

2SSB 5105 - S AMD 542

By Senator Padden

ADOPTED 02/26/2016

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 46.61.502 and 2013 c 3 s 33 are each amended to  
4 read as follows:

5 (1) A person is guilty of driving while under the influence of  
6 intoxicating liquor, marijuana, or any drug if the person drives a  
7 vehicle within this state:

8 (a) And the person has, within two hours after driving, an  
9 alcohol concentration of 0.08 or higher as shown by analysis of the  
10 person's breath or blood made under RCW 46.61.506; or

11 (b) The person has, within two hours after driving, a THC  
12 concentration of 5.00 or higher as shown by analysis of the person's  
13 blood made under RCW 46.61.506; or

14 (c) While the person is under the influence of or affected by  
15 intoxicating liquor, marijuana, or any drug; or

16 (d) While the person is under the combined influence of or  
17 affected by intoxicating liquor, marijuana, and any drug.

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

22 (3)(a) It is an affirmative defense to a violation of subsection  
23 (1)(a) of this section, which the defendant must prove by a  
24 preponderance of the evidence, that the defendant consumed a  
25 sufficient quantity of alcohol after the time of driving and before  
26 the administration of an analysis of the person's breath or blood to  
27 cause the defendant's alcohol concentration to be 0.08 or more within  
28 two hours after driving. The court shall not admit evidence of this  
29 defense unless the defendant notifies the prosecution prior to the  
30 omnibus or pretrial hearing in the case of the defendant's intent to  
31 assert the affirmative defense.

32 (b) It is an affirmative defense to a violation of subsection  
33 (1)(b) of this section, which the defendant must prove by a

1 preponderance of the evidence, that the defendant consumed a  
2 sufficient quantity of marijuana after the time of driving and before  
3 the administration of an analysis of the person's blood to cause the  
4 defendant's THC concentration to be 5.00 or more within two hours  
5 after driving. The court shall not admit evidence of this defense  
6 unless the defendant notifies the prosecution prior to the omnibus or  
7 pretrial hearing in the case of the defendant's intent to assert the  
8 affirmative defense.

9 (4)(a) Analyses of blood or breath samples obtained more than two  
10 hours after the alleged driving may be used as evidence that within  
11 two hours of the alleged driving, a person had an alcohol  
12 concentration of 0.08 or more in violation of subsection (1)(a) of  
13 this section, and in any case in which the analysis shows an alcohol  
14 concentration above 0.00 may be used as evidence that a person was  
15 under the influence of or affected by intoxicating liquor or any drug  
16 in violation of subsection (1)(c) or (d) of this section.

17 (b) Analyses of blood samples obtained more than two hours after  
18 the alleged driving may be used as evidence that within two hours of  
19 the alleged driving, a person had a THC concentration of 5.00 or more  
20 in violation of subsection (1)(b) of this section, and in any case in  
21 which the analysis shows a THC concentration above 0.00 may be used  
22 as evidence that a person was under the influence of or affected by  
23 marijuana in violation of subsection (1)(c) or (d) of this section.

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

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

28 (a) The person has (~~four~~) three or more prior offenses within  
29 ten years as defined in RCW 46.61.5055; or

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

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

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

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

37 (iv) A violation of this subsection (6) or RCW 46.61.504(6).

38 **Sec. 2.** RCW 46.61.504 and 2015 2nd sp.s. c 3 s 24 are each  
39 amended to read as follows:

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

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

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

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

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

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

25 (3)(a) It is an affirmative defense to a violation of subsection  
26 (1)(a) of this section which the defendant must prove by a  
27 preponderance of the evidence that the defendant consumed a  
28 sufficient quantity of alcohol after the time of being in actual  
29 physical control of the vehicle and before the administration of an  
30 analysis of the person's breath or blood to cause the defendant's  
31 alcohol concentration to be 0.08 or more within two hours after being  
32 in such control. The court shall not admit evidence of this defense  
33 unless the defendant notifies the prosecution prior to the omnibus or  
34 pretrial hearing in the case of the defendant's intent to assert the  
35 affirmative defense.

36 (b) It is an affirmative defense to a violation of subsection  
37 (1)(b) of this section, which the defendant must prove by a  
38 preponderance of the evidence, that the defendant consumed a  
39 sufficient quantity of marijuana after the time of being in actual  
40 physical control of the vehicle and before the administration of an

1 analysis of the person's blood to cause the defendant's THC  
2 concentration to be 5.00 or more within two hours after being in  
3 control of the vehicle. The court shall not admit evidence of this  
4 defense unless the defendant notifies the prosecution prior to the  
5 omnibus or pretrial hearing in the case of the defendant's intent to  
6 assert the affirmative defense.

