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HOUSE BILL 1942

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By Representatives Robertson, Delvin, Smith, Brown, Ballasiotes, McMahan, Sheldon, L. Thomas, Padden, Mulliken, Mielke, Chappell, Campbell, Benton, Honeyford, Thompson, Schoesler and Mitchell

Read first time 02/15/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to driving while under the influence of  
2 intoxicating liquor or any drug; amending RCW 46.20.308, 46.20.355,  
3 46.61.502, 46.61.504, 46.61.5058, 46.61.524, 3.62.090, 10.05.060,  
4 35.21.165, 36.32.127, 46.04.480, 46.20.311, 46.20.391, 46.61.5054,  
5 46.61.5056, and 46.61.5151; reenacting and amending RCW 9.94A.320,  
6 9.94A.360, and 46.63.020; adding a new section to chapter 46.20 RCW;  
7 adding a new section to chapter 46.61 RCW; adding a new section to  
8 chapter 46.04 RCW; repealing RCW 46.20.309, 46.20.365, 46.61.5051,  
9 46.61.5052, 46.61.5053, and 46.61.5057; repealing 1994 c 275 s 44  
10 (uncodified); prescribing penalties; providing an effective date; and  
11 declaring an emergency.

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

13 **PART I - IMPLIED CONSENT AND ADMINISTRATIVE REVOCATION**

14 **Sec. 1.** RCW 46.20.308 and 1994 c 275 s 13 are each amended to read  
15 as follows:

16 (1) Any person who operates a motor vehicle within this state is  
17 deemed to have given consent, subject to the provisions of RCW  
18 46.61.506, to a test or tests of his or her breath or blood for the

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

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

22 (a) His or her license, permit, or privilege to drive will be  
23 revoked or denied if he or she refuses to submit to the test(~~(b)~~  
24 that);

25 (b) His or her license, permit, or privilege to drive will be  
26 suspended, revoked, or denied and the person will be subject to  
27 possible criminal penalties if the test is administered and the test  
28 indicates the alcohol concentration of the person's breath or blood is  
29 0.10 or more; and

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

32 (3) Except as provided in this section, the test administered shall  
33 be of the breath only. If an individual is unconscious or is under  
34 arrest for the crime of vehicular homicide as provided in RCW 46.61.520  
35 or vehicular assault as provided in RCW 46.61.522, or if an individual  
36 is under arrest for the crime of driving while under the influence of  
37 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest  
38 results from an accident in which there has been serious bodily injury  
39 to another person (~~has been injured and there is a reasonable~~

1 ~~likelihood that such other person may die as a result of injuries~~  
2 ~~sustained in the accident)),~~ a breath or blood test may be administered  
3 without the consent of the individual so arrested.

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

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

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

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

27 (b) Serve notice in writing on the person on behalf of the  
28 department of his or her right to a hearing, specifying the steps he or  
29 she must take to obtain a hearing. Within thirty days after the notice  
30 has been given, the person may, in writing, request a formal hearing as  
31 provided by subsection (8) of this section. If such request is made by  
32 mail it must be postmarked within thirty days after the notice has been  
33 given;

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

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

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

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

9 (i) That the officer had reasonable grounds to believe the arrested  
10 person had been driving or was in actual physical control of a motor  
11 vehicle within this state while under the influence of intoxicating  
12 liquor or drugs, or both;

13 (ii) That after receipt of the warnings required by subsection (2)  
14 of this section the person refused to submit to a test of his or her  
15 blood or breath, or a test was administered and the results indicated  
16 that the alcohol concentration of the person's breath or blood was 0.10  
17 or more; and

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

19 (7) The department of licensing, upon the receipt of a sworn report  
20 ((of the law enforcement officer that the officer had reasonable  
21 grounds to believe the arrested person had been driving or was in  
22 actual physical control of a motor vehicle within this state while  
23 under the influence of intoxicating liquor and that the person had  
24 refused to submit to the test or tests upon the request of the law  
25 enforcement officer after being informed that refusal would result in  
26 the revocation of the person's privilege to drive)) or report under a  
27 declaration authorized by RCW 9A.72.085 under subsection (6)(e) of this  
28 section, shall suspend, revoke, or deny the person's license ((or)),  
29 permit, or privilege to drive or any nonresident operating privilege,  
30 as provided in section 2 of this act, such suspension, revocation, or  
31 denial to be effective beginning sixty days from the date of arrest or  
32 from the date notice has been given in the event notice is given by the  
33 department following a blood test, or when sustained at a hearing  
34 pursuant to subsection (8) of this section, whichever occurs first.

35 ((7) Upon revoking the license or permit to drive or the  
36 nonresident operating privilege of any person, the department shall  
37 immediately notify the person involved in writing by personal service  
38 or by certified mail of its decision and the grounds therefor, and of  
39 the person's right to a hearing, specifying the steps he or she must

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

1 A hearing officer shall conduct the hearing, may issue subpoenas  
2 for the attendance of witnesses and the production of documents, and  
3 shall administer oaths to witnesses. The hearing officer shall not  
4 issue a subpoena for the attendance of a witness at the request of the  
5 person unless the request is accompanied by the fee required by RCW  
6 5.56.010 for a witness in district court. The sworn report or report  
7 under a declaration authorized by RCW 9A.72.085 of the law enforcement  
8 officer and any other evidence accompanying the report shall be  
9 admissible without further evidentiary foundation and the  
10 certifications authorized by the criminal rules for courts of limited  
11 jurisdiction shall be admissible without further evidentiary  
12 foundation. The person may be represented by counsel, may question  
13 witnesses, may present evidence, and may testify. The department shall  
14 order that the suspension, revocation, or denial either be rescinded or  
15 sustained. ((Any decision by the department revoking a person's  
16 driving privilege shall be stayed and shall not take effect while a  
17 formal hearing is pending as provided in this section or during the  
18 pendency of a subsequent appeal to superior court so long as there is  
19 no conviction for a moving violation or no finding that the person has  
20 committed a traffic infraction that is a moving violation during  
21 pendency of the hearing and appeal.

22 ~~(8))~~ (9) If the suspension, revocation, or denial is sustained  
23 after such a hearing, the person whose license, privilege, or permit is  
24 suspended, revoked, or denied has the right to file a petition in the  
25 superior court of the county of arrest to review the final order of  
26 revocation by the department in the same manner ((provided in RCW  
27 46.20.334)) as an appeal from a decision of a court of limited  
28 jurisdiction. The appellant must pay the costs associated with  
29 obtaining the record of the hearing before the hearing officer plus an  
30 additional one hundred dollars to the department. The filing of the  
31 appeal does not stay the effective date of the suspension, revocation,  
32 or denial. A petition filed under this subsection must include the  
33 petitioner's grounds for requesting review. Upon granting petitioner's  
34 request for review, the court shall review the department's final order  
35 of suspension, revocation, or denial as expeditiously as possible. If  
36 judicial relief is sought for a stay or other temporary remedy from the  
37 department's action, the court shall not grant such relief unless the  
38 court finds that the appellant is likely to prevail in the appeal and  
39 that without a stay the appellant will suffer irreparable injury. If

1 the court stays the suspension, revocation, or denial it may impose  
2 conditions on such stay.

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

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

33 ((+9)) (11) When it has been finally determined under the  
34 procedures of this section that a nonresident's privilege to operate a  
35 motor vehicle in this state has been suspended, revoked, or denied, the  
36 department shall give information in writing of the action taken to the  
37 motor vehicle administrator of the state of the person's residence and  
38 of any state in which he or she has a license.

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

3        Pursuant to RCW 46.20.308, the department shall suspend, revoke, or  
4 deny the arrested person's license, permit, or privilege to drive as  
5 follows:

6        (1) In the case of a person who has refused a test or tests:

7        (a) For a first refusal within five years, where there has not been  
8 a previous incident within five years that resulted in administrative  
9 action under this section, revocation or denial for one year;

10       (b) For a second or subsequent refusal within five years, or for a  
11 first refusal where there has been one or more previous incidents  
12 within five years that have resulted in administrative action under  
13 this section, revocation or denial for two years or until the person  
14 reaches age twenty-one, whichever is longer. A revocation imposed  
15 under this subsection (1)(b) shall run consecutively to the period of  
16 any suspension, revocation, or denial imposed pursuant to a criminal  
17 conviction arising out of the same incident.

18       (2) In the case of an incident where a person has submitted to or  
19 been administered a test or tests indicating that the alcohol  
20 concentration of the person's breath or blood was 0.10 or more:

21       (a) For a first incident within five years, where there has not  
22 been a previous incident within five years that resulted in  
23 administrative action under this section, placement in probationary  
24 status as provided in RCW 46.20.355;

25       (b) For a second or subsequent incident within five years,  
26 revocation or denial for two years.

