

2 SSB 6047 - H COMM AMD
3 By Committee on Judiciary

4 ADOPTED AS AMENDED 3/3/94

5 Strike everything after the enacting clause and insert the
6 following:

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19 **PART I - DUI PENALTIES**

20 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04 RCW
21 to read as follows:

1 "Alcohol concentration" means (1) grams of alcohol per two hundred
2 ten liters of a person's breath, or (2) the percent by weight of
3 alcohol in a person's blood.

4 **Sec. 2.** RCW 46.61.502 and 1993 c 328 s 1 are each amended to read
5 as follows:

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

9 ~~(a) And the person has 0.10 grams or more of alcohol per two
10 hundred ten liters of breath within two hours after driving, as shown
11 by analysis of the person's breath made under RCW 46.61.506; or~~

12 ~~(b) And the person has 0.10 percent or more by weight of alcohol in
13 the person's blood within two hours after driving, as shown by analysis
14 of the person's blood made under RCW 46.61.506; or~~

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

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

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

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

33 ~~(4) Analyses of blood or breath samples obtained more than two
34 hours after the alleged driving may be used as evidence that within two
35 hours of the alleged driving, a person had 0.10 grams or more of
36 alcohol per two hundred ten liters of breath or 0.10 percent or more of
37 alcohol in the person's blood, pursuant to subsection (1) (a) and (b)
38 of this section, and may be used as evidence that a person was under~~

1 ~~the influence of or affected by intoxicating liquors or any drug~~
2 ~~pursuant to subsection (1) (c) and (d) of this section.)~~ A person is
3 guilty of driving while under the influence of intoxicating liquor or
4 any drug if the person drives a vehicle within this state:

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

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

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

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

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

26 (4) Analyses of blood or breath samples obtained more than two
27 hours after the alleged driving may be used as evidence that within two
28 hours of the alleged driving, a person had an alcohol concentration of
29 0.10 or more in violation of subsection (1)(a) of this section, and in
30 any case in which the analysis shows an alcohol concentration above
31 0.00 may be used as evidence that a person was under the influence of
32 or affected by intoxicating liquor or any drug in violation of
33 subsection (1) (b) or (c) of this section.

34 (5) A violation of this section is a gross misdemeanor.

35 **Sec. 3.** RCW 46.61.504 and 1993 c 328 s 2 are each amended to read
36 as follows:

37 (1) ~~((A person is guilty of being in actual physical control of a~~
38 ~~motor vehicle while under the influence of intoxicating liquor or any~~

1 drug if the person has actual physical control of a vehicle within this
2 state:

3 (a) And the person has 0.10 grams or more of alcohol per two
4 hundred ten liters of breath within two hours after being in actual
5 physical control of a motor vehicle, as shown by analysis of the
6 person's breath made under RCW 46.61.506; or

7 (b) And the person has 0.10 percent or more by weight of alcohol in
8 the person's blood within two hours after being in actual physical
9 control of a motor vehicle, as shown by analysis of the person's blood
10 made under RCW 46.61.506; or

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

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

15 (2) The fact that any person charged with a violation of this
16 section is or has been entitled to use such drug under the laws of this
17 state shall not constitute a defense against any charge of violating
18 this section. No person may be convicted under this section if, prior
19 to being pursued by a law enforcement officer, the person has moved the
20 vehicle safely off the roadway.

21 (3) It is an affirmative defense to a violation of subsection (1)
22 (a) and (b) of this section which the defendant must prove by a
23 preponderance of the evidence that the defendant consumed a sufficient
24 quantity of alcohol after the time of being in actual physical control
25 of a motor vehicle and before the administration of an analysis of the
26 person's breath or blood to cause the defendant's alcohol concentration
27 to be 0.10 or more within two hours after being in actual physical
28 control of a motor vehicle. 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 (4) Analyses of blood or breath samples obtained more than two
33 hours after the alleged actual physical control of a motor vehicle may
34 be used as evidence that within two hours of the alleged actual
35 physical control of a motor vehicle, a person had 0.10 grams or more of
36 alcohol per two hundred ten liters of breath or 0.10 percent or more of
37 alcohol in the person's blood, pursuant to subsection (1) (a) and (b)
38 of this section, and may be used as evidence that a person was under
39 the influence of or affected by intoxicating liquors or any drug

1 ~~pursuant to subsection (1) (c) and (d) of this section.)~~ A person is
2 guilty of being in actual physical control of a motor vehicle while
3 under the influence of intoxicating liquor or any drug if the person
4 has actual physical control of a vehicle within 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 0.10 or
7 higher as shown by analysis of the person's breath or blood made under
8 RCW 46.61.506; or

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

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

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

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

29 (4) Analyses of blood or breath samples obtained more than two
30 hours after the alleged being in actual physical control of a vehicle
31 may be used as evidence that within two hours of the alleged being in
32 such control, a person had an alcohol concentration of 0.10 or more in
33 violation of subsection (1)(a) of this section, and in any case in
34 which the analysis shows an alcohol concentration above 0.00 may be
35 used as evidence that a person was under the influence of or affected
36 by intoxicating liquor or any drug in violation of subsection (1) (b)
37 or (c) of this section.

38 (5) A violation of this section is a gross misdemeanor.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.61 RCW
2 to read as follows:

3 (1) A person whose driver's license is not in a probationary,
4 suspended, or revoked status, and who has not been convicted of a
5 violation of RCW 46.61.502 or 46.61.504 that was committed within five
6 years before the commission of the current violation, and who violates
7 RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an alcohol
8 concentration of at least 0.10 but less than 0.15, or a person who
9 violates RCW 46.61.502(1)(b) or (c) or 46.61.504(1)(b) or (c) and for
10 any reason other than the person's refusal to take a test offered
11 pursuant to RCW 46.20.308 the person's alcohol concentration is not
12 proved, is guilty of a gross misdemeanor and shall be punished as
13 follows:

14 (a) By imprisonment for not less than one day nor more than one
15 year. Twenty-four consecutive hours of the imprisonment may not be
16 suspended or deferred unless the court finds that the imposition of
17 this mandatory minimum sentence would impose a substantial risk to the
18 offender's physical or mental well-being. Whenever the mandatory
19 minimum sentence is suspended or deferred, the court shall state in
20 writing the reason for granting the suspension or deferral and the
21 facts upon which the suspension or deferral is based; and

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

26 (c) By suspension of the offender's license or permit to drive, or
27 suspension of any nonresident privilege to drive, for a period of not
28 more than one hundred twenty days as determined by the court. The
29 court shall notify the department of licensing of the conviction and of
30 any period of suspension and shall notify the department of the
31 person's completion of any period of suspension. Upon receiving
32 notification of the conviction, or if applicable, upon receiving
33 notification of the completion of any period of suspension, the
34 department shall issue the offender a probationary license in
35 accordance with section 8 of this act.

36 (2) A person whose driver's license is not in a probationary,
37 suspended, or revoked status, and who has not been convicted of a
38 violation of RCW 46.61.502 or 46.61.504 that was committed within five
39 years before the commission of the current violation, and who either:

1 (a) Violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an
2 alcohol concentration of 0.15 or more; or

3 (b) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c)
4 and, because of the person's refusal to take a test offered pursuant to
5 RCW 46.20.308, there is no test result indicating the person's alcohol
6 concentration, is guilty of a gross misdemeanor and shall be punished
7 as follows:

8 (i) By imprisonment for not less than seven days nor more than one
9 year. Seven consecutive days of the imprisonment may not be suspended
10 or deferred unless the court finds that the imposition of this
11 mandatory minimum sentence would impose a substantial risk to the
12 offender's physical or mental well-being. Whenever the mandatory
13 minimum sentence is suspended or deferred, the court shall state in
14 writing the reason for granting the suspension or deferral and the
15 facts upon which the suspension or deferral is based; and

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

20 (iii) By suspension of the offender's license or permit to drive,
21 or suspension of any nonresident privilege to drive, for a period of
22 not less than ninety days nor more than one hundred eighty days as
23 determined by the court. Ninety days of the suspension may not be
24 suspended or deferred. The court shall notify the department of any
25 period of suspension and shall notify the department of the completion
26 of any period of suspension. Upon receiving notification of the
27 conviction, or if applicable, upon receiving notification of the
28 completion of any period of suspension, the department shall issue the
29 offender a probationary license in accordance with section 8 of this
30 act.

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

35 (4) Upon conviction under this section, the offender's driver's
36 license is deemed to be in a probationary status for five years from
37 the date of the offense, unless before the expiration of the five years
38 the license is suspended or revoked for some other violation of law.
39 Being on probationary status does not authorize a person to drive

1 during any period of license suspension imposed as a penalty for the
2 infraction.

3 (5) An offender punishable under this section is subject to the
4 alcohol assessment and treatment provisions of section 9 of this act.

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

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

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

37 NEW SECTION. **Sec. 5.** A new section is added to chapter 46.61 RCW
38 to read as follows:

1 (1) A person whose driver's license is in a probationary status and
2 who violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an
3 alcohol concentration of at least 0.10 but less than 0.15 is guilty of
4 a gross misdemeanor and shall be punished as follows:

5 (a) By imprisonment for not less than seven days nor more than one
6 year. Seven consecutive days of the imprisonment may not be suspended
7 or deferred unless the court finds that the imposition of this
8 mandatory minimum sentence would pose a substantial risk to the
9 offender's physical or mental well-being. Whenever the mandatory
10 minimum sentence is suspended or deferred, the court shall state in
11 writing the reason for granting the suspension or deferral and the
12 facts upon which the suspension or deferral is based; and

13 (b) By a fine of not less than six hundred dollars nor more than
14 five thousand dollars. Six hundred dollars of the fine may not be
15 suspended or deferred unless the court finds the offender to be
16 indigent; and

17 (c) By suspension of the offender's license or permit to drive, or
18 suspension of any nonresident privilege to drive, for a period of not
19 less than one hundred twenty days nor more than one year as determined
20 by the court. One hundred twenty days of the suspension may not be
21 suspended or deferred. The court shall notify the department of the
22 imposition of any period of suspension and of the completion of any
23 period of suspension. Upon receiving notification of the completion of
24 the imposed period of suspension, the department shall issue the
25 offender a probationary license in accordance with section 8 of this
26 act.

