

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1614

Chapter 336, Laws of 2017

65th Legislature
2017 Regular Session

IMPAIRED DRIVING--VARIOUS CHANGES

EFFECTIVE DATE: 7/23/2017 -- Except for sections 18 and 19, which become effective 7/1/2017.

Passed by the House April 21, 2017
Yeas 94 Nays 2

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 20, 2017
Yeas 47 Nays 2

CYRUS HABIB

President of the Senate

Approved May 16, 2017 3:49 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1614** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 17, 2017

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1614

AS AMENDED BY THE SENATE

Passed Legislature - 2017 Regular Session

State of Washington **65th Legislature** **2017 Regular Session**

By House Transportation (originally sponsored by Representatives Goodman, Klippert, Orwall, Hayes, Pellicciotti, Holy, Griffey, Pettigrew, Muri, and Haler)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to impaired driving; amending RCW 46.20.385,
2 46.20.720, 46.61.506, 46.61.508, 18.130.140, 46.61.517, 46.64.025,
3 36.28A.370, 46.61.5054, 18.360.010, 18.360.020, 18.360.030,
4 18.360.040, and 18.130.040; reenacting and amending RCW 9.96.060,
5 10.31.100, 46.61.5055, and 18.120.020; creating a new section;
6 providing an effective date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that there is
9 significant value in diligently combating the crime of driving under
10 the influence and promoting the safety of all persons using our
11 public roadways. The legislature also finds that phlebotomy, also
12 known as venipuncture, is a health care procedure that involves
13 removing blood from the body by making an incision in a vein with a
14 needle. The legislature finds further that the use of forensic
15 phlebotomy can be a useful tool when investigating whether a person
16 may be impaired while operating a motor vehicle. The legislature also
17 finds, however, that despite the value of forensic phlebotomy, both
18 motorists and law enforcement officers must be protected from the
19 potentially significant health risks inherent in allowing the
20 practice of phlebotomy without adequate and appropriate training, as
21 defined by the department of health.

1 **Sec. 2.** RCW 9.96.060 and 2014 c 176 s 1 and 2014 c 109 s 1 are
2 each reenacted and amended to read as follows:

3 (1) Every person convicted of a misdemeanor or gross misdemeanor
4 offense who has completed all of the terms of the sentence for the
5 misdemeanor or gross misdemeanor offense may apply to the sentencing
6 court for a vacation of the applicant's record of conviction for the
7 offense. If the court finds the applicant meets the tests prescribed
8 in subsection (2) of this section, the court may in its discretion
9 vacate the record of conviction by: (a)(i) Permitting the applicant
10 to withdraw the applicant's plea of guilty and to enter a plea of not
11 guilty; or (ii) if the applicant has been convicted after a plea of
12 not guilty, the court setting aside the verdict of guilty; and (b)
13 the court dismissing the information, indictment, complaint, or
14 citation against the applicant and vacating the judgment and
15 sentence.

16 (2) An applicant may not have the record of conviction for a
17 misdemeanor or gross misdemeanor offense vacated if any one of the
18 following is present:

19 (a) There are any criminal charges against the applicant pending
20 in any court of this state or another state, or in any federal court;

21 (b) The offense was a violent offense as defined in RCW 9.94A.030
22 or an attempt to commit a violent offense;

23 (c) The offense was a violation of RCW 46.61.502 (driving while
24 under the influence), 46.61.504 (actual physical control while under
25 the influence), 9.91.020 (operating a railroad, etc. while
26 intoxicated), or the offense is considered a "prior offense" under
27 RCW 46.61.5055 and the applicant has had a subsequent alcohol or drug
28 violation within ten years of the date of arrest for the prior
29 offense or less than ten years has elapsed since the date of the
30 arrest for the prior offense;

31 (d) The offense was any misdemeanor or gross misdemeanor
32 violation, including attempt, of chapter 9.68 RCW (obscenity and
33 pornography), chapter 9.68A RCW (sexual exploitation of children), or
34 chapter 9A.44 RCW (sex offenses);

35 (e) The applicant was convicted of a misdemeanor or gross
36 misdemeanor offense as defined in RCW 10.99.020, or the court
37 determines after a review of the court file that the offense was
38 committed by one family member or household member against another,
39 or the court, after considering the damage to person or property that
40 resulted in the conviction, any prior convictions for crimes defined

1 in RCW 10.99.020, or for comparable offenses in another state or in
2 federal court, and the totality of the records under review by the
3 court regarding the conviction being considered for vacation,
4 determines that the offense involved domestic violence, and any one
5 of the following factors exist:

6 (i) The applicant has not provided written notification of the
7 vacation petition to the prosecuting attorney's office that
8 prosecuted the offense for which vacation is sought, or has not
9 provided that notification to the court;

10 (ii) The applicant has previously had a conviction for domestic
11 violence. For purposes of this subsection, however, if the current
12 application is for more than one conviction that arose out of a
13 single incident, none of those convictions counts as a previous
14 conviction;

15 (iii) The applicant has signed an affidavit under penalty of
16 perjury affirming that the applicant has not previously had a
17 conviction for a domestic violence offense, and a criminal history
18 check reveals that the applicant has had such a conviction; or

19 (iv) Less than five years have elapsed since the person completed
20 the terms of the original conditions of the sentence, including any
21 financial obligations and successful completion of any treatment
22 ordered as a condition of sentencing;

23 (f) For any offense other than those described in (e) of this
24 subsection, less than three years have passed since the person
25 completed the terms of the sentence, including any financial
26 obligations;

27 (g) The offender has been convicted of a new crime in this state,
28 another state, or federal court since the date of conviction;

29 (h) The applicant has ever had the record of another conviction
30 vacated; or

31 (i) The applicant is currently restrained, or has been restrained
32 within five years prior to the vacation application, by a domestic
33 violence protection order, a no-contact order, an antiharassment
34 order, or a civil restraining order which restrains one party from
35 contacting the other party.

36 (3) Subject to RCW 9.96.070, every person convicted of
37 prostitution under RCW 9A.88.030 who committed the offense as a
38 result of being a victim of trafficking, RCW 9A.40.100, promoting
39 prostitution in the first degree, RCW 9A.88.070, promoting commercial
40 sexual abuse of a minor, RCW 9.68A.101, or trafficking in persons

1 under the trafficking victims protection act of 2000, 22 U.S.C. Sec.
2 7101 et seq. may apply to the sentencing court for vacation of the
3 applicant's record of conviction for the prostitution offense. An
4 applicant may not have the record of conviction for prostitution
5 vacated if any one of the following is present:

6 (a) There are any criminal charges against the applicant pending
7 in any court of this state or another state, or in any federal court,
8 for any crime other than prostitution; or

9 (b) The offender has been convicted of another crime, except
10 prostitution, in this state, another state, or federal court since
11 the date of conviction.

12 (4) Every person convicted prior to January 1, 1975, of violating
13 any statute or rule regarding the regulation of fishing activities,
14 including, but not limited to, RCW 75.08.260, 75.12.060, 75.12.070,
15 75.12.160, 77.16.020, 77.16.030, 77.16.040, 77.16.060, and 77.16.240
16 who claimed to be exercising a treaty Indian fishing right, may apply
17 to the sentencing court for vacation of the applicant's record of the
18 misdemeanor, gross misdemeanor, or felony conviction for the offense.
19 If the person is deceased, a member of the person's family or an
20 official representative of the tribe of which the person was a member
21 may apply to the court on behalf of the deceased person.
22 Notwithstanding the requirements of RCW 9.94A.640, the court shall
23 vacate the record of conviction if:

24 (a) The applicant is a member of a tribe that may exercise treaty
25 Indian fishing rights at the location where the offense occurred; and

26 (b) The state has been enjoined from taking enforcement action of
27 the statute or rule to the extent that it interferes with a treaty
28 Indian fishing right as determined under *United States v. Washington*,
29 384 F. Supp. 312 (W.D. Wash. 1974), or *Sohappy v. Smith*, 302 F. Supp.
30 899 (D. Oregon 1969), and any posttrial orders of those courts, or
31 any other state supreme court or federal court decision.

32 (5) Once the court vacates a record of conviction under this
33 section, the person shall be released from all penalties and
34 disabilities resulting from the offense and the fact that the person
35 has been convicted of the offense shall not be included in the
36 person's criminal history for purposes of determining a sentence in
37 any subsequent conviction. For all purposes, including responding to
38 questions on employment or housing applications, a person whose
39 conviction has been vacated under this section may state that he or
40 she has never been convicted of that crime. Nothing in this section

1 affects or prevents the use of an offender's prior conviction in a
2 later criminal prosecution.

3 (6) All costs incurred by the court and probation services shall
4 be paid by the person making the motion to vacate the record unless a
5 determination is made pursuant to chapter 10.101 RCW that the person
6 making the motion is indigent, at the time the motion is brought.

7 (7) The clerk of the court in which the vacation order is entered
8 shall immediately transmit the order vacating the conviction to the
9 Washington state patrol identification section and to the local
10 police agency, if any, which holds criminal history information for
11 the person who is the subject of the conviction. The Washington state
12 patrol and any such local police agency shall immediately update
13 their records to reflect the vacation of the conviction, and shall
14 transmit the order vacating the conviction to the federal bureau of
15 investigation. A conviction that has been vacated under this section
16 may not be disseminated or disclosed by the state patrol or local law
17 enforcement agency to any person, except other criminal justice
18 enforcement agencies.

19 **Sec. 3.** RCW 10.31.100 and 2016 c 203 s 9 and 2016 c 113 s 1 are
20 each reenacted and amended to read as follows:

21 A police officer having probable cause to believe that a person
22 has committed or is committing a felony shall have the authority to
23 arrest the person without a warrant. A police officer may arrest a
24 person without a warrant for committing a misdemeanor or gross
25 misdemeanor only when the offense is committed in the presence of an
26 officer, except as provided in subsections (1) through (12) of this
27 section.