27       **Sec. 3.**    RCW 46.20.355 and 1994 c 275 s 8 are each amended to read  
28 as follows:

29       (1) Upon ~~((notification of a conviction under RCW 46.61.502 or~~  
30 ~~46.61.504 for which the issuance of a probationary driver's license is~~  
31 ~~required))~~ receipt of a sworn report or report under a declaration  
32 authorized by RCW 9A.72.085 under RCW 46.20.308, or upon receipt of an  
33 abstract indicating a deferred prosecution has been granted under RCW  
34 10.05.060, the department of licensing shall order the person to  
35 surrender ~~((his or her))~~ any Washington state driver's license that may  
36 be in his or her possession. The department shall revoke the license,  
37 permit, or privilege to drive of any person who fails to surrender it  
38 as required by this section for one year, unless the license has been

1 previously surrendered to the department, a law enforcement officer, or  
2 a court, or the person has completed an affidavit of lost, stolen,  
3 destroyed, or previously surrendered license, such revocation to take  
4 effect thirty days after notice is given of the requirement for license  
5 surrender.

6 ~~(2) ((Upon receipt of the surrendered license, and following the~~  
7 ~~expiration of any period of license suspension or revocation, or~~  
8 ~~following receipt of a sworn statement under RCW 46.20.365 that~~  
9 ~~requires issuance of a probationary license, the department shall issue~~  
10 ~~the person a probationary license if otherwise qualified. The~~  
11 ~~probationary license shall be renewed on the same cycle as the person's~~  
12 ~~regular license would have been renewed until five years after the date~~  
13 ~~of its issuance.))~~ The department shall place a person's driving  
14 privilege in probationary status as required by RCW 10.05.060 or  
15 46.20.308 for a period of five years from the date the probationary  
16 status is required to go into effect.

17 (3) Following receipt of an abstract indicating a deferred  
18 prosecution has been granted under RCW 10.05.060, or following receipt  
19 of a sworn report under RCW 46.20.308 that requires immediate placement  
20 in probationary status under section 2(2)(a) of this act, the  
21 department shall require the person to obtain a probationary license in  
22 order to operate a motor vehicle in the state of Washington, except as  
23 otherwise exempt under RCW 46.20.025. The department shall not issue  
24 the probationary license unless the person is otherwise qualified for  
25 licensing, and must be renewed on the same cycle as the person's  
26 regular license would have been renewed until the expiration of the  
27 five-year probationary status period imposed under subsection (2) of  
28 this section.

29 (4) For each original issue or ((reissue)) renewal of a  
30 probationary license under this section, the department ((may)) shall  
31 charge ((the)) a fee ((authorized under RCW 46.20.311 for the  
32 reissuance of a license following a revocation for a violation of RCW  
33 46.61.502 or 46.61.504)) of fifty dollars in addition to any other  
34 licensing fees required. Except for when renewing a probationary  
35 license, the department shall waive the fifty-dollar fee if the person  
36 has a probationary license in his or her possession at the time a new  
37 probationary license is required.

38 ~~((4))~~ (5) A probationary license shall enable the department and  
39 law enforcement personnel to determine that the person is on

1 probationary status(~~(, including the period of that status, for a~~  
2 ~~violation of RCW 46.61.502 or 46.61.504 or 46.20.365)~~). ((That)) The  
3 fact that a person's driving privilege is in probationary status or  
4 that the person has been issued a probationary license shall not be a  
5 part of the person's record that is available to insurance companies.

6 **PART II - CRIMINAL SANCTIONS**

7 **Sec. 4.** RCW 46.61.502 and 1994 c 275 s 2 are each amended to read  
8 as follows:

9 (1) A person is guilty of driving while under the influence of  
10 intoxicating liquor or any drug if the person drives a vehicle within  
11 this state:

12 (a) And the person has, within two hours after driving, an alcohol  
13 concentration of 0.10 or higher as shown by analysis of the person's  
14 breath or blood made under RCW 46.61.506; or

15 (b) While the person is under the influence of or affected by  
16 intoxicating liquor or any drug; or

17 (c) While the person is under the combined influence of or affected  
18 by intoxicating liquor and any drug.

19 (2) The fact that a person charged with a violation of this section  
20 is or has been entitled to use a drug under the laws of this state  
21 shall not constitute a defense against a charge of violating this  
22 section.

23 (3) It is an affirmative defense to a violation of subsection  
24 (1)(a) of this section which the defendant must prove by a  
25 preponderance of the evidence that the defendant consumed a sufficient  
26 quantity of alcohol after the time of driving and before the  
27 administration of an analysis of the person's breath or blood to cause  
28 the defendant's alcohol concentration to be 0.10 or more within two  
29 hours after driving. The court shall not admit evidence of this  
30 defense unless the defendant notifies the prosecution prior to the  
31 omnibus or pretrial hearing in the case of the defendant's intent to  
32 assert the affirmative defense.

33 (4) Analyses of blood or breath samples obtained more than two  
34 hours after the alleged driving may be used as evidence that within two  
35 hours of the alleged driving, a person had an alcohol concentration of  
36 0.10 or more in violation of subsection (1)(a) of this section, and in  
37 any case in which the analysis shows an alcohol concentration above

1 0.00 may be used as evidence that a person was under the influence of  
2 or affected by intoxicating liquor or any drug in violation of  
3 subsection (1) (b) or (c) of this section.

4 (5) A violation of this section is a gross misdemeanor, except that  
5 a violation of this section is a class C felony if committed by a  
6 person who has two or more prior offenses within five years.

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

8 (i) A conviction for a violation of this section or an equivalent  
9 local ordinance;

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

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

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

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

19 (vi) A deferred prosecution under chapter 10.05 RCW granted in a  
20 prosecution for a violation of this section, RCW 46.61.504, or an  
21 equivalent local ordinance.

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

24 **Sec. 5.** RCW 46.61.504 and 1994 c 275 s 3 are each amended to read  
25 as follows:

26 (1) A person is guilty of being in actual physical control of a  
27 motor vehicle while under the influence of intoxicating liquor or any  
28 drug if the person has actual physical control of a vehicle within this  
29 state:

30 (a) And the person has, within two hours after being in actual  
31 physical control of the vehicle, an alcohol concentration of 0.10 or  
32 higher as shown by analysis of the person's breath or blood made under  
33 RCW 46.61.506; or

34 (b) While the person is under the influence of or affected by  
35 intoxicating liquor or any drug; or

36 (c) While the person is under the combined influence of or affected  
37 by intoxicating liquor and any drug.

1 (2) The fact that a person charged with a violation of this section  
2 is or has been entitled to use a drug under the laws of this state does  
3 not constitute a defense against any charge of violating this section.  
4 No person may be convicted under this section if, prior to being  
5 pursued by a law enforcement officer, the person has moved the vehicle  
6 safely off the roadway.

7 (3) It is an affirmative defense to a violation of subsection  
8 (1)(a) of this section which the defendant must prove by a  
9 preponderance of the evidence that the defendant consumed a sufficient  
10 quantity of alcohol after the time of being in actual physical control  
11 of the vehicle and before the administration of an analysis of the  
12 person's breath or blood to cause the defendant's alcohol concentration  
13 to be 0.10 or more within two hours after being in such control. The  
14 court shall not admit evidence of this defense unless the defendant  
15 notifies the prosecution prior to the omnibus or pretrial hearing in  
16 the case of the defendant's intent to assert the affirmative defense.

17 (4) Analyses of blood or breath samples obtained more than two  
18 hours after the alleged being in actual physical control of a vehicle  
19 may be used as evidence that within two hours of the alleged being in  
20 such control, a person had an alcohol concentration of 0.10 or more in  
21 violation of subsection (1)(a) of this section, and in any case in  
22 which the analysis shows an alcohol concentration above 0.00 may be  
23 used as evidence that a person was under the influence of or affected  
24 by intoxicating liquor or any drug in violation of subsection (1) (b)  
25 or (c) of this section.

26 (5) A violation of this section is a gross misdemeanor, except that  
27 a violation of this section is a class C felony if committed by a  
28 person who has two or more prior offenses within five years.

29 (6) The terms "prior offense" and "within five years" have the same  
30 meaning as defined in RCW 46.61.502.

