
SENATE BILL 6371

State of Washington

58th Legislature

2004 Regular Session

By Senators Kline, McCaslin, Haugen, Esser, Johnson, Rasmussen, Oke, Fairley, Keiser, Murray, Roach, Shin and Eide

Read first time 01/19/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to driving while under the influence of alcohol or
2 any drug; amending RCW 46.61.502, 46.61.504, 46.61.5055, and 46.61.524;
3 reenacting and amending RCW 9.94A.515; prescribing penalties; and
4 providing an effective date.

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

6 **Sec. 1.** RCW 46.61.502 and 1998 c 213 s 3 are each amended to read
7 as follows:

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

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

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

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

18 (2) The fact that a person charged with a violation of this section

1 is or has been entitled to use a drug under the laws of this state
2 shall not constitute a defense against a charge of violating this
3 section.

4 (3) It is an affirmative defense to a violation of subsection
5 (1)(a) of this section which the defendant must prove by a
6 preponderance of the evidence that the defendant consumed a sufficient
7 quantity of alcohol after the time of driving and before the
8 administration of an analysis of the person's breath or blood to cause
9 the defendant's alcohol concentration to be 0.08 or more within two
10 hours after driving. The court shall not admit evidence of this
11 defense unless the defendant notifies the prosecution prior to the
12 omnibus or pretrial hearing in the case of the defendant's intent to
13 assert the affirmative defense.

14 (4) Analyses of blood or breath samples obtained more than two
15 hours after the alleged driving may be used as evidence that within two
16 hours of the alleged driving, a person had an alcohol concentration of
17 0.08 or more in violation of subsection (1)(a) of this section, and in
18 any case in which the analysis shows an alcohol concentration above
19 0.00 may be used as evidence that a person was under the influence of
20 or affected by intoxicating liquor or any drug in violation of
21 subsection (1)(b) or (c) of this section.

22 (5)(a) A violation of this section is a gross misdemeanor except
23 when (b) of this subsection applies.

24 (b) A person is guilty of a class C felony punishable under chapter
25 9A.20 RCW if the person drives while under the influence of
26 intoxicating liquor or any drug as defined by this section and has
27 previously been convicted of driving or being in physical control of a
28 motor vehicle while under the influence of intoxicating liquor or any
29 drug on two or more prior occasions within a five-year period, or the
30 person has a previous conviction of felony driving or being in actual
31 physical control while under the influence of intoxicating liquor or
32 any drug, vehicular assault (RCW 46.61.522), or vehicular homicide (RCW
33 46.61.520).

34 **Sec. 2.** RCW 46.61.504 and 1998 c 213 s 5 are each amended to read
35 as follows:

36 (1) A person is guilty of being in actual physical control of a

1 motor vehicle while under the influence of intoxicating liquor or any
2 drug if the person has actual physical control of a vehicle within this
3 state:

4 (a) And the person has, within two hours after being in actual
5 physical control of the vehicle, an alcohol concentration of 0.08 or
6 higher as shown by analysis of the person's breath or blood made under
7 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 does
14 not constitute a defense against any charge of violating this section.
15 No person may be convicted under this section if, prior to being
16 pursued by a law enforcement officer, the person has moved the vehicle
17 safely off the roadway.

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

28 (4) Analyses of blood or breath samples obtained more than two
29 hours after the alleged being in actual physical control of a vehicle
30 may be used as evidence that within two hours of the alleged being in
31 such control, a person had an alcohol concentration of 0.08 or more in
32 violation of subsection (1)(a) of this section, and in any case in
33 which the analysis shows an alcohol concentration above 0.00 may be
34 used as evidence that a person was under the influence of or affected
35 by intoxicating liquor or any drug in violation of subsection (1)(b) or
36 (c) of this section.

37 (5)(a) A violation of this section is a gross misdemeanor except
38 when (b) of this subsection applies.