28 (1) Any police officer having probable cause to believe that a
29 person has committed or is committing a misdemeanor or gross
30 misdemeanor, involving physical harm or threats of harm to any person
31 or property or the unlawful taking of property or involving the use
32 or possession of cannabis, or involving the acquisition, possession,
33 or consumption of alcohol by a person under the age of twenty-one
34 years under RCW 66.44.270, or involving criminal trespass under RCW
35 9A.52.070 or 9A.52.080, shall have the authority to arrest the
36 person.

37 (2) A police officer shall arrest and take into custody, pending
38 release on bail, personal recognizance, or court order, a person

1 without a warrant when the officer has probable cause to believe
2 that:

3 (a) An order has been issued of which the person has knowledge
4 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09,
5 26.10, 26.26, 26.50, or 74.34 RCW restraining the person and the
6 person has violated the terms of the order restraining the person
7 from acts or threats of violence, or restraining the person from
8 going onto the grounds of or entering a residence, workplace, school,
9 or day care, or prohibiting the person from knowingly coming within,
10 or knowingly remaining within, a specified distance of a location or,
11 in the case of an order issued under RCW 26.44.063, imposing any
12 other restrictions or conditions upon the person; or

13 (b) A foreign protection order, as defined in RCW 26.52.010, has
14 been issued of which the person under restraint has knowledge and the
15 person under restraint has violated a provision of the foreign
16 protection order prohibiting the person under restraint from
17 contacting or communicating with another person, or excluding the
18 person under restraint from a residence, workplace, school, or day
19 care, or prohibiting the person from knowingly coming within, or
20 knowingly remaining within, a specified distance of a location, or a
21 violation of any provision for which the foreign protection order
22 specifically indicates that a violation will be a crime; or

23 (c) The person is eighteen years or older and within the
24 preceding four hours has assaulted a family or household member as
25 defined in RCW 10.99.020 and the officer believes: (i) A felonious
26 assault has occurred; (ii) an assault has occurred which has resulted
27 in bodily injury to the victim, whether the injury is observable by
28 the responding officer or not; or (iii) that any physical action has
29 occurred which was intended to cause another person reasonably to
30 fear imminent serious bodily injury or death. Bodily injury means
31 physical pain, illness, or an impairment of physical condition. When
32 the officer has probable cause to believe that family or household
33 members have assaulted each other, the officer is not required to
34 arrest both persons. The officer shall arrest the person whom the
35 officer believes to be the primary physical aggressor. In making this
36 determination, the officer shall make every reasonable effort to
37 consider: (A) The intent to protect victims of domestic violence
38 under RCW 10.99.010; (B) the comparative extent of injuries inflicted
39 or serious threats creating fear of physical injury; and (C) the

1 history of domestic violence of each person involved, including
2 whether the conduct was part of an ongoing pattern of abuse.

3 (3) A police officer shall, at the request of a parent or
4 guardian, arrest the sixteen or seventeen year old child of that
5 parent or guardian if the officer has probable cause to believe that
6 the child has assaulted a family or household member as defined in
7 RCW 10.99.020 in the preceding four hours. Nothing in this subsection
8 removes a police officer's existing authority provided in this
9 section to make an arrest.

10 (4) Any police officer having probable cause to believe that a
11 person has committed or is committing a violation of any of the
12 following traffic laws shall have the authority to arrest the person:

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

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

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

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

21 (e) RCW 46.61.503 or 46.25.110, relating to persons having
22 alcohol or THC in their system;

23 (f) RCW 46.20.342, relating to driving a motor vehicle while
24 operator's license is suspended or revoked;

25 (g) RCW 46.61.5249, relating to operating a motor vehicle in a
26 negligent manner.

27 (5) A law enforcement officer investigating at the scene of a
28 motor vehicle accident may arrest the driver of a motor vehicle
29 involved in the accident if the officer has probable cause to believe
30 that the driver has committed in connection with the accident a
31 violation of any traffic law or regulation.

32 (6)(a) A law enforcement officer investigating at the scene of a
33 motor vessel accident may arrest the operator of a motor vessel
34 involved in the accident if the officer has probable cause to believe
35 that the operator has committed, in connection with the accident, a
36 criminal violation of chapter 79A.60 RCW.

37 (b) A law enforcement officer investigating at the scene of a
38 motor vessel accident may issue a citation for an infraction to the
39 operator of a motor vessel involved in the accident if the officer
40 has probable cause to believe that the operator has committed, in

1 connection with the accident, a violation of any boating safety law
2 of chapter 79A.60 RCW.

3 (7) Any police officer having probable cause to believe that a
4 person has committed or is committing a violation of RCW 79A.60.040
5 shall have the authority to arrest the person.

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

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

15 (10) A police officer may arrest and take into custody, pending
16 release on bail, personal recognizance, or court order, a person
17 without a warrant when the officer has probable cause to believe that
18 an order has been issued of which the person has knowledge under
19 chapter 10.14 RCW and the person has violated the terms of that
20 order.

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

24 (12) A police officer having probable cause to believe that a
25 person illegally possesses or illegally has possessed a firearm or
26 other dangerous weapon on private or public elementary or secondary
27 school premises shall have the authority to arrest the person.

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

31 (13) A law enforcement officer having probable cause to believe
32 that a person has committed a violation under RCW 77.15.160(4) may
33 issue a citation for an infraction to the person in connection with
34 the violation.

35 (14) A law enforcement officer having probable cause to believe
36 that a person has committed a criminal violation under RCW 77.15.809
37 or 77.15.811 may arrest the person in connection with the violation.

38 (15) Except as specifically provided in subsections (2), (4),
39 (5), and (8) of this section, nothing in this section extends or
40 otherwise affects the powers of arrest prescribed in Title 46 RCW.

1 (16) No police officer may be held criminally or civilly liable
2 for making an arrest pursuant to subsection (2) or (10) of this
3 section if the police officer acts in good faith and without malice.

4 (17)(a) Except as provided in (b) of this subsection, a police
5 officer shall arrest and keep in custody, until release by a judicial
6 officer on bail, personal recognizance, or court order, a person
7 without a warrant when the officer has probable cause to believe that
8 the person has violated RCW 46.61.502 or 46.61.504 or an equivalent
9 local ordinance and the police officer: (i) Has knowledge that the
10 person has a prior offense as defined in RCW 46.61.5055 within ten
11 years; or (ii) has knowledge, based on a review of the information
12 available to the officer at the time of arrest, that the person is
13 charged with or is awaiting arraignment for an offense that would
14 qualify as a prior offense as defined in RCW 46.61.5055 if it were a
15 conviction.

16 (b) A police officer is not required to keep in custody a person
17 under (a) of this subsection if the person requires immediate medical
18 attention and is admitted to a hospital.

19 (18) A juvenile detention facility shall book into detention any
20 person under age eighteen brought to that detention facility pursuant
21 to an arrest for assaulting a family or household member as defined
22 in RCW 10.99.020.

23 **Sec. 4.** RCW 46.20.385 and 2016 c 203 s 13 are each amended to
24 read as follows:

25 (1)(a) Any person licensed under this chapter or who has a valid
26 driver's license from another state, who is convicted of: (i) A
27 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
28 out-of-state statute or ordinance, or (ii) a violation of RCW
29 46.61.520(1)(a) or an equivalent local or out-of-state statute or
30 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
31 (b) or (c) if the conviction is the result of a charge that was
32 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
33 46.61.522(1)(b) or an equivalent local or out-of-state statute or
34 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
35 the result of a charge that was originally filed as a violation of
36 RCW 46.61.522(1)(b) committed while under the influence of
37 intoxicating liquor or any drug, or (vi) who has had or will have his
38 or her license suspended, revoked, or denied under RCW 46.20.3101, or
39 who is otherwise permitted under subsection (8) of this section, may

1 submit to the department an application for an ignition interlock
2 driver's license. The department, upon receipt of the prescribed fee
3 and upon determining that the petitioner is eligible to receive the
4 license, may issue an ignition interlock driver's license.

5 (b) A person may apply for an ignition interlock driver's license
6 anytime, including immediately after receiving the notices under RCW
7 46.20.308 or after his or her license is suspended, revoked, or
8 denied.

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

12 (i) The department shall require the person to maintain the
13 device on all vehicles operated by the person and shall restrict the
14 person to operating only vehicles equipped with the device, for the
15 remainder of the period of suspension, revocation, or denial, unless
16 otherwise permitted under RCW 46.20.720(6).

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

25 (2) An applicant for an ignition interlock driver's license who
26 qualifies under subsection (1) of this section is eligible to receive
27 a license only if the applicant files satisfactory proof of financial
28 responsibility under chapter 46.29 RCW.

29 (3) Upon receipt of evidence that a holder of an ignition
30 interlock driver's license granted under this subsection no longer
31 has a functioning ignition interlock device installed on all vehicles
32 operated by the driver, the director shall give written notice by
33 first-class mail to the driver that the ignition interlock driver's
34 license shall be canceled. If at any time before the cancellation
35 goes into effect the driver submits evidence that a functioning
36 ignition interlock device has been installed on all vehicles operated
37 by the driver, the cancellation shall be stayed. If the cancellation
38 becomes effective, the driver may obtain, at no additional charge, a
39 new ignition interlock driver's license upon submittal of evidence

1 that a functioning ignition interlock device has been installed on
2 all vehicles operated by the driver.

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

6 (5) The director shall cancel an ignition interlock driver's
7 license after receiving notice that the holder thereof has been
8 convicted of operating a motor vehicle in violation of its
9 restrictions, no longer meets the eligibility requirements, or has
10 been convicted of or found to have committed a separate offense or
11 any other act or omission that under this chapter would warrant
12 suspension or revocation of a regular driver's license. The
13 department must give notice of the cancellation as provided under RCW
14 46.20.245. A person whose ignition interlock driver's license has
15 been canceled under this section may reapply for a new ignition
16 interlock driver's license if he or she is otherwise qualified under
17 this section and pays the fee required under RCW 46.20.380.