31 NEW SECTION. Sec. 6. A new section is added to chapter 46.61 RCW,  
32 to be codified between RCW 46.61.500 and 46.61.520, to read as follows:

33 (1) A person who is convicted of a gross misdemeanor violation of  
34 RCW 46.61.502 or 46.61.504 and who has no prior offense within five  
35 years as defined in RCW 46.61.502 shall be punished as follows:

36 (a) By imprisonment for not less than one day nor more than one  
37 year. Twenty-four consecutive hours of the imprisonment may not be  
38 suspended or deferred unless the court finds that the imposition of

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

6 (b) By a fine of not less than three hundred fifty dollars nor more  
7 than five thousand dollars. Three hundred fifty dollars of the fine  
8 may not be suspended or deferred unless the court finds the offender to  
9 be indigent; and

10 (c) By suspension of the offender's license or permit to drive, or  
11 suspension of any nonresident privilege to drive, for a period of  
12 ninety days. The court may suspend all or part of the ninety-day  
13 period of suspension. The court shall notify the department of  
14 licensing of the conviction and of any period of license, permit, or  
15 privilege suspension and shall notify the department of the person's  
16 completion of any such period of suspension.

17 (2) A person who is convicted of a gross misdemeanor violation of  
18 RCW 46.61.502 or 46.61.504 and who has one prior offense within five  
19 years as defined in RCW 46.61.502 shall be punished as follows:

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

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

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

38 (3) A person who is convicted of a felony violation of RCW  
39 46.61.502 or 46.61.504 shall be punished under chapter 9.94A RCW. The

1 court shall notify the department of licensing of the conviction, and  
2 upon receiving notification of the conviction the department shall  
3 revoke the person's license, permit, or privilege to drive, for a  
4 period of two years.

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

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

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

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

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

1 notify the department of any suspension, revocation, or denial or any  
2 extension of a suspension, revocation, or denial imposed under this  
3 subsection.

4 **Sec. 7.** RCW 9.94A.320 and 1994 sp.s. c 7 s 510, 1994 c 275 s 20,  
5 and 1994 c 53 s 2 are each reenacted and amended to read as follows:

6 TABLE 2

7 CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

8	XV	Aggravated Murder 1 (RCW 10.95.020)
9	XIV	Murder 1 (RCW 9A.32.030)
10		Homicide by abuse (RCW 9A.32.055)
11	XIII	Murder 2 (RCW 9A.32.050)
12	XII	Assault 1 (RCW 9A.36.011)
13		Assault of a Child 1 (RCW 9A.36.120)
14	XI	Rape 1 (RCW 9A.44.040)
15		Rape of a Child 1 (RCW 9A.44.073)
16	X	Kidnapping 1 (RCW 9A.40.020)
17		Rape 2 (RCW 9A.44.050)
18		Rape of a Child 2 (RCW 9A.44.076)
19		Child Molestation 1 (RCW 9A.44.083)
20		Damaging building, etc., by explosion with
21		threat to human being (RCW
22		70.74.280(1))
23		Over 18 and deliver heroin or narcotic
24		from Schedule I or II to someone
25		under 18 (RCW 69.50.406)
26		Leading Organized Crime (RCW
27		9A.82.060(1)(a))
28	IX	Assault of a Child 2 (RCW 9A.36.130)
29		Robbery 1 (RCW 9A.56.200)
30		Manslaughter 1 (RCW 9A.32.060)
31		Explosive devices prohibited (RCW
32		70.74.180)

1 Indecent Liberties (with forcible  
2 compulsion) (RCW 9A.44.100(1)(a))  
3 Endangering life and property by  
4 explosives with threat to human being  
5 (RCW 70.74.270)  
6 Over 18 and deliver narcotic from Schedule  
7 III, IV, or V or a nonnarcotic from  
8 Schedule I-V to someone under 18 and  
9 3 years junior (RCW 69.50.406)  
10 Controlled Substance Homicide (RCW  
11 69.50.415)  
12 Sexual Exploitation (RCW 9.68A.040)  
13 Inciting Criminal Profiteering (RCW  
14 9A.82.060(1)(b))  
15 Vehicular Homicide, by being under the  
16 influence of intoxicating liquor or  
17 any drug (RCW 46.61.520)

18 VIII Arson 1 (RCW 9A.48.020)  
19 Promoting Prostitution 1 (RCW 9A.88.070)  
20 Selling for profit (controlled or  
21 counterfeit) any controlled substance  
22 (RCW 69.50.410)  
23 Manufacture, deliver, or possess with  
24 intent to deliver heroin or cocaine  
25 (RCW 69.50.401(a)(1)(i))  
26 Manufacture, deliver, or possess with  
27 intent to deliver methamphetamine  
28 (RCW 69.50.401(a)(1)(ii))  
29 Vehicular Homicide, by the operation of  
30 any vehicle in a reckless manner (RCW  
31 46.61.520)

32 VII Burglary 1 (RCW 9A.52.020)  
33 Vehicular Homicide, by disregard for the  
34 safety of others (RCW 46.61.520)  
35 Introducing Contraband 1 (RCW 9A.76.140)  
36 Indecent Liberties (without forcible  
37 compulsion) (RCW 9A.44.100(1) (b) and  
38 (c))

1 Child Molestation 2 (RCW 9A.44.086)  
2 Dealing in depictions of minor engaged in  
3 sexually explicit conduct (RCW  
4 9.68A.050)  
5 Sending, bringing into state depictions of  
6 minor engaged in sexually explicit  
7 conduct (RCW 9.68A.060)  
8 Involving a minor in drug dealing (RCW  
9 69.50.401(f))

10 VI Bribery (RCW 9A.68.010)  
11 Manslaughter 2 (RCW 9A.32.070)  
12 Rape of a Child 3 (RCW 9A.44.079)  
13 Intimidating a Juror/Witness (RCW  
14 9A.72.110, 9A.72.130)  
15 Damaging building, etc., by explosion with  
16 no threat to human being (RCW  
17 70.74.280(2))  
18 Endangering life and property by  
19 explosives with no threat to human  
20 being (RCW 70.74.270)  
21 Incest 1 (RCW 9A.64.020(1))  
22 Manufacture, deliver, or possess with  
23 intent to deliver narcotics from  
24 Schedule I or II (except heroin or  
25 cocaine) (RCW 69.50.401(a)(1)(i))  
26 Intimidating a Judge (RCW 9A.72.160)  
27 Bail Jumping with Murder 1 (RCW  
28 9A.76.170(2)(a))

29 V Criminal Mistreatment 1 (RCW 9A.42.020)  
30 Theft of a Firearm (RCW 9A.56.300)  
31 Reckless Endangerment 1 (RCW 9A.36.045)  
32 Rape 3 (RCW 9A.44.060)  
33 Sexual Misconduct with a Minor 1 (RCW  
34 9A.44.093)  
35 Child Molestation 3 (RCW 9A.44.089)  
36 Kidnapping 2 (RCW 9A.40.030)  
37 Extortion 1 (RCW 9A.56.120)  
38 Incest 2 (RCW 9A.64.020(2))

1 Perjury 1 (RCW 9A.72.020)  
2 Extortionate Extension of Credit (RCW  
3 9A.82.020)  
4 Advancing money or property for  
5 extortionate extension of credit (RCW  
6 9A.82.030)  
7 Extortionate Means to Collect Extensions  
8 of Credit (RCW 9A.82.040)  
9 Rendering Criminal Assistance 1 (RCW  
10 9A.76.070)  
11 Bail Jumping with class A Felony (RCW  
12 9A.76.170(2)(b))  
13 Sexually Violating Human Remains (RCW  
14 9A.44.105)  
15 Delivery of imitation controlled substance  
16 by person eighteen or over to person  
17 under eighteen (RCW 69.52.030(2))  
18 IV Residential Burglary (RCW 9A.52.025)  
19 Theft of Livestock 1 (RCW 9A.56.080)  
20 Robbery 2 (RCW 9A.56.210)  
21 Assault 2 (RCW 9A.36.021)  
22 Escape 1 (RCW 9A.76.110)  
23 Arson 2 (RCW 9A.48.030)  
24 Bribing a Witness/Bribe Received by  
25 Witness (RCW 9A.72.090, 9A.72.100)  
26 Malicious Harassment (RCW 9A.36.080)  
27 Threats to Bomb (RCW 9.61.160)  
28 Willful Failure to Return from Furlough  
29 (RCW 72.66.060)  
30 Hit and Run « Injury Accident (RCW  
31 46.52.020(4))  
32 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with  
2 intent to deliver narcotics from  
3 Schedule III, IV, or V or  
4 nonnarcotics from Schedule I-V  
5 (except marijuana or  
6 methamphetamines) (RCW  
7 69.50.401(a)(1)(ii) through (iv))  
8 Influencing Outcome of Sporting Event (RCW  
9 9A.82.070)  
10 Use of Proceeds of Criminal Profiteering  
11 (RCW 9A.82.080 (1) and (2))  
12 Knowingly Trafficking in Stolen Property  
13 (RCW 9A.82.050(2))  
14 III Criminal Mistreatment 2 (RCW 9A.42.030)  
15 Extortion 2 (RCW 9A.56.130)  
16 Unlawful Imprisonment (RCW 9A.40.040)  
17 Assault 3 (RCW 9A.36.031)  
18 Assault of a Child 3 (RCW 9A.36.140)  
19 Custodial Assault (RCW 9A.36.100)  
20 Unlawful possession of firearm or pistol  
21 by felon (RCW 9.41.040)  
22 Harassment (RCW 9A.46.020)  
23 Promoting Prostitution 2 (RCW 9A.88.080)  
24 Willful Failure to Return from Work  
25 Release (RCW 72.65.070)  
26 Burglary 2 (RCW 9A.52.030)  
27 Introducing Contraband 2 (RCW 9A.76.150)  
28 Communication with a Minor for Immoral  
29 Purposes (RCW 9.68A.090)  
30 Patronizing a Juvenile Prostitute (RCW  
31 9.68A.100)  
32 Escape 2 (RCW 9A.76.120)  
33 Perjury 2 (RCW 9A.72.030)  
34 Bail Jumping with class B or C Felony (RCW  
35 9A.76.170(2)(c))  
36 Intimidating a Public Servant (RCW  
37 9A.76.180)  
38 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with  
2 intent to deliver marijuana (RCW  
3 69.50.401(a)(1)(ii))  
4 Delivery of a material in lieu of a  
5 controlled substance (RCW  
6 69.50.401(c))  
7 Manufacture, distribute, or possess with  
8 intent to distribute an imitation  
9 controlled substance (RCW  
10 69.52.030(1))  
11 Recklessly Trafficking in Stolen Property  
12 (RCW 9A.82.050(1))  
13 Theft of livestock 2 (RCW 9A.56.080)  
14 Securities Act violation (RCW 21.20.400)  
15 Felony driving or being in physical  
16 control of a motor vehicle while  
17 under the influence of alcohol or any  
18 drug (RCW 46.61.502 or 46.61.504)  
  