7 (4)(a) Analyses of blood or breath samples obtained more than two  
8 hours after the alleged being in actual physical control of a vehicle  
9 may be used as evidence that within two hours of the alleged being in  
10 such control, a person had an alcohol concentration of 0.08 or more  
11 in violation of subsection (1)(a) of this section, and in any case in  
12 which the analysis shows an alcohol concentration above 0.00 may be  
13 used as evidence that a person was under the influence of or affected  
14 by intoxicating liquor or any drug in violation of subsection (1)(c)  
15 or (d) of this section.

16 (b) Analyses of blood samples obtained more than two hours after  
17 the alleged being in actual physical control of a vehicle may be used  
18 as evidence that within two hours of the alleged being in control of  
19 the vehicle, a person had a THC concentration of 5.00 or more in  
20 violation of subsection (1)(b) of this section, and in any case in  
21 which the analysis shows a THC concentration above 0.00 may be used  
22 as evidence that a person was under the influence of or affected by  
23 marijuana in violation of subsection (1)(c) or (d) of this section.

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

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

28 (a) The person has (~~four~~) three or more prior offenses within  
29 ten years as defined in RCW 46.61.5055; or

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

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

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

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

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

38 **Sec. 3.** RCW 46.61.5055 and 2015 2nd sp.s. c 3 s 9 are each  
39 amended to read as follows:

1           (1) **No prior offenses in seven years.** Except as provided in RCW  
2 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
3 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
4 within seven years shall be punished as follows:

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

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

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

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

37           (i) By imprisonment for not less than two days nor more than  
38 three hundred sixty-four days. Forty-eight consecutive hours of the  
39 imprisonment may not be suspended unless the court finds that the  
40 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)(b)(i), the  
6 court may order not less than thirty 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 to include an alcohol  
11 detection breathalyzer or other separate alcohol monitoring device,  
12 and the court may restrict the amount of alcohol the offender may  
13 consume during the time the offender is on electronic home  
14 monitoring; and

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

18 (2) **One prior offense in seven years.** Except as provided in RCW  
19 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
20 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense  
21 within seven years shall be punished as follows:

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

27 (i) By imprisonment for not less than thirty days nor more than  
28 three hundred sixty-four days and sixty days of electronic home  
29 monitoring. In lieu of the mandatory minimum term of sixty days  
30 electronic home monitoring, the court may order at least an  
31 additional four days in jail or, if available in that county or city,  
32 a six-month period of 24/7 sobriety program monitoring pursuant to  
33 RCW 36.28A.300 through 36.28A.390, and the court shall order an  
34 expanded alcohol assessment and treatment, if deemed appropriate by  
35 the assessment. The offender shall pay for the cost of the electronic  
36 monitoring. The county or municipality where the penalty is being  
37 imposed shall determine the cost. The court may also require the  
38 offender's electronic home monitoring device include an alcohol  
39 detection breathalyzer or other separate alcohol monitoring device,  
40 and may restrict the amount of alcohol the offender may consume

1 during the time the offender is on electronic home monitoring. Thirty  
2 days of imprisonment and sixty days of electronic home monitoring may  
3 not be suspended unless the court finds that the imposition of this  
4 mandatory minimum sentence would impose a substantial risk to the  
5 offender's physical or mental well-being. Whenever the mandatory  
6 minimum sentence is suspended, the court shall state in writing the  
7 reason for granting the suspension and the facts upon which the  
8 suspension is based; and

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

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

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

39 (ii) By a fine of not less than seven hundred fifty dollars nor  
40 more than five thousand dollars. Seven hundred fifty dollars of the

1 fine may not be suspended unless the court finds the offender to be  
2 indigent.

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

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

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

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

38 (b) **Penalty for alcohol concentration at least 0.15.** In the case  
39 of a person whose alcohol concentration was at least 0.15, or for  
40 whom by reason of 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 one hundred twenty days nor  
4 more than three hundred sixty-four days, if available in that county  
5 or city, a six-month period of 24/7 sobriety program monitoring  
6 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty  
7 days of electronic home monitoring. In lieu of the mandatory minimum  
8 term of one hundred fifty days of electronic home monitoring, the  
9 court may order at least an additional ten days in jail. The offender  
10 shall pay for the cost of the electronic monitoring. The court shall  
11 order an expanded alcohol assessment and treatment, if deemed  
12 appropriate by the assessment. The county or municipality where the  
13 penalty is being imposed shall determine the cost. The court may also  
14 require the offender's electronic home monitoring device include an  
15 alcohol detection breathalyzer or other separate alcohol monitoring  
16 device, and may restrict the amount of alcohol the offender may  
17 consume during the time the offender is on electronic home  
18 monitoring. One hundred twenty days of imprisonment and one hundred  
19 fifty days of electronic home monitoring may not be suspended unless  
20 the court finds that the imposition of this mandatory minimum  
21 sentence would impose a substantial risk to the offender's physical  
22 or mental well-being. Whenever the mandatory minimum sentence is  
23 suspended, the court shall state in writing the reason for granting  
24 the suspension and the facts upon which the suspension is based; and