18 (6)(a) Unless costs are waived by the ignition interlock company
19 or the person is indigent under RCW 10.101.010, the applicant shall
20 pay the cost of installing, removing, and leasing the ignition
21 interlock device and shall pay an additional fee of twenty dollars
22 per month. Payments shall be made directly to the ignition interlock
23 company. The company shall remit the additional (~~twenty dollar~~) fee
24 to the department, except that the company may retain twenty-five
25 cents per month of the additional fee to cover the expenses
26 associated with administering the fee.

27 (b) The department shall deposit the proceeds of the twenty
28 dollar fee into the ignition interlock device revolving account.
29 Expenditures from the account may be used only to administer and
30 operate the ignition interlock device revolving account program. The
31 department shall adopt rules to provide monetary assistance according
32 to greatest need and when funds are available.

33 (7) The department shall adopt rules to implement ignition
34 interlock licensing. The department shall consult with the
35 administrative office of the courts, the state patrol, the Washington
36 association of sheriffs and police chiefs, ignition interlock
37 companies, and any other organization or entity the department deems
38 appropriate.

39 (8)(a) Any person licensed under this chapter who is convicted of
40 a violation of RCW 46.61.500 when the charge was originally filed as

1 a violation of RCW 46.61.502 or 46.61.504, or an equivalent local
2 ordinance, may submit to the department an application for an
3 ignition interlock driver's license under this section.

4 (b) A person who does not have any driver's license under this
5 chapter, but who would otherwise be eligible under this section to
6 apply for an ignition interlock license, may submit to the department
7 an application for an ignition interlock license. The department may
8 require the person to take any driver's licensing examination under
9 this chapter and may require the person to also apply and qualify for
10 a temporary restricted driver's license under RCW 46.20.391.

11 **Sec. 5.** RCW 46.20.720 and 2016 c 203 s 14 are each amended to
12 read as follows:

13 (1) **Ignition interlock restriction.** The department shall require
14 that a person may drive only a motor vehicle equipped with a
15 functioning ignition interlock device:

16 (a) **Pretrial release.** Upon receipt of notice from a court that an
17 ignition interlock device restriction has been imposed under RCW
18 10.21.055;

19 (b) **Ignition interlock driver's license.** As required for issuance
20 of an ignition interlock driver's license under RCW 46.20.385;

21 (c) **Deferred prosecution.** Upon receipt of notice from a court
22 that the person is participating in a deferred prosecution program
23 under RCW 10.05.020 for a violation of:

24 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
25 or

26 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
27 if the person would be required under RCW 46.61.5249(4) or
28 46.61.500(3) (a) or (b) to install an ignition interlock device on
29 all vehicles operated by the person in the event of a conviction;

30 (d) **Post conviction.** After any applicable period of suspension,
31 revocation, or denial of driving privileges:

32 (i) Due to a conviction of a violation of RCW 46.61.502 or
33 46.61.504 or an equivalent local or out-of-state statute or
34 ordinance; or

35 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
36 46.61.500 or an equivalent local ordinance if the person is required
37 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
38 ignition interlock device on all vehicles operated by the person; or

1 (e) **Court order.** Upon receipt of an order by a court having
2 jurisdiction that a person charged or convicted of any offense
3 involving the use, consumption, or possession of alcohol while
4 operating a motor vehicle may drive only a motor vehicle equipped
5 with a functioning ignition interlock. The court shall establish a
6 specific calibration setting at which the ignition interlock will
7 prevent the vehicle from being started. The court shall also
8 establish the period of time for which ignition interlock use will be
9 required.

10 (2) **Calibration.** Unless otherwise specified by the court for a
11 restriction imposed under subsection (1)(e) of this section, the
12 ignition interlock device shall be calibrated to prevent the motor
13 vehicle from being started when the breath sample provided has an
14 alcohol concentration of 0.025 or more.

15 (3) **Duration of restriction.** A restriction imposed under:

16 (a) Subsection (1)(a) of this section shall remain in effect
17 until:

18 (i) The court has authorized the removal of the device under RCW
19 10.21.055; or

20 (ii) The department has imposed a restriction under subsection
21 (1)(b), (c), or (d) of this section arising out of the same incident.

22 (b) Subsection (1)(b) of this section remains in effect during
23 the validity of any ignition interlock driver's license that has been
24 issued to the person.

25 (c) Subsection (1)(c)(i) or (d)(i) of this section shall be for
26 no less than:

27 (i) For a person who has not previously been restricted under
28 this subsection, a period of one year;

29 (ii) For a person who has previously been restricted under (c)(i)
30 of this subsection, a period of five years;

31 (iii) For a person who has previously been restricted under
32 (c)(ii) of this subsection, a period of ten years.

33 The restriction of a person who is convicted of a violation of
34 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who
35 committed the offense while a passenger under the age of sixteen was
36 in the vehicle shall be extended for an additional six-month period
37 as required by RCW 46.61.5055(6)(a).

38 (d) Subsection (1)(c)(ii) or (d)(ii) of this section shall be for
39 a period of no less than six months.

1 (e) Subsection (1)(e) of this section shall remain in effect for
2 the period of time specified by the court.

3 The period of restriction under (c) and (d) of this subsection
4 based on incidents occurring on or after June 9, 2016, must be tolled
5 for any period in which the person does not have an ignition
6 interlock device installed on a vehicle owned or operated by the
7 person unless the person receives a determination from the department
8 that the person is unable to operate an ignition interlock device due
9 to a physical disability. The department's determination that a
10 person is unable to operate an ignition interlock device must be
11 reasonable and be based upon good and substantial evidence. This
12 determination is subject to review by a court of competent
13 jurisdiction. The department may charge a person seeking a medical
14 exemption under this subsection a reasonable fee for the assessment.

15 (4) **Requirements for removal.** A restriction imposed under
16 subsection (1)(c) or (d) of this section shall remain in effect until
17 the department receives a declaration from the person's ignition
18 interlock device vendor, in a form provided or approved by the
19 department, certifying that there have been none of the following
20 incidents in the (~~four~~) one hundred eighty consecutive (~~months~~)
21 days prior to the date of release:

22 (a) Any attempt to start the vehicle with a breath alcohol
23 concentration of 0.04 or more unless a subsequent test performed
24 within ten minutes registers a breath alcohol concentration lower
25 than 0.04 and the digital image confirms the same person provided
26 both samples;

27 (b) Failure to take any random test unless a review of the
28 digital image confirms that the vehicle was not occupied by the
29 driver at the time of the missed test;

30 (c) Failure to pass any random retest with a breath alcohol
31 concentration of 0.025 or lower unless a subsequent test performed
32 within ten minutes registers a breath alcohol concentration lower
33 than 0.025, and the digital image confirms the same person provided
34 both samples; or

35 (d) Failure of the person to appear at the ignition interlock
36 device vendor when required for maintenance, repair, calibration,
37 monitoring, inspection, or replacement of the device.

38 (5) **Day-for-day credit.** (a) The time period during which a person
39 has an ignition interlock device installed in order to meet the
40 requirements of subsection (1)(b) of this section shall apply on a

1 day-for-day basis toward satisfying the period of time the ignition
2 interlock device restriction is imposed under subsection (1)(c) or
3 (d) of this section arising out of the same incident.

4 (b) The department must also give the person a day-for-day credit
5 for any time period, beginning from the date of the incident, during
6 which the person kept an ignition interlock device installed on all
7 vehicles the person operates, other than those subject to the
8 employer exemption under subsection (6) of this section.

9 (c) If the day-for-day credit granted under this subsection
10 equals or exceeds the period of time the ignition interlock device
11 restriction is imposed under subsection (1)(c) or (d) of this section
12 arising out of the same incident, and the person has already met the
13 requirements for removal of the device under subsection (4) of this
14 section, the department may waive the requirement that a device be
15 installed or that the person again meet the requirements for removal.

16 (6) **Employer exemption.** (a) Except as provided in (b) of this
17 subsection, the installation of an ignition interlock device is not
18 necessary on vehicles owned, leased, or rented by a person's employer
19 and on those vehicles whose care and/or maintenance is the temporary
20 responsibility of the employer, and driven at the direction of a
21 person's employer as a requirement of employment during working
22 hours. The person must provide the department with a declaration
23 pursuant to RCW 9A.72.085 from his or her employer stating that the
24 person's employment requires the person to operate a vehicle owned by
25 the employer or other persons during working hours.

26 (b) The employer exemption does not apply when the employer's
27 vehicle is assigned exclusively to the restricted driver and used
28 solely for commuting to and from employment.

29 (7) **Ignition interlock device revolving account.** In addition to
30 any other costs associated with the use of an ignition interlock
31 device imposed on the person restricted under this section, the
32 person shall pay an additional fee of twenty dollars per month.
33 Payments must be made directly to the ignition interlock company. The
34 company shall remit the additional (~~twenty dollar~~) fee to the
35 department to be deposited into the ignition interlock device
36 revolving account, except that the company may retain twenty-five
37 cents per month of the additional fee to cover the expenses
38 associated with administering the fee. The department may waive the
39 monthly fee if the person is indigent under RCW 10.101.010.

1 (8) **Foreign jurisdiction.** For a person restricted under this
2 section who is residing outside of the state of Washington, the
3 department may accept verification of installation of an ignition
4 interlock device by an ignition interlock company authorized to do
5 business in the jurisdiction in which the person resides, provided
6 the device meets any applicable requirements of that jurisdiction.
7 The department may waive the monthly fee required by subsection (7)
8 of this section if collection of the fee would be impractical in the
9 case of a person residing in another jurisdiction.