19 II Malicious Mischief 1 (RCW 9A.48.070)  
20 Possession of Stolen Property 1 (RCW  
21 9A.56.150)  
22 Theft 1 (RCW 9A.56.030)  
23 Possession of controlled substance that is  
24 either heroin or narcotics from  
25 Schedule I or II (RCW 69.50.401(d))  
26 Possession of phencyclidine (PCP) (RCW  
27 69.50.401(d))  
28 Create, deliver, or possess a counterfeit  
29 controlled substance (RCW  
30 69.50.401(b))  
31 Computer Trespass 1 (RCW 9A.52.110)  
32 Escape from Community Custody (RCW  
33 72.09.310)  
  
34 I Theft 2 (RCW 9A.56.040)  
35 Possession of Stolen Property 2 (RCW  
36 9A.56.160)  
37 Forgery (RCW 9A.60.020)

1 Taking Motor Vehicle Without Permission  
2 (RCW 9A.56.070)  
3 Vehicle Prowl 1 (RCW 9A.52.095)  
4 Attempting to Elude a Pursuing Police  
5 Vehicle (RCW 46.61.024)  
6 Malicious Mischief 2 (RCW 9A.48.080)  
7 Reckless Burning 1 (RCW 9A.48.040)  
8 Unlawful Issuance of Checks or Drafts (RCW  
9 9A.56.060)  
10 Unlawful Use of Food Stamps (RCW 9.91.140  
11 (2) and (3))  
12 False Verification for Welfare (RCW  
13 74.08.055)  
14 Forged Prescription (RCW 69.41.020)  
15 Forged Prescription for a Controlled  
16 Substance (RCW 69.50.403)  
17 Possess Controlled Substance that is a  
18 Narcotic from Schedule III, IV, or V  
19 or Non-narcotic from Schedule I-V  
20 (except phencyclidine) (RCW  
21 69.50.401(d))

22 **Sec. 8.** RCW 9.94A.360 and 1992 c 145 s 10 and 1992 c 75 s 4 are  
23 each reenacted and amended to read as follows:

24 The offender score is measured on the horizontal axis of the  
25 sentencing grid. The offender score rules are as follows:

26 The offender score is the sum of points accrued under this section  
27 rounded down to the nearest whole number.

28 (1) A prior conviction is a conviction which exists before the date  
29 of sentencing for the offense for which the offender score is being  
30 computed. Convictions entered or sentenced on the same date as the  
31 conviction for which the offender score is being computed shall be  
32 deemed "other current offenses" within the meaning of RCW 9.94A.400.

33 (2) Except as provided in subsection (4) of this section, class A  
34 and sex prior felony convictions shall always be included in the  
35 offender score. Class B prior felony convictions other than sex  
36 offenses shall not be included in the offender score, if since the last  
37 date of release from confinement (including full-time residential

1 treatment) pursuant to a felony conviction, if any, or entry of  
2 judgment and sentence, the offender had spent ten consecutive years in  
3 the community without being convicted of any felonies. Class C prior  
4 felony convictions other than sex offenses shall not be included in the  
5 offender score if, since the last date of release from confinement  
6 (including full-time residential treatment) pursuant to a felony  
7 conviction, if any, or entry of judgment and sentence, the offender had  
8 spent five consecutive years in the community without being convicted  
9 of any felonies. Serious traffic convictions shall not be included in  
10 the offender score if, since the last date of release from confinement  
11 (including full-time residential treatment) pursuant to a felony  
12 conviction, if any, or entry of judgment and sentence, the offender  
13 spent five years in the community without being convicted of any  
14 serious traffic or felony traffic offenses. This subsection applies to  
15 both adult and juvenile prior convictions.

16 (3) Out-of-state convictions for offenses shall be classified  
17 according to the comparable offense definitions and sentences provided  
18 by Washington law.

19 (4) Always include juvenile convictions for sex offenses. Include  
20 other class A juvenile felonies only if the offender was 15 or older at  
21 the time the juvenile offense was committed. Include other class B and  
22 C juvenile felony convictions only if the offender was 15 or older at  
23 the time the juvenile offense was committed and the offender was less  
24 than 23 at the time the offense for which he or she is being sentenced  
25 was committed.

26 (5) Score prior convictions for felony anticipatory offenses  
27 (attempts, criminal solicitations, and criminal conspiracies) the same  
28 as if they were convictions for completed offenses.

29 (6) In the case of multiple prior convictions, for the purpose of  
30 computing the offender score, count all convictions separately, except:

31 (a) Prior adult offenses which were found, under RCW  
32 9.94A.400(1)(a), to encompass the same criminal conduct, shall be  
33 counted as one offense, the offense that yields the highest offender  
34 score. The current sentencing court shall determine with respect to  
35 other prior adult offenses for which sentences were served concurrently  
36 whether those offenses shall be counted as one offense or as separate  
37 offenses, and if the court finds that they shall be counted as one  
38 offense, then the offense that yields the highest offender score shall  
39 be used;

1 (b) Juvenile prior convictions entered or sentenced on the same  
2 date shall count as one offense, the offense that yields the highest  
3 offender score, except for juvenile prior convictions for violent  
4 offenses with separate victims, which shall count as separate offenses;  
5 and

6 (c) In the case of multiple prior convictions for offenses  
7 committed before July 1, 1986, for the purpose of computing the  
8 offender score, count all adult convictions served concurrently as one  
9 offense, and count all juvenile convictions entered on the same date as  
10 one offense. Use the conviction for the offense that yields the  
11 highest offender score.

12 (7) If the present conviction is one of the anticipatory offenses  
13 of criminal attempt, solicitation, or conspiracy, count each prior  
14 conviction as if the present conviction were for a completed offense.

15 (8) If the present conviction is for a nonviolent offense and not  
16 covered by subsection (12) or (13) of this section, count one point for  
17 each adult prior felony conviction and one point for each juvenile  
18 prior violent felony conviction and 1/2 point for each juvenile prior  
19 nonviolent felony conviction.

20 (9) If the present conviction is for a violent offense and not  
21 covered in subsection (10), (11), (12), or (13) of this section, count  
22 two points for each prior adult and juvenile violent felony conviction,  
23 one point for each prior adult nonviolent felony conviction, and 1/2  
24 point for each prior juvenile nonviolent felony conviction.

25 (10) If the present conviction is for Murder 1 or 2, Assault 1,  
26 Assault of a Child 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count  
27 three points for prior adult and juvenile convictions for crimes in  
28 these categories, two points for each prior adult and juvenile violent  
29 conviction (not already counted), one point for each prior adult  
30 nonviolent felony conviction, and 1/2 point for each prior juvenile  
31 nonviolent felony conviction.