1 (b) A person is guilty of a class C felony punishable under chapter
2 9A.20 RCW if the person is in actual physical control of a motor
3 vehicle while under the influence of intoxicating liquor or any drug as
4 defined by this section and has been previously convicted of being in
5 physical control of a motor vehicle or driving a motor vehicle while
6 under the influence of intoxicating liquor or any drug on two or more
7 occasions within a five-year period, or the person has a previous
8 conviction of felony driving or being in actual physical control while
9 under the influence of intoxicating liquor or any drug, vehicular
10 assault (RCW 46.61.522), or vehicular homicide (RCW 46.61.520).

11 **Sec. 3.** RCW 46.61.5055 and 2003 c 103 s 1 are each amended to read
12 as follows:

13 (1) A person who is convicted of a violation of RCW 46.61.502 or
14 46.61.504 and who has no prior offense within seven years shall be
15 punished as follows:

16 (a) In the case of a person whose alcohol concentration was less
17 than 0.15, or for whom for reasons other than the person's refusal to
18 take a test offered pursuant to RCW 46.20.308 there is no test result
19 indicating the person's alcohol concentration:

20 (i) By imprisonment for not less than one day nor more than one
21 year. Twenty-four consecutive hours of the imprisonment may not be
22 suspended or deferred unless the court finds that the imposition of
23 this mandatory minimum sentence would impose a substantial risk to the
24 offender's physical or mental well-being. Whenever the mandatory
25 minimum sentence is suspended or deferred, the court shall state in
26 writing the reason for granting the suspension or deferral and the
27 facts upon which the suspension or deferral is based. In lieu of the
28 mandatory minimum term of imprisonment required under this subsection
29 (1)(a)(i), the court may order not less than fifteen days of electronic
30 home monitoring. The offender shall pay the cost of electronic home
31 monitoring. The county or municipality in which the penalty is being
32 imposed shall determine the cost. The court may also require the
33 offender's electronic home monitoring device to include an alcohol
34 detection breathalyzer, and the court may restrict the amount of
35 alcohol the offender may consume during the time the offender is on
36 electronic home monitoring; and

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

5 (b) In the case of a person whose alcohol concentration was at
6 least 0.15, or for whom by reason of the person's refusal to take a
7 test offered pursuant to RCW 46.20.308 there is no test result
8 indicating the person's alcohol concentration:

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

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

29 (iii) By a court-ordered restriction under RCW 46.20.720.

30 (2) A person who is convicted of a violation of RCW 46.61.502 or
31 46.61.504 and who has one prior offense within seven years shall be
32 punished as follows:

33 (a) In the case of a person whose alcohol concentration was less
34 than 0.15, or for whom for reasons other than the person's refusal to
35 take a test offered pursuant to RCW 46.20.308 there is no test result
36 indicating the person's alcohol concentration:

37 (i) By imprisonment for not less than thirty days nor more than one
38 year and sixty days of electronic home monitoring. The offender shall

1 pay for the cost of the electronic monitoring. The county or
2 municipality where the penalty is being imposed shall determine the
3 cost. The court may also require the offender's electronic home
4 monitoring device include an alcohol detection breathalyzer, and may
5 restrict the amount of alcohol the offender may consume during the time
6 the offender is on electronic home monitoring. Thirty days of
7 imprisonment and sixty days of electronic home monitoring may not be
8 suspended or deferred unless the court finds that the imposition of
9 this mandatory minimum sentence would impose a substantial risk to the
10 offender's physical or mental well-being. Whenever the mandatory
11 minimum sentence is suspended or deferred, the court shall state in
12 writing the reason for granting the suspension or deferral and the
13 facts upon which the suspension or deferral is based; and

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

18 (iii) By a court-ordered restriction under RCW 46.20.720; or

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

23 (i) By imprisonment for not less than forty-five days nor more than
24 one year and ninety days of electronic home monitoring. The offender
25 shall pay for the cost of the electronic monitoring. The county or
26 municipality where the penalty is being imposed shall determine the
27 cost. The court may also require the offender's electronic home
28 monitoring device include an alcohol detection breathalyzer, and may
29 restrict the amount of alcohol the offender may consume during the time
30 the offender is on electronic home monitoring. Forty-five days of
31 imprisonment and ninety days of electronic home monitoring may not be
32 suspended or deferred unless the court finds that the imposition of
33 this mandatory minimum sentence would impose a substantial risk to the
34 offender's physical or mental well-being. Whenever the mandatory
35 minimum sentence is suspended or deferred, the court shall state in
36 writing the reason for granting the suspension or deferral and the
37 facts upon which the suspension or deferral is based; and

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

5 (iii) By a court-ordered restriction under RCW 46.20.720.