10 **Sec. 6.** RCW 46.61.5055 and 2016 sp.s. c 29 s 530 and 2016 c 203
11 s 17 are each reenacted and amended to read as follows:

12 (1) **No prior offenses in seven years.** Except as provided in RCW
13 46.61.502(6) or 46.61.504(6), a person who is convicted of a
14 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
15 within seven years shall be punished as follows:

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

21 (i) By imprisonment for not less than one day nor more than three
22 hundred sixty-four days. Twenty-four consecutive hours of the
23 imprisonment may not be suspended unless the court finds that the
24 imposition of this mandatory minimum sentence would impose a
25 substantial risk to the offender's physical or mental well-being.
26 Whenever the mandatory minimum sentence is suspended, the court shall
27 state in writing the reason for granting the suspension and the facts
28 upon which the suspension is based. In lieu of the mandatory minimum
29 term of imprisonment required under this subsection (1)(a)(i), the
30 court may order not less than fifteen days of electronic home
31 monitoring or a ninety-day period of 24/7 sobriety program
32 monitoring. The court may consider the offender's pretrial 24/7
33 sobriety program monitoring as fulfilling a portion of posttrial
34 sentencing. The offender shall pay the cost of electronic home
35 monitoring. The county or municipality in which the penalty is being
36 imposed shall determine the cost. The court may also require the
37 offender's electronic home monitoring device or other separate
38 alcohol monitoring device to include an alcohol detection
39 breathalyzer, and the court may restrict the amount of alcohol the

1 offender may consume during the time the offender is on electronic
2 home monitoring; and

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

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

12 (i) By imprisonment for not less than two days nor more than
13 three hundred sixty-four days. Forty-eight consecutive hours of the
14 imprisonment may not be suspended unless the court finds that the
15 imposition of this mandatory minimum sentence would impose a
16 substantial risk to the offender's physical or mental well-being.
17 Whenever the mandatory minimum sentence is suspended, the court shall
18 state in writing the reason for granting the suspension and the facts
19 upon which the suspension is based. In lieu of the mandatory minimum
20 term of imprisonment required under this subsection (1)(b)(i), the
21 court may order not less than thirty days of electronic home
22 monitoring or a one hundred twenty day period of 24/7 sobriety
23 program monitoring. The court may consider the offender's pretrial
24 24/7 sobriety program testing as fulfilling a portion of posttrial
25 sentencing. The offender shall pay the cost of electronic home
26 monitoring. The county or municipality in which the penalty is being
27 imposed shall determine the cost. The court may also require the
28 offender's electronic home monitoring device to include an alcohol
29 detection breathalyzer or other separate alcohol monitoring device,
30 and the court may restrict the amount of alcohol the offender may
31 consume during the time the offender is on electronic home
32 monitoring; and

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

36 (2) **One prior offense in seven years.** Except as provided in RCW
37 46.61.502(6) or 46.61.504(6), a person who is convicted of a
38 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
39 within seven years shall be punished as follows:

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

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

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

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

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

27 (ii) By a fine of not less than seven hundred fifty dollars nor
28 more than five thousand dollars. Seven hundred fifty dollars of the
29 fine may not be suspended unless the court finds the offender to be
30 indigent.

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

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

1 (i) By imprisonment for not less than ninety days nor more than
2 three hundred sixty-four days, if available in that county or city, a
3 six-month period of 24/7 sobriety program monitoring pursuant to RCW
4 36.28A.300 through 36.28A.390, and one hundred twenty days of
5 electronic home monitoring. In lieu of the mandatory minimum term of
6 one hundred twenty days of electronic home monitoring, the court may
7 order at least an additional eight days in jail. The court shall
8 order an expanded alcohol assessment and treatment, if deemed
9 appropriate by the assessment. The offender shall pay for the cost of
10 the electronic monitoring. 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. Ninety days of imprisonment and one hundred twenty days
17 of electronic home monitoring may not be suspended unless the court
18 finds that the imposition of this mandatory minimum sentence would
19 impose a substantial risk to the offender's physical or mental well-
20 being. Whenever the mandatory minimum sentence is suspended, the
21 court shall state in writing the reason for granting the suspension
22 and the facts upon which the suspension is based; and

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

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

31 (i) By imprisonment for not less than one hundred twenty days nor
32 more than three hundred sixty-four days, if available in that county
33 or city, a six-month period of 24/7 sobriety program monitoring
34 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
35 days of electronic home monitoring. In lieu of the mandatory minimum
36 term of one hundred fifty days of electronic home monitoring, the
37 court may order at least an additional ten days in jail. The offender
38 shall pay for the cost of the electronic monitoring. The court shall
39 order an expanded alcohol assessment and treatment, if deemed
40 appropriate by the assessment. The county or municipality where the

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

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

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

20 (a) The person has four or more prior offenses within ten years;
21 or

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

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

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

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

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

30 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
31 require any person convicted of a violation of RCW 46.61.502 or
32 46.61.504 or an equivalent local ordinance to comply with the rules
33 and requirements of the department regarding the installation and use
34 of a functioning ignition interlock device installed on all motor
35 vehicles operated by the person.

36 (b) **Monitoring devices.** If the court orders that a person refrain
37 from consuming any alcohol, the court may order the person to submit
38 to alcohol monitoring through an alcohol detection breathalyzer
39 device, transdermal sensor device, or other technology designed to
40 detect alcohol in a person's system. The person shall pay for the

1 cost of the monitoring, unless the court specifies that the cost of
2 monitoring will be paid with funds that are available from an
3 alternative source identified by the court. The county or
4 municipality where the penalty is being imposed shall determine the
5 cost.

6 (c) **24/7 sobriety program monitoring.** In any county or city where
7 a 24/7 sobriety program is available and verified by the Washington
8 association of sheriffs and police chiefs, the court shall:

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

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

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

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

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

25 (b) In any case in which the person has no prior offenses within
26 seven years, and except as provided in RCW 46.61.502(6) or
27 46.61.504(6), order an additional twenty-four hours of imprisonment
28 and a fine of not less than one thousand dollars and not more than
29 five thousand dollars. One thousand dollars of the fine may not be
30 suspended unless the court finds the offender to be indigent;

31 (c) In any case in which the person has one prior offense within
32 seven years, and except as provided in RCW 46.61.502(6) or
33 46.61.504(6), order an additional five days of imprisonment and a
34 fine of not less than two thousand dollars and not more than five
35 thousand dollars. One thousand dollars of the fine may not be
36 suspended unless the court finds the offender to be indigent;

37 (d) In any case in which the person has two or three prior
38 offenses within seven years, and except as provided in RCW
39 46.61.502(6) or 46.61.504(6), order an additional ten days of
40 imprisonment and a fine of not less than three thousand dollars and

1 not more than ten thousand dollars. One thousand dollars of the fine
2 may not be suspended unless the court finds the offender to be
3 indigent.

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

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

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

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

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

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

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

25 (a) **Penalty for alcohol concentration less than 0.15.** If the
26 person's alcohol concentration was less than 0.15, or if for reasons
27 other than the person's refusal to take a test offered under RCW
28 46.20.308 there is no test result indicating the person's alcohol
29 concentration:

30 (i) Where there has been no prior offense within seven years, be
31 suspended or denied by the department for ninety days or until the
32 person is evaluated by an alcoholism agency or probation department
33 pursuant to RCW 46.20.311 and the person completes or is enrolled in
34 a ninety-day period of 24/7 sobriety program monitoring. In no
35 circumstances shall the license suspension be for fewer than two
36 days;

37 (ii) Where there has been one prior offense within seven years,
38 be revoked or denied by the department for two years or until the
39 person is evaluated by an alcoholism agency or probation department
40 pursuant to RCW 46.20.311 and the person completes or is enrolled in

1 a six-month period of 24/7 sobriety program monitoring. In no
2 circumstances shall the license suspension be for less than one year;
3 or

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

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

8 (i) Where there has been no prior offense within seven years, be
9 revoked or denied by the department for one year or until the person
10 is evaluated by an alcoholism agency or probation department pursuant
11 to RCW 46.20.311 and the person completes or is enrolled in a one
12 hundred twenty day period of 24/7 sobriety program monitoring. In no
13 circumstances shall the license revocation be for fewer than four
14 days;

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

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

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

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

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

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

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

33 Upon receipt of a notice from the court under RCW 36.28A.390 that
34 a participant has been removed from a 24/7 sobriety program, the
35 department must resume any suspension, revocation, or denial that had
36 been terminated early under this subsection due to participation in
37 the program, granting credit on a day-for-day basis for any portion
38 of a suspension, revocation, or denial already served under RCW
39 46.20.3101 or this section arising out of the same incident.

1 Upon its own motion or upon motion by a person, a court may find,
2 on the record, that notice to the department under RCW 46.20.270 has
3 been delayed for three years or more as a result of a clerical or
4 court error. If so, the court may order that the person's license,
5 permit, or nonresident privilege shall not be revoked, suspended, or
6 denied for that offense. The court shall send notice of the finding
7 and order to the department and to the person. Upon receipt of the
8 notice from the court, the department shall not revoke, suspend, or
9 deny the license, permit, or nonresident privilege of the person for
10 that offense.

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

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

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

1 an ignition interlock device on the probationer's motor vehicle,
2 alcohol or drug treatment, supervised probation, or other conditions
3 that may be appropriate. The sentence may be imposed in whole or in
4 part upon violation of a condition of probation during the suspension
5 period.

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

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

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

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

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

29 (c) The court determines that there is reason to believe that the
30 offender would violate the conditions of the electronic home
31 monitoring penalty.

