

ESHB 1493 - S AMD TO TRAN COMM AMD (S-5448.1/24) 865  
By Senator Padden

PULLED 02/29/2024

1 On page 61, line 32, after "has" strike "three" and insert  
2 "((~~three~~) two)"

3 Beginning on page 65, line 17, after "**Two**" strike all material  
4 through "**Three**" on page 67, line 17 and insert "~~((**prior offenses in**~~  
5 ~~**seven years.**~~ Except as provided in RCW 46.61.502(6) or 46.61.504(6),  
6 a person who is convicted of a violation of RCW 46.61.502 or  
7 46.61.504 and who has two prior offenses within seven years shall be  
8 punished as follows:

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

14 ~~(i)~~ By imprisonment for not less than ninety days nor more than  
15 three hundred sixty-four days, if available in that county or city, a  
16 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
17 36.28A.300 through 36.28A.390, and one hundred twenty days of  
18 electronic home monitoring. Ninety days of imprisonment and one  
19 hundred twenty days of electronic home monitoring may not be  
20 suspended or converted unless the court finds that the imposition of  
21 this mandatory minimum sentence would impose a substantial risk to  
22 the offender's physical or mental well-being. If the offender shows  
23 that the imposition of this mandatory minimum sentence would impose a  
24 substantial risk to the offender's physical or mental well-being, in  
25 lieu of the mandatory minimum term of ninety days of imprisonment and  
26 one hundred twenty days of electronic home monitoring, the court may  
27 order three hundred sixty days of electronic home monitoring or a  
28 three hundred sixty-day period of 24/7 sobriety monitoring pursuant  
29 to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum  
30 sentence is suspended or converted, the court shall state in writing  
31 the reason for granting the suspension or conversion and the facts  
32 upon which the suspension or conversion is based. The court shall  
33 order an expanded substance use disorder assessment and treatment, if

1 deemed appropriate by the assessment. The offender shall pay for the  
2 cost of the electronic monitoring. The county or municipality where  
3 the penalty is being imposed shall determine the cost. The court may  
4 also require the offender's electronic home monitoring device include  
5 an alcohol detection breathalyzer or other separate alcohol  
6 monitoring device, and may restrict the amount of alcohol the  
7 offender may consume during the time the offender is on electronic  
8 home monitoring; and

9 (ii) By a fine of not less than one thousand dollars nor more  
10 than five thousand dollars. One thousand 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 one hundred twenty days nor  
18 more than three hundred sixty-four days, if available in that county  
19 or city, a six-month period of 24/7 sobriety program monitoring  
20 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty  
21 days of electronic home monitoring. One hundred twenty days of  
22 imprisonment and one hundred fifty days of electronic home monitoring  
23 may not be suspended or converted unless the court finds that the  
24 imposition of this mandatory minimum sentence would impose a  
25 substantial risk to the offender's physical or mental well-being. If  
26 the offender shows that the imposition of this mandatory minimum  
27 sentence would impose a substantial risk to the offender's physical  
28 or mental well-being, in lieu of the mandatory minimum term of one  
29 hundred twenty days of imprisonment and one hundred fifty days of  
30 electronic home monitoring, the court may order three hundred sixty  
31 days of electronic home monitoring or a three hundred sixty-day  
32 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through  
33 36.28A.390. Whenever the mandatory minimum sentence is suspended or  
34 converted, the court shall state in writing the reason for granting  
35 the suspension or conversion and the facts upon which the suspension  
36 or conversion is based. The offender shall pay for the cost of the  
37 electronic monitoring. The court shall order an expanded substance  
38 use disorder assessment and treatment, if deemed appropriate by the  
39 assessment. The county or municipality where the penalty is being  
40 imposed shall determine the cost. The court may also require the

1 offender's electronic home monitoring device include an alcohol  
2 detection breathalyzer or other separate alcohol monitoring device,  
3 and may restrict the amount of alcohol the offender may consume  
4 during the time the offender is on electronic home monitoring; and

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

9 ~~(4) **Three**)~~ "

10 Renumber the remaining subsections consecutively and correct any  
11 internal references accordingly.

12 On page 67, line 20, after "has" strike "three" and insert  
13 "~~((three))~~ two"

14 On page 68, line 13, after "subsections (1)" strike "through (3)"  
15 and insert "~~((through (3)))~~ and (2)"

16 On page 68, line 17, after "subsections (1)" strike "through (3)"  
17 and insert "~~((through (3)))~~ and (2)"

18 On page 68, line 26, after "(1)(a)" strike ", (2)(a), or (3)(a)"  
19 and insert "~~((, (2)(a), or (3)(a)))~~ or (2)(a)"

20 On page 68, line 29, after "(2)(b)," insert "or"

21 On page 68, line 30, after "(3)" strike "(b), or (4)" and insert  
22 "~~((b), or (4))~~ "

23 On page 77, line 36, after "has" strike "three" and insert  
24 "~~((three))~~ two"

EFFECT: Removes current statutory penalties for a third offense of Driving While Under the Influence (DUI) or Physical Control of a Vehicle While Under the Influence (PC) within seven years. Provides that a third or subsequent DUI or PC offense is a felony if a person has two or more prior offenses.

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