6 (3) A person who is convicted of a violation of RCW 46.61.502 or
7 46.61.504 and who has two or more prior offenses within seven years
8 shall be punished as follows except when subsection (4) of this section
9 applies:

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

14 (i) By imprisonment for not less than ninety days nor more than one
15 year and one hundred twenty days of electronic home monitoring. The
16 offender shall pay for the cost of the electronic monitoring. The
17 county or municipality where the penalty is being imposed shall
18 determine the cost. The court may also require the offender's
19 electronic home monitoring device include an alcohol detection
20 breathalyzer, and may restrict the amount of alcohol the offender may
21 consume during the time the offender is on electronic home monitoring.
22 Ninety days of imprisonment and one hundred twenty days of electronic
23 home monitoring may not be suspended or deferred unless the court finds
24 that the imposition of this mandatory minimum sentence would impose a
25 substantial risk to the offender's physical or mental well-being.
26 Whenever the mandatory minimum sentence is suspended or deferred, the
27 court shall state in writing the reason for granting the suspension or
28 deferral and the facts upon which the suspension or deferral is based;
29 and

30 (ii) By a fine of not less than one thousand dollars nor more than
31 five thousand dollars. One thousand dollars of the fine may not be
32 suspended or deferred unless the court finds the offender to be
33 indigent; and

34 (iii) By a court-ordered restriction under RCW 46.20.720; or

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

1 (i) By imprisonment for not less than one hundred twenty days nor
2 more than one year and one hundred fifty days of electronic home
3 monitoring. The offender shall pay for the cost of the electronic
4 monitoring. The county or municipality where the penalty is being
5 imposed shall determine the cost. The court may also require the
6 offender's electronic home monitoring device include an alcohol
7 detection breathalyzer, and may restrict the amount of alcohol the
8 offender may consume during the time the offender is on electronic home
9 monitoring. One hundred twenty days of imprisonment and one hundred
10 fifty days of electronic home monitoring may not be suspended or
11 deferred unless the court finds that the imposition of this mandatory
12 minimum sentence would impose a substantial risk to the offender's
13 physical or mental well-being. Whenever the mandatory minimum sentence
14 is suspended or deferred, the court shall state in writing the reason
15 for granting the suspension or deferral and the facts upon which the
16 suspension or deferral is based; and

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

21 (iii) By a court-ordered restriction under RCW 46.20.720.

22 (4) A person who is convicted of a class C felony violation of RCW
23 46.61.502(5)(b) or 46.61.504(5)(b) shall be punished in accordance with
24 chapter 9.94A RCW.

25 (5) If a person who is convicted of a violation of RCW 46.61.502 or
26 46.61.504 committed the offense while a passenger under the age of
27 sixteen was in the vehicle, the court shall:

28 (a) In any case in which the installation and use of an interlock
29 or other device is not mandatory under RCW 46.20.720 or other law,
30 order the use of such a device for not less than sixty days following
31 the restoration of the person's license, permit, or nonresident driving
32 privileges; and

33 (b) In any case in which the installation and use of such a device
34 is otherwise mandatory, order the use of such a device for an
35 additional sixty days.

36 ~~((+5))~~ (6) In exercising its discretion in setting penalties
37 within the limits allowed by this section, the court shall particularly
38 consider the following:

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

3 (b) Whether at the time of the offense the person was driving or in
4 physical control of a vehicle with one or more passengers.

5 ~~((+6+))~~ (7) An offender punishable under this section is subject to
6 the alcohol assessment and treatment provisions of RCW 46.61.5056.