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

39 Whenever the combination of jail time and electronic home
40 monitoring or alternative sentence would exceed three hundred sixty-

1 four days, the offender shall serve the jail portion of the sentence
2 first, and the electronic home monitoring or alternative portion of
3 the sentence shall be reduced so that the combination does not exceed
4 three hundred sixty-four days.

5 (13) **Extraordinary medical placement.** An offender serving a
6 sentence under this section, whether or not a mandatory minimum term
7 has expired, may be granted an extraordinary medical placement by the
8 jail administrator subject to the standards and limitations set forth
9 in RCW 9.94A.728(1)(c).

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

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

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

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

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

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

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

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

28 (vii) A conviction for a violation of RCW 47.68.220 or an
29 equivalent local ordinance committed in a careless or reckless manner
30 if the conviction is the result of a charge that was originally filed
31 as a violation of RCW 47.68.220 or an equivalent local ordinance
32 while under the influence of intoxicating liquor or any drug;

33 (viii) A conviction for a violation of RCW 46.09.470(2) or an
34 equivalent local ordinance;

35 (ix) A conviction for a violation of RCW 46.10.490(2) or an
36 equivalent local ordinance;

37 (x) A conviction for a violation of RCW 46.61.520 committed while
38 under the influence of intoxicating liquor or any drug, or a
39 conviction for a violation of RCW 46.61.520 committed in a reckless
40 manner or with the disregard for the safety of others if the

1 conviction is the result of a charge that was originally filed as a
2 violation of RCW 46.61.520 committed while under the influence of
3 intoxicating liquor or any drug;

4 (xi) A conviction for a violation of RCW 46.61.522 committed
5 while under the influence of intoxicating liquor or any drug, or a
6 conviction for a violation of RCW 46.61.522 committed in a reckless
7 manner or with the disregard for the safety of others if the
8 conviction is the result of a charge that was originally filed as a
9 violation of RCW 46.61.522 committed while under the influence of
10 intoxicating liquor or any drug;

11 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
12 or 9A.36.050 or an equivalent local ordinance, if the conviction is
13 the result of a charge that was originally filed as a violation of
14 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
15 RCW 46.61.520 or 46.61.522;

16 (xiii) An out-of-state conviction for a violation that would have
17 been a violation of (a)(i), (ii), (x), (xi), or (xii) of this
18 subsection if committed in this state;

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

22 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
23 prosecution for a violation of RCW 46.61.5249, or an equivalent local
24 ordinance, if the charge under which the deferred prosecution was
25 granted was originally filed as a violation of RCW 46.61.502 or
26 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
27 46.61.522;

28 (xvi) A deferred prosecution granted in another state for a
29 violation of driving or having physical control of a vehicle while
30 under the influence of intoxicating liquor or any drug if the out-of-
31 state deferred prosecution is equivalent to the deferred prosecution
32 under chapter 10.05 RCW, including a requirement that the defendant
33 participate in a chemical dependency treatment program; or

34 (xvii) A deferred sentence imposed in a prosecution for a
35 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
36 equivalent local ordinance, if the charge under which the deferred
37 sentence was imposed was originally filed as a violation of RCW
38 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
39 violation of RCW 46.61.520 or 46.61.522;

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

5 (b) "Treatment" means substance use disorder treatment approved
6 by the department of social and health services;

7 (c) "Within seven years" means that the arrest for a prior
8 offense occurred within seven years before or after the arrest for
9 the current offense; and

10 (d) "Within ten years" means that the arrest for a prior offense
11 occurred within ten years before or after the arrest for the current
12 offense.

13 (15) All fines imposed by this section apply to adult offenders
14 only.

15 **Sec. 7.** RCW 46.61.506 and 2016 c 203 s 8 are each amended to
16 read as follows:

17 (1) Upon the trial of any civil or criminal action or proceeding
18 arising out of acts alleged to have been committed by any person
19 while driving or in actual physical control of a vehicle while under
20 the influence of intoxicating liquor or any drug, if the person's
21 alcohol concentration is less than 0.08 or the person's THC
22 concentration is less than 5.00, it is evidence that may be
23 considered with other competent evidence in determining whether the
24 person was under the influence of intoxicating liquor or any drug.

25 (2)(a) The breath analysis of the person's alcohol concentration
26 shall be based upon grams of alcohol per two hundred ten liters of
27 breath.

28 (b) The blood analysis of the person's THC concentration shall be
29 based upon nanograms per milliliter of whole blood.

30 (c) The foregoing provisions of this section shall not be
31 construed as limiting the introduction of any other competent
32 evidence bearing upon the question whether the person was under the
33 influence of intoxicating liquor or any drug.

34 (3) Analysis of the person's blood or breath to be considered
35 valid under the provisions of this section or RCW 46.61.502 or
36 46.61.504 shall have been performed according to methods approved by
37 the state toxicologist and by an individual possessing a valid permit
38 issued by the state toxicologist for this purpose. The state
39 toxicologist is directed to approve satisfactory techniques or

1 methods, to supervise the examination of individuals to ascertain
2 their qualifications and competence to conduct such analyses, and to
3 issue permits which shall be subject to termination or revocation at
4 the discretion of the state toxicologist.

5 (4)(a) A breath test performed by any instrument approved by the
6 state toxicologist shall be admissible at trial or in an
7 administrative proceeding if the prosecution or department produces
8 prima facie evidence of the following:

9 (i) The person who performed the test was authorized to perform
10 such test by the state toxicologist;

11 (ii) The person being tested did not vomit or have anything to
12 eat, drink, or smoke for at least fifteen minutes prior to
13 administration of the test;

14 (iii) The person being tested did not have any foreign
15 substances, not to include dental work or piercings, fixed or
16 removable, in his or her mouth at the beginning of the fifteen-minute
17 observation period;

18 (iv) Prior to the start of the test, the temperature of any
19 liquid simulator solution utilized as an external standard, as
20 measured by a thermometer approved of by the state toxicologist was
21 thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

22 (v) The internal standard test resulted in the message
23 "verified";

24 (vi) The two breath samples agree to within plus or minus ten
25 percent of their mean to be determined by the method approved by the
26 state toxicologist;

27 (vii) The result of the test of the liquid simulator solution
28 external standard or dry gas external standard result did lie
29 between .072 to .088 inclusive; and

30 (viii) All blank tests gave results of .000.

31 (b) For purposes of this section, "prima facie evidence" is
32 evidence of sufficient circumstances that would support a logical and
33 reasonable inference of the facts sought to be proved. In assessing
34 whether there is sufficient evidence of the foundational facts, the
35 court or administrative tribunal is to assume the truth of the
36 prosecution's or department's evidence and all reasonable inferences
37 from it in a light most favorable to the prosecution or department.

38 (c) Nothing in this section shall be deemed to prevent the
39 subject of the test from challenging the reliability or accuracy of
40 the test, the reliability or functioning of the instrument, or any

1 maintenance procedures. Such challenges, however, shall not preclude
2 the admissibility of the test once the prosecution or department has
3 made a prima facie showing of the requirements contained in (a) of
4 this subsection. Instead, such challenges may be considered by the
5 trier of fact in determining what weight to give to the test result.

6 (5) When a blood test is administered under the provisions of RCW
7 46.20.308, the withdrawal of blood for the purpose of determining its
8 ~~((alcoholic))~~ alcohol or drug content may be performed only by a
9 physician licensed under chapter 18.71 RCW; an osteopathic physician
10 licensed under chapter 18.57 RCW; a registered nurse, licensed
11 practical nurse, or advanced registered nurse practitioner licensed
12 under chapter 18.79 RCW; a physician assistant licensed under chapter
13 18.71A RCW; an osteopathic physician assistant licensed under chapter
14 18.57A RCW; an advanced emergency medical technician or paramedic
15 ~~((licensed))~~ certified under chapter ~~((18.73))~~ 18.71 RCW; ~~((until~~
16 ~~July 1, 2016, a health care assistant certified under chapter 18.135~~
17 ~~RCW;))~~ or a medical assistant-certified or medical assistant-
18 phlebotomist certified under chapter 18.360 RCW, a person holding
19 another credential under Title 18 RCW whose scope of practice
20 includes performing venous blood draws, or a forensic phlebotomist
21 certified under chapter 18.360 RCW. When the blood test is performed
22 outside the state of Washington, the withdrawal of blood for the
23 purpose of determining its alcohol or drug content may be performed
24 by any person who is authorized by the out-of-state jurisdiction to
25 perform venous blood draws. Proof of qualification to draw blood may
26 be established through the department of health's provider credential
27 search. This limitation shall not apply to the taking of breath
28 specimens.

29 (6) When a venous blood sample is performed by a forensic
30 phlebotomist certified under chapter 18.360 RCW, it must be done
31 under the following conditions:

32 (a) If taken at the scene, it must be performed in an ambulance
33 or aid service vehicle licensed by the department of health under
34 chapter 18.73 RCW.

35 (b) The collection of blood samples must not interfere with the
36 provision of essential medical care.

37 (c) The blood sample must be collected using sterile equipment
38 and the skin area of puncture must be thoroughly cleansed and
39 disinfected.

1 (d) The person whose blood is collected must be seated, reclined,
2 or lying down when the blood is collected.

3 (7) The person tested may have a licensed or certified health
4 care provider listed in subsection (5) of this section, or a
5 qualified technician, chemist, or other qualified person of his or
6 her own choosing administer one or more tests in addition to any
7 administered at the direction of a law enforcement officer. The test
8 will be admissible if the person establishes the general
9 acceptability of the testing technique or method. The failure or
10 inability to obtain an additional test by a person shall not preclude
11 the admission of evidence relating to the test or tests taken at the
12 direction of a law enforcement officer.

13 ~~((7))~~ (8) Upon the request of the person who shall submit to a
14 test or tests at the request of a law enforcement officer, full
15 information concerning the test or tests shall be made available to
16 him or her or his or her attorney.