32 (11) If the present conviction is for Burglary 1, count prior  
33 convictions as in subsection (9) of this section; however count two  
34 points for each prior adult Burglary 2 or residential burglary  
35 conviction, and one point for each prior juvenile Burglary 2 or  
36 residential burglary conviction.

37 (12) If the present conviction is for a felony traffic offense  
38 count two points for each adult or juvenile prior conviction for  
39 Vehicular Homicide (~~(or)~~), Vehicular Assault, or felony driving or

1 being in physical control of a motor vehicle while under the influence  
2 of intoxicating liquor or any drug; for each felony offense or serious  
3 traffic offense, count one point for each adult and 1/2 point for each  
4 juvenile prior conviction.

5 (13) If the present conviction is for a drug offense count three  
6 points for each adult prior felony drug offense conviction and two  
7 points for each juvenile drug offense. All other adult and juvenile  
8 felonies are scored as in subsection (9) of this section if the current  
9 drug offense is violent, or as in subsection (8) of this section if the  
10 current drug offense is nonviolent.

11 (14) If the present conviction is for Willful Failure to Return  
12 from Furlough, RCW 72.66.060, Willful Failure to Return from Work  
13 Release, RCW 72.65.070, or Escape from Community Custody, RCW  
14 72.09.310, count only prior escape convictions in the offender score.  
15 Count adult prior escape convictions as one point and juvenile prior  
16 escape convictions as 1/2 point.

17 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or  
18 Escape 2, RCW 9A.76.120, count adult prior convictions as one point and  
19 juvenile prior convictions as 1/2 point.

20 (16) If the present conviction is for Burglary 2 or residential  
21 burglary, count priors as in subsection (8) of this section; however,  
22 count two points for each adult and juvenile prior Burglary 1  
23 conviction, two points for each adult prior Burglary 2 or residential  
24 burglary conviction, and one point for each juvenile prior Burglary 2  
25 or residential burglary conviction.

26 (17) If the present conviction is for a sex offense, count priors  
27 as in subsections (8) through (16) of this section; however count three  
28 points for each adult and juvenile prior sex offense conviction.

29 (18) If the present conviction is for an offense committed while  
30 the offender was under community placement, add one point.

31 **Sec. 9.** RCW 46.61.5058 and 1994 c 139 s 1 are each amended to read  
32 as follows:

33 (1) Upon the arrest of a person or upon the filing of a complaint,  
34 citation, or information in a court of competent jurisdiction, based  
35 upon probable cause to believe that a person has violated RCW 46.61.502  
36 or 46.61.504 or any similar municipal ordinance, if such person has a  
37 (~~previous conviction for violation of either RCW 46.61.502 or~~  
38 ~~46.61.504 or other similar municipal ordinance, and where the offense~~

1 ~~occurs within a five year period of the previous conviction))~~ prior  
2 offense within five years as defined in RCW 46.61.502, and where the  
3 person has been provided written notice that any transfer, sale, or  
4 encumbrance of such person's interest in the vehicle over which that  
5 person was actually driving or had physical control when the violation  
6 occurred, is unlawful pending either acquittal, dismissal, sixty days  
7 after conviction, or other termination of the charge, such person shall  
8 be prohibited from encumbering, selling, or transferring his or her  
9 interest in such vehicle, except as otherwise provided in (a), (b), and  
10 (c) of this subsection, until either acquittal, dismissal, sixty days  
11 after conviction, or other termination of the charge. The prohibition  
12 against transfer of title shall not be stayed pending the determination  
13 of an appeal from the conviction.

14 (a) A vehicle encumbered by a bona fide security interest may be  
15 transferred to the secured party or to a person designated by the  
16 secured party;

17 (b) A leased or rented vehicle may be transferred to the lessor,  
18 rental agency, or to a person designated by the lessor or rental  
19 agency; and

20 (c) A vehicle may be transferred to a third party or a vehicle  
21 dealer who is a bona fide purchaser or may be subject to a bona fide  
22 security interest in the vehicle unless it is established that (i) in  
23 the case of a purchase by a third party or vehicle dealer, such party  
24 or dealer had actual notice that the vehicle was subject to the  
25 prohibition prior to the purchase, or (ii) in the case of a security  
26 interest, the holder of the security interest had actual notice that  
27 the vehicle was subject to the prohibition prior to the encumbrance of  
28 title.

29 (2) On ~~((a second or subsequent))~~ conviction for a violation of  
30 either RCW 46.61.502 or 46.61.504 or any similar municipal ordinance  
31 where ~~((such offense was committed within a five year period of the~~  
32 ~~previous conviction))~~ the person convicted has a prior offense within  
33 five years as defined in RCW 46.61.502, the motor vehicle the person  
34 was driving or over which the person had actual physical control at the  
35 time of the offense, if the person has a financial interest in the  
36 vehicle, is subject to seizure and forfeiture pursuant to this section.

37 (3) A vehicle subject to forfeiture under this chapter may be  
38 seized by a law enforcement officer of this state upon process issued  
39 by a court of competent jurisdiction. Seizure of a vehicle may be made

1 without process if the vehicle subject to seizure has been the subject  
2 of a prior judgment in favor of the state in a forfeiture proceeding  
3 based upon this section.

4 (4) Seizure under subsection (3) of this section automatically  
5 commences proceedings for forfeiture. The law enforcement agency under  
6 whose authority the seizure was made shall cause notice of the seizure  
7 and intended forfeiture of the seized vehicle to be served within  
8 fifteen days after the seizure on the owner of the vehicle seized, on  
9 the person in charge of the vehicle, and on any person having a known  
10 right or interest in the vehicle, including a community property  
11 interest. The notice of seizure may be served by any method authorized  
12 by law or court rule, including but not limited to service by certified  
13 mail with return receipt requested. Service by mail is complete upon  
14 mailing within the fifteen-day period after the seizure. Notice of  
15 seizure in the case of property subject to a security interest that has  
16 been perfected on a certificate of title shall be made by service upon  
17 the secured party or the secured party's assignee at the address shown  
18 on the financing statement or the certificate of title.

19 (5) If no person notifies the seizing law enforcement agency in  
20 writing of the person's claim of ownership or right to possession of  
21 the seized vehicle within forty-five days of the seizure, the vehicle  
22 is deemed forfeited.

23 (6) If a person notifies the seizing law enforcement agency in  
24 writing of the person's claim of ownership or right to possession of  
25 the seized vehicle within forty-five days of the seizure, the law  
26 enforcement agency shall give the person or persons a reasonable  
27 opportunity to be heard as to the claim or right. The hearing shall be  
28 before the chief law enforcement officer of the seizing agency or the  
29 chief law enforcement officer's designee, except where the seizing  
30 agency is a state agency as defined in RCW 34.12.020, the hearing shall  
31 be before the chief law enforcement officer of the seizing agency or an  
32 administrative law judge appointed under chapter 34.12 RCW, except that  
33 any person asserting a claim or right may remove the matter to a court  
34 of competent jurisdiction. Removal may only be accomplished according  
35 to the rules of civil procedure. The person seeking removal of the  
36 matter must serve process against the state, county, political  
37 subdivision, or municipality that operates the seizing agency, and any  
38 other party of interest, in accordance with RCW 4.28.080 or 4.92.020,  
39 within forty-five days after the person seeking removal has notified

1 the seizing law enforcement agency of the person's claim of ownership  
2 or right to possession. The court to which the matter is to be removed  
3 shall be the district court when the aggregate value of the vehicle is  
4 within the jurisdictional limit set forth in RCW 3.66.020. A hearing  
5 before the seizing agency and any appeal therefrom shall be under Title  
6 34 RCW. In a court hearing between two or more claimants to the  
7 vehicle involved, the prevailing party shall be entitled to a judgment  
8 for costs and reasonable attorneys' fees. The burden of producing  
9 evidence shall be upon the person claiming to be the legal owner or the  
10 person claiming to have the lawful right to possession of the vehicle.  
11 The seizing law enforcement agency shall promptly return the vehicle to  
12 the claimant upon a determination by the administrative law judge or  
13 court that the claimant is the present legal owner under Title 46 RCW  
14 or is lawfully entitled to possession of the vehicle.

15 (7) When a vehicle is forfeited under this chapter the seizing law  
16 enforcement agency may sell the vehicle, retain it for official use, or  
17 upon application by a law enforcement agency of this state release the  
18 vehicle to that agency for the exclusive use of enforcing this title;  
19 provided, however, that the agency shall first satisfy any bona fide  
20 security interest to which the vehicle is subject under subsection (1)  
21 (a) or (c) of this section.

22 (8) When a vehicle is forfeited, the seizing agency shall keep a  
23 record indicating the identity of the prior owner, if known, a  
24 description of the vehicle, the disposition of the vehicle, the value  
25 of the vehicle at the time of seizure, and the amount of proceeds  
26 realized from disposition of the vehicle.

