9 are each
7 amended to read as follows:

8 (1) The state patrol shall by rule provide standards for the
9 certification, installation, repair, maintenance, monitoring,
10 inspection, and removal of ignition interlock devices, as defined
11 under RCW 46.04.215, and equipment as outlined under this section,
12 and may inspect the records and equipment of manufacturers and
13 vendors during regular business hours for compliance with statutes
14 and rules and may suspend or revoke certification for any
15 noncompliance.

16 (2)(a) When a certified service provider or individual installer
17 of ignition interlock devices is found to be out of compliance, the
18 installation privileges of that certified service provider or
19 individual installer may be suspended or revoked until the certified
20 service provider or individual installer comes into compliance.
21 During any suspension or revocation period, the certified service
22 provider or individual installer is responsible for notifying
23 affected customers of any changes in their service agreement.

24 (b) A certified service provider or individual installer whose
25 certification is suspended or revoked for noncompliance has a right
26 to an administrative hearing under chapter 34.05 RCW to contest the
27 suspension or revocation, or both. For the administrative hearing,
28 the procedure and rules of evidence are as specified in chapter 34.05
29 RCW, except as otherwise provided in this chapter. Any request for an
30 administrative hearing must be made in writing and must be received
31 by the state patrol within twenty days after the receipt of the
32 notice of suspension or revocation.

33 (3)(a) An ignition interlock device must employ:

34 (i) Fuel cell technology. For the purposes of this subsection,
35 "fuel cell technology" consists of the following electrochemical
36 method: An electrolyte designed to oxidize the alcohol and release
37 electrons to be collected by an active electrode; a current flow is
38 generated within the electrode proportional to the amount of alcohol

1 oxidized on the fuel cell surface; and the electrical current is
2 measured and reported as breath alcohol concentration. Fuel cell
3 technology is highly specific for alcohols(~~(-~~

4 ~~(b) When reasonably available in the area, as determined by the
5 state patrol, an ignition interlock device must employ~~);

6 (ii) Technology capable of taking a photo identification of the
7 user giving the breath sample and recording on the photo the time the
8 breath sample was given; and

9 (iii) Technology capable of providing the global positioning
10 coordinates at the time of each test sequence. Such coordinates must
11 be displayed within the data log that is downloaded by the
12 manufacturer and must be made available to the state patrol to be
13 used for circumvention and tampering investigations.

14 ~~((e))~~(b) To be certified, an ignition interlock device must:

15 (i) Meet or exceed the minimum test standards according to rules
16 adopted by the state patrol. Only a notarized statement from a
17 laboratory that is accredited and certified ~~((by))~~under the current
18 edition of ISO (the international organization of standardization)
19 17025 standard for testing and calibration laboratories and is
20 capable of performing the tests specified will be accepted as proof
21 of meeting or exceeding the standards. The notarized statement must
22 include the name and signature of the person in charge of the tests
23 under the certification statement. The state patrol must adopt by
24 rule the required language of the certification statement that must,
25 at a minimum, outline that the testing meets or exceeds all
26 specifications listed in the federal register adopted in rule by the
27 state patrol; and

28 (ii) Be maintained in accordance with the rules and standards
29 adopted by the state patrol.

30 **Adjustments to standard sentences**

31 **Sec. 12.** RCW 9.94A.533 and 2013 c 270 s 2 are each amended to
32 read as follows:

33 (1) The provisions of this section apply to the standard sentence
34 ranges determined by RCW 9.94A.510 or 9.94A.517.

35 (2) For persons convicted of the anticipatory offenses of
36 criminal attempt, solicitation, or conspiracy under chapter 9A.28
37 RCW, the standard sentence range is determined by locating the
38 sentencing grid sentence range defined by the appropriate offender

1 score and the seriousness level of the completed crime, and
2 multiplying the range by seventy-five percent.

3 (3) The following additional times shall be added to the standard
4 sentence range for felony crimes committed after July 23, 1995, if
5 the offender or an accomplice was armed with a firearm as defined in
6 RCW 9.41.010 and the offender is being sentenced for one of the
7 crimes listed in this subsection as eligible for any firearm
8 enhancements based on the classification of the completed felony
9 crime. If the offender is being sentenced for more than one offense,
10 the firearm enhancement or enhancements must be added to the total
11 period of confinement for all offenses, regardless of which
12 underlying offense is subject to a firearm enhancement. If the
13 offender or an accomplice was armed with a firearm as defined in RCW
14 9.41.010 and the offender is being sentenced for an anticipatory
15 offense under chapter 9A.28 RCW to commit one of the crimes listed in
16 this subsection as eligible for any firearm enhancements, the
17 following additional times shall be added to the standard sentence
18 range determined under subsection (2) of this section based on the
19 felony crime of conviction as classified under RCW 9A.28.020:

20 (a) Five years for any felony defined under any law as a class A
21 felony or with a statutory maximum sentence of at least twenty years,
22 or both, and not covered under (f) of this subsection;

23 (b) Three years for any felony defined under any law as a class B
24 felony or with a statutory maximum sentence of ten years, or both,
25 and not covered under (f) of this subsection;

26 (c) Eighteen months for any felony defined under any law as a
27 class C felony or with a statutory maximum sentence of five years, or
28 both, and not covered under (f) of this subsection;

29 (d) If the offender is being sentenced for any firearm
30 enhancements under (a), (b), and/or (c) of this subsection and the
31 offender has previously been sentenced for any deadly weapon
32 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
33 subsection or subsection (4)(a), (b), and/or (c) of this section, or
34 both, all firearm enhancements under this subsection shall be twice
35 the amount of the enhancement listed;

36 (e) Notwithstanding any other provision of law, all firearm
37 enhancements under this section are mandatory, shall be served in
38 total confinement, and shall run consecutively to all other
39 sentencing provisions, including other firearm or deadly weapon
40 enhancements, for all offenses sentenced under this chapter. However,

1 whether or not a mandatory minimum term has expired, an offender
2 serving a sentence under this subsection may be granted an
3 extraordinary medical placement when authorized under RCW
4 9.94A.728(3);

5 (f) The firearm enhancements in this section shall apply to all
6 felony crimes except the following: Possession of a machine gun,
7 possessing a stolen firearm, drive-by shooting, theft of a firearm,
8 unlawful possession of a firearm in the first and second degree, and
9 use of a machine gun in a felony;

10 (g) If the standard sentence range under this section exceeds the
11 statutory maximum sentence for the offense, the statutory maximum
12 sentence shall be the presumptive sentence unless the offender is a
13 persistent offender. If the addition of a firearm enhancement
14 increases the sentence so that it would exceed the statutory maximum
15 for the offense, the portion of the sentence representing the
16 enhancement may not be reduced.