17 **Sec. 8.** RCW 46.61.508 and 2015 2nd sp.s. c 3 s 23 are each
18 amended to read as follows:

19 No physician licensed under chapter 18.71 RCW; osteopathic
20 physician licensed under chapter 18.57 RCW; registered nurse,
21 licensed practical nurse, or advanced registered nurse practitioner
22 licensed under chapter 18.79 RCW; physician assistant licensed under
23 chapter 18.71A RCW; osteopathic physician assistant licensed under
24 chapter 18.57A RCW; advanced emergency medical technician or
25 paramedic ~~((licensed))~~ certified under chapter ~~((18.73))~~ 18.71 RCW;
26 ~~((until July 1, 2016, health care assistant certified under chapter~~
27 ~~18.135 RCW;))~~ or medical assistant-certified or medical assistant-
28 phlebotomist certified under chapter 18.360 RCW, person holding
29 another credential under Title 18 RCW whose scope of practice
30 includes performing venous blood draws, or forensic phlebotomist
31 certified under chapter 18.360 RCW, or hospital, or duly licensed
32 clinical laboratory employing or utilizing services of such licensed
33 or certified health care provider, shall incur any civil or criminal
34 liability as a result of the act of withdrawing blood from any person
35 when directed by a law enforcement officer to do so for the purpose
36 of a blood test under the provisions of a search warrant, a waiver of
37 the search warrant requirement, exigent circumstances, or any other
38 authority of law(~~(, or RCW 46.20.308, as now or hereafter amended))~~):
39 PROVIDED, That nothing in this section shall relieve such licensed or

1 certified health care provider, ~~((or))~~ hospital or duly licensed
2 clinical laboratory, or forensic phlebotomist from civil liability
3 arising from the use of improper procedures or failing to exercise
4 the required standard of care.

5 **Sec. 9.** RCW 18.130.410 and 2015 2nd sp.s. c 3 s 21 are each
6 amended to read as follows:

7 It is not professional misconduct for a physician licensed under
8 chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57
9 RCW; registered nurse, licensed practical nurse, or advanced
10 registered nurse practitioner licensed under chapter 18.79 RCW;
11 physician assistant licensed under chapter 18.71A RCW; osteopathic
12 physician assistant licensed under chapter 18.57A RCW; advanced
13 emergency medical technician or paramedic ~~((licensed))~~ certified
14 under chapter ~~((18.73))~~ 18.71 RCW; ~~((until July 1, 2016, health care~~
15 ~~assistant certified under chapter 18.135 RCW;))~~ or medical assistant-
16 certified ~~((or))~~, medical assistant-phlebotomist, or forensic
17 phlebotomist certified under chapter 18.360 RCW, or person holding
18 another credential under Title 18 RCW whose scope of practice
19 includes performing venous blood draws, or hospital, or duly licensed
20 clinical laboratory employing or utilizing services of such licensed
21 or certified health care provider, to collect a blood sample without
22 a person's consent when the physician licensed under chapter 18.71
23 RCW; osteopathic physician licensed under chapter 18.57 RCW;
24 registered nurse, licensed practical nurse, or advanced registered
25 nurse practitioner licensed under chapter 18.79 RCW; physician
26 assistant licensed under chapter 18.71A RCW; osteopathic physician
27 assistant licensed under chapter 18.57A RCW; advanced emergency
28 medical technician or paramedic ~~((licensed))~~ certified under chapter
29 ~~((18.73))~~ 18.71 RCW; ~~((until July 1, 2016, health care assistant~~
30 ~~certified under chapter 18.135 RCW;))~~ or medical assistant-certified
31 ~~((or))~~, medical assistant-phlebotomist, or forensic phlebotomist
32 certified under chapter 18.360 RCW, or person holding another
33 credential under Title 18 RCW whose scope of practice includes
34 performing venous blood draws, or hospital, or duly licensed clinical
35 laboratory employing or utilizing services of such licensed or
36 certified health care provider withdrawing blood was directed by a
37 law enforcement officer to do so for the purpose of a blood test
38 under the provisions of a search warrant or exigent circumstances:
39 PROVIDED, That nothing in this section shall relieve a physician

1 licensed under chapter 18.71 RCW; osteopathic physician licensed
2 under chapter 18.57 RCW; registered nurse, licensed practical nurse,
3 or advanced registered nurse practitioner licensed under chapter
4 18.79 RCW; physician assistant licensed under chapter 18.71A RCW;
5 osteopathic physician assistant licensed under chapter 18.57A RCW;
6 advanced emergency medical technician or paramedic (~~licensed~~)
7 certified under chapter (~~18.73~~) 18.71 RCW; (~~until July 1, 2016,~~
8 ~~health care assistant certified under chapter 18.135 RCW;~~) or
9 medical assistant-certified (~~or~~), medical assistant-phlebotomist,
10 or forensic phlebotomist certified under chapter 18.360 RCW, or
11 person holding another credential under Title 18 RCW whose scope of
12 practice includes performing venous blood draws, or hospital, or duly
13 licensed clinical laboratory employing or utilizing services of such
14 licensed or certified health care provider withdrawing blood from
15 professional discipline arising from the use of improper procedures
16 or from failing to exercise the required standard of care.

17 **Sec. 10.** RCW 46.61.517 and 2001 c 142 s 1 are each amended to
18 read as follows:

19 The refusal of a person to submit to a test of the alcohol or
20 drug concentration in the person's (~~blood or~~) breath under RCW
21 46.20.308 is admissible into evidence at a subsequent criminal trial.
22 The refusal of a person to submit to a test of the person's blood is
23 admissible into evidence at a subsequent criminal trial when a search
24 warrant, or an exception to the search warrant, authorized the
25 seizure.

26 **Sec. 11.** RCW 46.64.025 and 2016 c 203 s 4 are each amended to
27 read as follows:

28 Whenever any person served with, or provided notice of, a traffic
29 (~~citation~~) infraction or a traffic-related criminal complaint
30 willfully fails to appear at a requested hearing for a moving
31 violation, or fails to comply with the terms of a notice of (~~traffic~~
32 ~~citation~~) infraction for a moving violation or a traffic-related
33 criminal complaint, the court (~~in which the defendant failed to~~
34 ~~appear~~) with jurisdiction over the traffic infraction or traffic-
35 related criminal complaint shall promptly give notice of such fact to
36 the department of licensing. Whenever thereafter the case in which
37 the defendant failed to appear or comply is adjudicated, the court
38 hearing the case shall promptly file with the department a

1 certificate showing that the case has been adjudicated. For the
2 purposes of this section, "moving violation" is defined by rule
3 pursuant to RCW 46.20.2891.

4 **Sec. 12.** RCW 36.28A.370 and 2015 2nd sp.s. c 3 s 18 are each
5 amended to read as follows:

6 (1) Any daily user fee, installation fee, deactivation fee,
7 enrollment fee, or monitoring fee must be collected by the
8 participating agency and used to defray the participating agency's
9 costs of the 24/7 sobriety program.

10 (2) Any participation fee must be collected by the participating
11 agency and deposited in the state 24/7 sobriety account to cover 24/7
12 sobriety program administration costs incurred by the Washington
13 association of sheriffs and police chiefs.

14 (3) All applicable fees shall be paid by the participant
15 contemporaneously or in advance of the time when the fee becomes due;
16 however, cities and counties may subsidize or pay any applicable
17 fees.

18 (4) A city or county may accept for deposit, donations, gifts,
19 grants, local account fund transfers, and other assistance into its
20 local 24/7 sobriety account to defray the participating agency's
21 costs of the 24/7 sobriety program.

22 **Sec. 13.** RCW 46.61.5054 and 2015 c 265 s 32 are each amended to
23 read as follows:

24 (1)(a) In addition to penalties set forth in RCW 46.61.5051
25 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055
26 thereafter, a two hundred fifty dollar fee shall be assessed to a
27 person who is either convicted, sentenced to a lesser charge, or
28 given deferred prosecution, as a result of an arrest for violating
29 RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for
30 the purpose of funding the Washington state toxicology laboratory and
31 the Washington state patrol for grants and activities to increase the
32 conviction rate and decrease the incidence of persons driving under
33 the influence of alcohol or drugs.

34 (b) Upon a verified petition by the person assessed the fee, the
35 court may suspend payment of all or part of the fee if it finds that
36 the person does not have the ability to pay.

37 (2) The fee assessed under subsection (1) of this section shall
38 be collected by the clerk of the court and, subject to subsection

1 ((+4)) (5) of this section, one hundred seventy-five dollars of the
2 fee must be distributed as follows:

3 (a) Forty percent shall be subject to distribution under RCW
4 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

5 (b) The remainder of the fee shall be forwarded to the state
6 treasurer who shall, through June 30, 1997, deposit: Fifty percent in
7 the death investigations' account to be used solely for funding the
8 state toxicology laboratory blood or breath testing programs; and
9 fifty percent in the state patrol highway account to be used solely
10 for funding activities to increase the conviction rate and decrease
11 the incidence of persons driving under the influence of alcohol or
12 drugs. Effective July 1, 1997, the remainder of the fee shall be
13 forwarded to the state treasurer who shall deposit: Fifteen percent
14 in the death investigations' account to be used solely for funding
15 the state toxicology laboratory blood or breath testing programs; and
16 eighty-five percent in the state patrol highway account to be used
17 solely for funding activities to increase the conviction rate and
18 decrease the incidence of persons driving under the influence of
19 alcohol or drugs.