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

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

32 (a) The person has (~~four~~) three or more prior offenses within  
33 ten years; or

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

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

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

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

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

2 (5) **Monitoring.**

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

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

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

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

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

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

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

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

39 (b) In any case in which the person has no prior offenses within  
40 seven years, and except as provided in RCW 46.61.502(6) or

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

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

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

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

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

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

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

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

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

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

39 (a) **Penalty for alcohol concentration less than 0.15.** If the  
40 person's alcohol concentration was less than 0.15, or if for reasons

1 other than the person's refusal to take a test offered under RCW  
2 46.20.308 there is no test result indicating the person's alcohol  
3 concentration:

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

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

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

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

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

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

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

18 or

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

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

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

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

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

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

1 deny the license, permit, or nonresident privilege of the person for  
2 that offense.

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

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

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

38 (b) For each violation of mandatory conditions of probation under  
39 (a)(i), (ii), (iii), (iv), or (v) of this subsection, the court shall

1 order the convicted person to be confined for thirty days, which  
2 shall not be suspended or deferred.

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

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

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

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

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

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

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

38 (13) **Extraordinary medical placement.** An offender serving a  
39 sentence under this section, whether or not a mandatory minimum term  
40 has expired, may be granted an extraordinary medical placement by the

1 jail administrator subject to the standards and limitations set forth  
2 in RCW 9.94A.728(1)(c).

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

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

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

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

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

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

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

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

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

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

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

30 (x) A conviction for a violation of RCW 46.61.520 committed while  
31 under the influence of intoxicating liquor or any drug, or a  
32 conviction for a violation of RCW 46.61.520 committed in a reckless  
33 manner or with the disregard for the safety of others if the  
34 conviction is the result of a charge that was originally filed as a  
35 violation of RCW 46.61.520 committed while under the influence of  
36 intoxicating liquor or any drug;

37 (xi) A conviction for a violation of RCW 46.61.522 committed  
38 while under the influence of intoxicating liquor or any drug, or a  
39 conviction for a violation of RCW 46.61.522 committed in a reckless  
40 manner or with the disregard for the safety of others if the

1 conviction is the result of a charge that was originally filed as a  
2 violation of RCW 46.61.522 committed while under the influence of  
3 intoxicating liquor or any drug;

4 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,  
5 or 9A.36.050 or an equivalent local ordinance, if the conviction is  
6 the result of a charge that was originally filed as a violation of  
7 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of  
8 RCW 46.61.520 or 46.61.522;

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

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

15 (xv) A deferred prosecution under chapter 10.05 RCW granted in a  
16 prosecution for a violation of RCW 46.61.5249, or an equivalent local  
17 ordinance, if the charge under which the deferred prosecution was  
18 granted was originally filed as a violation of RCW 46.61.502 or  
19 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or  
20 46.61.522;

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

27 (xvii) A deferred sentence imposed in a prosecution for a  
28 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
29 equivalent local ordinance, if the charge under which the deferred  
30 sentence was imposed was originally filed as a violation of RCW  
31 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
32 violation of RCW 46.61.520 or 46.61.522;

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

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



1 (c) "Within seven years" means that the arrest for a prior  
2 offense occurred within seven years before or after the arrest for  
3 the current offense; and

4 (d) "Within ten years" means that the arrest for a prior offense  
5 occurred within ten years before or after the arrest for the current  
6 offense.

7 (15) All fines imposed by this section apply to adult offenders  
8 only.