17 (4) The following additional times shall be added to the standard
18 sentence range for felony crimes committed after July 23, 1995, if
19 the offender or an accomplice was armed with a deadly weapon other
20 than a firearm as defined in RCW 9.41.010 and the offender is being
21 sentenced for one of the crimes listed in this subsection as eligible
22 for any deadly weapon enhancements based on the classification of the
23 completed felony crime. If the offender is being sentenced for more
24 than one offense, the deadly weapon enhancement or enhancements must
25 be added to the total period of confinement for all offenses,
26 regardless of which underlying offense is subject to a deadly weapon
27 enhancement. If the offender or an accomplice was armed with a deadly
28 weapon other than a firearm as defined in RCW 9.41.010 and the
29 offender is being sentenced for an anticipatory offense under chapter
30 9A.28 RCW to commit one of the crimes listed in this subsection as
31 eligible for any deadly weapon enhancements, the following additional
32 times shall be added to the standard sentence range determined under
33 subsection (2) of this section based on the felony crime of
34 conviction as classified under RCW 9A.28.020:

35 (a) Two years for any felony defined under any law as a class A
36 felony or with a statutory maximum sentence of at least twenty years,
37 or both, and not covered under (f) of this subsection;

38 (b) One year for any felony defined under any law as a class B
39 felony or with a statutory maximum sentence of ten years, or both,
40 and not covered under (f) of this subsection;

1 (c) Six months for any felony defined under any law as a class C
2 felony or with a statutory maximum sentence of five years, or both,
3 and not covered under (f) of this subsection;

4 (d) If the offender is being sentenced under (a), (b), and/or (c)
5 of this subsection for any deadly weapon enhancements and the
6 offender has previously been sentenced for any deadly weapon
7 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
8 subsection or subsection (3)(a), (b), and/or (c) of this section, or
9 both, all deadly weapon enhancements under this subsection shall be
10 twice the amount of the enhancement listed;

11 (e) Notwithstanding any other provision of law, all deadly weapon
12 enhancements under this section are mandatory, shall be served in
13 total confinement, and shall run consecutively to all other
14 sentencing provisions, including other firearm or deadly weapon
15 enhancements, for all offenses sentenced under this chapter. However,
16 whether or not a mandatory minimum term has expired, an offender
17 serving a sentence under this subsection may be granted an
18 extraordinary medical placement when authorized under RCW
19 9.94A.728(3);

20 (f) The deadly weapon enhancements in this section shall apply to
21 all felony crimes except the following: Possession of a machine gun,
22 possessing a stolen firearm, drive-by shooting, theft of a firearm,
23 unlawful possession of a firearm in the first and second degree, and
24 use of a machine gun in a felony;

25 (g) If the standard sentence range under this section exceeds the
26 statutory maximum sentence for the offense, the statutory maximum
27 sentence shall be the presumptive sentence unless the offender is a
28 persistent offender. If the addition of a deadly weapon enhancement
29 increases the sentence so that it would exceed the statutory maximum
30 for the offense, the portion of the sentence representing the
31 enhancement may not be reduced.

32 (5) The following additional times shall be added to the standard
33 sentence range if the offender or an accomplice committed the offense
34 while in a county jail or state correctional facility and the
35 offender is being sentenced for one of the crimes listed in this
36 subsection. If the offender or an accomplice committed one of the
37 crimes listed in this subsection while in a county jail or state
38 correctional facility, and the offender is being sentenced for an
39 anticipatory offense under chapter 9A.28 RCW to commit one of the
40 crimes listed in this subsection, the following additional times

1 shall be added to the standard sentence range determined under
2 subsection (2) of this section:

3 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
4 (a) or (b) or 69.50.410;

5 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
6 (c), (d), or (e);

7 (c) Twelve months for offenses committed under RCW 69.50.4013.

8 For the purposes of this subsection, all of the real property of
9 a state correctional facility or county jail shall be deemed to be
10 part of that facility or county jail.

11 (6) An additional twenty-four months shall be added to the
12 standard sentence range for any ranked offense involving a violation
13 of chapter 69.50 RCW if the offense was also a violation of RCW
14 69.50.435 or 9.94A.827. All enhancements under this subsection shall
15 run consecutively to all other sentencing provisions, for all
16 offenses sentenced under this chapter.

17 (7) An additional two years shall be added to the standard
18 sentence range for vehicular homicide committed while under the
19 influence of intoxicating liquor or any drug as defined by RCW
20 46.61.502 for each prior offense as defined in RCW 46.61.5055. All
21 enhancements under this subsection shall be mandatory, shall be
22 served in total confinement, and shall run consecutively to all other
23 sentencing provisions.

24 (8)(a) The following additional times shall be added to the
25 standard sentence range for felony crimes committed on or after July
26 1, 2006, if the offense was committed with sexual motivation, as that
27 term is defined in RCW 9.94A.030. If the offender is being sentenced
28 for more than one offense, the sexual motivation enhancement must be
29 added to the total period of total confinement for all offenses,
30 regardless of which underlying offense is subject to a sexual
31 motivation enhancement. If the offender committed the offense with
32 sexual motivation and the offender is being sentenced for an
33 anticipatory offense under chapter 9A.28 RCW, the following
34 additional times shall be added to the standard sentence range
35 determined under subsection (2) of this section based on the felony
36 crime of conviction as classified under RCW 9A.28.020:

37 (i) Two years for any felony defined under the law as a class A
38 felony or with a statutory maximum sentence of at least twenty years,
39 or both;

1 (ii) Eighteen months for any felony defined under any law as a
2 class B felony or with a statutory maximum sentence of ten years, or
3 both;

4 (iii) One year for any felony defined under any law as a class C
5 felony or with a statutory maximum sentence of five years, or both;

6 (iv) If the offender is being sentenced for any sexual motivation
7 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
8 the offender has previously been sentenced for any sexual motivation
9 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
10 (iii) of this subsection, all sexual motivation enhancements under
11 this subsection shall be twice the amount of the enhancement listed;

12 (b) Notwithstanding any other provision of law, all sexual
13 motivation enhancements under this subsection are mandatory, shall be
14 served in total confinement, and shall run consecutively to all other
15 sentencing provisions, including other sexual motivation
16 enhancements, for all offenses sentenced under this chapter. However,
17 whether or not a mandatory minimum term has expired, an offender
18 serving a sentence under this subsection may be granted an
19 extraordinary medical placement when authorized under RCW
20 9.94A.728(3);

21 (c) The sexual motivation enhancements in this subsection apply
22 to all felony crimes;

23 (d) If the standard sentence range under this subsection exceeds
24 the statutory maximum sentence for the offense, the statutory maximum
25 sentence shall be the presumptive sentence unless the offender is a
26 persistent offender. If the addition of a sexual motivation
27 enhancement increases the sentence so that it would exceed the
28 statutory maximum for the offense, the portion of the sentence
29 representing the enhancement may not be reduced;

30 (e) The portion of the total confinement sentence which the
31 offender must serve under this subsection shall be calculated before
32 any earned early release time is credited to the offender;

33 (f) Nothing in this subsection prevents a sentencing court from
34 imposing a sentence outside the standard sentence range pursuant to
35 RCW 9.94A.535.

36 (9) An additional one-year enhancement shall be added to the
37 standard sentence range for the felony crimes of RCW 9A.44.073,
38 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
39 or after July 22, 2007, if the offender engaged, agreed, or offered
40 to engage the victim in the sexual conduct in return for a fee. If

1 the offender is being sentenced for more than one offense, the
2 one-year enhancement must be added to the total period of total
3 confinement for all offenses, regardless of which underlying offense
4 is subject to the enhancement. If the offender is being sentenced for
5 an anticipatory offense for the felony crimes of RCW 9A.44.073,
6 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
7 offender attempted, solicited another, or conspired to engage, agree,
8 or offer to engage the victim in the sexual conduct in return for a
9 fee, an additional one-year enhancement shall be added to the
10 standard sentence range determined under subsection (2) of this
11 section. For purposes of this subsection, "sexual conduct" means
12 sexual intercourse or sexual contact, both as defined in chapter
13 9A.44 RCW.

