

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6413**

63rd Legislature  
2014 Regular Session

Passed by the Senate March 10, 2014  
YEAS 49 NAYS 0

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**President of the Senate**

Passed by the House March 7, 2014  
YEAS 96 NAYS 1

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6413** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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SENATE BILL 6413

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AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

**State of Washington**                      **63rd Legislature**                      **2014 Regular Session**

**By** Senators Fain, Eide, Padden, Pearson, Hobbs, Angel, King, Becker, Tom, Sheldon, Dammeier, Honeyford, Hill, O'Ban, Litzow, Brown, Schoesler, and Rolfes

Read first time 01/24/14. Referred to Committee on Law & Justice.

1            AN ACT Relating to prior offenses for driving under the influence  
2 or physical control of a vehicle under the influence; and amending RCW  
3 46.61.5055 AND 10.31.100.

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

5            **Sec. 1.** RCW 46.61.5055 and 2013 2nd sp.s. c 35 s 13 are each  
6 amended to read as follows:

7            (1) **No prior offenses in seven years.** Except as provided in RCW  
8 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation  
9 of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven  
10 years shall be punished as follows:

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

16            (i) By imprisonment for not less than one day nor more than three  
17 hundred sixty-four days. Twenty-four consecutive hours of the  
18 imprisonment may not be suspended unless the court finds that the  
19 imposition of this mandatory minimum sentence would impose a

1 substantial risk to the offender's physical or mental well-being.  
2 Whenever the mandatory minimum sentence is suspended, the court shall  
3 state in writing the reason for granting the suspension and the facts  
4 upon which the suspension is based. In lieu of the mandatory minimum  
5 term of imprisonment required under this subsection (1)(a)(i), the  
6 court may order not less than fifteen days of electronic home  
7 monitoring. The offender shall pay the cost of electronic home  
8 monitoring. The county or municipality in which the penalty is being  
9 imposed shall determine the cost. The court may also require the  
10 offender's electronic home monitoring device or other separate alcohol  
11 monitoring device to include an alcohol detection breathalyzer, and the  
12 court may restrict the amount of alcohol the offender may consume  
13 during the time the offender is on electronic home monitoring; and

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

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

23 (i) By imprisonment for not less than two days nor more than three  
24 hundred sixty-four days. Forty-eight consecutive hours of the  
25 imprisonment may not be suspended unless the court finds that the  
26 imposition of this mandatory minimum sentence would impose a  
27 substantial risk to the offender's physical or mental well-being.  
28 Whenever the mandatory minimum sentence is suspended, the court shall  
29 state in writing the reason for granting the suspension and the facts  
30 upon which the suspension is based. In lieu of the mandatory minimum  
31 term of imprisonment required under this subsection (1)(b)(i), the  
32 court may order not less than thirty days of electronic home  
33 monitoring. The offender shall pay the cost of electronic home  
34 monitoring. The county or municipality in which the penalty is being  
35 imposed shall determine the cost. The court may also require the  
36 offender's electronic home monitoring device to include an alcohol  
37 detection breathalyzer or other separate alcohol monitoring device, and

1 the court may restrict the amount of alcohol the offender may consume  
2 during the time the offender is on electronic home monitoring; and

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

6 (2) **One prior offense in seven years.** Except as provided in RCW  
7 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation  
8 of RCW 46.61.502 or 46.61.504 and who has one prior offense within  
9 seven years shall be punished as follows:

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

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

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

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

6           (i) By imprisonment for not less than forty-five days nor more than  
7 three hundred sixty-four days and ninety days of electronic home  
8 monitoring. In lieu of the mandatory minimum term of ninety days  
9 electronic home monitoring, the court may order at least an additional  
10 six days in jail or, if available in that county or city, a six-month  
11 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300  
12 through 36.28A.390, and the court shall order an expanded alcohol  
13 assessment and treatment, if deemed appropriate by the assessment. The  
14 offender shall pay for the cost of the electronic monitoring. The  
15 county or municipality where the penalty is being imposed shall  
16 determine the cost. The court may also require the offender's  
17 electronic home monitoring device include an alcohol detection  
18 breathalyzer or other separate alcohol monitoring device, and may  
19 restrict the amount of alcohol the offender may consume during the time  
20 the offender is on electronic home monitoring. Forty-five days of  
21 imprisonment and ninety days of electronic home monitoring may not be  
22 suspended unless the court finds that the imposition of this mandatory  
23 minimum sentence would impose a substantial risk to the offender's  
24 physical or mental well-being. Whenever the mandatory minimum sentence  
25 is suspended, the court shall state in writing the reason for granting  
26 the suspension and the facts 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 provided  
32 in RCW 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
33 violation of RCW 46.61.502 or 46.61.504 and who has two or three prior  
34 offenses within seven years shall be punished as follows:

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

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

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

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

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

33 (i) By imprisonment for not less than one hundred twenty days nor  
34 more than three hundred sixty-four days, if available in that county or  
35 city, a six-month period of 24/7 sobriety program monitoring pursuant  
36 to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of  
37 electronic home monitoring. In lieu of the mandatory minimum term of  
38 one hundred fifty days of electronic home monitoring, the court may

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

17 (ii) By a fine of not less than one thousand five hundred dollars  
18 nor more than five thousand dollars. One thousand five hundred dollars  
19 of the fine may not be suspended unless the court finds the offender to  
20 be indigent.

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

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

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

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

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

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

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

33 (5) **Monitoring.**

34 (a) **Ignition interlock device.** The court shall require any person  
35 convicted of a violation of RCW 46.61.502 or 46.61.504 or an equivalent  
36 local ordinance to comply with the rules and requirements of the  
37 department regarding the installation and use of a functioning ignition

1 interlock device installed on all motor vehicles operated by the  
2 person.

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

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

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

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

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

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

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

31 (b) In any case in which the person has no prior offenses within  
32 seven years, and except as provided in RCW 46.61.502(6) or  
33 46.61.504(6), order an additional twenty-four hours of imprisonment and  
34 a fine of not less than one 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 (c) In any case in which the person has one prior offense within  
38 seven years, and except as provided in RCW 46.61.502(6) or



1 46.61.504(6), order an additional five days of imprisonment and a fine  
2 of not less than two thousand dollars and not more than five thousand  
3 dollars. One thousand dollars of the fine may not be suspended unless  
4 the court finds the offender to be indigent;

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

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

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

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

19 (c) Whether the driver was driving in the opposite direction of the  
20 normal flow of traffic on a multiple lane highway, as defined by RCW  
21 46.04.350, with a posted speed limit of forty-five miles per hour or  
22 greater; and

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

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

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

32 (a) **Penalty for alcohol concentration less than 0.15.** If the  
33 person's alcohol concentration was less than 0.15, or if for reasons  
34 other than the person's refusal to take a test offered under RCW  
35 46.20.308 there is no test result indicating the person's alcohol  
36 concentration:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 then in effect shall be extended by thirty days. The court shall  
2 notify the department of any suspension, revocation, or denial or any  
3 extension of a suspension, revocation, or denial imposed under this  
4 subsection.

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

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

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

14 (c) The court determines that there is reason to believe that the  
15 offender would violate the conditions of the electronic home monitoring  
16 penalty.

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

24 Whenever the combination of jail time and electronic home  
25 monitoring or alternative sentence would exceed three hundred sixty-  
26 four days, the offender shall serve the jail portion of the sentence  
27 first, and the electronic home monitoring or alternative portion of the  
28 sentence shall be reduced so that the combination does not exceed three  
29 hundred sixty-four days.