27 (2) A person whose driver's license is in a probationary status and
28 who either:

29 (a) Violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an
30 alcohol concentration of 0.15 or more; or

31 (b) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c)
32 and, because of the person's refusal to take a test offered pursuant to
33 RCW 46.20.308, there is no test result indicating the person's alcohol
34 concentration, is guilty of a gross misdemeanor and shall be punished
35 as follows:

36 (i) By imprisonment for not less than seven days nor more than one
37 year. Seven consecutive days of the imprisonment may not be suspended
38 or deferred unless the court finds that the imposition of this
39 mandatory minimum sentence would pose a risk to the offender's physical

1 or mental well-being. Whenever the mandatory minimum sentence is
2 suspended or deferred, the court shall state in writing the reason for
3 granting the suspension or deferral and the facts upon which the
4 suspension or deferral is based; and

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

9 (iii) By revocation of the offender's license or permit to drive or
10 of any nonresident privilege to drive, for a period of not less than
11 one year nor more than two years as determined by the court. One year
12 of the revocation may not be suspended or deferred. The court shall
13 notify the department of the period of revocation and shall notify the
14 department upon the completion of the period of revocation. Upon
15 receiving notification of the completion of the imposed period of
16 revocation and upon determining that the offender is otherwise
17 qualified in accordance with RCW 46.20.311, the department shall issue
18 the offender a probationary license in accordance with section 8 of
19 this act.

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

24 (4) An offender punishable under this section is subject to the
25 alcohol assessment and treatment provisions of section 9 of this act.
26 An offender punishable under subsection (1) or (2) of this section is
27 subject to the vehicle seizure and forfeiture provisions of RCW
28 46.61.511. No offender punishable under this section is eligible for
29 an occupational license under RCW 46.20.391.

30 (5)(a) In addition to any nonsuspendable and nondeferrable jail
31 sentence required by this section, whenever the court imposes less than
32 one year in jail, the court shall also suspend but shall not defer a
33 period of confinement for a period not exceeding two years. The court
34 shall impose conditions of probation that include: (i) Not driving a
35 motor vehicle within this state without a valid license to drive and
36 proof of financial responsibility for the future; (ii) not driving a
37 motor vehicle within this state while having an alcohol concentration
38 of 0.08 or more within two hours after driving; and (iii) not refusing
39 to submit to a test of his or her breath or blood to determine alcohol

1 concentration upon request of a law enforcement officer who has
2 reasonable grounds to believe the person was driving or was in actual
3 physical control of a motor vehicle within this state while under the
4 influence of intoxicating liquor. The court may impose conditions of
5 probation that include nonrepetition, alcohol or drug treatment,
6 supervised probation, or other conditions that may be appropriate. The
7 sentence may be imposed in whole or in part upon violation of a
8 condition of probation during the suspension period.

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

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

23 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.61 RCW
24 to read as follows:

25 (1) A person who violates RCW 46.61.502 or 46.61.504 and who either
26 has a driver's license in a suspended or revoked status or who has been
27 convicted under section 5 of this act or RCW 46.61.502 or 46.61.504 of
28 an offense that was committed within five years before the commission
29 of the current violation, is guilty of a gross misdemeanor and shall be
30 punished as follows:

31 (a) By imprisonment for not less than ninety days nor more than one
32 year. Ninety consecutive days of the imprisonment may not be suspended
33 or deferred unless the court finds that the imposition of this
34 mandatory minimum sentence would pose a substantial risk to the
35 offender's physical or mental well-being. Whenever the mandatory
36 minimum sentence is suspended or deferred, the court shall state in
37 writing the reason for granting the suspension or deferral and the
38 facts upon which the suspension or deferral is based; and

1 (b) By a fine of not less than seven hundred fifty dollars nor more
2 than five thousand dollars. Seven hundred fifty dollars of the fine
3 may not be suspended or deferred unless the court finds the offender to
4 be indigent; and

5 (c) By revocation by the department of licensing of the offender's
6 license or permit to drive or of any nonresident privilege to drive,
7 for a period of two years. The revocation of license, permit, or
8 privilege may not be suspended or deferred. The court shall notify the
9 department of the revocation. Following the revocation and upon
10 determining that the offender is otherwise qualified in accordance with
11 RCW 46.20.311, the department shall issue the offender a probationary
12 license in accordance with section 8 of this act.

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

17 (3) An offender punishable under this section is subject to the
18 alcohol assessment and treatment provisions of section 9 of this act.
19 An offender punishable under this section is subject to the vehicle
20 seizure and forfeiture provisions of RCW 46.61.511. No offender
21 punishable under this section is eligible for an occupational license
22 under RCW 46.20.391.

23 (4)(a) In addition to any nonsuspendable and nondeferrable jail
24 sentence required by this section, whenever the court imposes less than
25 one year in jail, the court shall also suspend but shall not defer a
26 period of confinement for a period not exceeding two years. The court
27 shall impose conditions of probation that include: (i) Not driving a
28 motor vehicle within this state without a valid license to drive and
29 proof of financial responsibility for the future; (ii) not driving a
30 motor vehicle within this state while having an alcohol concentration
31 of 0.08 or more within two hours after driving; and (iii) not refusing
32 to submit to a test of his or her breath or blood to determine alcohol
33 concentration upon request of a law enforcement officer who has
34 reasonable grounds to believe the person was driving or was in actual
35 physical control of a motor vehicle within this state while under the
36 influence of intoxicating liquor. The court may impose conditions of
37 probation that include nonrepetition, alcohol or drug treatment,
38 supervised probation, or other conditions that may be appropriate. The

1 sentence may be imposed in whole or in part upon violation of a
2 condition of probation during the suspension period.

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

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

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.61 RCW
18 to read as follows:

19 (1)(a) In addition to penalties set forth in sections 4 through 6
20 of this act, a one hundred twenty-five dollar fee shall be assessed to
21 a person who is either convicted, sentenced to a lesser charge, or
22 given deferred prosecution, as a result of an arrest for violating RCW
23 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the
24 purpose of funding the Washington state toxicology laboratory and the
25 Washington state patrol breath test program.

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

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

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

1 (a) Forty percent shall be subject to distribution under RCW
2 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

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

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

12 **PART II - PROBATIONARY LICENSES**

13 NEW SECTION. **Sec. 8.** A new section is added to chapter 46.61 RCW
14 to read as follows:

15 (1) Upon notification of a conviction under RCW 46.61.502 or
16 46.61.504 for which the issuance of a probationary driver's license is
17 required, or upon receipt of an abstract indicating a deferred
18 prosecution has been granted under RCW 10.05.060, the department of
19 licensing shall order the person to surrender his or her license. The
20 department shall revoke the license of any person who fails to
21 surrender it as required by this section.

22 (2) Upon receipt of the surrendered license, and following the
23 expiration of any period of license suspension ordered by a court, or
24 following receipt of a sworn statement under section 12 of this act
25 that requires issuance of a probationary license, the department shall
26 issue the person a probationary license. The probationary license
27 shall be renewed on the same cycle as the person's regular license
28 would have been renewed until five years after the date of the
29 commission of the most recent offense for which a probationary license
30 is being issued, at which time the department shall reissue a regular
31 license if the person otherwise qualifies for one.

32 (3) For each issue or reissue of a license under this section, the
33 department may charge the fee authorized under RCW 46.20.311 for the
34 reissuance of a license following a revocation for a violation of RCW
35 46.61.502 or 46.61.504.

36 (4) A probationary license shall enable the department and law
37 enforcement personnel to determine that the person is on probationary

1 status, including the period of that status, for a violation of RCW
2 46.61.502 or 46.61.504 or section 12 of this act. That fact that a
3 person has been issued a probationary license shall not be a part of
4 the person's record that is available to insurance companies.

5 **PART III - ASSESSMENT AND TREATMENT**

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 46.61 RCW
7 to read as follows:

8 (1) A person subject to alcohol assessment and treatment under
9 section 4, 5, or 6 of this act shall be required by the court to
10 complete a course in an alcohol information school approved by the
11 department of social and health services or to complete more intensive
12 treatment in a program approved by the department of social and health
13 services, as determined by the court. The court shall notify the
14 department of licensing whenever it orders a person to complete a
15 course or treatment program under this section.

16 (2) A diagnostic evaluation and treatment recommendation shall be
17 prepared under the direction of the court by an alcoholism agency
18 approved by the department of social and health services or a qualified
19 probation department approved by the department of social and health
20 services. A copy of the report shall be forwarded to the department of
21 licensing. Based on the diagnostic evaluation, the court shall
22 determine whether the person shall be required to complete a course in
23 an alcohol information school approved by the department of social and
24 health services or more intensive treatment in a program approved by
25 the department of social and health services.

26 (3) Standards for approval for alcohol treatment programs shall be
27 prescribed by the department of social and health services. The
28 department of social and health services shall periodically review the
29 costs of alcohol information schools and treatment programs.

30 (4) The department of social and health services shall require as
31 a condition of approval under this section that any agency that offers
32 outpatient treatment must provide all phases of such treatment as
33 determined by the department of social and health services.

34 (5) Any agency that provides treatment ordered under section 4, 5,
35 or 6 of this act, shall immediately report to the court and to the
36 department of licensing any noncompliance by a person with the
37 conditions of his or her ordered treatment. The court shall notify the

1 department of licensing and the department of social and health
2 services of any failure by an agency to so report noncompliance. Any
3 agency with knowledge of noncompliance that fails to so report shall be
4 fined two hundred fifty dollars by the department of social and health
5 services. Upon three such failures by an agency within one year, the
6 department of social and health services shall revoke the agency's
7 approval under this section.

8 (6) The department of licensing and the department of social and
9 health services may adopt such rules as are necessary to carry out this
10 section.

11 **PART IV - ADMINISTRATIVE REVOCATION**

12 NEW SECTION. **Sec. 10.** A new section is added to chapter 46.20 RCW
13 to read as follows:

14 (1) Notwithstanding any other provision of this title, a person
15 under the age of twenty-one may not drive, operate, or be in physical
16 control of a motor vehicle while having alcohol in his or her system in
17 a concentration of 0.02 or above.

18 (2) A person under the age of twenty-one who drives or is in
19 physical control of a motor vehicle within this state is deemed to have
20 given consent, subject to the relevant portions of RCW 46.61.506, to be
21 detained long enough, and be transported if necessary, to take a test
22 or tests of that person's blood or breath for the purpose of
23 determining the alcohol concentration in his or her system.

24 (3) A test or tests may be administered at the direction of a law
25 enforcement officer, who after stopping or detaining the driver, has
26 reasonable grounds to believe that the driver was driving or in actual
27 physical control of a motor vehicle while having alcohol in his or her
28 system.

29 (4) The law enforcement officer requesting the test or tests under
30 subsection (2) of this section shall warn the person requested to
31 submit to the test that a refusal to submit will result in that
32 person's driver's license or driving privilege being revoked.