14 (10)(a) For a person age eighteen or older convicted of any
15 criminal street gang-related felony offense for which the person
16 compensated, threatened, or solicited a minor in order to involve the
17 minor in the commission of the felony offense, the standard sentence
18 range is determined by locating the sentencing grid sentence range
19 defined by the appropriate offender score and the seriousness level
20 of the completed crime, and multiplying the range by one hundred
21 twenty-five percent. If the standard sentence range under this
22 subsection exceeds the statutory maximum sentence for the offense,
23 the statutory maximum sentence is the presumptive sentence unless the
24 offender is a persistent offender.

25 (b) This subsection does not apply to any criminal street gang-
26 related felony offense for which involving a minor in the commission
27 of the felony offense is an element of the offense.

28 (c) The increased penalty specified in (a) of this subsection is
29 unavailable in the event that the prosecution gives notice that it
30 will seek an exceptional sentence based on an aggravating factor
31 under RCW 9.94A.535.

32 (11) An additional twelve months and one day shall be added to
33 the standard sentence range for a conviction of attempting to elude a
34 police vehicle as defined by RCW 46.61.024, if the conviction
35 included a finding by special allegation of endangering one or more
36 persons under RCW 9.94A.834. The enhancement under this subsection
37 shall be mandatory, shall be served in total confinement, and shall
38 run consecutively to all other sentencing provisions.

1 (12) An additional twelve months shall be added to the standard
2 sentence range for an offense that is also a violation of RCW
3 9.94A.831.

4 (13) An additional twelve months shall be added to the standard
5 sentence range for vehicular homicide committed while under the
6 influence of intoxicating liquor or any drug as defined by RCW
7 46.61.520 or for vehicular assault committed while under the
8 influence of intoxicating liquor or any drug as defined by RCW
9 46.61.522, or for any felony driving under the influence (RCW
10 46.61.502(6)) or felony physical control under the influence (RCW
11 46.61.504(6)) for each child passenger under the age of sixteen who
12 is an occupant in the defendant's vehicle. These enhancements shall
13 be mandatory, shall be served in total confinement, and shall run
14 consecutively to all other sentencing provisions. If the addition of
15 a minor child enhancement increases the sentence so that it would
16 exceed the statutory maximum for the offense, the portion of the
17 sentence representing the enhancement may not be reduced.

18 (14) An additional twelve months shall be added to the standard
19 sentence range for an offense that is also a violation of RCW
20 9.94A.832.

21 **Earned release time**

22 **Sec. 13.** RCW 9.94A.729 and 2014 c 130 s 4 are each amended to
23 read as follows:

24 (1)(a) The term of the sentence of an offender committed to a
25 correctional facility operated by the department may be reduced by
26 earned release time in accordance with procedures that shall be
27 developed and adopted by the correctional agency having jurisdiction
28 in which the offender is confined. The earned release time shall be
29 for good behavior and good performance, as determined by the
30 correctional agency having jurisdiction. The correctional agency
31 shall not credit the offender with earned release credits in advance
32 of the offender actually earning the credits.

33 (b) Any program established pursuant to this section shall allow
34 an offender to earn early release credits for presentence
35 incarceration. If an offender is transferred from a county jail to
36 the department, the administrator of a county jail facility shall
37 certify to the department the amount of time spent in custody at the
38 facility and the number of days of early release credits lost or not

1 earned. The department may approve a jail certification from a
2 correctional agency that calculates early release time based on the
3 actual amount of confinement time served by the offender before
4 sentencing when an erroneous calculation of confinement time served
5 by the offender before sentencing appears on the judgment and
6 sentence. The department must adjust an offender's rate of early
7 release listed on the jail certification to be consistent with the
8 rate applicable to offenders in the department's facilities. However,
9 the department is not authorized to adjust the number of presentence
10 early release days that the jail has certified as lost or not earned.

11 (2) An offender ((who)) shall not receive any good time credits or
12 earned release time for that portion of his or her sentence that
13 results from:

14 (a) Any deadly weapon enhancements if he or she has been
15 convicted of a felony committed after July 23, 1995, that involves
16 any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or
17 (4), or both((, shall not receive any good time credits or earned
18 release time for that portion of his or her sentence that results
19 from any deadly weapon enhancements));

20 (b) A vehicular homicide enhancement pursuant to RCW
21 9.94A.533(7);

22 (c) An attempting to elude a police vehicle enhancement pursuant
23 to RCW 9.94A.533(11); or

24 (d) A minor child enhancement pursuant to RCW 9.94A.533(13).

25 (3) An offender may earn early release time as follows:

26 (a) In the case of an offender sentenced pursuant to RCW
27 10.95.030(3) or 10.95.035, the aggregate earned release time may not
28 exceed ten percent of the sentence.

29 (b) In the case of an offender convicted of a serious violent
30 offense, or a sex offense that is a class A felony, committed on or
31 after July 1, 1990, and before July 1, 2003, the aggregate earned
32 release time may not exceed fifteen percent of the sentence.

33 (c) In the case of an offender convicted of a serious violent
34 offense, or a sex offense that is a class A felony, committed on or
35 after July 1, 2003, the aggregate earned release time may not exceed
36 ten percent of the sentence.

37 (d) An offender is qualified to earn up to fifty percent of
38 aggregate earned release time if he or she:

39 (i) Is not classified as an offender who is at a high risk to
40 reoffend as provided in subsection (4) of this section;

1 (ii) Is not confined pursuant to a sentence for:
2 (A) A sex offense;
3 (B) A violent offense;
4 (C) A crime against persons as defined in RCW 9.94A.411;
5 (D) A felony that is domestic violence as defined in RCW
6 10.99.020;
7 (E) A violation of RCW 9A.52.025 (residential burglary);
8 (F) A violation of, or an attempt, solicitation, or conspiracy to
9 violate, RCW 69.50.401 by manufacture or delivery or possession with
10 intent to deliver methamphetamine; or
11 (G) A violation of, or an attempt, solicitation, or conspiracy to
12 violate, RCW 69.50.406 (delivery of a controlled substance to a
13 minor);
14 (iii) Has no prior conviction for the offenses listed in (d)(ii)
15 of this subsection;
16 (iv) Participates in programming or activities as directed by the
17 offender's individual reentry plan as provided under RCW 72.09.270 to
18 the extent that such programming or activities are made available by
19 the department; and
20 (v) Has not committed a new felony after July 22, 2007, while
21 under community custody.
22 (e) In no other case shall the aggregate earned release time
23 exceed one-third of the total sentence.
24 (4) The department shall perform a risk assessment of each
25 offender who may qualify for earned early release under subsection
26 (3)(d) of this section utilizing the risk assessment tool recommended
27 by the Washington state institute for public policy. Subsection
28 (3)(d) of this section does not apply to offenders convicted after
29 July 1, 2010.
30 (5)(a) A person who is eligible for earned early release as
31 provided in this section and who will be supervised by the department
32 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
33 community custody in lieu of earned release time;
34 (b) The department shall, as a part of its program for release to
35 the community in lieu of earned release, require the offender to
36 propose a release plan that includes an approved residence and living
37 arrangement. All offenders with community custody terms eligible for
38 release to community custody in lieu of earned release shall provide
39 an approved residence and living arrangement prior to release to the
40 community;

1 (c) The department may deny transfer to community custody in lieu
2 of earned release time if the department determines an offender's
3 release plan, including proposed residence location and living
4 arrangements, may violate the conditions of the sentence or
5 conditions of supervision, place the offender at risk to violate the
6 conditions of the sentence, place the offender at risk to reoffend,
7 or present a risk to victim safety or community safety. The
8 department's authority under this section is independent of any
9 court-ordered condition of sentence or statutory provision regarding
10 conditions for community custody;

11 (d) If the department is unable to approve the offender's release
12 plan, the department may do one or more of the following:

13 (i) Transfer an offender to partial confinement in lieu of earned
14 early release for a period not to exceed three months. The three
15 months in partial confinement is in addition to that portion of the
16 offender's term of confinement that may be served in partial
17 confinement as provided in RCW 9.94A.728(5);

18 (ii) Provide rental vouchers to the offender for a period not to
19 exceed three months if rental assistance will result in an approved
20 release plan.

