

SB 6039 - H COMM AMD

By Committee on Judiciary

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

3 "Sec. 1. RCW 5.50.010 and 2011 c 22 s 2 are each amended to read
4 as follows:

5 In this chapter:

6 (1) (~~("Boundaries of the United States" means the geographic~~
7 ~~boundaries of the United States, Puerto Rico, the United States~~
8 ~~Virgin Islands, and any territory or insular possession subject to~~
9 ~~the jurisdiction of the United States.~~

10 ~~(2))~~ "Law" includes (~~(the federal or a state Constitution,~~) a
11 (~~federal or state~~) statute, (~~(a)~~) judicial decision or order, (~~(a)~~)
12 rule of court, (~~(an)~~) executive order, and (~~(an)~~) administrative
13 rule, regulation, or order.

14 (~~(3))~~ (2) "Record" means information that is inscribed on a
15 tangible medium or that is stored in an electronic or other medium
16 and is retrievable in perceivable form.

17 (~~(4))~~ (3) "Sign" means, with present intent to authenticate or
18 adopt a record:

19 (a) To execute or adopt a tangible symbol; or

20 (b) To attach to or logically associate with the record an
21 electronic symbol, sound, or process.

22 (~~(5) "State" means a state of the United States, the District of~~
23 ~~Columbia, Puerto Rico, the United States Virgin Islands, or any~~
24 ~~territory or insular possession subject to the jurisdiction of the~~
25 ~~United States.~~

26 ~~(6))~~ (4) "Sworn declaration" means a declaration in a signed
27 record given under oath. The term includes a sworn statement,
28 verification, certificate, and affidavit.

29 (~~(7))~~ (5) "Unsworn declaration" means a declaration in a signed
30 record (~~(that is)~~) not given under oath(~~(7)~~) but (~~(is)~~) given under
31 penalty of perjury.

1 In applying and construing this uniform act and chapter,
2 consideration must be given to the need to promote uniformity of the
3 law with respect to its subject matter among states that enact it.

4 NEW SECTION. **Sec. 6.** RCW 9A.72.085 (Unsworn statements,
5 certification—Standards for subscribing to an unsworn statement) and
6 2014 c 93 s 4 & 1981 c 187 s 3 are each repealed.

7 **CONFORMING AMENDMENTS**

8 **Sec. 7.** RCW 7.64.020 and 2004 c 74 s 1 are each amended to read
9 as follows:

10 (1) At the time of filing the complaint or any time thereafter,
11 the plaintiff may apply to the judge or court commissioner to issue
12 an order directing the defendant to appear and show cause why an
13 order putting the plaintiff in immediate possession of the personal
14 property should not be issued.

15 (2) In support of the application, the plaintiff, or someone on
16 the plaintiff's behalf, shall make an affidavit, or a declaration as
17 permitted under (~~RCW 9A.72.085~~) chapter 5.50 RCW, showing:

18 (a) That the plaintiff is the owner of the property or is
19 lawfully entitled to the possession of the property by virtue of a
20 special property interest, including a security interest,
21 specifically describing the property and interest;

22 (b) That the property is wrongfully detained by defendant;

23 (c) That the property has not been taken for a tax, assessment,
24 or fine pursuant to a statute and has not been seized under an
25 execution or attachment against the property of the plaintiff, or if
26 so seized, that it is by law exempt from such seizure; and

27 (d) The approximate value of the property.

28 (3) The order to show cause shall state the date, time, and place
29 of the hearing and contain a notice to the defendant that failure to
30 promptly turn over possession of the property to the plaintiff or the
31 sheriff, if an order awarding possession is issued under RCW
32 7.64.035(1), may subject the defendant to being held in contempt of
33 court.

34 (4) A certified copy of the order to show cause, with a copy of
35 the plaintiff's affidavit or declaration attached, shall be served
36 upon the defendant no later than five days before the hearing date.