33 (5) If the person refuses testing, or submits to a test that
34 discloses an alcohol concentration of 0.02 or more, the law enforcement
35 officer shall:

1 (a) Serve the person notice in writing on behalf of the department
2 of licensing of its intention to suspend, revoke, or deny the person's
3 license, permit, or privilege to drive;

4 (b) Serve the person notice in writing on behalf of the department
5 of licensing of the person's right to a hearing, specifying the steps
6 required to obtain a hearing;

7 (c) Confiscate the person's Washington state license or permit to
8 drive, if any, and issue a temporary license to replace any confiscated
9 license or permit. The temporary license shall be valid for thirty
10 days from the date of the traffic stop or until the suspension or
11 revocation of the person's license or permit is sustained at a hearing
12 as provided by subsection (7) of this section, whichever occurs first.
13 No temporary license is valid to any greater degree than the license or
14 permit it replaces;

15 (d) Notify the department of licensing of the traffic stop, and
16 transmit to the department any confiscated license or permit and a
17 sworn report stating:

18 (i) That the officer had reasonable grounds to believe the person
19 was driving or in actual physical control of a motor vehicle within
20 this state with alcohol in his or her system;

21 (ii) That pursuant to this section a test of the person's alcohol
22 concentration was administered or that the person refused to be tested;

23 (iii) If administered, that the test indicated the person's alcohol
24 concentration was 0.02 or higher; and

25 (iv) Any other information that the department may require by rule.

26 (6) Upon receipt of the sworn report of a law enforcement officer
27 under subsection (5) of this section, the department shall suspend or
28 revoke the driver's license or driving privilege beginning thirty days
29 from the date of the traffic stop or beginning when the suspension,
30 revocation, or denial is sustained at a hearing as provided by
31 subsection (7) of this section. Within fifteen days after notice of a
32 suspension or revocation has been given, the person may, in writing,
33 request a formal hearing. If such a request is not made within the
34 prescribed time the right to a hearing is waived. Upon receipt of such
35 request, the department shall afford the person an opportunity for a
36 hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall
37 be conducted in the county of the arrest. For the purposes of this
38 section, the hearing shall cover the issues of whether a law
39 enforcement officer had reasonable grounds to believe the person had

1 been driving or was in actual physical control of a motor vehicle
2 within this state while having alcohol in his or her system, whether
3 the person refused to submit to the test or tests upon request of the
4 officer after having been informed that the refusal would result in the
5 revocation of the person's driver's license or driving privilege, and,
6 if the test or tests of the person's breath or blood was administered,
7 whether the results indicated an alcohol concentration of 0.02 or more.
8 The department shall order that the suspension or revocation of the
9 person's driver's license or driving privilege either be rescinded or
10 sustained. Any decision by the department suspending or revoking a
11 person's driver's license or driving privilege is stayed and does not
12 take effect while a formal hearing is pending under this section or
13 during the pendency of a subsequent appeal to superior court so long as
14 there is no conviction for a moving violation or no finding that the
15 person has committed a traffic infraction that is a moving violation
16 during the pendency of the hearing and appeal. If the suspension or
17 revocation of the person's driver's license or driving privilege is
18 sustained after the hearing, the person may file a petition in the
19 superior court of the county of arrest to review the final order of
20 suspension or revocation by the department in the manner provided in
21 RCW 46.20.334.

22 (7) The department shall suspend or revoke the driver's license or
23 driving privilege of a person as required by this section as follows:

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

25 (i) For a first refusal within five years, revocation for one year;

26 (ii) For a second or subsequent refusal within five years,
27 revocation or denial for two years.

28 (b) In the case of an incident where a person has submitted to a
29 test or tests indicating an alcohol concentration of 0.02 or more:

30 (i) For a first incident within five years, suspension for ninety
31 days;

32 (ii) For a second or subsequent incident within five years,
33 revocation for one year or until the person reaches age twenty-one
34 whichever occurs later.

35 (8) For purposes of this section, "alcohol concentration" means (a)
36 grams of alcohol per two hundred ten liters of a person's breath, or
37 (b) the percent by weight of alcohol in a person's blood.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 46.61 RCW
2 to read as follows:

3 (1) Any person requested or signaled to stop by a law enforcement
4 officer pursuant to section 10 of this act has a duty to stop.

5 (2) Whenever any person is stopped pursuant to section 10 of this
6 act, the officer may detain that person for a reasonable period of time
7 necessary to: Identify the person; check the status of the person's
8 license, insurance identification card, and the vehicle's registration;
9 and transport the person, if necessary, to and administer a test or
10 tests to determine the alcohol concentration in the person's system.

11 (3) Any person requested to identify himself or herself to a law
12 enforcement officer pursuant to an investigation under section 10 of
13 this act has a duty to identify himself or herself, give his or her
14 current address, and sign an acknowledgement of receipt of the warning
15 required by section 10(4) of this act and receipt of the notice and
16 temporary license issued under section 10(5) of this act.

17 NEW SECTION. **Sec. 12.** A new section is added to chapter 46.61 RCW
18 to read as follows:

19 (1) This section applies to any person arrested for a violation of
20 RCW 46.61.502 or 46.61.504 who has an alcohol concentration of 0.10 or
21 higher as shown by a test administered under RCW 46.20.308.

22 (2) The arresting officer or other law enforcement officer at whose
23 direction the test was given shall:

24 (a) Serve the person notice in writing on behalf of the department
25 of licensing of its intention to suspend, revoke, or deny the person's
26 license, permit, or privilege to drive or to issue a probationary
27 license;

28 (b) Serve the person notice in writing on behalf of the department
29 of the person's right to a hearing, specifying the steps required to
30 obtain a hearing;

31 (c) Confiscate the person's Washington state license or permit to
32 drive, if any, and issue a temporary license to replace any confiscated
33 license or permit. The temporary license shall be valid for thirty
34 days from the date of arrest or until the suspension or revocation of
35 the person's license or permit, or the issuance of a probationary
36 license, is sustained at a hearing pursuant to subsection (5) of this
37 section, whichever occurs first. If the person has not within the
38 previous five years committed an offense for which he or she was

1 granted a deferred prosecution under chapter 10.05 RCW, and within
2 thirty days of the arrest the person petitions a court for a deferred
3 prosecution on criminal charges arising out of the arrest, the court
4 shall direct the department to extend the period of the temporary
5 license by at least an additional thirty days but not more than an
6 additional sixty days. If a deferred prosecution treatment plan is not
7 recommended in the report made under RCW 10.05.050, or if treatment is
8 rejected by the court, or if the person declines to accept an offered
9 treatment plan, then the court shall immediately direct the department
10 to cancel any period of extension of the temporary license. No
11 temporary license is valid to any greater degree than the license or
12 permit it replaces;

13 (d) Notify the department of the arrest, and transmit to the
14 department any confiscated license or permit and a sworn report
15 stating:

16 (i) That the officer had reasonable grounds to believe the arrested
17 person was driving or in actual physical control of a motor vehicle
18 within this state while under the influence of intoxicating liquor or
19 drug, or both;

20 (ii) That pursuant to RCW 46.20.308 a test of the person's alcohol
21 concentration was administered;

22 (iii) That the test indicated that the person's alcohol
23 concentration was 0.10 or higher; and

24 (iv) Any other information that the department may require by rule.

25 (3) Upon receipt of a sworn statement under subsection (2) of this
26 section, the department shall suspend, revoke, or deny the person's
27 license, permit, or driving privilege, or shall issue a probationary
28 license, effective beginning thirty days from the date of the arrest or
29 beginning when the suspension, revocation, denial, or issuance is
30 sustained at a hearing pursuant to subsection (5) of this section,
31 whichever occurs first. The suspension, revocation, or denial, or
32 issuance of a probationary license, shall be as follows:

33 (a) Upon receipt of a first sworn statement, issuance of a
34 probationary license under section 8 of this act;

35 (b) Upon receipt of a second or subsequent statement indicating an
36 arrest date that is within five years of the arrest date indicated by
37 a previous statement, revocation for two years.

38 (4) A person receiving notification under subsection (2) of this
39 section may, within five days after his or her arrest, request a

1 hearing before the department under subsection (5) of this section.
2 The request shall be in writing. The person shall pay a fee of one
3 hundred dollars as part of the request. If the request is mailed, it
4 must be postmarked within five days after the arrest.

5 (5) Upon timely receipt of a request and a one hundred dollar fee
6 under subsection (4) of this section, the department shall afford the
7 person an opportunity for a hearing. Except as otherwise provided in
8 this section, the hearing is subject to and shall be scheduled and
9 conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing
10 shall be conducted in the county of arrest, except that all or part of
11 the hearing may, at the discretion of the department, be conducted by
12 telephone or other electronic means. The hearing shall be held within
13 thirty days following the arrest, unless otherwise agreed to by the
14 department and the person. The hearing shall cover the issues of:

15 (a) Whether the law enforcement officer had reasonable grounds to
16 believe the person was driving or in actual physical control of a motor
17 vehicle within this state while under the influence of intoxicating
18 liquor;

19 (b) Whether the test of the person's alcohol concentration was
20 administered in accordance with RCW 46.20.308; and

21 (c) Whether the test indicated that the person's alcohol
22 concentration was 0.10 or higher.

23 (6) If the suspension, revocation, or denial, or issuance of a
24 probationary license, is sustained after a hearing conducted under
25 subsection (5) of this section, the person affected may file a petition
26 in the superior court of the county of arrest seeking review as
27 provided in RCW 46.20.334.

28 (7) The period of any suspension, revocation, or denial imposed
29 under this section shall run consecutively to the period of any
30 suspension, revocation, or denial imposed pursuant to a criminal
31 conviction arising out of the same incident. A suspension, revocation,
32 or denial imposed under this section shall be stayed if the person is
33 accepted for deferred prosecution as provided in chapter 10.05 RCW for
34 the incident upon which the suspension, revocation, or denial is based.
35 If the deferred prosecution is terminated, the stay shall be lifted and
36 the suspension, revocation, or denial reinstated. If the deferred
37 prosecution is completed, the stay shall be lifted and the suspension,
38 revocation, or denial canceled.

1 (8) If the suspension, revocation, denial, or issuance is sustained
2 after such a hearing, the person whose license, privilege, or permit is
3 suspended, revoked, or denied, or who has been issued a probationary
4 license, has the right to file a petition in the superior court of the
5 county of arrest in the same manner as an appeal from a decision of a
6 court of limited jurisdiction. The appellant must pay the costs
7 associated with obtaining the record of the hearing before the hearing
8 officer. A court may stay the suspension, revocation, or denial if it
9 finds that the appellant is likely to prevail in the appeal and that
10 without a stay the appellant will suffer irreparable injury. If the
11 court stays the suspension, revocation, or denial, it may impose
12 conditions on such stay.

13 (9) When it has been finally determined under the procedures of
14 this section that a nonresident's privilege to operate a motor vehicle
15 in this state has been suspended, revoked, or denied, the department
16 shall give information in writing of the action taken to the motor
17 vehicle administrator of the state of the person's residence and of any
18 state in which he or she has a license.

19

PART V - IMPLIED CONSENT

20 **Sec. 13.** RCW 46.20.308 and 1989 c 337 s 8 are each amended to read
21 as follows:

22 (1) Any person who operates a motor vehicle within this state is
23 deemed to have given consent, subject to the provisions of RCW
24 46.61.506, to a test or tests of his or her breath or blood for the
25 purpose of determining the alcoholic content of his or her breath or
26 blood if arrested for any offense where, at the time of the arrest, the
27 arresting officer has reasonable grounds to believe the person had been
28 driving or was in actual physical control of a motor vehicle while
29 under the influence of intoxicating liquor.