21 A voucher must be provided in conjunction with additional
22 transition support programming or services that enable an offender to
23 participate in services including, but not limited to, substance
24 abuse treatment, mental health treatment, sex offender treatment,
25 educational programming, or employment programming;

26 (e) The department shall maintain a list of housing providers
27 that meets the requirements of RCW 72.09.285. If more than two
28 voucher recipients will be residing per dwelling unit, as defined in
29 RCW 59.18.030, rental vouchers for those recipients may only be paid
30 to a housing provider on the department's list;

31 (f) For each offender who is the recipient of a rental voucher,
32 the department shall gather data as recommended by the Washington
33 state institute for public policy in order to best demonstrate
34 whether rental vouchers are effective in reducing recidivism.

35 (6) An offender serving a term of confinement imposed under RCW
36 9.94A.670(5)(a) is not eligible for earned release credits under this
37 section.

1 **Sec. 14.** RCW 46.52.130 and 2012 c 74 s 6 and 2012 c 73 s 1 are
2 each reenacted and amended to read as follows:

3 Upon a proper request, the department may furnish an abstract of
4 a person's driving record as permitted under this section.

5 (1) **Contents of abstract of driving record.** An abstract of a
6 person's driving record, whenever possible, must include:

7 (a) An enumeration of motor vehicle accidents in which the person
8 was driving, including:

9 (i) The total number of vehicles involved;

10 (ii) Whether the vehicles were legally parked or moving;

11 (iii) Whether the vehicles were occupied at the time of the
12 accident; and

13 (iv) Whether the accident resulted in a fatality;

14 (b) Any reported convictions, forfeitures of bail, or findings
15 that an infraction was committed based upon a violation of any motor
16 vehicle law;

17 (c) The status of the person's driving privilege in this state;
18 and

19 (d) Any reports of failure to appear in response to a traffic
20 citation or failure to respond to a notice of infraction served upon
21 the named individual by an arresting officer.

22 (2) **Release of abstract of driving record.** An abstract of a
23 person's driving record may be furnished to the following persons or
24 entities:

25 (a) **Named individuals.** (i) An abstract of the full driving record
26 maintained by the department may be furnished to the individual named
27 in the abstract.

28 (ii) Nothing in this section prevents a court from providing a
29 copy of the driver's abstract to the individual named in the abstract
30 or that named individual's attorney, provided that the named
31 individual has a pending or open infraction or criminal case in that
32 court. A pending case includes criminal cases that have not reached a
33 disposition by plea, stipulation, trial, or amended charge. An open
34 infraction or criminal case includes cases on probation, payment
35 agreement or subject to, or in collections. Courts may charge a
36 reasonable fee for the production and copying of the abstract for the
37 individual.

38 (b) **Employers or prospective employers.** (i)(A) An abstract of the
39 full driving record maintained by the department may be furnished to
40 an employer or prospective employer or an agent acting on behalf of

1 an employer or prospective employer of the named individual for
2 purposes related to driving by the individual as a condition of
3 employment or otherwise at the direction of the employer.

4 (B) Release of an abstract of the driving record of an employee
5 or prospective employee requires a statement signed by: (I) The
6 employee or prospective employee that authorizes the release of the
7 record; and (II) the employer attesting that the information is
8 necessary for employment purposes related to driving by the
9 individual as a condition of employment or otherwise at the direction
10 of the employer. If the employer or prospective employer authorizes
11 an agent to obtain this information on their behalf, this must be
12 noted in the statement.

13 (C) Upon request of the person named in the abstract provided
14 under this subsection, and upon that same person furnishing copies of
15 court records ruling that the person was not at fault in a motor
16 vehicle accident, the department must indicate on any abstract
17 provided under this subsection that the person was not at fault in
18 the motor vehicle accident.

19 (ii) In addition to the methods described in (b)(i) of this
20 subsection, the director may enter into a contractual agreement with
21 an employer or its agent for the purpose of reviewing the driving
22 records of existing employees for changes to the record during
23 specified periods of time. The department shall establish a fee for
24 this service, which must be deposited in the highway safety fund. The
25 fee for this service must be set at a level that will not result in a
26 net revenue loss to the state. Any information provided under this
27 subsection must be treated in the same manner and is subject to the
28 same restrictions as driving record abstracts.

29 (c) **Volunteer organizations.** (i) An abstract of the full driving
30 record maintained by the department may be furnished to a volunteer
31 organization or an agent for a volunteer organization for which the
32 named individual has submitted an application for a position that
33 would require driving by the individual at the direction of the
34 volunteer organization.

35 (ii) Release of an abstract of the driving record of a
36 prospective volunteer requires a statement signed by: (A) The
37 prospective volunteer that authorizes the release of the record; and
38 (B) the volunteer organization attesting that the information is
39 necessary for purposes related to driving by the individual at the
40 direction of the volunteer organization. If the volunteer

1 organization authorizes an agent to obtain this information on their
2 behalf, this must be noted in the statement.

3 (d) **Transit authorities.** An abstract of the full driving record
4 maintained by the department may be furnished to an employee or agent
5 of a transit authority checking prospective volunteer vanpool drivers
6 for insurance and risk management needs.

7 (e) **Insurance carriers.** (i) An abstract of the driving record
8 maintained by the department covering the period of not more than the
9 last three years may be furnished to an insurance company or its
10 agent:

11 (A) That has motor vehicle or life insurance in effect covering
12 the named individual;

13 (B) To which the named individual has applied; or

14 (C) That has insurance in effect covering the employer or a
15 prospective employer of the named individual.

16 (ii) The abstract provided to the insurance company must:

17 (A) Not contain any information related to actions committed by
18 law enforcement officers or firefighters, as both terms are defined
19 in RCW 41.26.030, or by Washington state patrol officers, while
20 driving official vehicles in the performance of their occupational
21 duty. This does not apply to any situation where the vehicle was used
22 in the commission of a misdemeanor or felony;

23 (B) Include convictions under RCW 46.61.5249 and 46.61.525,
24 except that the abstract must report the convictions only as
25 negligent driving without reference to whether they are for first or
26 second degree negligent driving; and

27 (C) Exclude any deferred prosecution under RCW 10.05.060, except
28 that if a person is removed from a deferred prosecution under RCW
29 10.05.090, the abstract must show the deferred prosecution as well as
30 the removal.

31 (iii) Any policy of insurance may not be canceled, nonrenewed,
32 denied, or have the rate increased on the basis of information
33 regarding an accident included in the abstract of a driving record,
34 unless the policyholder was determined to be at fault.