7 ~~((+7+))~~ (8) The license, permit, or nonresident privilege of a
8 person convicted of driving or being in physical control of a motor
9 vehicle while under the influence of intoxicating liquor or drugs must:

10 (a) If the person's alcohol concentration was less than 0.15, or if
11 for reasons other than the person's refusal to take a test offered
12 under RCW 46.20.308 there is no test result indicating the person's
13 alcohol concentration:

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

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

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

20 (b) If the person's alcohol concentration was at least 0.15, or if
21 by reason of the person's refusal to take a test offered under RCW
22 46.20.308 there is no test result indicating the person's alcohol
23 concentration:

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

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

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

30 For purposes of this subsection, the department shall refer to the
31 driver's record maintained under RCW 46.52.120 when determining the
32 existence of prior offenses.

33 ~~((+8+))~~ (9) After expiration of any period of suspension,
34 revocation, or denial of the offender's license, permit, or privilege
35 to drive required by this section, the department shall place the
36 offender's driving privilege in probationary status pursuant to RCW
37 46.20.355.

1 (~~(9)~~) (10)(a) In addition to any nonsuspendable and nondeferrible
2 jail sentence required by this section, whenever the court imposes less
3 than one year in jail, the court shall also suspend but shall not defer
4 a period of confinement for a period not exceeding five years. The
5 court shall impose conditions of probation that include: (i) Not
6 driving a motor vehicle within this state without a valid license to
7 drive and proof of financial responsibility for the future; (ii) not
8 driving a motor vehicle within this state while having an alcohol
9 concentration of 0.08 or more within two hours after driving; and (iii)
10 not refusing to submit to a test of his or her breath or blood to
11 determine alcohol concentration upon request of a law enforcement
12 officer who has reasonable grounds to believe the person was driving or
13 was in actual physical control of a motor vehicle within this state
14 while under the influence of intoxicating liquor. The court may impose
15 conditions of probation that include nonrepetition, installation of an
16 ignition interlock or other biological or technical device on the
17 probationer's motor vehicle, alcohol or drug treatment, supervised
18 probation, or other conditions that may be appropriate. The sentence
19 may be imposed in whole or in part upon violation of a condition of
20 probation during the suspension period.

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

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

35 (~~(10)~~) (11) A court may waive the electronic home monitoring
36 requirements of this chapter when:

37 (a) The offender does not have a dwelling, telephone service, or
38 any other necessity to operate an electronic home monitoring system;

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

2 (c) The court determines that there is reason to believe that the
3 offender would violate the conditions of the electronic home monitoring
4 penalty.

5 Whenever the mandatory minimum term of electronic home monitoring
6 is waived, the court shall state in writing the reason for granting the
7 waiver and the facts upon which the waiver is based, and shall impose
8 an alternative sentence with similar punitive consequences. The
9 alternative sentence may include, but is not limited to, additional
10 jail time, work crew, or work camp.

11 Whenever the combination of jail time and electronic home
12 monitoring or alternative sentence would exceed three hundred sixty-
13 five days, the offender shall serve the jail portion of the sentence
14 first, and the electronic home monitoring or alternative portion of the
15 sentence shall be reduced so that the combination does not exceed three
16 hundred sixty-five days.

17 ~~((+11))~~ (12) An offender serving a sentence under this section,
18 whether or not a mandatory minimum term has expired, may be granted an
19 extraordinary medical placement by the jail administrator subject to
20 the standards and limitations set forth in RCW 9.94A.728(4).

21 ~~((+12))~~ (13) For purposes of this section:

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

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

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

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

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

31 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or
32 9A.36.050 or an equivalent local ordinance, if the conviction is the
33 result of a charge that was originally filed as a violation of RCW
34 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
35 46.61.520 or 46.61.522;

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

1 (vii) A deferred prosecution under chapter 10.05 RCW granted in a
2 prosecution for a violation of RCW 46.61.502, 46.61.504, or an
3 equivalent local ordinance; or

4 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
5 prosecution for a violation of RCW 46.61.5249, or an equivalent local
6 ordinance, if the charge under which the deferred prosecution was
7 granted was originally filed as a violation of RCW 46.61.502 or
8 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
9 46.61.522; and

10 (b) "Within seven years" means that the arrest for a prior offense
11 occurred within seven years of the arrest for the current offense.