9 **Sec. 4.** RCW 9.94A.515 and 2015 c 261 s 11 are each amended to  
10 read as follows:

11	
12	
13	
14	XVI Aggravated Murder 1 (RCW
15	10.95.020)
16	XV Homicide by abuse (RCW 9A.32.055)
17	Malicious explosion 1 (RCW
18	70.74.280(1))
19	Murder 1 (RCW 9A.32.030)
20	XIV Murder 2 (RCW 9A.32.050)
21	Trafficking 1 (RCW 9A.40.100(1))
22	XIII Malicious explosion 2 (RCW
23	70.74.280(2))
24	Malicious placement of an explosive 1
25	(RCW 70.74.270(1))
26	XII Assault 1 (RCW 9A.36.011)
27	Assault of a Child 1 (RCW 9A.36.120)
28	Malicious placement of an imitation
29	device 1 (RCW 70.74.272(1)(a))
30	Promoting Commercial Sexual Abuse
31	of a Minor (RCW 9.68A.101)
32	Rape 1 (RCW 9A.44.040)
33	Rape of a Child 1 (RCW 9A.44.073)
34	Trafficking 2 (RCW 9A.40.100(3))

1 XI Manslaughter 1 (RCW 9A.32.060)  
2 Rape 2 (RCW 9A.44.050)  
3 Rape of a Child 2 (RCW 9A.44.076)  
4 Vehicular Homicide, by being under  
5 the influence of intoxicating liquor  
6 or any drug (RCW 46.61.520)  
7 X Child Molestation 1 (RCW 9A.44.083)  
8 Criminal Mistreatment 1 (RCW  
9 9A.42.020)  
10 Indecent Liberties (with forcible  
11 compulsion) (RCW  
12 9A.44.100(1)(a))  
13 Kidnapping 1 (RCW 9A.40.020)  
14 Leading Organized Crime (RCW  
15 9A.82.060(1)(a))  
16 Malicious explosion 3 (RCW  
17 70.74.280(3))  
18 Sexually Violent Predator Escape  
19 (RCW 9A.76.115)  
20 IX Abandonment of Dependent Person 1  
21 (RCW 9A.42.060)  
22 Assault of a Child 2 (RCW 9A.36.130)  
23 Explosive devices prohibited (RCW  
24 70.74.180)  
25 Hit and Run—Death (RCW  
26 46.52.020(4)(a))  
27 Homicide by Watercraft, by being  
28 under the influence of intoxicating  
29 liquor or any drug (RCW  
30 79A.60.050)  
31 Inciting Criminal Profiteering (RCW  
32 9A.82.060(1)(b))  
33 Malicious placement of an explosive 2  
34 (RCW 70.74.270(2))  
35 Robbery 1 (RCW 9A.56.200)

1 Sexual Exploitation (RCW 9.68A.040)  
2 VIII Arson 1 (RCW 9A.48.020)  
3 Commercial Sexual Abuse of a Minor  
4 (RCW 9.68A.100)  
5 Homicide by Watercraft, by the  
6 operation of any vessel in a  
7 reckless manner (RCW  
8 79A.60.050)  
9 Manslaughter 2 (RCW 9A.32.070)  
10 Promoting Prostitution 1 (RCW  
11 9A.88.070)  
12 Theft of Ammonia (RCW 69.55.010)  
13 Vehicular Homicide, by the operation  
14 of any vehicle in a reckless  
15 manner (RCW 46.61.520)  
16 VII Burglary 1 (RCW 9A.52.020)  
17 Child Molestation 2 (RCW 9A.44.086)  
18 Civil Disorder Training (RCW  
19 9A.48.120)  
20 Dealing in depictions of minor engaged  
21 in sexually explicit conduct 1  
22 (RCW 9.68A.050(1))  
23 Drive-by Shooting (RCW 9A.36.045)  
24 Homicide by Watercraft, by disregard  
25 for the safety of others (RCW  
26 79A.60.050)  
27 Indecent Liberties (without forcible  
28 compulsion) (RCW 9A.44.100(1)  
29 (b) and (c))  
30 Introducing Contraband 1 (RCW  
31 9A.76.140)  
32 Malicious placement of an explosive 3  
33 (RCW 70.74.270(3))  
34 Negligently Causing Death By Use of a  
35 Signal Preemption Device (RCW  
36 46.37.675)

1 Sending, bringing into state depictions  
2 of minor engaged in sexually  
3 explicit conduct 1 (RCW  
4 9.68A.060(1))  
5 Unlawful Possession of a Firearm in  
6 the first degree (RCW  
7 9.41.040(1))  
8 Use of a Machine Gun in Commission  
9 of a Felony (RCW 9.41.225)  
10 Vehicular Homicide, by disregard for  
11 the safety of others (RCW  
12 46.61.520)  
13 VI Bail Jumping with Murder 1 (RCW  
14 9A.76.170(3)(a))  
15 Bribery (RCW 9A.68.010)  
16 Incest 1 (RCW 9A.64.020(1))  
17 Intimidating a Judge (RCW 9A.72.160)  
18 Intimidating a Juror/Witness (RCW  
19 9A.72.110, 9A.72.130)  
20 Malicious placement of an imitation  
21 device 2 (RCW 70.74.272(1)(b))  
22 Possession of Depictions of a Minor  
23 Engaged in Sexually Explicit  
24 Conduct 1 (RCW 9.68A.070(1))  
25 Rape of a Child 3 (RCW 9A.44.079)  
26 Theft of a Firearm (RCW 9A.56.300)  
27 Unlawful Storage of Ammonia (RCW  
28 69.55.020)  
29 V Abandonment of Dependent Person 2  
30 (RCW 9A.42.070)  
31 Advancing money or property for  
32 extortionate extension of credit  
33 (RCW 9A.82.030)  
34 Bail Jumping with class A Felony  
35 (RCW 9A.76.170(3)(b))  
36 Child Molestation 3 (RCW 9A.44.089)