20 (3) Twenty-five dollars of the fee assessed under subsection (1)
21 of this section must be distributed to the highway safety fund to be
22 used solely for funding Washington traffic safety commission grants
23 to reduce statewide collisions caused by persons driving under the
24 influence of alcohol or drugs. Grants awarded under this subsection
25 may be for projects that encourage collaboration with other
26 community, governmental, and private organizations, and that utilize
27 innovative approaches based on best practices or proven strategies
28 supported by research or rigorous evaluation. Grants recipients may
29 include, for example:

30 (a) DUI courts; ~~((and))~~

31 (b) Jurisdictions implementing the victim impact panel registries
32 under RCW 46.61.5152 and 10.01.230; and

33 (c) Pilot programs in King and Spokane counties that are designed
34 for persons with two or more prior offenses in seven years and
35 include evidence-based assessment, enhanced intensive outpatient
36 substance use disorder treatment, monitoring, and, when needed,
37 priority entry into voluntary or involuntary detoxification services
38 or residential substance use disorder treatment, if state funding is
39 provided specifically for this purpose.

1 (4) Fifty dollars of the fee assessed under subsection (1) of
2 this section must be distributed to the highway safety fund to be
3 used solely for funding Washington traffic safety commission grants
4 to organizations within counties targeted for programs to reduce
5 driving under the influence of alcohol or drugs. A minimum of three
6 hundred thousand dollars of these grant funds shall support pilot
7 programs in King and Spokane counties that are designed for persons
8 with two or more prior offenses in seven years, as described in
9 subsection (3)(c) of this section.

10 (5) If the court has suspended payment of part of the fee
11 pursuant to subsection (1)(b) of this section, amounts collected
12 shall be distributed proportionately.

13 (~~(5)~~) (6) This section applies to any offense committed on or
14 after July 1, 1993, and only to adult offenders.

15 **Sec. 14.** RCW 18.360.010 and 2016 c 124 s 1 are each amended to
16 read as follows:

17 The definitions in this section apply throughout this chapter
18 unless the context clearly requires otherwise.

19 (1) "Administer" means the retrieval of medication, and its
20 application to a patient, as authorized in RCW 18.360.050.

21 (2) "Delegation" means direct authorization granted by a licensed
22 health care practitioner to a medical assistant to perform the
23 functions authorized in this chapter which fall within the scope of
24 practice of the health care provider and the training and experience
25 of the medical assistant.

26 (3) "Department" means the department of health.

27 (4) "Health care practitioner" means:

28 (a) A physician licensed under chapter 18.71 RCW;

29 (b) An osteopathic physician and surgeon licensed under chapter
30 18.57 RCW; or

31 (c) Acting within the scope of their respective licensure, a
32 podiatric physician and surgeon licensed under chapter 18.22 RCW, a
33 registered nurse or advanced registered nurse practitioner licensed
34 under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A
35 RCW, a physician assistant licensed under chapter 18.71A RCW, an
36 osteopathic physician assistant licensed under chapter 18.57A RCW, or
37 an optometrist licensed under chapter 18.53 RCW.

38 (5) "Medical assistant-certified" means a person certified under
39 RCW 18.360.040 who assists a health care practitioner with patient

1 care, executes administrative and clinical procedures, and performs
2 functions as provided in RCW 18.360.050 under the supervision of the
3 health care practitioner.

4 (6) "Medical assistant-hemodialysis technician" means a person
5 certified under RCW 18.360.040 who performs hemodialysis and other
6 functions pursuant to RCW 18.360.050 under the supervision of a
7 health care practitioner.

8 (7) "Medical assistant-phlebotomist" means a person certified
9 under RCW 18.360.040 who performs capillary, venous, and arterial
10 invasive procedures for blood withdrawal and other functions pursuant
11 to RCW 18.360.050 under the supervision of a health care
12 practitioner.

13 (8) "Medical assistant-registered" means a person registered
14 under RCW 18.360.040 who, pursuant to an endorsement by a health care
15 practitioner, clinic, or group practice, assists a health care
16 practitioner with patient care, executes administrative and clinical
17 procedures, and performs functions as provided in RCW 18.360.050
18 under the supervision of the health care practitioner.

19 (9) "Secretary" means the secretary of the department of health.

20 (10) "Supervision" means supervision of procedures permitted
21 pursuant to this chapter by a health care practitioner who is
22 physically present and is immediately available in the facility. The
23 health care practitioner does not need to be present during
24 procedures to withdraw blood, but must be immediately available.

25 (11) "Forensic phlebotomist" means a police officer, law
26 enforcement officer, or employee of a correctional facility or
27 detention facility, who is certified under this chapter and meets any
28 additional training and proficiency standards of his or her employer
29 to collect a venous blood sample for forensic testing pursuant to a
30 search warrant, a waiver of the warrant requirement, or exigent
31 circumstances.

32 **Sec. 15.** RCW 18.360.020 and 2012 c 153 s 3 are each amended to
33 read as follows:

34 (1) No person may practice as a medical assistant-certified,
35 medical assistant-hemodialysis technician, ((~~or~~)) medical assistant-
36 phlebotomist, or forensic phlebotomist unless he or she is certified
37 under RCW 18.360.040.

38 (2) No person may practice as a medical assistant-registered
39 unless he or she is registered under RCW 18.360.040.

1 **Sec. 16.** RCW 18.360.030 and 2012 c 153 s 4 are each amended to
2 read as follows:

3 (1) The secretary shall adopt rules specifying the minimum
4 qualifications for a medical assistant-certified, medical assistant-
5 hemodialysis technician, ~~((and))~~ medical assistant-phlebotomist, and
6 forensic phlebotomist.

7 (a) The qualifications for a medical assistant-hemodialysis
8 technician must be equivalent to the qualifications for hemodialysis
9 technicians regulated pursuant to chapter 18.135 RCW as of January 1,
10 2012.

11 (b) The qualifications for a forensic phlebotomist must include
12 training consistent with the occupational safety and health
13 administration guidelines and must include between twenty and thirty
14 hours of work in a clinical setting with the completion of more than
15 one hundred successful venipunctures. The secretary may not require
16 more than forty hours of classroom training for initial training,
17 which may include online preclass homework.

18 (2) The secretary shall adopt rules that establish the minimum
19 requirements necessary for a health care practitioner, clinic, or
20 group practice to endorse a medical assistant as qualified to perform
21 the duties authorized by this chapter and be able to file an
22 attestation of that endorsement with the department.

23 (3) The medical quality assurance commission, the board of
24 osteopathic medicine and surgery, the podiatric medical board, the
25 nursing care quality assurance commission, the board of naturopathy,
26 and the optometry board shall each review and identify other
27 specialty assistive personnel not included in this chapter and the
28 tasks they perform. The department of health shall compile the
29 information from each disciplining authority listed in this
30 subsection and submit the compiled information to the legislature no
31 later than December 15, 2012.

32 **Sec. 17.** RCW 18.360.040 and 2013 c 128 s 2 are each amended to
33 read as follows:

34 (1)(a) The secretary shall issue a certification as a medical
35 assistant-certified to any person who has satisfactorily completed a
36 medical assistant training program approved by the secretary, passed
37 an examination approved by the secretary, and met any additional
38 qualifications established under RCW 18.360.030.

1 (b) The secretary shall issue an interim certification to any
2 person who has met all of the qualifications in (a) of this
3 subsection, except for the passage of the examination. A person
4 holding an interim permit possesses the full scope of practice of a
5 medical assistant-certified. The interim permit expires upon passage
6 of the examination or after one year, whichever occurs first, and may
7 not be renewed.

8 (2) The secretary shall issue a certification as a medical
9 assistant-hemodialysis technician to any person who meets the
10 qualifications for a medical assistant-hemodialysis technician
11 established under RCW 18.360.030.

12 (3) The secretary shall issue a certification as a medical
13 assistant-phlebotomist to any person who meets the qualifications for
14 a medical assistant-phlebotomist established under RCW 18.360.030.

15 (4) The secretary shall issue a certification as a forensic
16 phlebotomist to any person who meets the qualifications for a
17 forensic phlebotomist established under RCW 18.360.030.

18 (5)(a) The secretary shall issue a registration as a medical
19 assistant-registered to any person who has a current endorsement from
20 a health care practitioner, clinic, or group practice.

21 (b) In order to be endorsed under this subsection (~~((4))~~) (5), a
22 person must:

23 (i) Be endorsed by a health care practitioner, clinic, or group
24 practice that meets the qualifications established under RCW
25 18.360.030; and

26 (ii) Have a current attestation of his or her endorsement to
27 perform specific medical tasks signed by a supervising health care
28 practitioner filed with the department. A medical assistant-
29 registered may only perform the medical tasks listed in his or her
30 current attestation of endorsement.

31 (c) A registration based on an endorsement by a health care
32 practitioner, clinic, or group practice is not transferable to
33 another health care practitioner, clinic, or group practice.

34 (d) An applicant for registration as a medical assistant-
35 registered who applies to the department within seven days of
36 employment by the endorsing health care practitioner, clinic, or
37 group practice may work as a medical assistant-registered for up to
38 sixty days while the application is processed. The applicant must
39 stop working on the sixtieth day of employment if the registration
40 has not been granted for any reason.

1 ~~((+5+))~~ (6) A certification issued under subsections (1) through
2 (3) of this section is transferable between different practice
3 settings. A certification under subsection (4) of this section is
4 transferable between law enforcement agencies.

5 **Sec. 18.** RCW 18.130.040 and 2016 c 41 s 18 are each amended to
6 read as follows:

7 (1) This chapter applies only to the secretary and the boards and
8 commissions having jurisdiction in relation to the professions
9 licensed under the chapters specified in this section. This chapter
10 does not apply to any business or profession not licensed under the
11 chapters specified in this section.