12 **Sec. 4.** RCW 46.61.524 and 2001 c 64 s 7 are each amended to read
13 as follows:

14 (1) A person convicted under RCW 46.61.520(1)(a) or 46.61.522(1)(b)
15 or of a felony violation of RCW 46.61.502 or 46.61.504 shall, as a
16 condition of community custody imposed under RCW 9.94A.545 or community
17 placement imposed under RCW 9.94A.660, complete a diagnostic evaluation
18 by an alcohol or drug dependency agency approved by the department of
19 social and health services or a qualified probation department, as
20 defined under RCW 46.61.516 that has been approved by the department of
21 social and health services. This report shall be forwarded to the
22 department of licensing. If the person is found to have an alcohol or
23 drug problem that requires treatment, the person shall complete
24 treatment in a program approved by the department of social and health
25 services under chapter 70.96A RCW. If the person is found not to have
26 an alcohol or drug problem that requires treatment, he or she shall
27 complete a course in an information school approved by the department
28 of social and health services under chapter 70.96A RCW. The convicted
29 person shall pay all costs for any evaluation, education, or treatment
30 required by this section, unless the person is eligible for an existing
31 program offered or approved by the department of social and health
32 services. Nothing in chapter 348, Laws of 1991 requires the addition
33 of new treatment or assessment facilities nor affects the department of
34 social and health services use of existing programs and facilities
35 authorized by law.

36 (2) As provided for under RCW 46.20.285, the department shall
37 revoke the license, permit to drive, or a nonresident privilege of a

1 person convicted of vehicular homicide under RCW 46.61.520 or vehicular
2 assault under RCW 46.61.522. The department shall determine the
3 eligibility of a person convicted of vehicular homicide under RCW
4 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to
5 receive a license based upon the report provided by the designated
6 alcoholism treatment facility or probation department, and shall deny
7 reinstatement until satisfactory progress in an approved program has
8 been established and the person is otherwise qualified.

9 **Sec. 5.** RCW 9.94A.515 and 2003 c 335 s 5, 2003 c 283 s 33, 2003 c
10 267 s 3, 2003 c 250 s 14, 2003 c 119 s 8, 2003 c 53 s 56, and 2003 c 52
11 s 4 are each reenacted and amended to read as follows:
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TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

14	XVI	Aggravated Murder 1 (RCW
15		10.95.020)
16	XV	Homicide by abuse (RCW 9A.32.055)
17		Malicious explosion 1 (RCW
18		70.74.280(1))
19		Murder 1 (RCW 9A.32.030)
20	XIV	Murder 2 (RCW 9A.32.050)
21		Trafficking 1 (RCW 9A.40.100(1))
22	XIII	Malicious explosion 2 (RCW
23		70.74.280(2))
24		Malicious placement of an explosive 1
25		(RCW 70.74.270(1))
26	XII	Assault 1 (RCW 9A.36.011)
27		Assault of a Child 1 (RCW 9A.36.120)
28		Malicious placement of an imitation
29		device 1 (RCW 70.74.272(1)(a))
30		Rape 1 (RCW 9A.44.040)
31		Rape of a Child 1 (RCW 9A.44.073)
32		Trafficking 2 (RCW 9A.40.100(2))
33	XI	Manslaughter 1 (RCW 9A.32.060)
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1 Rape 2 (RCW 9A.44.050)
2 Rape of a Child 2 (RCW 9A.44.076)
3 X Child Molestation 1 (RCW 9A.44.083)
4 Indecent Liberties (with forcible
5 compulsion) (RCW
6 9A.44.100(1)(a))
7 Kidnapping 1 (RCW 9A.40.020)
8 Leading Organized Crime (RCW
9 9A.82.060(1)(a))
10 Malicious explosion 3 (RCW
11 70.74.280(3))
12 Sexually Violent Predator Escape
13 (RCW 9A.76.115)
14 IX Assault of a Child 2 (RCW 9A.36.130)
15 Explosive devices prohibited (RCW
16 70.74.180)
17 Hit and Run--Death (RCW
18 46.52.020(4)(a))
19 Homicide by Watercraft, by being
20 under the influence of intoxicating
21 liquor or any drug (RCW
22 79A.60.050)
23 Inciting Criminal Profiteering (RCW
24 9A.82.060(1)(b))
25 Malicious placement of an explosive 2
26 (RCW 70.74.270(2))
27 Robbery 1 (RCW 9A.56.200)
28 Sexual Exploitation (RCW 9.68A.040)
29 Vehicular Homicide, by being under
30 the influence of intoxicating
31 liquor or any drug (RCW
32 46.61.520)
33 VIII Arson 1 (RCW 9A.48.020)
34 Homicide by Watercraft, by the
35 operation of any vessel in a
36 reckless manner (RCW
37 79A.60.050)