35 (iv) Any insurance company or its agent, for underwriting
36 purposes relating to the operation of commercial motor vehicles, may
37 not use any information contained in the abstract relative to any
38 person's operation of motor vehicles while not engaged in such
39 employment. Any insurance company or its agent, for underwriting
40 purposes relating to the operation of noncommercial motor vehicles,

1 may not use any information contained in the abstract relative to any
2 person's operation of commercial motor vehicles.

3 (v) The director may enter into a contractual agreement with an
4 insurance company or its agent for the limited purpose of reviewing
5 the driving records of existing policyholders for changes to the
6 record during specified periods of time. The department shall
7 establish a fee for this service, which must be deposited in the
8 highway safety fund. The fee for this service must be set at a level
9 that will not result in a net revenue loss to the state. Any
10 information provided under this subsection must be treated in the
11 same manner and is subject to the same restrictions as driving record
12 abstracts.

13 (f) **Alcohol/drug assessment or treatment agencies.** An abstract of
14 the driving record maintained by the department covering the period
15 of not more than the last five years may be furnished to an alcohol/
16 drug assessment or treatment agency approved by the department of
17 social and health services to which the named individual has applied
18 or been assigned for evaluation or treatment, for purposes of
19 assisting employees in making a determination as to what level of
20 treatment, if any, is appropriate, except that the abstract must:

21 (i) Also include records of alcohol-related offenses, as defined
22 in RCW 46.01.260(2), covering a period of not more than the last ten
23 years; and

24 (ii) Indicate whether an alcohol-related offense was originally
25 charged as a violation of either RCW 46.61.502 or 46.61.504.

26 (g) **Attorneys—City attorneys ((and)), county prosecuting**
27 **attorneys, and named individual's attorney of record.** An abstract of
28 the full driving record maintained by the department, including
29 whether a recorded violation is an alcohol-related offense, as
30 defined in RCW 46.01.260(2), that was originally charged as a
31 violation of either RCW 46.61.502 or 46.61.504, may be furnished to
32 city attorneys ((~~and~~)), county prosecuting attorneys, or the named
33 individual's attorney of record. City attorneys ((~~and~~)), county
34 prosecuting attorneys, or the named individual's attorney of record
35 may provide the driving record to alcohol/drug assessment or
36 treatment agencies approved by the department of social and health
37 services to which the named individual has applied or been assigned
38 for evaluation or treatment.

39 (h) **State colleges, universities, or agencies, or units of local**
40 **government.** An abstract of the full driving record maintained by the

1 department may be furnished to (i) state colleges, universities, or
2 agencies for employment and risk management purposes or (ii) units of
3 local government authorized to self-insure under RCW 48.62.031 for
4 employment and risk management purposes.

5 (i) **Superintendent of public instruction.** An abstract of the full
6 driving record maintained by the department may be furnished to the
7 superintendent of public instruction for review of public school bus
8 driver records. The superintendent or superintendent's designee may
9 discuss information on the driving record with an authorized
10 representative of the employing school district for employment and
11 risk management purposes.

12 (3) **Release to third parties prohibited.** Any person or entity
13 receiving an abstract of a person's driving record under subsection
14 (2)(b) through (i) of this section shall use the abstract exclusively
15 for his, her, or its own purposes or as otherwise expressly permitted
16 under this section, and shall not divulge any information contained
17 in the abstract to a third party.

18 (4) **Fee.** The director shall collect a thirteen dollar fee for
19 each abstract of a person's driving record furnished by the
20 department. Fifty percent of the fee must be deposited in the highway
21 safety fund, and fifty percent of the fee must be deposited according
22 to RCW 46.68.038.

23 (5) **Violation.** (a) Any negligent violation of this section is a
24 gross misdemeanor.

25 (b) Any intentional violation of this section is a class C
26 felony.

27 **Right to control disposition of remains—Liability of funeral**
28 **establishment or cemetery authority—Liability for cost**

29 **Sec. 15.** RCW 68.50.160 and 2012 c 5 s 1 are each amended to read
30 as follows:

31 (1) A person has the right to control the disposition of his or
32 her own remains without the predeath or postdeath consent of another
33 person. A valid written document expressing the decedent's wishes
34 regarding the place or method of disposition of his or her remains,
35 signed by the decedent in the presence of a witness, is sufficient
36 legal authorization for the procedures to be accomplished.

37 (2) Prearrangements that are prepaid, or filed with a licensed
38 funeral establishment or cemetery authority, under RCW 18.39.280

1 through 18.39.345 and chapter 68.46 RCW are not subject to
2 cancellation or substantial revision by survivors. Absent actual
3 knowledge of contrary legal authorization under this section, a
4 licensed funeral establishment or cemetery authority shall not be
5 held criminally nor civilly liable for acting upon such
6 prearrangements.

7 (3) If the decedent has not made a prearrangement as set forth in
8 subsection (2) of this section or the costs of executing the
9 decedent's wishes regarding the disposition of the decedent's remains
10 exceeds a reasonable amount or directions have not been given by the
11 decedent, the right to control the disposition of the remains of a
12 deceased person vests in, and the duty of disposition and the
13 liability for the reasonable cost of preparation, care, and
14 disposition of such remains devolves upon the following in the order
15 named:

16 (a) The person designated by the decedent as authorized to direct
17 disposition as listed on the decedent's United States department of
18 defense record of emergency data, DD form 93, or its successor form,
19 if the decedent died while serving in military service as described
20 in 10 U.S.C. Sec. 1481(a) (1)-(8) in any branch of the United States
21 armed forces, United States reserve forces, or national guard;

22 (b) The designated agent of the decedent as directed through a
23 written document signed and dated by the decedent in the presence of
24 a witness. The direction of the designated agent is sufficient to
25 direct the type, place, and method of disposition;

26 (c) The surviving spouse or state registered domestic partner;

27 (d) The majority of the surviving adult children of the decedent;

28 (e) The surviving parents of the decedent;

29 (f) The majority of the surviving siblings of the decedent;

30 (g) A court-appointed guardian for the person at the time of the
31 person's death.

32 (4) If any person to whom the right of control has vested
33 pursuant to subsection (3) of this section has been arrested or
34 charged with first or second degree murder (~~(or)~~) first degree
35 manslaughter, or vehicular homicide in connection with the decedent's
36 death, the right of control is relinquished and passed on in
37 accordance with subsection (3) of this section.

38 (5) If a cemetery authority as defined in RCW 68.04.190 or a
39 funeral establishment licensed under chapter 18.39 RCW has made a
40 good faith effort to locate the person cited in subsection (3)(a)

1 through (g) of this section or the legal representative of the
2 decedent's estate, the cemetery authority or funeral establishment
3 shall have the right to rely on an authority to bury or cremate the
4 human remains, executed by the most responsible party available, and
5 the cemetery authority or funeral establishment may not be held
6 criminally or civilly liable for burying or cremating the human
7 remains. In the event any government agency or charitable
8 organization provides the funds for the disposition of any human
9 remains, the cemetery authority or funeral establishment may not be
10 held criminally or civilly liable for cremating the human remains.

11 (6) The liability for the reasonable cost of preparation, care,
12 and disposition devolves jointly and severally upon all kin of the
13 decedent in the same degree of kindred, in the order listed in
14 subsection (3) of this section, and upon the estate of the decedent.