1 Criminal Mistreatment 2 (RCW  
2 9A.42.030)  
3 Custodial Sexual Misconduct 1 (RCW  
4 9A.44.160)  
5 Dealing in Depictions of Minor  
6 Engaged in Sexually Explicit  
7 Conduct 2 (RCW 9.68A.050(2))  
8 Domestic Violence Court Order  
9 Violation (RCW 10.99.040,  
10 10.99.050, 26.09.300, 26.10.220,  
11 26.26.138, 26.50.110, 26.52.070,  
12 or 74.34.145)  
13 ~~((Driving While Under the Influence~~  
14 ~~(RCW 46.61.502(6))))~~  
15 Extortion 1 (RCW 9A.56.120)  
16 Extortionate Extension of Credit (RCW  
17 9A.82.020)  
18 Extortionate Means to Collect  
19 Extensions of Credit (RCW  
20 9A.82.040)  
21 Incest 2 (RCW 9A.64.020(2))  
22 Kidnapping 2 (RCW 9A.40.030)  
23 Perjury 1 (RCW 9A.72.020)  
24 Persistent prison misbehavior (RCW  
25 9.94.070)  
26 ~~((Physical Control of a Vehicle While~~  
27 ~~Under the Influence (RCW~~  
28 ~~46.61.504(6))))~~  
29 Possession of a Stolen Firearm (RCW  
30 9A.56.310)  
31 Rape 3 (RCW 9A.44.060)  
32 Rendering Criminal Assistance 1  
33 (RCW 9A.76.070)

1 Sending, Bringing into State  
2 Depictions of Minor Engaged in  
3 Sexually Explicit Conduct 2  
4 (RCW 9.68A.060(2))  
5 Sexual Misconduct with a Minor 1  
6 (RCW 9A.44.093)  
7 Sexually Violating Human Remains  
8 (RCW 9A.44.105)  
9 Stalking (RCW 9A.46.110)  
10 Taking Motor Vehicle Without  
11 Permission 1 (RCW 9A.56.070)  
12 IV Arson 2 (RCW 9A.48.030)  
13 Assault 2 (RCW 9A.36.021)  
14 Assault 3 (of a Peace Officer with a  
15 Projectile Stun Gun) (RCW  
16 9A.36.031(1)(h))  
17 Assault by Watercraft (RCW  
18 79A.60.060)  
19 Bribing a Witness/Bribe Received by  
20 Witness (RCW 9A.72.090,  
21 9A.72.100)  
22 Cheating 1 (RCW 9.46.1961)  
23 Commercial Bribery (RCW  
24 9A.68.060)  
25 Counterfeiting (RCW 9.16.035(4))  
26 Driving While Under the Influence  
27 (RCW 46.61.502(6))  
28 Endangerment with a Controlled  
29 Substance (RCW 9A.42.100)  
30 Escape 1 (RCW 9A.76.110)  
31 Hit and Run—Injury (RCW  
32 46.52.020(4)(b))  
33 Hit and Run with Vessel—Injury  
34 Accident (RCW 79A.60.200(3))  
35 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under  
2 Age Fourteen (subsequent sex  
3 offense) (RCW 9A.88.010)  
4 Influencing Outcome of Sporting Event  
5 (RCW 9A.82.070)  
6 Malicious Harassment (RCW  
7 9A.36.080)  
8 Physical Control of a Vehicle While  
9 Under the Influence (RCW  
10 46.61.504(6))  
11 Possession of Depictions of a Minor  
12 Engaged in Sexually Explicit  
13 Conduct 2 (RCW 9.68A.070(2))  
14 Residential Burglary (RCW  
15 9A.52.025)  
16 Robbery 2 (RCW 9A.56.210)  
17 Theft of Livestock 1 (RCW 9A.56.080)  
18 Threats to Bomb (RCW 9.61.160)  
19 Trafficking in Stolen Property 1 (RCW  
20 9A.82.050)  
21 Unlawful factoring of a credit card or  
22 payment card transaction (RCW  
23 9A.56.290(4)(b))  
24 Unlawful transaction of health  
25 coverage as a health care service  
26 contractor (RCW 48.44.016(3))  
27 Unlawful transaction of health  
28 coverage as a health maintenance  
29 organization (RCW 48.46.033(3))  
30 Unlawful transaction of insurance  
31 business (RCW 48.15.023(3))  
32 Unlicensed practice as an insurance  
33 professional (RCW 48.17.063(2))  
34 Use of Proceeds of Criminal  
35 Profiteering (RCW 9A.82.080 (1)  
36 and (2))