27 (9) Each seizing agency shall retain records of forfeited vehicles  
28 for at least seven years.

29 (10) Each seizing agency shall file a report including a copy of  
30 the records of forfeited vehicles with the state treasurer each  
31 calendar quarter.

32 (11) The quarterly report need not include a record of a forfeited  
33 vehicle that is still being held for use as evidence during the  
34 investigation or prosecution of a case or during the appeal from a  
35 conviction.

36 (12) By January 31st of each year, each seizing agency shall remit  
37 to the state treasurer an amount equal to ten percent of the net  
38 proceeds of vehicles forfeited during the preceding calendar year.

1 Money remitted shall be deposited in the public safety and education  
2 account.

3 (13) The net proceeds of a forfeited vehicle is the value of the  
4 forfeitable interest in the vehicle after deducting the cost of  
5 satisfying a bona fide security interest to which the vehicle is  
6 subject at the time of seizure; and in the case of a sold vehicle,  
7 after deducting the cost of sale, including reasonable fees or  
8 commissions paid to independent selling agents.

9 (14) The value of a sold forfeited vehicle is the sale price. The  
10 value of a retained forfeited vehicle is the fair market value of the  
11 vehicle at the time of seizure, determined when possible by reference  
12 to an applicable commonly used index, such as the index used by the  
13 department of licensing. A seizing agency may, but need not, use an  
14 independent qualified appraiser to determine the value of retained  
15 vehicles. If an appraiser is used, the value of the vehicle appraised  
16 is net of the cost of the appraisal.

17 **Sec. 10.** RCW 46.61.524 and 1991 c 348 s 2 are each amended to read  
18 as follows:

19 (1) A person convicted under RCW 46.61.520(1)(a) or 46.61.522(1)(b)  
20 or a felony conviction under RCW 46.61.502 or 46.61.504 shall, as a  
21 condition of community supervision imposed under RCW 9.94A.383 or  
22 community placement imposed under RCW 9.94A.120(8), complete a  
23 diagnostic evaluation by an alcohol or drug dependency agency approved  
24 by the department of social and health services or a qualified  
25 probation department, as defined under RCW 46.61.516 that has been  
26 approved by the department of social and health services. This report  
27 shall be forwarded to the department of licensing. If the person is  
28 found to have an alcohol or drug problem that requires treatment, the  
29 person shall complete treatment in a program approved by the department  
30 of social and health services under chapter 70.96A RCW. If the person  
31 is found not to have an alcohol or drug problem that requires  
32 treatment, he or she shall complete a course in an information school  
33 approved by the department of social and health services under chapter  
34 70.96A RCW. The convicted person shall pay all costs for any  
35 evaluation, education, or treatment required by this section, unless  
36 the person is eligible for an existing program offered or approved by  
37 the department of social and health services. Nothing in this act  
38 requires the addition of new treatment or assessment facilities nor

1 affects the department of social and health services use of existing  
2 programs and facilities authorized by law.

3 (2) As provided for under RCW 46.20.285, the department shall  
4 revoke the license, permit to drive, or a nonresident privilege of a  
5 person convicted of vehicular homicide under RCW 46.61.520 or vehicular  
6 assault under RCW 46.61.522 or a felony conviction under RCW 46.61.502  
7 or 46.61.504. The department shall determine the eligibility of a  
8 person convicted of vehicular homicide under RCW 46.61.520(1)(a) or  
9 vehicular assault under (({RCW})) RCW 46.61.522(1)(b) or a felony  
10 conviction under RCW 46.61.502 or 46.61.504 to receive a license based  
11 upon the report provided by the designated alcoholism treatment  
12 facility or probation department, and shall deny reinstatement until  
13 satisfactory progress in an approved program has been established and  
14 the person is otherwise qualified.

15

### PART III - TECHNICAL AMENDMENTS

16 **Sec. 11.** RCW 3.62.090 and 1994 c 275 s 34 are each amended to read  
17 as follows:

18 (1) There shall be assessed and collected in addition to any fines,  
19 forfeitures, or penalties assessed, other than for parking infractions,  
20 by all courts organized under Title 3 or 35 RCW a public safety and  
21 education assessment equal to sixty percent of such fines, forfeitures,  
22 or penalties, which shall be remitted as provided in chapters 3.46,  
23 3.50, 3.62, and 35.20 RCW. The assessment required by this section  
24 shall not be suspended or waived by the court.

25 (2) There shall be assessed and collected in addition to any fines,  
26 forfeitures, or penalties assessed, other than for parking infractions  
27 and for fines levied under ((RCW—46.61.5051,—46.61.5052,—and  
28 46.61.5053)) section 6 of this act, and in addition to the public  
29 safety and education assessment required under subsection (1) of this  
30 section, by all courts organized under Title 3 or 35 RCW, an additional  
31 public safety and education assessment equal to fifty percent of the  
32 public safety and education assessment required under subsection (1) of  
33 this section, which shall be remitted to the state treasurer and  
34 deposited as provided in RCW 43.08.250. The additional assessment  
35 required by this subsection shall not be suspended or waived by the  
36 court.

1       **Sec. 12.** RCW 10.05.060 and 1994 c 275 s 17 are each amended to  
2 read as follows:

3       If the report recommends treatment, the court shall examine the  
4 treatment plan. If it approves the plan and the petitioner agrees to  
5 comply with its terms and conditions and agrees to pay the cost  
6 thereof, if able to do so, or arrange for the treatment, an entry shall  
7 be made upon the person's court docket showing that the person has been  
8 accepted for deferred prosecution. A copy of the treatment plan shall  
9 be attached to the docket, which shall then be removed from the regular  
10 court dockets and filed in a special court deferred prosecution file.  
11 If the charge be one that an abstract of the docket showing the charge,  
12 the date of the violation for which the charge was made, and the date  
13 of petitioner's acceptance is required to be sent to the department of  
14 licensing, an abstract shall be sent, and the department of licensing  
15 shall make an entry of the charge and of the petitioner's acceptance  
16 for deferred prosecution on the department's driving record of the  
17 petitioner. The entry is not a conviction for purposes of Title 46  
18 RCW. (~~Upon receipt of the abstract of the docket, the department shall  
19 issue the petitioner a probationary license in accordance with RCW  
20 46.20.355, and the petitioner's driver's license shall be on  
21 probationary status for five years from the date of the violation that  
22 gave rise to the charge.~~) The department shall maintain the record  
23 for ten years from date of entry of the order granting deferred  
24 prosecution.

25       **Sec. 13.** RCW 35.21.165 and 1994 c 275 s 36 are each amended to  
26 read as follows:

27       Except as limited by the maximum penalties authorized by law, no  
28 city or town may establish a penalty for an act that constitutes the  
29 crime of driving while under the influence of intoxicating liquor or  
30 any drug, as provided in RCW 46.61.502, or the crime of being in actual  
31 physical control of a motor vehicle while under the influence of  
32 intoxicating liquor or any drug, as provided in RCW 46.61.504, that is  
33 less than the penalties prescribed for those crimes in ((RCW  
34 46.61.5051, 46.61.5052, and 46.61.5053)) section 6 of this act.

35       **Sec. 14.** RCW 36.32.127 and 1994 c 275 s 37 are each amended to  
36 read as follows:

1 No county may establish a penalty for an act that constitutes the  
2 crime of driving while under the influence of intoxicating liquor or  
3 any drug, as provided for in RCW 46.61.502, or the crime of being in  
4 actual physical control of a motor vehicle while under the influence of  
5 intoxicating liquor or any drug, as provided in RCW 46.61.504, that is  
6 less than the penalties prescribed for those crimes in ((RCW  
7 46.61.5051, 46.61.5052, and 46.61.5053)) section 6 of this act.

8 **Sec. 15.** RCW 46.04.480 and 1994 c 275 s 38 are each amended to  
9 read as follows:

10 "Revoke," in all its forms, means the invalidation for a period of  
11 one calendar year and thereafter until reissue: PROVIDED, That under  
12 the provisions of RCW 46.20.285, 46.20.311, 46.20.265, ((46.61.5051,  
13 46.61.5052, or 46.61.5053)) or section 6 of this act, and chapter 46.65  
14 RCW the invalidation may last for a period other than one calendar  
15 year.