1 Manslaughter 2 (RCW 9A.32.070)
2 Promoting Prostitution 1 (RCW
3 9A.88.070)
4 Theft of Ammonia (RCW 69.55.010)
5 Vehicular Homicide, by the operation
6 of any vehicle in a reckless
7 manner (RCW 46.61.520)
8 VII Burglary 1 (RCW 9A.52.020)
9 Child Molestation 2 (RCW 9A.44.086)
10 Civil Disorder Training (RCW
11 9A.48.120)
12 Dealing in depictions of minor
13 engaged in sexually explicit
14 conduct (RCW 9.68A.050)
15 Drive-by Shooting (RCW 9A.36.045)
16 Homicide by Watercraft, by disregard
17 for the safety of others (RCW
18 79A.60.050)
19 Indecent Liberties (without forcible
20 compulsion) (RCW 9A.44.100(1)
21 (b) and (c))
22 Introducing Contraband 1 (RCW
23 9A.76.140)
24 Malicious placement of an explosive 3
25 (RCW 70.74.270(3))
26 Sending, bringing into state depictions
27 of minor engaged in sexually
28 explicit conduct (RCW
29 9.68A.060)
30 Unlawful Possession of a Firearm in
31 the first degree (RCW
32 9.41.040(1))
33 Use of a Machine Gun in Commission
34 of a Felony (RCW 9.41.225)
35 Vehicular Homicide, by disregard for
36 the safety of others (RCW
37 46.61.520)

1 VI Bail Jumping with Murder 1 (RCW
2 9A.76.170(3)(a))
3 Bribery (RCW 9A.68.010)
4 Incest 1 (RCW 9A.64.020(1))
5 Intimidating a Judge (RCW
6 9A.72.160)
7 Intimidating a Juror/Witness (RCW
8 9A.72.110, 9A.72.130)
9 Malicious placement of an imitation
10 device 2 (RCW 70.74.272(1)(b))
11 Rape of a Child 3 (RCW 9A.44.079)
12 Theft of a Firearm (RCW 9A.56.300)
13 Unlawful Storage of Ammonia (RCW
14 69.55.020)

15 V Abandonment of dependent person 1
16 (RCW 9A.42.060)
17 Advancing money or property for
18 extortionate extension of credit
19 (RCW 9A.82.030)
20 Bail Jumping with class A Felony
21 (RCW 9A.76.170(3)(b))
22 Child Molestation 3 (RCW 9A.44.089)
23 Criminal Mistreatment 1 (RCW
24 9A.42.020)
25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)
27 Domestic Violence Court Order
28 Violation (RCW 10.99.040,
29 10.99.050, 26.09.300, 26.10.220,
30 26.26.138, 26.50.110, 26.52.070,
31 or 74.34.145)
32 Extortion 1 (RCW 9A.56.120)
33 Extortionate Extension of Credit
34 (RCW 9A.82.020)
35 Extortionate Means to Collect
36 Extensions of Credit (RCW
37 9A.82.040)