1 Vehicle Prowling 2 (third or  
2 subsequent offense) (RCW  
3 9A.52.100(3))  
4 Vehicular Assault, by being under the  
5 influence of intoxicating liquor or  
6 any drug, or by the operation or  
7 driving of a vehicle in a reckless  
8 manner (RCW 46.61.522)  
9 Viewing of Depictions of a Minor  
10 Engaged in Sexually Explicit  
11 Conduct 1 (RCW 9.68A.075(1))  
12 Willful Failure to Return from  
13 Furlough (RCW 72.66.060)  
14 III Animal Cruelty 1 (Sexual Conduct or  
15 Contact) (RCW 16.52.205(3))  
16 Assault 3 (Except Assault 3 of a Peace  
17 Officer With a Projectile Stun  
18 Gun) (RCW 9A.36.031 except  
19 subsection (1)(h))  
20 Assault of a Child 3 (RCW 9A.36.140)  
21 Bail Jumping with class B or C Felony  
22 (RCW 9A.76.170(3)(c))  
23 Burglary 2 (RCW 9A.52.030)  
24 Communication with a Minor for  
25 Immoral Purposes (RCW  
26 9.68A.090)  
27 Criminal Gang Intimidation (RCW  
28 9A.46.120)  
29 Custodial Assault (RCW 9A.36.100)  
30 Cyberstalking (subsequent conviction  
31 or threat of death) (RCW  
32 9.61.260(3))  
33 Escape 2 (RCW 9A.76.120)  
34 Extortion 2 (RCW 9A.56.130)  
35 Harassment (RCW 9A.46.020)



1 Intimidating a Public Servant (RCW  
2 9A.76.180)  
3 Introducing Contraband 2 (RCW  
4 9A.76.150)  
5 Malicious Injury to Railroad Property  
6 (RCW 81.60.070)  
7 Mortgage Fraud (RCW 19.144.080)  
8 Negligently Causing Substantial  
9 Bodily Harm By Use of a Signal  
10 Preemption Device (RCW  
11 46.37.674)  
12 Organized Retail Theft 1 (RCW  
13 9A.56.350(2))  
14 Perjury 2 (RCW 9A.72.030)  
15 Possession of Incendiary Device (RCW  
16 9.40.120)  
17 Possession of Machine Gun or Short-  
18 Barreled Shotgun or Rifle (RCW  
19 9.41.190)  
20 Promoting Prostitution 2 (RCW  
21 9A.88.080)  
22 Retail Theft with Special  
23 Circumstances 1 (RCW  
24 9A.56.360(2))  
25 Securities Act violation (RCW  
26 21.20.400)  
27 Tampering with a Witness (RCW  
28 9A.72.120)  
29 Telephone Harassment (subsequent  
30 conviction or threat of death)  
31 (RCW 9.61.230(2))  
32 Theft of Livestock 2 (RCW 9A.56.083)  
33 Theft with the Intent to Resell 1 (RCW  
34 9A.56.340(2))  
35 Trafficking in Stolen Property 2 (RCW  
36 9A.82.055)