16 **Sec. 16.** RCW 46.20.311 and 1994 c 275 s 27 are each amended to  
17 read as follows:

18 (1) The department shall not suspend a driver's license or  
19 privilege to drive a motor vehicle on the public highways for a fixed  
20 period of more than one year, except as specifically permitted under  
21 RCW 46.20.342 or other provision of law. Except for a suspension under  
22 RCW 46.20.289 and 46.20.291(5), whenever the license or driving  
23 privilege of any person is suspended by reason of a conviction, a  
24 finding that a traffic infraction has been committed, pursuant to  
25 chapter 46.29 RCW, or pursuant to RCW 46.20.291 or 46.20.308, the  
26 suspension shall remain in effect until the person gives and thereafter  
27 maintains proof of financial responsibility for the future as provided  
28 in chapter 46.29 RCW. If the suspension is the result of a violation  
29 of RCW 46.61.502 or 46.61.504, the department shall determine the  
30 person's eligibility for licensing based upon the reports provided by  
31 the alcoholism agency or probation department designated under RCW  
32 46.61.5056 and shall deny reinstatement until enrollment and  
33 participation in an approved program has been established and the  
34 person is otherwise qualified. The department shall not issue to the  
35 person a new, duplicate, or renewal license until the person pays a  
36 reissue fee of twenty dollars. If the suspension is the result of a  
37 violation of RCW 46.61.502 or 46.61.504, or is the result of

1 administrative action under RCW 46.20.308, the reissue fee shall be  
2 fifty dollars.

3 (2) Any person whose license or privilege to drive a motor vehicle  
4 on the public highways has been revoked, unless the revocation was for  
5 a cause which has been removed, is not entitled to have the license or  
6 privilege renewed or restored until: (a) After the expiration of one  
7 year from the date the license or privilege to drive was revoked; (b)  
8 after the expiration of the applicable revocation period provided by  
9 (~~RCW 46.20.308 or 46.61.5052, 46.61.5053, or 46.20.365~~) section 2 or  
10 6 of this act; (c) after the expiration of two years for persons  
11 convicted of vehicular homicide; or (d) after the expiration of the  
12 applicable revocation period provided by RCW 46.20.265. After the  
13 expiration of the appropriate period, the person may make application  
14 for a new license as provided by law together with a reissue fee in the  
15 amount of twenty dollars, but if the revocation is the result of a  
16 violation of RCW 46.20.308, 46.61.502, or 46.61.504 (~~or is the result~~  
17 ~~of administrative action under RCW 46.20.365~~), the reissue fee shall  
18 be fifty dollars. If the revocation is the result of a violation of  
19 RCW 46.61.502 or 46.61.504, the department shall determine the person's  
20 eligibility for licensing based upon the reports provided by the  
21 alcoholism agency or probation department designated under RCW  
22 46.61.5056 and shall deny reissuance of a license, permit, or privilege  
23 to drive until enrollment and participation in an approved program has  
24 been established and the person is otherwise qualified. Except for a  
25 revocation under RCW 46.20.265, the department shall not then issue a  
26 new license unless it is satisfied after investigation of the driving  
27 ability of the person that it will be safe to grant the privilege of  
28 driving a motor vehicle on the public highways, and until the person  
29 gives and thereafter maintains proof of financial responsibility for  
30 the future as provided in chapter 46.29 RCW. For a revocation under  
31 RCW 46.20.265, the department shall not issue a new license unless it  
32 is satisfied after investigation of the driving ability of the person  
33 that it will be safe to grant that person the privilege of driving a  
34 motor vehicle on the public highways.

35 (3) Whenever the driver's license of any person is suspended  
36 pursuant to Article IV of the nonresident violators compact or RCW  
37 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue  
38 to the person any new or renewal license until the person pays a  
39 reissue fee of twenty dollars. If the suspension is the result of a

1 violation of the laws of this or any other state, province, or other  
2 jurisdiction involving (a) the operation or physical control of a motor  
3 vehicle upon the public highways while under the influence of  
4 intoxicating liquor or drugs, or (b) the refusal to submit to a  
5 chemical test of the driver's blood alcohol content, the reissue fee  
6 shall be fifty dollars.

7 **Sec. 17.** RCW 46.20.391 and 1994 c 275 s 29 are each amended to  
8 read as follows:

9 (1) Any person licensed under this chapter who is convicted of an  
10 offense relating to motor vehicles for which suspension or revocation  
11 of the driver's license is mandatory, other than vehicular homicide or  
12 vehicular assault, may submit to the department an application for an  
13 occupational driver's license. The department, upon receipt of the  
14 prescribed fee and upon determining that the petitioner is engaged in  
15 an occupation or trade that makes it essential that the petitioner  
16 operate a motor vehicle, may issue an occupational driver's license and  
17 may set definite restrictions as provided in RCW 46.20.394. No person  
18 may petition for, and the department shall not issue, an occupational  
19 driver's license that is effective during the first thirty days of any  
20 suspension or revocation imposed for a violation of RCW 46.61.502 or  
21 46.61.504. (~~No person may petition for, and the department shall not~~  
22 ~~issue, an occupational driver's license if the person is ineligible for~~  
23 ~~such a license under RCW 46.61.5052 or 46.61.5053.~~) A person  
24 aggrieved by the decision of the department on the application for an  
25 occupational driver's license may request a hearing as provided by rule  
26 of the department.

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

29 (a) Within one year immediately preceding the date of the offense  
30 that gave rise to the present conviction, the applicant has not  
31 committed (~~of~~) any (~~{committed any}~~) offense relating to motor  
32 vehicles for which suspension or revocation of a driver's license is  
33 mandatory; and

34 (b) Within five years immediately preceding the date of the offense  
35 that gave rise to the present conviction, the applicant has not  
36 committed any of the following offenses: (i) Driving or being in  
37 actual physical control of a motor vehicle while under the influence of

1 intoxicating liquor; (ii) vehicular homicide under RCW 46.61.520; or  
2 (iii) vehicular assault under RCW 46.61.522; and

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

5 (d) The applicant files satisfactory proof of financial  
6 responsibility pursuant to chapter 46.29 RCW.

7 (3) The director shall cancel an occupational driver's license upon  
8 receipt of notice that the holder thereof has been convicted of  
9 operating a motor vehicle in violation of its restrictions, or of an  
10 offense that pursuant to chapter 46.20 RCW would warrant suspension or  
11 revocation of a regular driver's license. The cancellation is  
12 effective as of the date of the conviction, and continues with the same  
13 force and effect as any suspension or revocation under this title.

14 **Sec. 18.** RCW 46.61.5054 and 1994 c 275 s 7 are each amended to  
15 read as follows:

16 (1)(a) In addition to penalties set forth in RCW 46.61.5051 through  
17 46.61.5053 until September 1, 1995, and section 6 of this act  
18 thereafter, a one hundred twenty-five dollar fee shall be assessed to  
19 a person who is either convicted, sentenced to a lesser charge, or  
20 given deferred prosecution, as a result of an arrest for violating RCW  
21 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the  
22 purpose of funding the Washington state toxicology laboratory and the  
23 Washington state patrol breath test program.

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

27 (c) When a minor has been adjudicated a juvenile offender for an  
28 offense which, if committed by an adult, would constitute a violation  
29 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall  
30 assess the one hundred twenty-five dollar fee under (a) of this  
31 subsection. Upon a verified petition by a minor assessed the fee, the  
32 court may suspend payment of all or part of the fee if it finds that  
33 the minor does not have the ability to pay the fee.

34 (2) The fee assessed under subsection (1) of this section shall be  
35 collected by the clerk of the court and distributed as follows:

36 (a) Forty percent shall be subject to distribution under RCW  
37 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

1 (b) If the case involves a blood test by the state toxicology  
2 laboratory, the remainder of the fee shall be forwarded to the state  
3 treasurer for deposit in the death investigations account to be used  
4 solely for funding the state toxicology laboratory blood testing  
5 program.

6 (c) Otherwise, the remainder of the fee shall be forwarded to the  
7 state treasurer for deposit in the state patrol highway account to be  
8 used solely for funding the Washington state patrol breath test  
9 program.

10 (3) This section applies to any offense committed on or after July  
11 1, 1993.

12 **Sec. 19.** RCW 46.61.5056 and 1994 c 275 s 9 are each amended to  
13 read as follows:

14 (1) A person subject to alcohol assessment and treatment under  
15 (~~RCW 46.61.5051, 46.61.5052, or 46.61.5053~~) section 6 of this act  
16 shall be required by the court to complete a course in an alcohol  
17 information school approved by the department of social and health  
18 services or to complete more intensive treatment in a program approved  
19 by the department of social and health services, as determined by the  
20 court. The court shall notify the department of licensing whenever it  
21 orders a person to complete a course or treatment program under this  
22 section.

23 (2) A diagnostic evaluation and treatment recommendation shall be  
24 prepared under the direction of the court by an alcoholism agency  
25 approved by the department of social and health services or a qualified  
26 probation department approved by the department of social and health  
27 services. A copy of the report shall be forwarded to the department of  
28 licensing. Based on the diagnostic evaluation, the court shall  
29 determine whether the person shall be required to complete a course in  
30 an alcohol information school approved by the department of social and  
31 health services or more intensive treatment in a program approved by  
32 the department of social and health services.