1 Incest 2 (RCW 9A.64.020(2))
2 Kidnapping 2 (RCW 9A.40.030)
3 Perjury 1 (RCW 9A.72.020)
4 Persistent prison misbehavior (RCW
5 9.94.070)
6 Possession of a Stolen Firearm (RCW
7 9A.56.310)
8 Rape 3 (RCW 9A.44.060)
9 Rendering Criminal Assistance 1
10 (RCW 9A.76.070)
11 Sexual Misconduct with a Minor 1
12 (RCW 9A.44.093)
13 Sexually Violating Human Remains
14 (RCW 9A.44.105)
15 Stalking (RCW 9A.46.110)
16 Taking Motor Vehicle Without
17 Permission 1 (RCW 9A.56.070)
18 IV Arson 2 (RCW 9A.48.030)
19 Assault 2 (RCW 9A.36.021)
20 Assault by Watercraft (RCW
21 79A.60.060)
22 Bribing a Witness/Bribe Received by
23 Witness (RCW 9A.72.090,
24 9A.72.100)
25 Cheating 1 (RCW 9.46.1961)
26 Commercial Bribery (RCW
27 9A.68.060)
28 Counterfeiting (RCW 9.16.035(4))
29 Endangerment with a Controlled
30 Substance (RCW 9A.42.100)
31 Escape 1 (RCW 9A.76.110)
32 Felony driving or physical control of a
33 motor vehicle while under the
34 influence of intoxicating liquor or any
35 drug (RCW 46.61.502(5)(b) or
36 46.61.504(5)(b))

1 Hit and Run--Injury (RCW
2 46.52.020(4)(b))
3 Hit and Run with Vessel--Injury
4 Accident (RCW 79A.60.200(3))
5 Identity Theft 1 (RCW 9.35.020(2))
6 Indecent Exposure to Person Under
7 Age Fourteen (subsequent sex
8 offense) (RCW 9A.88.010)
9 Influencing Outcome of Sporting
10 Event (RCW 9A.82.070)
11 Malicious Harassment (RCW
12 9A.36.080)
13 Residential Burglary (RCW
14 9A.52.025)
15 Robbery 2 (RCW 9A.56.210)
16 Theft of Livestock 1 (RCW 9A.56.080)
17 Threats to Bomb (RCW 9.61.160)
18 Trafficking in Stolen Property 1 (RCW
19 9A.82.050)
20 Unlawful factoring of a credit card or
21 payment card transaction (RCW
22 9A.56.290(4)(b))
23 Unlawful transaction of health
24 coverage as a health care service
25 contractor (RCW 48.44.016(3))
26 Unlawful transaction of health
27 coverage as a health maintenance
28 organization (RCW 48.46.033(3))
29 Unlawful transaction of insurance
30 business (RCW 48.15.023(3))
31 Unlicensed practice as an insurance
32 professional (RCW 48.17.063(3))
33 Use of Proceeds of Criminal
34 Profiteering (RCW 9A.82.080 (1)
35 and (2))

1 Vehicular Assault, by being under the
2 influence of intoxicating liquor or
3 any drug, or by the operation or
4 driving of a vehicle in a reckless
5 manner (RCW 46.61.522)
6 Willful Failure to Return from
7 Furlough (RCW 72.66.060)
8 III Abandonment of dependent person 2
9 (RCW 9A.42.070)
10 Assault 3 (RCW 9A.36.031)
11 Assault of a Child 3 (RCW 9A.36.140)
12 Bail Jumping with class B or C Felony
13 (RCW 9A.76.170(3)(c))
14 Burglary 2 (RCW 9A.52.030)
15 Communication with a Minor for
16 Immoral Purposes (RCW
17 9.68A.090)
18 Criminal Gang Intimidation (RCW
19 9A.46.120)
20 Criminal Mistreatment 2 (RCW
21 9A.42.030)
22 Custodial Assault (RCW 9A.36.100)
23 Escape 2 (RCW 9A.76.120)
24 Extortion 2 (RCW 9A.56.130)
25 Harassment (RCW 9A.46.020)
26 Intimidating a Public Servant (RCW
27 9A.76.180)
28 Introducing Contraband 2 (RCW
29 9A.76.150)
30 Malicious Injury to Railroad Property
31 (RCW 81.60.070)
32 Patronizing a Juvenile Prostitute
33 (RCW 9.68A.100)
34 Perjury 2 (RCW 9A.72.030)
35 Possession of Incendiary Device (RCW
36 9.40.120)