1 Unlawful Hunting of Big Game 1  
2 (RCW 77.15.410(3)(b))  
3 Unlawful Imprisonment (RCW  
4 9A.40.040)  
5 Unlawful Misbranding of Food Fish or  
6 Shellfish 1 (RCW 69.04.938(3))  
7 Unlawful possession of firearm in the  
8 second degree (RCW 9.41.040(2))  
9 Unlawful Taking of Endangered Fish  
10 or Wildlife 1 (RCW  
11 77.15.120(3)(b))  
12 Unlawful Trafficking in Fish, Shellfish,  
13 or Wildlife 1 (RCW  
14 77.15.260(3)(b))  
15 Unlawful Use of a Nondesignated  
16 Vessel (RCW 77.15.530(4))  
17 Vehicular Assault, by the operation or  
18 driving of a vehicle with disregard  
19 for the safety of others (RCW  
20 46.61.522)  
21 Willful Failure to Return from Work  
22 Release (RCW 72.65.070)  
23 II Commercial Fishing Without a License  
24 1 (RCW 77.15.500(3)(b))  
25 Computer Trespass 1 (RCW  
26 9A.52.110)  
27 Counterfeiting (RCW 9.16.035(3))  
28 Engaging in Fish Dealing Activity  
29 Unlicensed 1 (RCW 77.15.620(3))  
30 Escape from Community Custody  
31 (RCW 72.09.310)  
32 Failure to Register as a Sex Offender  
33 (second or subsequent offense)  
34 (RCW 9A.44.130 prior to June 10,  
35 2010, and RCW 9A.44.132)

1 Health Care False Claims (RCW  
2 48.80.030)  
3 Identity Theft 2 (RCW 9.35.020(3))  
4 Improperly Obtaining Financial  
5 Information (RCW 9.35.010)  
6 Malicious Mischief 1 (RCW  
7 9A.48.070)  
8 Organized Retail Theft 2 (RCW  
9 9A.56.350(3))  
10 Possession of Stolen Property 1 (RCW  
11 9A.56.150)  
12 Possession of a Stolen Vehicle (RCW  
13 9A.56.068)  
14 Retail Theft with Special  
15 Circumstances 2 (RCW  
16 9A.56.360(3))  
17 Scrap Processing, Recycling, or  
18 Supplying Without a License  
19 (second or subsequent offense)  
20 (RCW 19.290.100)  
21 Theft 1 (RCW 9A.56.030)  
22 Theft of a Motor Vehicle (RCW  
23 9A.56.065)  
24 Theft of Rental, Leased, ~~((one))~~ Lease-  
25 purchased, or Loaned Property  
26 (valued at ~~((one))~~ five thousand  
27 ~~((five hundred))~~ dollars or more)  
28 (RCW 9A.56.096(5)(a))  
29 Theft with the Intent to Resell 2 (RCW  
30 9A.56.340(3))  
31 Trafficking in Insurance Claims (RCW  
32 48.30A.015)  
33 Unlawful factoring of a credit card or  
34 payment card transaction (RCW  
35 9A.56.290(4)(a))

1 Unlawful Participation of Non-Indians  
2 in Indian Fishery (RCW  
3 77.15.570(2))  
4 Unlawful Practice of Law (RCW  
5 2.48.180)  
6 Unlawful Purchase or Use of a License  
7 (RCW 77.15.650(3)(b))  
8 Unlawful Trafficking in Fish, Shellfish,  
9 or Wildlife 2 (RCW  
10 77.15.260(3)(a))  
11 Unlicensed Practice of a Profession or  
12 Business (RCW 18.130.190(7))  
13 Voyeurism (RCW 9A.44.115)  
14 I Attempting to Elude a Pursuing Police  
15 Vehicle (RCW 46.61.024)  
16 False Verification for Welfare (RCW  
17 74.08.055)  
18 Forgery (RCW 9A.60.020)  
19 Fraudulent Creation or Revocation of a  
20 Mental Health Advance Directive  
21 (RCW 9A.60.060)  
22 Malicious Mischief 2 (RCW  
23 9A.48.080)  
24 Mineral Trespass (RCW 78.44.330)  
25 Possession of Stolen Property 2 (RCW  
26 9A.56.160)  
27 Reckless Burning 1 (RCW 9A.48.040)  
28 Spotlighting Big Game 1 (RCW  
29 77.15.450(3)(b))  
30 Suspension of Department Privileges 1  
31 (RCW 77.15.670(3)(b))  
32 Taking Motor Vehicle Without  
33 Permission 2 (RCW 9A.56.075)  
34 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, ~~((or))~~ Lease-  
2 purchased, or Loaned Property  
3 (valued at ~~((two))~~ seven hundred  
4 fifty dollars or more but less than  
5 ~~((one))~~ five thousand ~~((five~~  
6 ~~hundred))~~ dollars) (RCW  
7 9A.56.096(5)(b))