15 **Sec. 16.** RCW 9.94A.589 and 2002 c 175 s 7 are each amended to
16 read as follows:

17 (1)(a) Except as provided in (b) (~~(e)~~), (c), or (d) of this
18 subsection, whenever a person is to be sentenced for two or more
19 current offenses, the sentence range for each current offense shall
20 be determined by using all other current and prior convictions as if
21 they were prior convictions for the purpose of the offender score:
22 PROVIDED, That if the court enters a finding that some or all of the
23 current offenses encompass the same criminal conduct then those
24 current offenses shall be counted as one crime. Sentences imposed
25 under this subsection shall be served concurrently. Consecutive
26 sentences may only be imposed under the exceptional sentence
27 provisions of RCW 9.94A.535. "Same criminal conduct," as used in this
28 subsection, means two or more crimes that require the same criminal
29 intent, are committed at the same time and place, and involve the
30 same victim. This definition applies in cases involving vehicular
31 assault or vehicular homicide even if the victims occupied the same
32 vehicle.

33 (b) Whenever a person is convicted of two or more serious violent
34 offenses arising from separate and distinct criminal conduct, the
35 standard sentence range for the offense with the highest seriousness
36 level under RCW 9.94A.515 shall be determined using the offender's
37 prior convictions and other current convictions that are not serious
38 violent offenses in the offender score and the standard sentence
39 range for other serious violent offenses shall be determined by using

1 an offender score of zero. The standard sentence range for any
2 offenses that are not serious violent offenses shall be determined
3 according to (a) of this subsection. All sentences imposed under
4 (~~((b) of~~) this subsection (1)(b) shall be served consecutively to
5 each other and concurrently with sentences imposed under (a) of this
6 subsection.

7 (c) If an offender is convicted under RCW 9.41.040 for unlawful
8 possession of a firearm in the first or second degree and for the
9 felony crimes of theft of a firearm or possession of a stolen
10 firearm, or both, the standard sentence range for each of these
11 current offenses shall be determined by using all other current and
12 prior convictions, except other current convictions for the felony
13 crimes listed in this subsection (1)(c), as if they were prior
14 convictions. The offender shall serve consecutive sentences for each
15 conviction of the felony crimes listed in this subsection (1)(c), and
16 for each firearm unlawfully possessed.

17 (d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6),
18 or 46.61.5055(4) shall be served consecutively to any sentences
19 imposed under RCW 46.20.740 and 46.20.750.

20 (2)(a) Except as provided in (b) of this subsection, whenever a
21 person while under sentence for conviction of a felony commits
22 another felony and is sentenced to another term of confinement, the
23 latter term shall not begin until expiration of all prior terms.

24 (b) Whenever a second or later felony conviction results in
25 community supervision with conditions not currently in effect, under
26 the prior sentence or sentences of community supervision the court
27 may require that the conditions of community supervision contained in
28 the second or later sentence begin during the immediate term of
29 community supervision and continue throughout the duration of the
30 consecutive term of community supervision.

31 (3) Subject to subsections (1) and (2) of this section, whenever
32 a person is sentenced for a felony that was committed while the
33 person was not under sentence for conviction of a felony, the
34 sentence shall run concurrently with any felony sentence which has
35 been imposed by any court in this or another state or by a federal
36 court subsequent to the commission of the crime being sentenced
37 unless the court pronouncing the current sentence expressly orders
38 that they be served consecutively.

39 (4) Whenever any person granted probation under RCW 9.95.210 or
40 9.92.060, or both, has the probationary sentence revoked and a prison

1 sentence imposed, that sentence shall run consecutively to any
2 sentence imposed pursuant to this chapter, unless the court
3 pronouncing the subsequent sentence expressly orders that they be
4 served concurrently.

5 (5) In the case of consecutive sentences, all periods of total
6 confinement shall be served before any partial confinement, community
7 restitution, community supervision, or any other requirement or
8 conditions of any of the sentences. Except for exceptional sentences
9 as authorized under RCW 9.94A.535, if two or more sentences that run
10 consecutively include periods of community supervision, the aggregate
11 of the community supervision period shall not exceed twenty-four
12 months.

13 **Sec. 17.** RCW 46.61.504 and 2013 c 3 s 35 are each amended to
14 read as follows:

15 (1) A person is guilty of being in actual physical control of a
16 motor vehicle while under the influence of intoxicating liquor or any
17 drug if the person has actual physical control of a vehicle within
18 this state:

19 (a) And the person has, within two hours after being in actual
20 physical control of the vehicle, an alcohol concentration of 0.08 or
21 higher as shown by analysis of the person's breath or blood made
22 under RCW 46.61.506; or

23 (b) The person has, within two hours after being in actual
24 physical control of a vehicle, a THC concentration of 5.00 or higher
25 as shown by analysis of the person's blood made under RCW 46.61.506;
26 or

27 (c) While the person is under the influence of or affected by
28 intoxicating liquor or any drug; or

29 (d) While the person is under the combined influence of or
30 affected by intoxicating liquor and any drug.

31 (2) The fact that a person charged with a violation of this
32 section is or has been entitled to use a drug under the laws of this
33 state does not constitute a defense against any charge of violating
34 this section. No person may be convicted under this section and it is
35 an affirmative defense to any action pursuant to RCW 46.20.308 to
36 suspend, revoke, or deny the privilege to drive if, prior to being
37 pursued by a law enforcement officer, the person has moved the
38 vehicle safely off the roadway.

1 (3)(a) It is an affirmative defense to a violation of subsection
2 (1)(a) of this section which the defendant must prove by a
3 preponderance of the evidence that the defendant consumed a
4 sufficient quantity of alcohol after the time of being in actual
5 physical control of the vehicle and before the administration of an
6 analysis of the person's breath or blood to cause the defendant's
7 alcohol concentration to be 0.08 or more within two hours after being
8 in such control. The court shall not admit evidence of this defense
9 unless the defendant notifies the prosecution prior to the omnibus or
10 pretrial hearing in the case of the defendant's intent to assert the
11 affirmative defense.

12 (b) It is an affirmative defense to a violation of subsection
13 (1)(b) of this section, which the defendant must prove by a
14 preponderance of the evidence, that the defendant consumed a
15 sufficient quantity of marijuana after the time of being in actual
16 physical control of the vehicle and before the administration of an
17 analysis of the person's blood to cause the defendant's THC
18 concentration to be 5.00 or more within two hours after being in
19 control of the vehicle. The court shall not admit evidence of this
20 defense unless the defendant notifies the prosecution prior to the
21 omnibus or pretrial hearing in the case of the defendant's intent to
22 assert the affirmative defense.

23 (4)(a) Analyses of blood or breath samples obtained more than two
24 hours after the alleged being in actual physical control of a vehicle
25 may be used as evidence that within two hours of the alleged being in
26 such control, a person had an alcohol concentration of 0.08 or more
27 in violation of subsection (1)(a) of this section, and in any case in
28 which the analysis shows an alcohol concentration above 0.00 may be
29 used as evidence that a person was under the influence of or affected
30 by intoxicating liquor or any drug in violation of subsection (1)(c)
31 or (d) of this section.