30 (2) The test or tests of breath shall be administered at the
31 direction of a law enforcement officer having reasonable grounds to
32 believe the person to have been driving or in actual physical control
33 of a motor vehicle within this state while under the influence of
34 intoxicating liquor. However, in those instances where: (a) The
35 person is incapable due to physical injury, physical incapacity, or
36 other physical limitation, of providing a breath sample; or (b) as a
37 result of a traffic accident the person is being treated for a medical

1 condition in a hospital, clinic, doctor's office, or other similar
2 facility in which a breath testing instrument is not present, a blood
3 test shall be administered by a qualified person as provided in RCW
4 46.61.506(4). The officer shall inform the person (~~(of his or her~~
5 ~~right to refuse the breath or blood test, and)~~) of his or her right to
6 have additional tests administered by any qualified person of his or
7 her choosing as provided in RCW 46.61.506. The officer shall warn the
8 driver (~~(that)~~) (a) that refusal to take the test is a crime punishable
9 by a fine and imprisonment; (b) that his or her privilege to drive will
10 be revoked or denied if he or she refuses to submit to the test(~~(, and~~
11 ~~(b))~~); (c) that the fact of his or her refusal to take the test may be
12 used as evidence in a criminal trial on charges related to driving or
13 being in physical control of a vehicle while under the influence of
14 alcohol; and (d) that if he or she takes the test his or her privilege
15 to drive may be suspended, revoked, or denied depending on the test
16 results.

17 (3) Except as provided in this section, the test administered shall
18 be of the breath only. If an individual is unconscious or is under
19 arrest for the crime of vehicular homicide as provided in RCW 46.61.520
20 or vehicular assault as provided in RCW 46.61.522, or if an individual
21 is under arrest for the crime of driving while under the influence of
22 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest
23 results from an accident in which another person has been injured and
24 there is a reasonable likelihood that such other person may die as a
25 result of injuries sustained in the accident, a breath or blood test
26 may be administered without the consent of the individual so arrested.

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

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

38 (6) Refusal to take a test as requested under this section is a
39 gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

1 Regardless of whether criminal charges are filed, the department of
2 licensing, upon the receipt of a sworn report of the law enforcement
3 officer that the officer had reasonable grounds to believe the arrested
4 person had been driving or was in actual physical control of a motor
5 vehicle within this state while under the influence of intoxicating
6 liquor and that the person had refused to submit to the test or tests
7 upon the request of the law enforcement officer after being informed
8 that refusal would result in the revocation of the person's privilege
9 to drive, shall revoke the person's license or permit to drive or any
10 nonresident operating privilege as follows:

11 (a) Except as otherwise provided in this subsection, for a first
12 refusal for a period of one year;

13 (b) Except as otherwise provided in this subsection, for a second
14 refusal within five years, for a period of two years;

15 (c) For a first refusal by a person with a probationary license
16 issued under section 9 of this act, for a period of one year;

17 (d) For a second refusal within five years when the second refusal
18 occurs while the person has a probationary license issued under section
19 9 of this act, for a period of three years;

20 (e) For a first refusal by a person on suspended or revoked status,
21 for a period of two years;

22 (f) For a second refusal within five years by a person on suspended
23 or revoked status, for a period of three years.

24 (7) Upon revoking the license or permit to drive or the nonresident
25 operating privilege of any person, the department shall immediately
26 notify the person involved in writing by personal service or by
27 certified mail of its decision and the grounds therefor, and of the
28 person's right to a hearing, specifying the steps he or she must take
29 to obtain a hearing. Within fifteen days after the notice has been
30 given, the person may, in writing, request a formal hearing. The
31 person shall pay a fee of one hundred dollars as part of the request.
32 Upon receipt of such request and such fee, the department shall afford
33 the person an opportunity for a hearing as provided in RCW 46.20.329
34 and 46.20.332. The hearing shall be conducted in the county of the
35 arrest. For the purposes of this section, the scope of such hearing
36 shall cover the issues of whether a law enforcement officer had
37 reasonable grounds to believe the person had been driving or was in
38 actual physical control of a motor vehicle within this state while
39 under the influence of intoxicating liquor, whether the person was

1 placed under arrest, and whether the person refused to submit to the
2 test or tests upon request of the officer after having been informed
3 that such refusal would result in the revocation of the person's
4 privilege to drive. The department shall order that the revocation
5 either be rescinded or sustained. Any decision by the department
6 revoking a person's driving privilege shall be stayed and shall not
7 take effect while a formal hearing is pending as provided in this
8 section or during the pendency of a subsequent appeal to superior court
9 so long as there is no conviction for a moving violation or no finding
10 that the person has committed a traffic infraction that is a moving
11 violation during pendency of the hearing and appeal.

12 (8) The period of any revocation imposed under this section shall
13 run consecutively to the period of any revocation imposed pursuant to
14 a criminal conviction arising out of the same incident.

15 (9) If the revocation is sustained after such a hearing, the person
16 whose license, privilege, or permit is revoked has the right to file a
17 petition in the superior court of the county of arrest to review the
18 final order of revocation by the department in the manner provided in
19 RCW 46.20.334.

20 ~~((+9))~~ (10) When it has been finally determined under the
21 procedures of this section that a nonresident's privilege to operate a
22 motor vehicle in this state has been revoked, the department shall give
23 information in writing of the action taken to the motor vehicle
24 administrator of the state of the person's residence and of any state
25 in which he or she has a license.

26 **PART VI - DRIVING RECORDS**

27 **Sec. 14.** RCW 46.01.260 and 1984 c 241 s 1 are each amended to read
28 as follows:

29 (1) Except as provided in subsection (2) of this section, the
30 director, in his or her discretion, may destroy applications for
31 vehicle licenses, copies of vehicle licenses issued, applications for
32 drivers' licenses, copies of issued drivers' licenses, certificates of
33 title and registration or other documents, records or supporting papers
34 on file in his or her office which have been microfilmed or
35 photographed or are more than five years old. If the applications for
36 vehicle licenses are renewal applications, the director may destroy
37 such applications when the computer record thereof has been updated.

1 (2)(a) The director shall not, within ten years from the date of
2 conviction, adjudication, or entry of deferred prosecution, destroy
3 records of the following:

4 (i) Convictions or adjudications of the following offenses: RCW
5 46.61.502, 46.61.504, 46.61.520(1)(a), or 46.61.522(1)(b);

6 (ii) If the offense was originally charged as one of the offenses
7 designated in (a)(i) of this subsection, convictions or adjudications
8 of the following offenses: RCW 46.61.500 or 46.61.525, or any other
9 violation that was originally charged as one of the offenses designated
10 in (a)(i) of this subsection; or

11 (iii) Deferred prosecutions granted under RCW 10.05.120.

12 (b) For purposes of RCW 46.52.100 and 46.52.130, offenses subject
13 to this subsection shall be considered "alcohol-related" offenses.

14 **Sec. 15.** RCW 46.52.100 and 1991 c 363 s 123 are each amended to
15 read as follows:

16 Every district court, municipal court, and clerk of superior court
17 shall keep or cause to be kept a record of every traffic complaint,
18 traffic citation, notice of infraction, or other legal form of traffic
19 charge deposited with or presented to the court or a traffic violations
20 bureau, and shall keep a record of every official action by ~~((said))~~
21 the court or its traffic violations bureau in reference thereto,
22 including but not limited to a record of every conviction, forfeiture
23 of bail, judgment of acquittal, finding that a traffic infraction has
24 been committed, dismissal of a notice of infraction, and the amount of
25 fine, forfeiture, or penalty resulting from every ~~((said))~~ traffic
26 complaint, citation, or notice of infraction deposited with or
27 presented to the district court, municipal court, superior court, or
28 traffic violations bureau.

29 The Monday following the conviction, forfeiture of bail, or finding
30 that a traffic infraction was committed for violation of any provisions
31 of this chapter or other law regulating the operating of vehicles on
32 highways, every ~~((said))~~ magistrate of the court or clerk of the court
33 of record in which such conviction was had, bail was forfeited, or the
34 finding made shall prepare and immediately forward to the director of
35 licensing at Olympia an abstract of the record of ~~((said))~~ the court
36 covering the case, which abstract must be certified by the person so
37 required to prepare the same to be true and correct. Report need not

1 be made of any finding involving the illegal parking or standing of a
2 vehicle.

3 ((Said)) The abstract must be made upon a form furnished by the
4 director and shall include the name and address of the party charged,
5 the number, if any, of the party's driver's or chauffeur's license, the
6 registration number of the vehicle involved, the nature of the offense,
7 the date of hearing, the plea, the judgment, whether the offense was an
8 alcohol-related offense as defined in RCW 46.01.260(2), whether bail
9 forfeited, whether the determination that a traffic infraction was
10 committed was contested, and the amount of the fine, forfeiture, or
11 penalty as the case may be.

12 Every court of record shall also forward a like report to the
13 director upon the conviction of any person of manslaughter or other
14 felony in the commission of which a vehicle was used.

15 The failure of any such judicial officer to comply with any of the
16 requirements of this section shall constitute misconduct in office and
17 shall be grounds for removal therefrom.

18 The director shall keep all abstracts received hereunder at the
19 director's office in Olympia and the same shall be open to public
20 inspection during reasonable business hours.

21 Venue in all district courts shall be before one of the two nearest
22 district judges in incorporated cities and towns nearest to the point
23 the violation allegedly occurred: PROVIDED, That in counties with
24 populations of one hundred twenty-five thousand or more such cases may
25 be tried in the county seat at the request of the defendant.

26 It shall be the duty of the officer, prosecuting attorney, or city
27 attorney signing the charge or information in any case involving a
28 charge of driving under the influence of intoxicating liquor or any
29 drug immediately to make request to the director for an abstract of
30 convictions and forfeitures which the director shall furnish.