8 Transaction of insurance business  
9 beyond the scope of licensure  
10 (RCW 48.17.063)

11 Unlawful Fish and Shellfish Catch  
12 Accounting (RCW  
13 77.15.630(3)(b))

14 Unlawful Issuance of Checks or Drafts  
15 (RCW 9A.56.060)

16 Unlawful Possession of Fictitious  
17 Identification (RCW 9A.56.320)

18 Unlawful Possession of Instruments of  
19 Financial Fraud (RCW 9A.56.320)

20 Unlawful Possession of Payment  
21 Instruments (RCW 9A.56.320)

22 Unlawful Possession of a Personal  
23 Identification Device (RCW  
24 9A.56.320)

25 Unlawful Production of Payment  
26 Instruments (RCW 9A.56.320)

27 Unlawful Releasing, Planting,  
28 Possessing, or Placing Deleterious  
29 Exotic Wildlife (RCW  
30 77.15.250(2)(b))

31 Unlawful Trafficking in Food Stamps  
32 (RCW 9.91.142)

33 Unlawful Use of Food Stamps (RCW  
34 9.91.144)

35 Unlawful Use of Net to Take Fish 1  
36 (RCW 77.15.580(3)(b))

1 Unlawful Use of Prohibited Aquatic  
2 Animal Species (RCW  
3 77.15.253(3))  
4 Vehicle Prowl 1 (RCW 9A.52.095)  
5 Violating Commercial Fishing Area or  
6 Time 1 (RCW 77.15.550(3)(b))

7 **Sec. 5.** RCW 46.61.5054 and 2015 c 265 s 32 are each amended to  
8 read as follows:

9 (1)(a) In addition to penalties set forth in RCW 46.61.5051  
10 through 46.61.5053 until September 1, 1995, and RCW 46.61.5055  
11 thereafter, a two hundred fifty dollar fee shall be assessed to a  
12 person who is either convicted, sentenced to a lesser charge, or  
13 given deferred prosecution, as a result of an arrest for violating  
14 RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for  
15 the purpose of funding the Washington state toxicology laboratory and  
16 the Washington state patrol for grants and activities to increase the  
17 conviction rate and decrease the incidence of persons driving under  
18 the influence of alcohol or drugs.

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

22 (2) The fee assessed under subsection (1) of this section shall  
23 be collected by the clerk of the court and, subject to subsection  
24 (~~((4))~~) (5) of this section, one hundred seventy-five dollars of the  
25 fee must be distributed as follows:

26 (a) Forty percent shall be subject to distribution under RCW  
27 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

28 (b) The remainder of the fee shall be forwarded to the state  
29 treasurer who shall, through June 30, 1997, deposit: Fifty percent in  
30 the death investigations' account to be used solely for funding the  
31 state toxicology laboratory blood or breath testing programs; and  
32 fifty percent in the state patrol highway account to be used solely  
33 for funding activities to increase the conviction rate and decrease  
34 the incidence of persons driving under the influence of alcohol or  
35 drugs. Effective July 1, 1997, the remainder of the fee shall be  
36 forwarded to the state treasurer who shall deposit: Fifteen percent  
37 in the death investigations' account to be used solely for funding  
38 the state toxicology laboratory blood or breath testing programs; and

1 eighty-five percent in the state patrol highway account to be used  
2 solely for funding activities to increase the conviction rate and  
3 decrease the incidence of persons driving under the influence of  
4 alcohol or drugs.

5 (3) Twenty-five dollars of the fee assessed under subsection (1)  
6 of this section must be distributed to the highway safety fund to be  
7 used solely for funding Washington traffic safety commission grants  
8 to reduce statewide collisions caused by persons driving under the  
9 influence of alcohol or drugs. Grants awarded under this subsection  
10 may be for projects that encourage collaboration with other  
11 community, governmental, and private organizations, and that utilize  
12 innovative approaches based on best practices or proven strategies  
13 supported by research or rigorous evaluation. Grants recipients may  
14 include, for example:

- 15 (a) DUI courts; and
- 16 (b) Jurisdictions implementing the victim impact panel registries  
17 under RCW 46.61.5152 and 10.01.230.

18 (4) Fifty dollars of the fee assessed under subsection (1) of  
19 this section must be distributed to the highway safety fund to be  
20 used solely for funding Washington traffic safety commission grants  
21 to organizations within counties targeted for programs to reduce  
22 driving under the influence of alcohol or drugs.

23 (5) If the court has suspended payment of ~~part of the fee~~ **ADOPTED 02/26/2016**  
24 pursuant to subsection (1)(b) of this section, amounts collected  
25 shall be distributed proportionately.

26 ((+5)) (6) This section applies to any offense committed on or  
27 after July 1, 1993, and only to adult offenders."

28 On page 1, line 2 of the title, after "felony;" strike the  
29 remainder of the title and insert "amending RCW 46.61.502, 46.61.504,  
30 46.61.5055, 9.94A.515, and 46.61.5054; and prescribing penalties."

EFFECT: Makes technical corrections to account for statutory changes made during the 2015 legislative sessions.

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