1 Possession of Machine Gun or Short-
2 Barreled Shotgun or Rifle (RCW
3 9.41.190)
4 Promoting Prostitution 2 (RCW
5 9A.88.080)
6 Securities Act violation (RCW
7 21.20.400)
8 Tampering with a Witness (RCW
9 9A.72.120)
10 Telephone Harassment (subsequent
11 conviction or threat of death)
12 (RCW 9.61.230(2))
13 Theft of Livestock 2 (RCW 9A.56.083)
14 Trafficking in Stolen Property 2 (RCW
15 9A.82.055)
16 Unlawful Imprisonment (RCW
17 9A.40.040)
18 Unlawful possession of firearm in the
19 second degree (RCW 9.41.040(2))
20 Vehicular Assault, by the operation or
21 driving of a vehicle with disregard
22 for the safety of others (RCW
23 46.61.522)
24 Willful Failure to Return from Work
25 Release (RCW 72.65.070)
26 II Computer Trespass 1 (RCW
27 9A.52.110)
28 Counterfeiting (RCW 9.16.035(3))
29 Escape from Community Custody
30 (RCW 72.09.310)
31 Health Care False Claims (RCW
32 48.80.030)
33 Identity Theft 2 (RCW 9.35.020(3))
34 Improperly Obtaining Financial
35 Information (RCW 9.35.010)
36 Malicious Mischief 1 (RCW
37 9A.48.070)

1 Possession of Stolen Property 1 (RCW
2 9A.56.150)
3 Theft 1 (RCW 9A.56.030)
4 Theft of Rental, Leased, or Lease-
5 purchased Property (valued at one
6 thousand five hundred dollars or
7 more) (RCW 9A.56.096(5)(a))
8 Trafficking in Insurance Claims (RCW
9 48.30A.015)
10 Unlawful factoring of a credit card or
11 payment card transaction (RCW
12 9A.56.290(4)(a))
13 Unlawful Practice of Law (RCW
14 2.48.180)
15 Unlicensed Practice of a Profession or
16 Business (RCW 18.130.190(7))
17 I Attempting to Elude a Pursuing Police
18 Vehicle (RCW 46.61.024)
19 False Verification for Welfare (RCW
20 74.08.055)
21 Forgery (RCW 9A.60.020)
22 Fraudulent Creation or Revocation of a
23 Mental Health Advance Directive
24 (RCW 9A.60.060)
25 Malicious Mischief 2 (RCW
26 9A.48.080)
27 Mineral Trespass (RCW 78.44.330)
28 Possession of Stolen Property 2 (RCW
29 9A.56.160)
30 Reckless Burning 1 (RCW 9A.48.040)
31 Taking Motor Vehicle Without
32 Permission 2 (RCW 9A.56.075)
33 Theft 2 (RCW 9A.56.040)

1 Theft of Rental, Leased, or Lease-
2 purchased Property (valued at two
3 hundred fifty dollars or more but
4 less than one thousand five
5 hundred dollars) (RCW
6 9A.56.096(5)(b))
7 Transaction of insurance business
8 beyond the scope of licensure
9 (RCW 48.17.063(4))
10 Unlawful Issuance of Checks or Drafts
11 (RCW 9A.56.060)
12 Unlawful Possession of Fictitious
13 Identification (RCW 9A.56.320)
14 Unlawful Possession of Instruments of
15 Financial Fraud (RCW
16 9A.56.320)
17 Unlawful Possession of Payment
18 Instruments (RCW 9A.56.320)
19 Unlawful Possession of a Personal
20 Identification Device (RCW
21 9A.56.320)
22 Unlawful Production of Payment
23 Instruments (RCW 9A.56.320)
24 Unlawful Trafficking in Food Stamps
25 (RCW 9.91.142)
26 Unlawful Use of Food Stamps (RCW
27 9.91.144)
28 Vehicle Prowl 1 (RCW 9A.52.095)

29 NEW SECTION. **Sec. 6.** This act takes effect July 1, 2004.

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