31 **Sec. 16.** RCW 46.52.130 and 1991 c 243 s 1 are each amended to read
32 as follows:

33 A certified abstract of the driving record shall be furnished only
34 to the individual named in the abstract, an employer, the insurance
35 carrier that has insurance in effect covering the employer or a
36 prospective employer, the insurance carrier that has insurance in
37 effect covering the named individual, the insurance carrier to which
38 the named individual has applied, ((or)) an alcohol/drug assessment or

1 treatment agency approved by the department of social and health
2 services, to which the named individual has applied or been assigned
3 for evaluation or treatment, or city and county prosecuting attorneys.
4 City attorneys and county prosecuting attorneys may provide the driving
5 record to alcohol/drug assessment or treatment agencies approved by the
6 department of social and health services to which the named individual
7 has applied or been assigned for evaluation or treatment. The
8 director, upon proper request, shall furnish a certified abstract
9 covering the period of not more than the last three years to insurance
10 companies(~~(, and)~~). Upon proper request, the director shall furnish a
11 certified abstract covering a period of not more than the last five
12 years to state approved alcohol/drug assessment or treatment agencies,
13 except that the certified abstract shall also include records of
14 alcohol-related offenses as defined in RCW 46.01.260(2) covering a
15 period of not more than the last ten years. Upon proper request, a
16 certified abstract of the full driving record maintained by the
17 department shall be furnished to a city or county prosecuting attorney,
18 to the individual(~~(s and)~~) named in the abstract or to an employer(~~(s)~~)
19 or prospective employer(~~(s)~~) of the named individual. The abstract,
20 whenever possible, shall include an enumeration of motor vehicle
21 accidents in which the person was driving; the total number of vehicles
22 involved; whether the vehicles were legally parked or moving; whether
23 the vehicles were occupied at the time of the accident; any reported
24 convictions, forfeitures of bail, or findings that an infraction was
25 committed based upon a violation of any motor vehicle law; and the
26 status of the person's driving privilege in this state. The
27 enumeration shall include any reports of failure to appear in response
28 to a traffic citation or failure to respond to a notice of infraction
29 served upon the named individual by an arresting officer. Certified
30 abstracts furnished to prosecutors and alcohol/drug assessment or
31 treatment agencies shall also indicate whether a recorded violation is
32 an alcohol-related offense as defined in RCW 46.01.260(2) that was
33 originally charged as one of the alcohol-related offenses designated in
34 RCW 46.01.260(2)(a)(i).

35 The abstract provided to the insurance company shall exclude any
36 information, except that related to the commission of misdemeanors or
37 felonies by the individual, pertaining to law enforcement officers or
38 fire fighters as defined in RCW 41.26.030, or any officer of the
39 Washington state patrol, while driving official vehicles in the

1 performance of occupational duty. The abstract provided to the
2 insurance company shall exclude any deferred prosecution under RCW
3 10.05.060, except that if a person is removed from a deferred
4 prosecution under RCW 10.05.090, the abstract shall show the deferred
5 prosecution as well as the removal.

6 The director shall collect for each abstract the sum of four
7 dollars and fifty cents which shall be deposited in the highway safety
8 fund.

9 Any insurance company or its agent receiving the certified abstract
10 shall use it exclusively for its own underwriting purposes and shall
11 not divulge any of the information contained in it to a third party.
12 No policy of insurance may be canceled, nonrenewed, denied, or have the
13 rate increased on the basis of such information unless the policyholder
14 was determined to be at fault. No insurance company or its agent for
15 underwriting purposes relating to the operation of commercial motor
16 vehicles may use any information contained in the abstract relative to
17 any person's operation of motor vehicles while not engaged in such
18 employment, nor may any insurance company or its agent for underwriting
19 purposes relating to the operation of noncommercial motor vehicles use
20 any information contained in the abstract relative to any person's
21 operation of commercial motor vehicles.

22 Any employer or prospective employer receiving the certified
23 abstract shall use it exclusively for his or her own purpose to
24 determine whether the licensee should be permitted to operate a
25 commercial vehicle or school bus upon the public highways of this state
26 and shall not divulge any information contained in it to a third party.

27 Any alcohol/drug assessment or treatment agency approved by the
28 department of social and health services receiving the certified
29 abstract shall use it exclusively for the purpose of assisting its
30 employees in making a determination as to what level of treatment, if
31 any, is appropriate. The agency, or any of its employees, shall not
32 divulge any information contained in the abstract to a third party.

33 Any violation of this section is a gross misdemeanor.

34 **PART VII - DEFERRED PROSECUTION**

35 **Sec. 17.** RCW 10.05.060 and 1990 c 250 s 13 are each amended to
36 read as follows:

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

23 **Sec. 18.** RCW 10.05.090 and 1985 c 352 s 12 are each amended to
24 read as follows:

25 If a petitioner, who has been accepted for a deferred prosecution,
26 fails or neglects to carry out and fulfill any term or condition of the
27 petitioner's treatment plan, the facility, center, institution, or
28 agency administering the treatment shall immediately report such breach
29 to the court, the prosecutor, and the petitioner or petitioner's
30 attorney of record, together with its recommendation. The court upon
31 receiving such a report shall hold a hearing to determine whether the
32 petitioner should be removed from the deferred prosecution program. At
33 the hearing, evidence shall be taken of the petitioner's alleged
34 failure to comply with the treatment plan and the petitioner shall have
35 the right to present evidence on his or her own behalf. The court
36 shall either order that the petitioner continue on the treatment plan
37 or be removed from deferred prosecution. If removed from deferred
38 prosecution, the court shall enter judgment pursuant to RCW 10.05.020

1 and, if the charge for which the deferred prosecution was granted was
2 a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the
3 department of licensing of the removal and entry of judgment.

4 **Sec. 19.** RCW 10.05.120 and 1985 c 352 s 15 are each amended to
5 read as follows:

6 Upon proof of successful completion of the two-year treatment
7 program, the court shall dismiss the charges pending against the
8 petitioner.

9 ~~((Five years from the date of the court's approval of a deferred
10 prosecution program for an individual petitioner, those entries that
11 remain in the department of licensing records relating to such
12 petitioner shall be removed. A deferred prosecution may be considered
13 for enhancement purposes when imposing mandatory penalties and
14 suspensions under RCW 46.61.515 for subsequent offenses within a five-
15 year period.))~~

16 **PART VIII - VEHICULAR HOMICIDE**

17 **Sec. 20.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are
18 each reenacted and amended to read as follows:

19 **TABLE 2**
20 **CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL**

21	XV	Aggravated Murder 1 (RCW 10.95.020)
22	XIV	Murder 1 (RCW 9A.32.030)
23		Homicide by abuse (RCW 9A.32.055)
24	XIII	Murder 2 (RCW 9A.32.050)
25	XII	Assault 1 (RCW 9A.36.011)
26		Assault of a Child 1 (RCW 9A.36.120)
27	XI	Rape 1 (RCW 9A.44.040)
28		Rape of a Child 1 (RCW 9A.44.073)
29	X	Kidnapping 1 (RCW 9A.40.020)
30		Rape 2 (RCW 9A.44.050)
31		Rape of a Child 2 (RCW 9A.44.076)

1 Child Molestation 1 (RCW 9A.44.083)
2 Damaging building, etc., by explosion with
3 threat to human being (RCW
4 70.74.280(1))
5 Over 18 and deliver heroin or narcotic
6 from Schedule I or II to someone
7 under 18 (RCW 69.50.406)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 IX Assault of a Child 2 (RCW 9A.36.130)
11 Robbery 1 (RCW 9A.56.200)
12 Manslaughter 1 (RCW 9A.32.060)
13 Explosive devices prohibited (RCW
14 70.74.180)
15 Indecent Liberties (with forcible
16 compulsion) (RCW 9A.44.100(1)(a))
17 Endangering life and property by
18 explosives with threat to human being
19 (RCW 70.74.270)
20 Over 18 and deliver narcotic from Schedule
21 III, IV, or V or a nonnarcotic from
22 Schedule I-V to someone under 18 and
23 3 years junior (RCW 69.50.406)
24 Controlled Substance Homicide (RCW
25 69.50.415)
26 Sexual Exploitation (RCW 9.68A.040)
27 Inciting Criminal Profiteering (RCW
28 9A.82.060(1)(b))
29 Vehicular Homicide, by being under the
30 influence of intoxicating liquor or
31 any drug (RCW 46.61.520)
32 VIII Arson 1 (RCW 9A.48.020)
33 Promoting Prostitution 1 (RCW 9A.88.070)
34 Selling for profit (controlled or
35 counterfeit) any controlled substance
36 (RCW 69.50.410)

1 Manufacture, deliver, or possess with
2 intent to deliver heroin or cocaine
3 (RCW 69.50.401(a)(1)(i))
4 Manufacture, deliver, or possess with
5 intent to deliver methamphetamine
6 (RCW 69.50.401(a)(1)(ii))
7 Vehicular Homicide, (~~by being under the~~
8 ~~influence of intoxicating liquor or~~
9 ~~any drug or~~) by the operation of any
10 vehicle in a reckless manner (RCW
11 46.61.520)

12 VII Burglary 1 (RCW 9A.52.020)
13 Vehicular Homicide, by disregard for the
14 safety of others (RCW 46.61.520)
15 Introducing Contraband 1 (RCW 9A.76.140)
16 Indecent Liberties (without forcible
17 compulsion) (RCW 9A.44.100(1) (b) and
18 (c))
19 Child Molestation 2 (RCW 9A.44.086)
20 Dealing in depictions of minor engaged in
21 sexually explicit conduct (RCW
22 9.68A.050)
23 Sending, bringing into state depictions of
24 minor engaged in sexually explicit
25 conduct (RCW 9.68A.060)
26 Involving a minor in drug dealing (RCW
27 69.50.401(f))

28 VI Bribery (RCW 9A.68.010)
29 Manslaughter 2 (RCW 9A.32.070)
30 Rape of a Child 3 (RCW 9A.44.079)
31 Intimidating a Juror/Witness (RCW
32 9A.72.110, 9A.72.130)
33 Damaging building, etc., by explosion with
34 no threat to human being (RCW
35 70.74.280(2))
36 Endangering life and property by
37 explosives with no threat to human
38 being (RCW 70.74.270)

1 Incest 1 (RCW 9A.64.020(1))
2 Manufacture, deliver, or possess with
3 intent to deliver narcotics from
4 Schedule I or II (except heroin or
5 cocaine) (RCW 69.50.401(a)(1)(i))
6 Intimidating a Judge (RCW 9A.72.160)
7 Bail Jumping with Murder 1 (RCW
8 9A.76.170(2)(a))

9 V Criminal Mistreatment 1 (RCW 9A.42.020)
10 Rape 3 (RCW 9A.44.060)
11 Sexual Misconduct with a Minor 1 (RCW
12 9A.44.093)
13 Child Molestation 3 (RCW 9A.44.089)
14 Kidnapping 2 (RCW 9A.40.030)
15 Extortion 1 (RCW 9A.56.120)
16 Incest 2 (RCW 9A.64.020(2))
17 Perjury 1 (RCW 9A.72.020)
18 Extortionate Extension of Credit (RCW
19 9A.82.020)
20 Advancing money or property for
21 extortionate extension of credit (RCW
22 9A.82.030)
23 Extortionate Means to Collect Extensions
24 of Credit (RCW 9A.82.040)
25 Rendering Criminal Assistance 1 (RCW
26 9A.76.070)
27 Bail Jumping with class A Felony (RCW
28 9A.76.170(2)(b))
29 Delivery of imitation controlled substance
30 by person eighteen or over to person
31 under eighteen (RCW 69.52.030(2))