32 (b) Analyses of blood samples obtained more than two hours after
33 the alleged being in actual physical control of a vehicle may be used
34 as evidence that within two hours of the alleged being in control of
35 the vehicle, a person had a THC concentration of 5.00 or more in
36 violation of subsection (1)(b) of this section, and in any case in
37 which the analysis shows a THC concentration above 0.00 may be used
38 as evidence that a person was under the influence of or affected by
39 marijuana in violation of subsection (1)(c) or (d) of this section.

1 (5) Except as provided in subsection (6) of this section, a
2 violation of this section is a gross misdemeanor.

3 (6) It is a class C felony punishable under chapter 9.94A RCW, or
4 chapter 13.40 RCW if the person is a juvenile, if:

5 (a) The person has four or more prior offenses within ten years
6 as defined in RCW 46.61.5055; or

7 (b) The person has ever previously been convicted of:

8 (i) Vehicular homicide while under the influence of intoxicating
9 liquor or any drug, RCW 46.61.520(1)(a);

10 (ii) Vehicular assault while under the influence of intoxicating
11 liquor or any drug, RCW 46.61.522(1)(b);

12 (iii) An out-of-state offense comparable to the offense specified
13 in (b)(i) or (ii) of this subsection; or

14 (iv) A violation of this subsection (6) or RCW 46.61.502(6).

15 **Sec. 18.** RCW 46.61.503 and 2013 c 3 s 34 are each amended to
16 read as follows:

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

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

22 (b) Has, within two hours after operating or being in physical
23 control of the motor vehicle, either:

24 (i) An alcohol concentration of at least 0.02 but less than the
25 concentration specified in RCW 46.61.502, as shown by analysis of the
26 person's breath or blood made under RCW 46.61.506; or

27 (ii) A THC concentration above 0.00 but less than the
28 concentration specified in RCW 46.61.502, as shown by analysis of the
29 person's blood made under RCW 46.61.506.

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

1 or (b) the omnibus or pretrial hearing in the case of the defendant's
2 intent to assert the affirmative defense.

3 (3) No person may be convicted under this section for being in
4 physical control of a motor vehicle and it is an affirmative defense
5 to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny
6 the privilege to drive if, prior to being pursued by a law
7 enforcement officer, the person has moved the vehicle safely off the
8 roadway.

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

14 ~~((4))~~(5) A violation of this section is a misdemeanor.

15 **Sec. 19.** RCW 46.20.755 and 2010 c 269 s 5 are each amended to
16 read as follows:

17 If a person is required, as part of the person's judgment and
18 sentence or as a condition of release, to install an ignition
19 interlock device on all motor vehicles operated by the person and the
20 person is under the jurisdiction of the municipality or county
21 probation or supervision department, the probation or supervision
22 department must verify the installation of the ignition interlock
23 device or devices. The municipality or county probation or
24 supervision department satisfies the requirement to verify the
25 installation or installations if the municipality or county probation
26 or supervision department receives written verification by one or
27 more companies doing business in the state that it has installed the
28 required device on a vehicle owned or operated by the person. The
29 municipality or county shall have no further obligation to supervise
30 the use of the ignition interlock device or devices by the person and
31 shall not be civilly liable for any injuries or damages caused by the
32 person for failing to use an ignition interlock device or for driving
33 under the influence of intoxicating liquor or any drug or being in
34 actual physical control of a motor vehicle under the influence of
35 intoxicating liquor or any drug.

36 **Sec. 20.** RCW 36.28A.300 and 2014 c 221 s 912 are each amended to
37 read as follows:

1 ~~((There is created))~~When funded, the Washington association of
2 sheriffs and police chiefs shall administer a 24/7 sobriety program
3 ~~((to be administered by the criminal justice training commission in~~
4 ~~conjunction with))~~. The Washington association of sheriffs and police
5 chiefs ~~((The program))~~ shall coordinate efforts among various local
6 government entities ~~((for the purpose of implementing alternatives to~~
7 ~~incarceration for offenders convicted under RCW 46.61.502 or~~
8 ~~46.61.504 with one or more prior convictions under RCW 46.61.502 or~~
9 ~~46.61.504))~~to establish a 24/7 sobriety program within their
10 jurisdiction and to enhance pretrial and posttrial options for DUI
11 offenders and offenders of other crimes in which the use of alcohol
12 or drugs was a factor in the commission of the crime. The Washington
13 association of sheriffs and police chiefs shall report on the status
14 of the 24/7 sobriety program to the governor and appropriate
15 committees of the legislature on an annual basis.

16 **Sec. 21.** RCW 36.28A.320 and 2014 c 221 s 913 are each amended to
17 read as follows:

18 There is hereby established in the state treasury the 24/7
19 sobriety account. The account shall be maintained and administered by
20 the criminal justice training commission to reimburse the state for
21 costs associated with establishing and operating the 24/7 sobriety
22 program and the Washington association of sheriffs and police chiefs
23 for ongoing 24/7 sobriety program administration costs. ((The))An
24 appropriation is not required for expenditures and the account is not
25 subject to allotment procedures under chapter 43.88 RCW. Funds in the
26 account may not lapse and must carry forward from biennium to
27 biennium. Interest earned by the account must be retained in the
28 account. The criminal justice training commission may accept for
29 deposit in the account money from donations, gifts, grants,
30 participation fees, and user fees or payments. ~~((Expenditures from~~
31 ~~the account shall be budgeted through the normal budget process.))~~

32 **Sec. 22.** RCW 36.28A.330 and 2013 2nd sp.s. c 35 s 26 are each
33 amended to read as follows:

34 The definitions in this section apply throughout RCW 36.28A.300
35 through 36.28A.390 unless the context clearly requires otherwise.

36 (1) "24/7 ~~((electronic alcohol/drug monitoring))~~sobriety program"
37 means ~~((the monitoring by the use of any electronic instrument that~~
38 ~~is capable of determining and monitoring the presence of alcohol or~~

1 ~~drugs in a person's body and includes any associated equipment a~~
2 ~~participant needs in order for the device to properly perform.~~
3 ~~Monitoring may also include mandatory urine analysis tests as ordered~~
4 ~~by the court))~~ a program in which a participant submits to testing of
5 the participant's blood, breath, urine, or other bodily substance to
6 determine the presence of alcohol or any drug as defined in RCW
7 46.61.540. Testing must take place at a location or locations
8 designated by the participating agency, or, with the concurrence of
9 the Washington association of sheriffs and police chiefs, by an
10 alternate method.

11 (2) "Participant" means a person who has ~~((one or more prior~~
12 ~~convictions for a))~~ been charged with or convicted of a crime in which
13 the use of alcohol or drugs as defined in RCW 46.61.540 was a
14 contributing factor in the commission of the crime including, but not
15 limited to, violation of RCW 46.61.502 or 46.61.504 and who has been
16 ordered by a court to participate in the 24/7 sobriety program.

17 (3) "Participating agency" means ~~((a sheriff's office or a~~
18 ~~designated entity named by a sheriff that has agreed to participate~~
19 ~~in the 24/7 sobriety program by enrolling participants, administering~~
20 ~~one or more of the tests, and submitting reports to the Washington~~
21 ~~association of sheriffs and police chiefs))~~ any entity located in the
22 state of Washington that has a written agreement with the Washington
23 association of sheriffs and police chiefs to participate in the 24/7
24 sobriety program, and includes, but is not limited to, a sheriff, a
25 police chief, any other local, regional, or state corrections or
26 probation entity, and any other entity designated by a sheriff,
27 police chief, or any other local, regional, or state corrections or
28 probation entity to perform testing in the 24/7 sobriety program.