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

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

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

- 1 (i) A conviction for a violation of RCW 46.61.502 or an equivalent  
2 local ordinance;
- 3 (ii) A conviction for a violation of RCW 46.61.504 or an equivalent  
4 local ordinance;
- 5 (iii) A conviction for a violation of RCW 46.25.110 or an  
6 equivalent local ordinance;
- 7 (iv) A conviction for a violation of RCW 79A.60.040 or an  
8 equivalent local ordinance;
- 9 (v) A conviction for a violation of RCW 47.68.220 or an equivalent  
10 local ordinance;
- 11 (vi) A conviction for a violation of RCW 46.09.470(2) or an  
12 equivalent local ordinance;
- 13 (vii) A conviction for a violation of RCW 46.10.490(2) or an  
14 equivalent local ordinance;
- 15 (viii) A conviction for a violation of RCW 46.61.520 committed  
16 while under the influence of intoxicating liquor or any drug, or a  
17 conviction for a violation of RCW 46.61.520 committed in a reckless  
18 manner or with the disregard for the safety of others if the conviction  
19 is the result of a charge that was originally filed as a violation of  
20 RCW 46.61.520 committed while under the influence of intoxicating  
21 liquor or any drug;
- 22 ~~((+iv+))~~ (ix) A conviction for a violation of RCW 46.61.522  
23 committed while under the influence of intoxicating liquor or any drug,  
24 or a conviction for a violation of RCW 46.61.522 committed in a  
25 reckless manner or with the disregard for the safety of others if the  
26 conviction is the result of a charge that was originally filed as a  
27 violation of RCW 46.61.522 committed while under the influence of  
28 intoxicating liquor or any drug;
- 29 ~~((+v+))~~ (x) A conviction for a violation of RCW 46.61.5249,  
30 46.61.500, or 9A.36.050 or an equivalent local ordinance, if the  
31 conviction is the result of a charge that was originally filed as a  
32 violation of RCW 46.61.502 or 46.61.504, or an equivalent local  
33 ordinance, or of RCW 46.61.520 or 46.61.522;
- 34 ~~((+vi+))~~ (xi) An out-of-state conviction for a violation that would  
35 have been a violation of (a)(i), (ii), ~~((+iii+))~~ (viii), ~~((+iv+))~~ (ix),  
36 or ~~((+v+))~~ (x) of this subsection if committed in this state;
- 37 ~~((+vii+))~~ (xii) A deferred prosecution under chapter 10.05 RCW

1 granted in a prosecution for a violation of RCW 46.61.502, 46.61.504,  
2 or an equivalent local ordinance;

3 ~~((viii))~~ (xiii) A deferred prosecution under chapter 10.05 RCW  
4 granted in a prosecution for a violation of RCW 46.61.5249, or an  
5 equivalent local ordinance, if the charge under which the deferred  
6 prosecution was granted was originally filed as a violation of RCW  
7 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW  
8 46.61.520 or 46.61.522;

9 ~~((ix))~~ (xiv) A deferred prosecution granted in another state for  
10 a violation of driving or having physical control of a vehicle while  
11 under the influence of intoxicating liquor or any drug if the out-of-  
12 state deferred prosecution is equivalent to the deferred prosecution  
13 under chapter 10.05 RCW, including a requirement that the defendant  
14 participate in a chemical dependency treatment program; or

15 ~~((x))~~ (xv) A deferred sentence imposed in a prosecution for a  
16 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an equivalent  
17 local ordinance, if the charge under which the deferred sentence was  
18 imposed was originally filed as a violation of RCW 46.61.502 or  
19 46.61.504, or an equivalent local ordinance, or a violation of RCW  
20 46.61.520 or 46.61.522;

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

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

27 (c) "Within seven years" means that the arrest for a prior offense  
28 occurred within seven years before or after the arrest for the current  
29 offense; and

30 (d) "Within ten years" means that the arrest for a prior offense  
31 occurred within ten years before or after the arrest for the current  
32 offense.

33 **Sec. 2.** RCW 10.31.100 and 2013 2nd sp.s. c 35 s 22 are each  
34 amended to read as follows:

35 A police officer having probable cause to believe that a person has  
36 committed or is committing a felony shall have the authority to arrest  
37 the person without a warrant. A police officer may arrest a person

1 without a warrant for committing a misdemeanor or gross misdemeanor  
2 only when the offense is committed in the presence of the officer,  
3 except as provided in subsections (1) through (11) of this section.