32 IV Residential Burglary (RCW 9A.52.025)
33 Theft of Livestock 1 (RCW 9A.56.080)
34 Robbery 2 (RCW 9A.56.210)
35 Assault 2 (RCW 9A.36.021)
36 Escape 1 (RCW 9A.76.110)
37 Arson 2 (RCW 9A.48.030)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090, 9A.72.100)
3 Malicious Harassment (RCW 9A.36.080)
4 Threats to Bomb (RCW 9.61.160)
5 Willful Failure to Return from Furlough
6 (RCW 72.66.060)
7 Hit and Run « Injury Accident (RCW
8 46.52.020(4))
9 Vehicular Assault (RCW 46.61.522)
10 Manufacture, deliver, or possess with
11 intent to deliver narcotics from
12 Schedule III, IV, or V or
13 nonnarcotics from Schedule I-V
14 (except marijuana or
15 methamphetamines) (RCW
16 69.50.401(a)(1)(ii) through (iv))
17 Influencing Outcome of Sporting Event (RCW
18 9A.82.070)
19 Use of Proceeds of Criminal Profiteering
20 (RCW 9A.82.080 (1) and (2))
21 Knowingly Trafficking in Stolen Property
22 (RCW 9A.82.050(2))

23 III Criminal mistreatment 2 (RCW 9A.42.030)
24 Extortion 2 (RCW 9A.56.130)
25 Unlawful Imprisonment (RCW 9A.40.040)
26 Assault 3 (RCW 9A.36.031)
27 Assault of a Child 3 (RCW 9A.36.140)
28 Custodial Assault (RCW 9A.36.100)
29 Unlawful possession of firearm or pistol by felon (RCW
30 9.41.040)
31 Harassment (RCW 9A.46.020)
32 Promoting Prostitution 2 (RCW 9A.88.080)
33 Willful Failure to Return from Work
34 Release (RCW 72.65.070)
35 Burglary 2 (RCW 9A.52.030)
36 Introducing Contraband 2 (RCW 9A.76.150)
37 Communication with a Minor for Immoral
38 Purposes (RCW 9.68A.090)

1 Patronizing a Juvenile Prostitute (RCW
2 9.68A.100)
3 Escape 2 (RCW 9A.76.120)
4 Perjury 2 (RCW 9A.72.030)
5 Bail Jumping with class B or C Felony (RCW
6 9A.76.170(2)(c))
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Tampering with a Witness (RCW 9A.72.120)
10 Manufacture, deliver, or possess with
11 intent to deliver marijuana (RCW
12 69.50.401(a)(1)(ii))
13 Delivery of a material in lieu of a
14 controlled substance (RCW
15 69.50.401(c))
16 Manufacture, distribute, or possess with
17 intent to distribute an imitation
18 controlled substance (RCW
19 69.52.030(1))
20 Recklessly Trafficking in Stolen Property
21 (RCW 9A.82.050(1))
22 Theft of livestock 2 (RCW 9A.56.080)
23 Securities Act violation (RCW 21.20.400)
24 II Malicious Mischief 1 (RCW 9A.48.070)
25 Possession of Stolen Property 1 (RCW
26 9A.56.150)
27 Theft 1 (RCW 9A.56.030)
28 Possession of controlled substance that is
29 either heroin or narcotics from
30 Schedule I or II (RCW 69.50.401(d))
31 Possession of phencyclidine (PCP) (RCW
32 69.50.401(d))
33 Create, deliver, or possess a counterfeit
34 controlled substance (RCW
35 69.50.401(b))

1 Computer Trespass 1 (RCW 9A.52.110)
2 Reckless Endangerment 1 (RCW 9A.36.045)
3 Escape from Community Custody (RCW
4 72.09.310)

5 I Theft 2 (RCW 9A.56.040)
6 Possession of Stolen Property 2 (RCW
7 9A.56.160)
8 Forgery (RCW 9A.60.020)
9 Taking Motor Vehicle Without Permission
10 (RCW 9A.56.070)
11 Vehicle Prowl 1 (RCW 9A.52.095)
12 Attempting to Elude a Pursuing Police
13 Vehicle (RCW 46.61.024)
14 Malicious Mischief 2 (RCW 9A.48.080)
15 Reckless Burning 1 (RCW 9A.48.040)
16 Unlawful Issuance of Checks or Drafts (RCW
17 9A.56.060)
18 Unlawful Use of Food Stamps (RCW 9.91.140
19 (2) and (3))
20 False Verification for Welfare (RCW
21 74.08.055)
22 Forged Prescription (RCW 69.41.020)
23 Forged Prescription for a Controlled
24 Substance (RCW 69.50.403)
25 Possess Controlled Substance that is a
26 Narcotic from Schedule III, IV, or V
27 or Non-narcotic from Schedule I-V
28 (except phencyclidine) (RCW
29 69.50.401(d))

30 **PART IX - INTERLOCK**

31 **Sec. 21.** RCW 46.20.710 and 1987 c 247 s 1 are each amended to read
32 as follows:

33 The legislature finds and declares:

34 (1) There is a need to reduce the incidence of drivers on the
35 highways and roads of this state who, because of their use,

1 consumption, or possession of alcohol, pose a danger to the health and
2 safety of other drivers;

3 (2) One method of dealing with the problem of drinking drivers is
4 to discourage the use of motor vehicles by persons who possess or have
5 consumed alcoholic beverages;

6 (3) The installation of an ignition interlock breath alcohol device
7 or other biological or technical device will provide a means of
8 deterring the use of motor vehicles by persons who have consumed
9 alcoholic beverages;

10 (4) Ignition interlock and other biological and technical devices
11 are designed to supplement other methods of punishment that prevent
12 drivers from using a motor vehicle after using, possessing, or
13 consuming alcohol;

14 (5) It is economically and technically feasible to have an ignition
15 interlock or other biological or technical device installed in a motor
16 vehicle in such a manner that the vehicle will not start if the
17 operator has recently consumed alcohol.

18 **Sec. 22.** RCW 46.20.720 and 1987 c 247 s 2 are each amended to read
19 as follows:

20 The court may order any person convicted of any offense involving
21 the use, consumption, or possession of alcohol while operating a motor
22 vehicle to drive only a motor vehicle equipped with a functioning
23 ignition interlock or other biological or technical device, and the
24 restriction shall be for a period of not less than six months.

25 The court shall establish a specific calibration setting at which
26 the ignition interlock or other biological or technical device will
27 prevent the motor vehicle from being started and the period of time
28 that the person shall be subject to the restriction.

29 For purposes of this section, "convicted" means being found guilty
30 of an offense or being placed on a deferred prosecution program under
31 chapter 10.05 RCW.

32 **Sec. 23.** RCW 46.20.730 and 1987 c 247 s 3 are each amended to read
33 as follows:

34 For the purposes of RCW 46.20.720, 46.20.740, and 46.20.750,
35 "ignition interlock device" means breath alcohol analyzed ignition
36 equipment, certified by the state commission on equipment, designed to
37 prevent a motor vehicle from being operated by a person who has

1 consumed an alcoholic beverage, and "other biological or technical
2 device" means any device meeting the standards of the national highway
3 traffic safety administration or the state commission on equipment,
4 designed to prevent the operation of a motor vehicle by a person who is
5 impaired by alcohol or drugs. The commission shall by rule provide
6 standards for the certification, installation, repair, and removal of
7 the devices.

8 **Sec. 24.** RCW 46.20.740 and 1987 c 247 s 4 are each amended to read
9 as follows:

10 The department shall attach or imprint a notation on the driver's
11 license of any person restricted under RCW 46.20.720 stating that the
12 person may operate only a motor vehicle equipped with an ignition
13 interlock or other biological or technical device.

14 **Sec. 25.** RCW 46.20.750 and 1987 c 247 s 5 are each amended to read
15 as follows:

16 A person who knowingly assists another person who is restricted to
17 the use of an ignition interlock or other biological or technical
18 device to start and operate that vehicle in violation of a court order
19 is guilty of a gross misdemeanor.

20 The provisions of this section do not apply if the starting of a
21 motor vehicle, or the request to start a motor vehicle, equipped with
22 an ignition interlock or other biological or technical device is done
23 for the purpose of safety or mechanical repair of the device or the
24 vehicle and the person subject to the court order does not operate the
25 vehicle.

26 **PART X - MISCELLANEOUS**

27 **Sec. 26.** RCW 46.61.506 and 1987 c 373 s 4 are each amended to read
28 as follows:

29 (1) Upon the trial of any civil or criminal action or proceeding
30 arising out of acts alleged to have been committed by any person while
31 driving or in actual physical control of a vehicle while under the
32 influence of intoxicating liquor or any drug, if the ~~((amount of~~
33 ~~alcohol in the person's blood or breath at the time alleged as shown by~~
34 ~~analysis of his blood or breath is less than 0.10 percent by weight of~~
35 ~~alcohol in his blood or 0.10 grams of alcohol per two hundred ten~~

1 ~~liters of the person's breath))~~ person's alcohol concentration is less
2 than 0.10, it is evidence that may be considered with other competent
3 evidence in determining whether the person was under the influence of
4 intoxicating liquor or any drug.

5 (2) The breath analysis shall be based upon grams of alcohol per
6 two hundred ten liters of breath. The foregoing provisions of this
7 section shall not be construed as limiting the introduction of any
8 other competent evidence bearing upon the question whether the person
9 was under the influence of intoxicating liquor or any drug.

10 (3) Analysis of the person's blood or breath to be considered valid
11 under the provisions of this section or RCW 46.61.502 or 46.61.504
12 shall have been performed according to methods approved by the state
13 toxicologist and by an individual possessing a valid permit issued by
14 the state toxicologist for this purpose. The state toxicologist is
15 directed to approve satisfactory techniques or methods, to supervise
16 the examination of individuals to ascertain their qualifications and
17 competence to conduct such analyses, and to issue permits which shall
18 be subject to termination or revocation at the discretion of the state
19 toxicologist.

20 (4) When a blood test is administered under the provisions of RCW
21 46.20.308, the withdrawal of blood for the purpose of determining its
22 alcoholic content may be performed only by a physician, a registered
23 nurse, or a qualified technician. This limitation shall not apply to
24 the taking of breath specimens.

25 (5) The person tested may have a physician, or a qualified
26 technician, chemist, registered nurse, or other qualified person of his
27 or her own choosing administer one or more tests in addition to any
28 administered at the direction of a law enforcement officer. The
29 failure or inability to obtain an additional test by a person shall not
30 preclude the admission of evidence relating to the test or tests taken
31 at the direction of a law enforcement officer.

32 (6) Upon the request of the person who shall submit to a test or
33 tests at the request of a law enforcement officer, full information
34 concerning the test or tests shall be made available to him or her or
35 his or her attorney.