33 (3) Standards for approval for alcohol treatment programs shall be  
34 prescribed by the department of social and health services. The  
35 department of social and health services shall periodically review the  
36 costs of alcohol information schools and treatment programs.

37 (4) Any agency that provides treatment ordered under (~~RCW~~  
38 ~~46.61.5051, 46.61.5052, or 46.61.5053~~) section 6 of this act, shall

1 immediately report to the appropriate probation department where  
2 applicable, otherwise to the court, and to the department of licensing  
3 any noncompliance by a person with the conditions of his or her ordered  
4 treatment. The court shall notify the department of licensing and the  
5 department of social and health services of any failure by an agency to  
6 so report noncompliance. Any agency with knowledge of noncompliance  
7 that fails to so report shall be fined two hundred fifty dollars by the  
8 department of social and health services. Upon three such failures by  
9 an agency within one year, the department of social and health services  
10 shall revoke the agency's approval under this section.

11 (5) The department of licensing and the department of social and  
12 health services may adopt such rules as are necessary to carry out this  
13 section.

14 **Sec. 20.** RCW 46.61.5151 and 1994 c 275 s 39 are each amended to  
15 read as follows:

16 A sentencing court may allow persons convicted of violating RCW  
17 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in  
18 ((RCW 46.61.5051, 46.61.5052, or 46.61.5053)) section 6 of this act in  
19 nonconsecutive or intermittent time periods. However, any mandatory  
20 minimum sentence under ((RCW 46.61.5051, 46.61.5052, or 46.61.5053))  
21 section 6 of this act shall be served consecutively unless suspended or  
22 deferred as otherwise provided by law.

23 **Sec. 21.** RCW 46.63.020 and 1994 c 275 s 33 and 1994 c 141 s 2 are  
24 each reenacted and amended to read as follows:

25 Failure to perform any act required or the performance of any act  
26 prohibited by this title or an equivalent administrative regulation or  
27 local law, ordinance, regulation, or resolution relating to traffic  
28 including parking, standing, stopping, and pedestrian offenses, is  
29 designated as a traffic infraction and may not be classified as a  
30 criminal offense, except for an offense contained in the following  
31 provisions of this title or a violation of an equivalent administrative  
32 regulation or local law, ordinance, regulation, or resolution:

33 (1) RCW 46.09.120(2) relating to the operation of a nonhighway  
34 vehicle while under the influence of intoxicating liquor or a  
35 controlled substance;

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

1 (3) RCW 46.10.090(2) relating to the operation of a snowmobile  
2 while under the influence of intoxicating liquor or narcotics or  
3 habit-forming drugs or in a manner endangering the person of another;  
4 (4) RCW 46.10.130 relating to the operation of snowmobiles;  
5 (5) Chapter 46.12 RCW relating to certificates of ownership and  
6 registration;  
7 (6) RCW 46.16.010 relating to initial registration of motor  
8 vehicles;  
9 (7) RCW 46.16.011 relating to permitting unauthorized persons to  
10 drive;  
11 (8) RCW 46.16.160 relating to vehicle trip permits;  
12 (9) RCW 46.16.381 (6) or (9) relating to unauthorized use or  
13 acquisition of a special placard or license plate for disabled persons'  
14 parking;  
15 (10) RCW 46.20.021 relating to driving without a valid driver's  
16 license;  
17 (11) RCW 46.20.336 relating to the unlawful possession and use of  
18 a driver's license;  
19 (12) RCW 46.20.342 relating to driving with a suspended or revoked  
20 license or status;  
21 (13) RCW 46.20.410 relating to the violation of restrictions of an  
22 occupational driver's license;  
23 (14) RCW 46.20.420 relating to the operation of a motor vehicle  
24 with a suspended or revoked license;  
25 (15) RCW 46.20.750 relating to assisting another person to start a  
26 vehicle equipped with an ignition interlock device;  
27 (16) RCW 46.25.170 relating to commercial driver's licenses;  
28 (17) Chapter 46.29 RCW relating to financial responsibility;  
29 (18) RCW 46.30.040 relating to providing false evidence of  
30 financial responsibility;  
31 (19) RCW 46.37.435 relating to wrongful installation of  
32 sunscreening material;  
33 (20) RCW 46.44.180 relating to operation of mobile home pilot  
34 vehicles;  
35 (21) RCW 46.48.175 relating to the transportation of dangerous  
36 articles;  
37 (22) RCW 46.52.010 relating to duty on striking an unattended car  
38 or other property;

1 (23) RCW 46.52.020 relating to duty in case of injury to or death  
2 of a person or damage to an attended vehicle;

3 (24) RCW 46.52.090 relating to reports by repairmen, storagemen,  
4 and appraisers;

5 (25) RCW 46.52.100 relating to driving under the influence of  
6 liquor or drugs;

7 (26) RCW 46.52.130 relating to confidentiality of the driving  
8 record to be furnished to an insurance company, an employer, and an  
9 alcohol/drug assessment or treatment agency;

10 (27) RCW 46.55.020 relating to engaging in the activities of a  
11 registered tow truck operator without a registration certificate;

12 (28) RCW 46.55.035 relating to prohibited practices by tow truck  
13 operators;

14 (29) RCW 46.61.015 relating to obedience to police officers,  
15 flagmen, or fire fighters;

16 (30) RCW 46.61.020 relating to refusal to give information to or  
17 cooperate with an officer;

18 (31) RCW 46.61.022 relating to failure to stop and give  
19 identification to an officer;

20 (32) RCW 46.61.024 relating to attempting to elude pursuing police  
21 vehicles;

22 (33) RCW 46.61.500 relating to reckless driving;

23 (34) RCW 46.61.502(~~(7)~~) and 46.61.504(~~(7, 46.61.5051, 46.61.5052,~~  
24 ~~and 46.61.5053)~~) relating to persons under the influence of  
25 intoxicating liquor or drugs;

26 (35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

27 (36) RCW 46.61.522 relating to vehicular assault;

28 (37) RCW 46.61.525 relating to negligent driving;

29 (38) RCW 46.61.527(4) relating to reckless endangerment of roadway  
30 workers;

31 (39) RCW 46.61.530 relating to racing of vehicles on highways;

32 (40) RCW 46.61.685 relating to leaving children in an unattended  
33 vehicle with the motor running;

34 (41) RCW 46.64.010 relating to unlawful cancellation of or attempt  
35 to cancel a traffic citation;

36 (42) RCW 46.64.048 relating to attempting, aiding, abetting,  
37 coercing, and committing crimes;

38 (43) Chapter 46.65 RCW relating to habitual traffic offenders;

1 (44) Chapter 46.70 RCW relating to unfair motor vehicle business  
2 practices, except where that chapter provides for the assessment of  
3 monetary penalties of a civil nature;

4 (45) Chapter 46.72 RCW relating to the transportation of passengers  
5 in for hire vehicles;

6 (46) Chapter 46.80 RCW relating to motor vehicle wreckers;

7 (47) Chapter 46.82 RCW relating to driver's training schools;

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

11 (49) RCW 46.87.290 relating to operation of an unregistered or  
12 unlicensed vehicle under chapter 46.87 RCW.

13 NEW SECTION. **Sec. 22.** A new section is added to chapter 46.04 RCW  
14 to read as follows:

15 "Reasonable grounds", when used in the context of a law enforcement  
16 officer's decision to make an arrest or take other enforcement action,  
17 means probable cause.

18 NEW SECTION. **Sec. 23.** The following acts or parts of acts are  
19 each repealed:

20 (1) RCW 46.20.309 and 1994 c 275 s 10;

21 (2) RCW 46.20.365 and 1994 c 275 s 12;

22 (3) RCW 46.61.5051 and 1994 c 275 s 4;

23 (4) RCW 46.61.5052 and 1994 c 275 s 5;

24 (5) RCW 46.61.5053 and 1994 c 275 s 6; and

25 (6) RCW 46.61.5057 and 1994 c 275 s 11.

26 NEW SECTION. **Sec. 24.** 1994 c 275 s 44 (uncodified) is hereby  
27 repealed.

28 NEW SECTION. **Sec. 25.** If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 remainder of the act or the application of the provision to other  
31 persons or circumstances is not affected.

32 NEW SECTION. **Sec. 26.** This act shall take effect September 1,  
33 1995, except for sections 18 and 24 of this act which are necessary for  
34 the immediate preservation of the public peace, health, or safety, or

1 support of the state government and its existing public institutions,  
2 and shall take effect immediately.

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