29 (4) "Participation agreement" means a written document executed
30 by a participant agreeing to participate in the 24/7 sobriety program
31 in a form approved by the Washington association of sheriffs and
32 police chiefs that contains the following information:

- 33 (a) The type, frequency, and time period of testing;
34 (b) The location of testing;
35 (c) The fees and payment procedures required for testing; and
36 (d) The responsibilities and obligations of the participant under
37 the 24/7 sobriety program.

38 ~~((5) "24/7 sobriety program" means a twenty four hour and seven~~
39 ~~day a week sobriety program in which a participant submits to the~~
40 ~~testing of the participant's blood, breath, urine, or other bodily~~

1 ~~substances in order to determine the presence of alcohol, marijuana,~~
2 ~~or any controlled substance in the participant's body.))~~

3 **Sec. 23.** RCW 36.28A.370 and 2013 2nd sp.s. c 35 s 30 are each
4 amended to read as follows:

5 (1) ~~((Funds in the 24/7 sobriety account shall be distributed as~~
6 ~~follows:~~

7 ~~(a))~~ Any daily user fee, installation fee, deactivation fee,
8 enrollment fee, or monitoring fee ~~((collected under the 24/7 sobriety~~
9 ~~program shall))~~ must be collected by the ~~((sheriff or chief, or an~~
10 ~~entity designated by the sheriff or chief, and deposited with the~~
11 ~~county or city treasurer of the proper county or city, the proceeds~~
12 ~~of which shall be applied))~~ participating agency and used ~~((only))~~ to
13 defray the ~~((recurring))~~ participating agency's costs of the 24/7
14 sobriety program ~~((including maintaining equipment, funding support~~
15 ~~services, and ensuring compliance; and)).~~

16 ~~((b))~~ (2) Any participation fee must be collected ~~((in the~~
17 ~~administration of testing under))~~ by the participating agency and
18 deposited in the state 24/7 sobriety ((program))account to cover 24/7
19 sobriety program administration costs incurred by the Washington
20 association of sheriffs and police chiefs ~~((shall be collected by the~~
21 ~~sheriff or chief, or an entity designated by the sheriff or chief,~~
22 ~~and deposited in the 24/7 sobriety account)).~~

23 ~~((2))~~ (3) All applicable fees shall be paid by the participant
24 contemporaneously or in advance of the time when the fee becomes due;
25 however, cities and counties may subsidize or pay any applicable
26 fees.

27 (4) A city or county may accept donations, gifts, grants, and
28 other assistance to defray the participating agency's costs of the
29 24/7 sobriety program.

30 **Sec. 24.** RCW 36.28A.390 and 2013 2nd sp.s. c 35 s 32 are each
31 amended to read as follows:

32 (1) A general authority Washington peace officer, as defined in
33 RCW 10.93.020, who has probable cause to believe that a participant
34 has violated the terms of participation in the 24/7 sobriety program
35 may immediately take the participant into custody and cause him or
36 her to be held until an appearance before a judge on the next
37 judicial day.

1 (2) A participant who violates the terms of participation in the
2 24/7 sobriety program (~~(or does not pay the required fees or~~
3 ~~associated costs))pretrial or posttrial shall, at a minimum:~~

4 (a) Receive a written warning notice for a first violation;

5 (b) Serve (~~(a term))~~the lesser of two days imprisonment or if
6 posttrial, the entire remaining sentence imposed by the court for a
7 second violation;

8 (c) Serve (~~(a term of up to))~~the lesser of five days imprisonment
9 or if posttrial, the entire remaining sentence imposed by the court
10 for a third violation;

11 (d) Serve (~~(a term of up to))~~the lesser of ten days imprisonment
12 or if posttrial, the entire remaining sentence imposed by the court
13 for a fourth violation; and

14 (e) For a fifth or subsequent violation pretrial, the participant
15 shall abide by the order of the court. For posttrial participants,
16 the participant shall serve the entire remaining sentence imposed by
17 the court.

18 (~~(2) A sheriff or chief, or the designee of a sheriff or chief,~~
19 ~~who has probable cause to believe that a participant has violated the~~
20 ~~terms of participation in the 24/7 sobriety program or has not paid~~
21 ~~the required fees or associated costs shall immediately take the~~
22 ~~participant into custody and cause him or her to be held until an~~
23 ~~appearance before a judge on the next judicial day.))(3) The court
24 may remove a participant from the 24/7 sobriety program at any time
25 for noncompliance with the terms of participation.~~

26 **Sec. 25.** RCW 10.21.015 and 2014 c 24 s 1 are each amended to
27 read as follows:

28 (1) Under this chapter, "pretrial release program" is any
29 program, either run directly by a county or city, or by a private or
30 public entity through contract with a county or city, into whose
31 custody an offender is released prior to trial and which agrees to
32 supervise the offender. As used in this section, "supervision"
33 includes, but is not limited to, work release, day monitoring, (~~(or~~)
34 electronic monitoring, or participation in a 24/7 sobriety program.

35 (2) A pretrial release program may not agree to supervise, or
36 accept into its custody, an offender who is currently awaiting trial
37 for a violent offense or sex offense, as defined in RCW 9.94A.030,
38 who has been convicted of one or more violent offenses or sex
39 offenses in the ten years before the date of the current offense,

1 unless the offender's release before trial was secured with a payment
2 of bail.

3 **Sec. 26.** RCW 10.21.030 and 2014 c 24 s 2 are each amended to
4 read as follows:

5 (1) The judicial officer may at any time amend the order to
6 impose additional or different conditions of release. The conditions
7 imposed under this chapter supplement but do not supplant provisions
8 of law allowing the imposition of conditions to assure the appearance
9 of the defendant at trial or to prevent interference with the
10 administration of justice.

11 (2) Appropriate conditions of release under this chapter include,
12 but are not limited to, the following:

13 (a) The defendant may be placed in the custody of a pretrial
14 release program;

15 (b) The defendant may have restrictions placed upon travel,
16 association, or place of abode during the period of release;

17 (c) The defendant may be required to comply with a specified
18 curfew;

19 (d) The defendant may be required to return to custody during
20 specified hours or to be placed on electronic monitoring, if
21 available. The defendant, if convicted, may not have the period of
22 incarceration reduced by the number of days spent on electronic
23 monitoring;

24 (e) The defendant may be prohibited from approaching or
25 communicating in any manner with particular persons or classes of
26 persons;

27 (f) The defendant may be prohibited from going to certain
28 geographical areas or premises;

29 (g) The defendant may be prohibited from possessing any dangerous
30 weapons or firearms;

31 (h) The defendant may be prohibited from possessing or consuming
32 any intoxicating liquors or drugs not prescribed to the defendant.
33 The defendant may be required to submit to testing to determine the
34 defendant's compliance with this condition, including participation
35 in a 24/7 sobriety program;

36 (i) The defendant may be prohibited from operating a motor
37 vehicle that is not equipped with an ignition interlock device;

1 (j) The defendant may be required to report regularly to and
2 remain under the supervision of an officer of the court or other
3 person or agency; and

4 (k) The defendant may be prohibited from committing any
5 violations of criminal law.

6 NEW SECTION. **Sec. 27.** RCW 36.28A.310 (24/7 sobriety program
7 pilot project) and 2013 2nd sp.s. c 35 s 24 are each repealed.

--- END ---