36 **Sec. 27.** RCW 46.20.311 and 1993 c 501 s 5 are each amended to read
37 as follows:

1 (1) The department shall not suspend a driver's license or
2 privilege to drive a motor vehicle on the public highways for a fixed
3 period of more than one year, except as specifically permitted under
4 RCW 46.20.342 or (~~46.61.515~~) other provision of law. Except for a
5 suspension under RCW 46.20.289 and 46.20.291(5), whenever the license
6 or driving privilege of any person is suspended by reason of a
7 conviction, a finding that a traffic infraction has been committed,
8 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291, the
9 suspension shall remain in effect until the person gives and thereafter
10 maintains proof of financial responsibility for the future as provided
11 in chapter 46.29 RCW. The department shall not issue to the person a
12 new, duplicate, or renewal license until the person pays a reissue fee
13 of twenty dollars. If the suspension is the result of a violation of
14 RCW 46.61.502 or 46.61.504, the reissue fee shall be fifty dollars.

15 (2) Any person whose license or privilege to drive a motor vehicle
16 on the public highways has been revoked, unless the revocation was for
17 a cause which has been removed, is not entitled to have the license or
18 privilege renewed or restored until: (a) After the expiration of one
19 year from the date the license or privilege to drive was revoked; (b)
20 after the expiration of the applicable revocation period provided by
21 RCW (~~46.61.515(3) (b) or (c)~~) 46.20.308 or section 5, 6, or 12 of
22 this act; (c) after the expiration of two years for persons convicted
23 of vehicular homicide; or (d) (~~after the expiration of one year in~~
24 ~~cases of revocation for the first refusal within five years to submit~~
25 ~~to a chemical test under RCW 46.20.308~~; (e) ~~after the expiration of two~~
26 ~~years in cases of revocation for the second or subsequent refusal~~
27 ~~within five years to submit to a chemical test under RCW 46.20.308~~; or
28 (~~f~~)) after the expiration of the applicable revocation period provided
29 by RCW 46.20.265. After the expiration of the appropriate period, the
30 person may make application for a new license as provided by law
31 together with a reissue fee in the amount of twenty dollars, but if the
32 revocation is the result of a violation of RCW 46.20.308, 46.61.502, or
33 46.61.504 or is the result of administrative action under section 12 of
34 this act, the reissue fee shall be fifty dollars. Except for a
35 revocation under RCW 46.20.265, the department shall not then issue a
36 new license unless it is satisfied after investigation of the driving
37 ability of the person that it will be safe to grant the privilege of
38 driving a motor vehicle on the public highways, and until the person
39 gives and thereafter maintains proof of financial responsibility for

1 the future as provided in chapter 46.29 RCW. For a revocation under
2 RCW 46.20.265, the department shall not issue a new license unless it
3 is satisfied after investigation of the driving ability of the person
4 that it will be safe to grant that person the privilege of driving a
5 motor vehicle on the public highways.

6 (3) Whenever the driver's license of any person is suspended
7 pursuant to Article IV of the nonresident violators compact or RCW
8 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue
9 to the person any new or renewal license until the person pays a
10 reissue fee of twenty dollars. If the suspension is the result of a
11 violation of the laws of this or any other state, province, or other
12 jurisdiction involving (a) the operation or physical control of a motor
13 vehicle upon the public highways while under the influence of
14 intoxicating liquor or drugs, or (b) the refusal to submit to a
15 chemical test of the driver's blood alcohol content, the reissue fee
16 shall be fifty dollars.

17 **Sec. 28.** RCW 46.04.580 and 1990 c 250 s 22 are each amended to
18 read as follows:

19 "Suspend," in all its forms and unless a different period is
20 specified, means invalidation for any period less than one calendar
21 year and thereafter until reinstatement. ((However, under RCW
22 46.61.515 the invalidation may last for more than one calendar year.))

23 **Sec. 29.** RCW 46.20.391 and 1985 c 407 s 5 are each amended to read
24 as follows:

25 (1) Any person licensed under this chapter who is convicted of an
26 offense relating to motor vehicles for which suspension or revocation
27 of the driver's license is mandatory, other than vehicular homicide or
28 vehicular assault, may submit to the department an application for an
29 occupational driver's license. The department, upon receipt of the
30 prescribed fee and upon determining that the petitioner is engaged in
31 an occupation or trade that makes it essential that the petitioner
32 operate a motor vehicle, may issue an occupational driver's license and
33 may set definite restrictions as provided in RCW 46.20.394. No person
34 may petition for, and the department shall not issue, an occupational
35 driver's license that is effective during the first thirty days of any
36 suspension or revocation imposed ((under RCW 46.61.515)) for a
37 violation of RCW 46.61.502 or 46.61.504. No person may petition for,

1 and the department shall not issue, an occupational driver's license if
2 the person is ineligible for such a license under section 5 or 6 of
3 this act. A person aggrieved by the decision of the department on the
4 application for an occupational driver's license may request a hearing
5 as provided by rule of the department.

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

8 (a) Within one year immediately preceding the date of the offense
9 that gave rise to the present conviction, the applicant has not (~~been~~
10 ~~convicted~~) committed of any offense relating to motor vehicles for
11 which suspension or revocation of a driver's license is mandatory; and

12 (b) Within five years immediately preceding the date of the offense
13 that gave rise to the present conviction, the applicant has not (~~been~~
14 ~~convicted of~~) committed any of the following offenses: (i) Driving or
15 being in actual physical control of a motor vehicle while under the
16 influence of intoxicating liquor (~~under RCW 46.61.502 or 46.61.504,~~
17 ~~of~~); (ii) vehicular homicide under RCW 46.61.520(~~, or of~~); or (iii)
18 vehicular assault under RCW 46.61.522; and

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

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

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

30 **Sec. 30.** RCW 5.40.060 and 1987 c 212 s 1001 are each amended to
31 read as follows:

32 (1) Except as provided in subsection (2) of this section, it is a
33 complete defense to an action for damages for personal injury or
34 wrongful death that the person injured or killed was under the
35 influence of intoxicating liquor or any drug at the time of the
36 occurrence causing the injury or death and that such condition was a
37 proximate cause of the injury or death and the trier of fact finds such
38 person to have been more than fifty percent at fault. The standard for

1 determining whether a person was under the influence of intoxicating
2 liquor or drugs shall be the same standard established for criminal
3 convictions under RCW 46.61.502, and evidence that a person was under
4 the influence of intoxicating liquor or drugs under the standard
5 established by RCW 46.61.502 shall be conclusive proof that such person
6 was under the influence of intoxicating liquor or drugs.

7 (2) In an action for damages for personal injury or wrongful death
8 that is brought against the driver of a motor vehicle who was under the
9 influence of intoxicating liquor or any drug at the time of the
10 occurrence causing the injury or death and whose condition was a
11 proximate cause of the injury or death, subsection (1) of this section
12 does not create a defense against the action notwithstanding that the
13 person injured or killed was also under the influence so long as such
14 person's condition was not a proximate cause of the occurrence causing
15 the injury or death.

16 NEW SECTION. Sec. 31. Section 30 of this act is remedial in
17 nature and shall apply retroactively.

18 **Sec. 32.** RCW 46.55.113 and 1987 c 311 s 10 are each amended to
19 read as follows:

20 Whenever the driver of a vehicle is arrested for a violation of RCW
21 46.61.502 or 46.61.504, the arresting officer may take custody of the
22 vehicle and provide for its prompt removal to a place of safety. In
23 addition, a police officer may take custody of a vehicle and provide
24 for its prompt removal to a place of safety under any of the following
25 circumstances:

26 (1) Whenever a police officer finds a vehicle standing upon the
27 roadway in violation of any of the provisions of RCW 46.61.560, the
28 officer may provide for the removal of the vehicle or require the
29 driver or other person in charge of the vehicle to move the vehicle to
30 a position off the roadway;

31 (2) Whenever a police officer finds a vehicle unattended upon a
32 highway where the vehicle constitutes an obstruction to traffic or
33 jeopardizes public safety;

34 (3) Whenever a police officer finds an unattended vehicle at the
35 scene of an accident or when the driver of a vehicle involved in an
36 accident is physically or mentally incapable(~~(, or too intoxicated, to~~

1 decide)) of deciding upon steps to be taken to protect his or her
2 property;

3 (4) Whenever the driver of a vehicle is arrested and taken into
4 custody by a police officer(~~(, and the driver, because of intoxication~~
5 ~~or otherwise, is mentally incapable of deciding upon steps to be taken~~
6 ~~to safeguard his or her property))~~);

7 (5) Whenever a police officer discovers a vehicle that the officer
8 determines to be a stolen vehicle;

9 (6) Whenever a vehicle without a special license plate, card, or
10 decal indicating that the vehicle is being used to transport a disabled
11 person under RCW 46.16.381 is parked in a stall or space clearly and
12 conspicuously marked under RCW 46.61.581 which space is provided on
13 private property without charge or on public property.

14 Nothing in this section may derogate from the powers of police
15 officers under the common law. For the purposes of this section, a
16 place of safety may include the business location of a registered tow
17 truck operator.

18 NEW SECTION. Sec. 33. A new section is added to chapter 46.61 RCW
19 to read as follows:

20 The state of Washington hereby fully occupies and preempts the
21 entire field of regulating driving or being in physical control of a
22 vehicle while under the influence of intoxicating liquor or any drug
23 within the boundaries of the state. No jurisdiction may enact a law or
24 ordinance that is different from, inconsistent with, more restrictive
25 than, or less restrictive than state law in this field, and any such
26 law or ordinance in existence on the effective date of this section is
27 preempted and repealed, regardless of the nature of the code, charter,
28 or home rule status of the town, city, county, or other jurisdiction
29 that enacted the law or ordinance.

30 **PART XI - TECHNICAL**

31 **Sec. 34.** RCW 46.63.020 and 1993 c 501 s 8 are each amended to read
32 as follows:

33 Failure to perform any act required or the performance of any act
34 prohibited by this title or an equivalent administrative regulation or
35 local law, ordinance, regulation, or resolution relating to traffic
36 including parking, standing, stopping, and pedestrian offenses, is

1 designated as a traffic infraction and may not be classified as a
2 criminal offense, except for an offense contained in the following
3 provisions of this title or a violation of an equivalent administrative
4 regulation or local law, ordinance, regulation, or resolution:

5 (1) RCW 46.09.120(2) relating to the operation of a nonhighway
6 vehicle while under the influence of intoxicating liquor or a
7 controlled substance;

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

9 (3) RCW 46.10.090(2) relating to the operation of a snowmobile
10 while under the influence of intoxicating liquor or narcotics or habit-
11 forming drugs or in a manner endangering the person of another;

12 (4) RCW 46.10.130 relating to the operation of snowmobiles;

13 (5) Chapter 46.12 RCW relating to certificates of ownership and
14 registration;

15 (6) RCW 46.16.010 relating to initial registration of motor
16 vehicles;

17 (7) RCW 46.16.011 relating to permitting unauthorized persons to
18 drive;

19 (8) RCW 46.16.160 relating to vehicle trip permits;

20 (9) RCW 46.16.381 (6) or (~~((+8))~~) (9) relating to unauthorized use
21 or acquisition of a special placard or license plate for disabled
22 persons' parking;

23 (10) RCW 46.20.021 relating to driving without a valid driver's
24 license;