12 (2)(a) The secretary has authority under this chapter in relation
13 to the following professions:

14 (i) Dispensing opticians licensed and designated apprentices
15 under chapter 18.34 RCW;

16 (ii) Midwives licensed under chapter 18.50 RCW;

17 (iii) Ocularists licensed under chapter 18.55 RCW;

18 (iv) Massage therapists and businesses licensed under chapter
19 18.108 RCW;

20 (v) Dental hygienists licensed under chapter 18.29 RCW;

21 (vi) East Asian medicine practitioners licensed under chapter
22 18.06 RCW;

23 (vii) Radiologic technologists certified and X-ray technicians
24 registered under chapter 18.84 RCW;

25 (viii) Respiratory care practitioners licensed under chapter
26 18.89 RCW;

27 (ix) Hypnotherapists and agency affiliated counselors registered
28 and advisors and counselors certified under chapter 18.19 RCW;

29 (x) Persons licensed as mental health counselors, mental health
30 counselor associates, marriage and family therapists, marriage and
31 family therapist associates, social workers, social work associates—
32 advanced, and social work associates—independent clinical under
33 chapter 18.225 RCW;

34 (xi) Persons registered as nursing pool operators under chapter
35 18.52C RCW;

36 (xii) Nursing assistants registered or certified or medication
37 assistants endorsed under chapter 18.88A RCW;

38 (xiii) Dietitians and nutritionists certified under chapter
39 18.138 RCW;

1 (xiv) Chemical dependency professionals and chemical dependency
2 professional trainees certified under chapter 18.205 RCW;

3 (xv) Sex offender treatment providers and certified affiliate sex
4 offender treatment providers certified under chapter 18.155 RCW;

5 (xvi) Persons licensed and certified under chapter 18.73 RCW or
6 RCW 18.71.205;

7 (xvii) Orthotists and prosthetists licensed under chapter 18.200
8 RCW;

9 (xviii) Surgical technologists registered under chapter 18.215
10 RCW;

11 (xix) Recreational therapists under chapter 18.230 RCW;

12 (xx) Animal massage therapists certified under chapter 18.240
13 RCW;

14 (xxi) Athletic trainers licensed under chapter 18.250 RCW;

15 (xxii) Home care aides certified under chapter 18.88B RCW;

16 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;

17 (xxiv) Reflexologists certified under chapter 18.108 RCW;

18 (xxv) Medical assistants-certified, medical assistants-
19 hemodialysis technician, medical assistants-phlebotomist, forensic
20 phlebotomist, and medical assistants-registered certified and
21 registered under chapter 18.360 RCW; and

22 (xxvi) Behavior analysts, assistant behavior analysts, and
23 behavior technicians under chapter 18.380 RCW.

24 (b) The boards and commissions having authority under this
25 chapter are as follows:

26 (i) The podiatric medical board as established in chapter 18.22
27 RCW;

28 (ii) The chiropractic quality assurance commission as established
29 in chapter 18.25 RCW;

30 (iii) The dental quality assurance commission as established in
31 chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW,
32 licenses and registrations issued under chapter 18.260 RCW, and
33 certifications issued under chapter 18.350 RCW;

34 (iv) The board of hearing and speech as established in chapter
35 18.35 RCW;

36 (v) The board of examiners for nursing home administrators as
37 established in chapter 18.52 RCW;

38 (vi) The optometry board as established in chapter 18.54 RCW
39 governing licenses issued under chapter 18.53 RCW;

1 (vii) The board of osteopathic medicine and surgery as
2 established in chapter 18.57 RCW governing licenses issued under
3 chapters 18.57 and 18.57A RCW;

4 (viii) The pharmacy quality assurance commission as established
5 in chapter 18.64 RCW governing licenses issued under chapters 18.64
6 and 18.64A RCW;

7 (ix) The medical quality assurance commission as established in
8 chapter 18.71 RCW governing licenses and registrations issued under
9 chapters 18.71 and 18.71A RCW;

10 (x) The board of physical therapy as established in chapter 18.74
11 RCW;

12 (xi) The board of occupational therapy practice as established in
13 chapter 18.59 RCW;

14 (xii) The nursing care quality assurance commission as
15 established in chapter 18.79 RCW governing licenses and registrations
16 issued under that chapter;

17 (xiii) The examining board of psychology and its disciplinary
18 committee as established in chapter 18.83 RCW;

19 (xiv) The veterinary board of governors as established in chapter
20 18.92 RCW;

21 (xv) The board of naturopathy established in chapter 18.36A RCW;
22 and

23 (xvi) The board of denturists established in chapter 18.30 RCW.

24 (3) In addition to the authority to discipline license holders,
25 the disciplining authority has the authority to grant or deny
26 licenses. The disciplining authority may also grant a license subject
27 to conditions.

28 (4) All disciplining authorities shall adopt procedures to ensure
29 substantially consistent application of this chapter, the uniform
30 disciplinary act, among the disciplining authorities listed in
31 subsection (2) of this section.

32 **Sec. 19.** RCW 18.120.020 and 2016 c 41 s 17 are each reenacted
33 and amended to read as follows:

34 The definitions in this section apply throughout this chapter
35 unless the context clearly requires otherwise.

36 (1) "Applicant group" includes any health professional group or
37 organization, any individual, or any other interested party which
38 proposes that any health professional group not presently regulated

1 be regulated or which proposes to substantially increase the scope of
2 practice of the profession.

3 (2) "Certificate" and "certification" mean a voluntary process by
4 which a statutory regulatory entity grants recognition to an
5 individual who (a) has met certain prerequisite qualifications
6 specified by that regulatory entity, and (b) may assume or use
7 "certified" in the title or designation to perform prescribed health
8 professional tasks.

9 (3) "Grandfather clause" means a provision in a regulatory
10 statute applicable to practitioners actively engaged in the regulated
11 health profession prior to the effective date of the regulatory
12 statute which exempts the practitioners from meeting the prerequisite
13 qualifications set forth in the regulatory statute to perform
14 prescribed occupational tasks.

15 (4) "Health professions" means and includes the following health
16 and health-related licensed or regulated professions and occupations:
17 Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic
18 under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW;
19 dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW;
20 dental anesthesia assistants under chapter 18.350 RCW; dispensing
21 opticians under chapter 18.34 RCW; hearing instruments under chapter
22 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and
23 funeral directing under chapter 18.39 RCW; midwifery under chapter
24 18.50 RCW; nursing home administration under chapter 18.52 RCW;
25 optometry under chapters 18.53 and 18.54 RCW; ocularists under
26 chapter 18.55 RCW; osteopathic medicine and surgery under chapters
27 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW;
28 medicine under chapters 18.71 and 18.71A RCW; emergency medicine
29 under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW;
30 practical nurses under chapter 18.79 RCW; psychologists under chapter
31 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational
32 therapists licensed under chapter 18.59 RCW; respiratory care
33 practitioners licensed under chapter 18.89 RCW; veterinarians and
34 veterinary technicians under chapter 18.92 RCW; massage therapists
35 under chapter 18.108 RCW; East Asian medicine practitioners licensed
36 under chapter 18.06 RCW; persons registered under chapter 18.19 RCW;
37 persons licensed as mental health counselors, marriage and family
38 therapists, and social workers under chapter 18.225 RCW; dietitians
39 and nutritionists certified by chapter 18.138 RCW; radiologic
40 technicians under chapter 18.84 RCW; nursing assistants registered or

1 certified under chapter 18.88A RCW; reflexologists certified under
2 chapter 18.108 RCW; medical assistants-certified, medical assistants-
3 hemodialysis technician, medical assistants-phlebotomist, forensic
4 phlebotomist, and medical assistants-registered certified and
5 registered under chapter 18.360 RCW; and licensed behavior analysts,
6 licensed assistant behavior analysts, and certified behavior
7 technicians under chapter 18.380 RCW.

8 (5) "Inspection" means the periodic examination of practitioners
9 by a state agency in order to ascertain whether the practitioners'
10 occupation is being carried out in a fashion consistent with the
11 public health, safety, and welfare.

12 (6) "Legislative committees of reference" means the standing
13 legislative committees designated by the respective rules committees
14 of the senate and house of representatives to consider proposed
15 legislation to regulate health professions not previously regulated.

16 (7) "License," "licensing," and "licensure" mean permission to
17 engage in a health profession which would otherwise be unlawful in
18 the state in the absence of the permission. A license is granted to
19 those individuals who meet prerequisite qualifications to perform
20 prescribed health professional tasks and for the use of a particular
21 title.

22 (8) "Practitioner" means an individual who (a) has achieved
23 knowledge and skill by practice, and (b) is actively engaged in a
24 specified health profession.

25 (9) "Professional license" means an individual, nontransferable
26 authorization to carry on a health activity based on qualifications
27 which include: (a) Graduation from an accredited or approved program,
28 and (b) acceptable performance on a qualifying examination or series
29 of examinations.

30 (10) "Public member" means an individual who is not, and never
31 was, a member of the health profession being regulated or the spouse
32 of a member, or an individual who does not have and never has had a
33 material financial interest in either the rendering of the health
34 professional service being regulated or an activity directly related
35 to the profession being regulated.

36 (11) "Registration" means the formal notification which, prior to
37 rendering services, a practitioner shall submit to a state agency
38 setting forth the name and address of the practitioner; the location,
39 nature and operation of the health activity to be practiced; and, if

1 required by the regulatory entity, a description of the service to be
2 provided.

3 (12) "Regulatory entity" means any board, commission, agency,
4 division, or other unit or subunit of state government which
5 regulates one or more professions, occupations, industries,
6 businesses, or other endeavors in this state.

7 (13) "State agency" includes every state office, department,
8 board, commission, regulatory entity, and agency of the state, and,
9 where provided by law, programs and activities involving less than
10 the full responsibility of a state agency.

11 NEW SECTION. **Sec. 20.** Sections 18 and 19 of this act are
12 necessary for the immediate preservation of the public peace, health,
13 or safety, or support of the state government and its existing public
14 institutions, and take effect July 1, 2017.

Passed by the House April 21, 2017.

Passed by the Senate April 20, 2017.

Approved by the Governor May 16, 2017.

Filed in Office of Secretary of State May 17, 2017.

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