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

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

15 (a) An order has been issued of which the person has knowledge  
16 under RCW 26.44.063, or chapter 7.92, 7.90, 9A.46, 10.99, 26.09, 26.10,  
17 26.26, 26.50, or 74.34 RCW restraining the person and the person has  
18 violated the terms of the order restraining the person from acts or  
19 threats of violence, or restraining the person from going onto the  
20 grounds of or entering a residence, workplace, school, or day care, or  
21 prohibiting the person from knowingly coming within, or knowingly  
22 remaining within, a specified distance of a location or, in the case of  
23 an order issued under RCW 26.44.063, imposing any other restrictions or  
24 conditions upon the person; or

25 (b) A foreign protection order, as defined in RCW 26.52.010, has  
26 been issued of which the person under restraint has knowledge and the  
27 person under restraint has violated a provision of the foreign  
28 protection order prohibiting the person under restraint from contacting  
29 or communicating with another person, or excluding the person under  
30 restraint from a residence, workplace, school, or day care, or  
31 prohibiting the person from knowingly coming within, or knowingly  
32 remaining within, a specified distance of a location, or a violation of  
33 any provision for which the foreign protection order specifically  
34 indicates that a violation will be a crime; or

35 (c) The person is sixteen years or older and within the preceding  
36 four hours has assaulted a family or household member as defined in RCW  
37 10.99.020 and the officer believes: (i) A felonious assault has  
38 occurred; (ii) an assault has occurred which has resulted in bodily

1 injury to the victim, whether the injury is observable by the  
2 responding officer or not; or (iii) that any physical action has  
3 occurred which was intended to cause another person reasonably to fear  
4 imminent serious bodily injury or death. Bodily injury means physical  
5 pain, illness, or an impairment of physical condition. When the  
6 officer has probable cause to believe that family or household members  
7 have assaulted each other, the officer is not required to arrest both  
8 persons. The officer shall arrest the person whom the officer believes  
9 to be the primary physical aggressor. In making this determination,  
10 the officer shall make every reasonable effort to consider: (i) The  
11 intent to protect victims of domestic violence under RCW 10.99.010;  
12 (ii) the comparative extent of injuries inflicted or serious threats  
13 creating fear of physical injury; and (iii) the history of domestic  
14 violence of each person involved, including whether the conduct was  
15 part of an ongoing pattern of abuse(~~(+or~~

16 ~~(d) The person has violated RCW 46.61.502 or 46.61.504 or an~~  
17 ~~equivalent local ordinance and the police officer has knowledge that~~  
18 ~~the person has a prior offense as defined in RCW 46.61.5055 within ten~~  
19 ~~years)).~~

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

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

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

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

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

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

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

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

37 (4) A law enforcement officer investigating at the scene of a motor  
38 vehicle accident may arrest the driver of a motor vehicle involved in



1 the accident if the officer has probable cause to believe that the  
2 driver has committed in connection with the accident a violation of any  
3 traffic law or regulation.

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

9 (b) A law enforcement officer investigating at the scene of a motor  
10 vessel accident may issue a citation for an infraction to the operator  
11 of a motor vessel involved in the accident if the officer has probable  
12 cause to believe that the operator has committed, in connection with  
13 the accident, a violation of any boating safety law of chapter 79A.60  
14 RCW.

15 (6) Any police officer having probable cause to believe that a  
16 person has committed or is committing a violation of RCW 79A.60.040  
17 shall have the authority to arrest the person.

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

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

27 (9) A police officer may arrest and take into custody, pending  
28 release on bail, personal recognizance, or court order, a person  
29 without a warrant when the officer has probable cause to believe that  
30 an order has been issued of which the person has knowledge under  
31 chapter 10.14 RCW and the person has violated the terms of that order.

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

35 (11) A police officer having probable cause to believe that a  
36 person illegally possesses or illegally has possessed a firearm or  
37 other dangerous weapon on private or public elementary or secondary  
38 school premises shall have the authority to arrest the person.

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

4 (12) Except as specifically provided in subsections (2), (3), (4),  
5 and (7) of this section, nothing in this section extends or otherwise  
6 affects the powers of arrest prescribed in Title 46 RCW.

7 (13) No police officer may be held criminally or civilly liable for  
8 making an arrest pursuant to subsection (2) or (9) of this section if  
9 the police officer acts in good faith and without malice.

10 (14) A police officer shall arrest and keep in custody, until  
11 release by a judicial officer on bail, personal recognizance, or court  
12 order, a person without a warrant when the officer has probable cause  
13 to believe that the person has violated RCW 46.61.502 or 46.61.504 or  
14 an equivalent local ordinance and the police officer has knowledge that  
15 the person has a prior offense as defined in RCW 46.61.5055 within ten  
16 years.

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