25 (11) RCW 46.20.308 relating to refusal to submit to a breath or
26 blood alcohol test;

27 (12) RCW 46.20.336 relating to the unlawful possession and use of
28 a driver's license;

29 (~~((+12))~~) (13) RCW 46.20.342 relating to driving with a suspended or
30 revoked license or status;

31 (~~((+13))~~) (14) RCW 46.20.410 relating to the violation of
32 restrictions of an occupational driver's license;

33 (~~((+14))~~) (15) RCW 46.20.420 relating to the operation of a motor
34 vehicle with a suspended or revoked license;

35 (~~((+15))~~) (16) RCW 46.20.750 relating to assisting another person to
36 start a vehicle equipped with an ignition interlock device;

37 (~~((+16))~~) (17) RCW 46.25.170 relating to commercial driver's
38 licenses;

1 (~~(17)~~) (18) Chapter 46.29 RCW relating to financial
2 responsibility;

3 (~~(18)~~) (19) RCW 46.30.040 relating to providing false evidence of
4 financial responsibility;

5 (~~(19)~~) (20) RCW 46.37.435 relating to wrongful installation of
6 sunscreening material;

7 (~~(20)~~) (21) RCW 46.44.180 relating to operation of mobile home
8 pilot vehicles;

9 (~~(21)~~) (22) RCW 46.48.175 relating to the transportation of
10 dangerous articles;

11 (~~(22)~~) (23) RCW 46.52.010 relating to duty on striking an
12 unattended car or other property;

13 (~~(23)~~) (24) RCW 46.52.020 relating to duty in case of injury to
14 or death of a person or damage to an attended vehicle;

15 (~~(24)~~) (25) RCW 46.52.090 relating to reports by repairmen,
16 storagemen, and appraisers;

17 (~~(25)~~) (26) RCW 46.52.100 relating to driving under the influence
18 of liquor or drugs;

19 (~~(26)~~) (27) RCW 46.52.130 relating to confidentiality of the
20 driving record to be furnished to an insurance company, an employer,
21 and an alcohol/drug assessment or treatment agency;

22 (~~(27)~~) (28) RCW 46.55.020 relating to engaging in the activities
23 of a registered tow truck operator without a registration certificate;

24 (~~(28)~~) (29) RCW 46.55.035 relating to prohibited practices by tow
25 truck operators;

26 (~~(29)~~) (30) RCW 46.61.015 relating to obedience to police
27 officers, flagmen, or fire fighters;

28 (~~(30)~~) (31) RCW 46.61.020 relating to refusal to give information
29 to or cooperate with an officer;

30 (~~(31)~~) (32) RCW 46.61.022 relating to failure to stop and give
31 identification to an officer;

32 (~~(32)~~) (33) RCW 46.61.024 relating to attempting to elude
33 pursuing police vehicles;

34 (~~(33)~~) (34) RCW 46.61.500 relating to reckless driving;

35 (~~(34)~~) (35) RCW 46.61.502 and 46.61.504 and sections 4, 5, and 6
36 of this act relating to persons under the influence of intoxicating
37 liquor or drugs;

38 (~~(35)~~) (36) RCW 46.61.520 relating to vehicular homicide by motor
39 vehicle;

1 (~~(36)~~) (37) RCW 46.61.522 relating to vehicular assault;
2 (~~(37)~~) (38) RCW 46.61.525 relating to negligent driving;
3 (~~(38)~~) (39) RCW 46.61.530 relating to racing of vehicles on
4 highways;
5 (~~(39)~~) (40) RCW 46.61.685 relating to leaving children in an
6 unattended vehicle with the motor running;
7 (~~(40)~~) (41) RCW 46.64.010 relating to unlawful cancellation of or
8 attempt to cancel a traffic citation;
9 (~~(41)~~) (42) RCW 46.64.048 relating to attempting, aiding,
10 abetting, coercing, and committing crimes;
11 (~~(42)~~) (43) Chapter 46.65 RCW relating to habitual traffic
12 offenders;
13 (~~(43)~~) (44) Chapter 46.70 RCW relating to unfair motor vehicle
14 business practices, except where that chapter provides for the
15 assessment of monetary penalties of a civil nature;
16 (~~(44)~~) (45) Chapter 46.72 RCW relating to the transportation of
17 passengers in for hire vehicles;
18 (~~(45)~~) (46) Chapter 46.80 RCW relating to motor vehicle wreckers;
19 (~~(46)~~) (47) Chapter 46.82 RCW relating to driver's training
20 schools;
21 (~~(47)~~) (48) RCW 46.87.260 relating to alteration or forgery of a
22 cab card, letter of authority, or other temporary authority issued
23 under chapter 46.87 RCW;
24 (~~(48)~~) (49) RCW 46.87.290 relating to operation of an
25 unregistered or unlicensed vehicle under chapter 46.87 RCW.

26 **Sec. 35.** RCW 3.62.090 and 1986 c 98 s 4 are each amended to read
27 as follows:

28 (1) There shall be assessed and collected in addition to any fines,
29 forfeitures, or penalties assessed, other than for parking infractions,
30 by all courts organized under Title 3 or 35 RCW a public safety and
31 education assessment equal to sixty percent of such fines, forfeitures,
32 or penalties, which shall be remitted as provided in chapters 3.46,
33 3.50, 3.62, and 35.20 RCW. The assessment required by this section
34 shall not be suspended or waived by the court.

35 (2) There shall be assessed and collected in addition to any fines,
36 forfeitures, or penalties assessed, other than for parking infractions
37 and for fines levied under (~~(RCW 46.61.515)~~) sections 4, 5, and 6 of
38 this act, and in addition to the public safety and education assessment

1 required under subsection (1) of this section, by all courts organized
2 under Title 3 or 35 RCW, an additional public safety and education
3 assessment equal to fifty percent of the public safety and education
4 assessment required under subsection (1) of this section, which shall
5 be remitted to the state treasurer and deposited as provided in RCW
6 43.08.250. The additional assessment required by this subsection shall
7 not be suspended or waived by the court.

8 **Sec. 36.** RCW 10.05.120 and 1985 c 352 s 15 are each amended to
9 read as follows:

10 Upon proof of successful completion of the two-year treatment
11 program, the court shall dismiss the charges pending against the
12 petitioner.

13 Five years from the date of the court's approval of a deferred
14 prosecution program for an individual petitioner, those entries that
15 remain in the department of licensing records relating to such
16 petitioner shall be removed. A deferred prosecution may be considered
17 for enhancement purposes when imposing mandatory penalties and
18 suspensions under ((RCW 46.61.515)) sections 4, 5, and 6 of this act
19 for subsequent offenses within a five-year period.

20 **Sec. 37.** RCW 35.21.165 and 1983 c 165 s 40 are each amended to
21 read as follows:

22 Except as limited by the maximum penalties authorized by law, no
23 city or town may establish a penalty for an act that constitutes the
24 crime of driving while under the influence of intoxicating liquor or
25 any drug, as provided in RCW 46.61.502, or the crime of being in actual
26 physical control of a motor vehicle while under the influence of
27 intoxicating liquor or any drug, as provided in RCW 46.61.504, that is
28 less than the penalties prescribed for those crimes in ((RCW
29 46.61.515)) sections 4, 5, and 6 of this act.

30 **Sec. 38.** RCW 36.32.127 and 1983 c 165 s 41 are each amended to
31 read as follows:

32 No county may establish a penalty for an act that constitutes the
33 crime of driving while under the influence of intoxicating liquor or
34 any drug, as provided for in RCW 46.61.502, or the crime of being in
35 actual physical control of a motor vehicle while under the influence of
36 intoxicating liquor or any drug, as provided in RCW 46.61.504, that is

1 less than the penalties prescribed for those crimes in ((RCW
2 46.61.515)) sections 4, 5, and 6 of this act.

3 **Sec. 39.** RCW 46.04.480 and 1988 c 148 s 8 are each amended to read
4 as follows:

5 "Revoke," in all its forms, means the invalidation for a period of
6 one calendar year and thereafter until reissue: PROVIDED, That under
7 the provisions of RCW 46.20.285, 46.20.311, 46.20.265, ((~~or 46.61.515~~))
8 section 4, 5, or 6 of this act, and chapter 46.65 RCW the invalidation
9 may last for a period other than one calendar year.

10 **Sec. 40.** RCW 46.61.5151 and 1983 c 165 s 33 are each amended to
11 read as follows:

12 A sentencing court may allow persons convicted of violating RCW
13 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in
14 ((~~RCW 46.61.515 (1) or (2)~~)) section 4, 5, or 6 of this act in
15 nonconsecutive or intermittent time periods. However, ((~~the first~~
16 ~~twenty-four hours of any sentence under RCW 46.61.515(1) and the first~~
17 ~~forty-eight hours of any sentence under RCW 46.61.515(2)~~)) any
18 mandatory minimum sentence under section 4, 5, or 6 of this act shall
19 be served consecutively unless suspended or deferred as otherwise
20 provided by law.

21 **Sec. 41.** RCW 46.61.5152 and 1992 c 64 s 1 are each amended to read
22 as follows:

23 In addition to penalties that may be imposed under ((RCW
24 46.61.515)) section 4, 5, or 6 of this act, the court may require a
25 person who is convicted of a violation of RCW 46.61.502 or 46.61.504 or
26 who enters a deferred prosecution program under RCW 10.05.020 based on
27 a violation of RCW 46.61.502 or 46.61.504, to attend an educational
28 program focusing on the emotional, physical, and financial suffering of
29 victims who were injured by persons convicted of driving while under
30 the influence of intoxicants.

31 NEW SECTION. **Sec. 42.** The sum of one million five hundred sixty-
32 three thousand five hundred eighty-nine dollars, or as much thereof as
33 may be necessary, is appropriated for the biennium ending June 30,
34 1995, from the highway safety fund to the department of licensing for
35 the purposes of implementing this act.

1 NEW SECTION. **Sec. 43.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 46.61.515 and 1993 c 501 s 7, 1993 c 239 s 1, 1985 c 352 s
4 1, 1984 c 258 s 328, 1983 c 165 s 21, 1983 c 150 s 1, 1982 1st ex.s. c
5 47 s 27, 1979 ex.s. c 176 s 6, 1977 ex.s. c 3 s 3, 1975 1st ex.s. c 287
6 s 2, 1974 ex.s. c 130 s 1, 1971 ex.s. c 284 s 1, 1967 c 32 s 68, & 1965
7 ex.s. c 155 s 62; and

8 (2) 1993 c 239 s 3 (uncodified).

9 NEW SECTION. **Sec. 44.** This act shall be known as the "1994
10 Omnibus Drunk Driving Act."

11 NEW SECTION. **Sec. 45.** Section 7 of this act shall expire June 30,
12 1995.

13 NEW SECTION. **Sec. 46.** Part headings and the table of contents as
14 used in this act do not constitute any part of the law.

15 NEW SECTION. **Sec. 47.** This act shall take effect July 1, 1994."

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