1 **Sec. 8.** RCW 7.70.065 and 2017 c 275 s 1 are each amended to read
2 as follows:

3 (1) Informed consent for health care for a patient who is not
4 competent, as defined in RCW 11.88.010(1)(e), to consent may be
5 obtained from a person authorized to consent on behalf of such
6 patient.

7 (a) Persons authorized to provide informed consent to health care
8 on behalf of a patient who is not competent to consent, based upon a
9 reason other than incapacity as defined in RCW 11.88.010(1)(d), shall
10 be a member of one of the following classes of persons in the
11 following order of priority:

12 (i) The appointed guardian of the patient, if any;

13 (ii) The individual, if any, to whom the patient has given a
14 durable power of attorney that encompasses the authority to make
15 health care decisions;

16 (iii) The patient's spouse or state registered domestic partner;

17 (iv) Children of the patient who are at least eighteen years of
18 age;

19 (v) Parents of the patient; and

20 (vi) Adult brothers and sisters of the patient.

21 (b) If the health care provider seeking informed consent for
22 proposed health care of the patient who is not competent to consent
23 under RCW 11.88.010(1)(e), other than a person determined to be
24 incapacitated because he or she is under the age of majority and who
25 is not otherwise authorized to provide informed consent, makes
26 reasonable efforts to locate and secure authorization from a
27 competent person in the first or succeeding class and finds no such
28 person available, authorization may be given by any person in the
29 next class in the order of descending priority. However, no person
30 under this section may provide informed consent to health care:

31 (i) If a person of higher priority under this section has refused
32 to give such authorization; or

33 (ii) If there are two or more individuals in the same class and
34 the decision is not unanimous among all available members of that
35 class.

36 (c) Before any person authorized to provide informed consent on
37 behalf of a patient not competent to consent under RCW
38 11.88.010(1)(e), other than a person determined to be incapacitated
39 because he or she is under the age of majority and who is not
40 otherwise authorized to provide informed consent, exercises that

1 authority, the person must first determine in good faith that that
2 patient, if competent, would consent to the proposed health care. If
3 such a determination cannot be made, the decision to consent to the
4 proposed health care may be made only after determining that the
5 proposed health care is in the patient's best interests.

6 (2) Informed consent for health care, including mental health
7 care, for a patient who is not competent, as defined in RCW
8 11.88.010(1)(e), because he or she is under the age of majority and
9 who is not otherwise authorized to provide informed consent, may be
10 obtained from a person authorized to consent on behalf of such a
11 patient.

12 (a) Persons authorized to provide informed consent to health
13 care, including mental health care, on behalf of a patient who is
14 incapacitated, as defined in RCW 11.88.010(1)(e), because he or she
15 is under the age of majority and who is not otherwise authorized to
16 provide informed consent, shall be a member of one of the following
17 classes of persons in the following order of priority:

18 (i) The appointed guardian, or legal custodian authorized
19 pursuant to Title 26 RCW, of the minor patient, if any;

20 (ii) A person authorized by the court to consent to medical care
21 for a child in out-of-home placement pursuant to chapter 13.32A or
22 13.34 RCW, if any;

23 (iii) Parents of the minor patient;

24 (iv) The individual, if any, to whom the minor's parent has given
25 a signed authorization to make health care decisions for the minor
26 patient; and

27 (v) A competent adult representing himself or herself to be a
28 relative responsible for the health care of such minor patient or a
29 competent adult who has signed and dated a declaration under penalty
30 of perjury pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW stating
31 that the adult person is a relative responsible for the health care
32 of the minor patient. Such declaration shall be effective for up to
33 six months from the date of the declaration.

34 (b)(i) Informed consent for health care on behalf of a patient
35 who is incapacitated, as defined in RCW 11.88.010(1)(e), because he
36 or she is under the age of majority and who is not otherwise
37 authorized to provide informed consent may be obtained from a school
38 nurse, school counselor, or homeless student liaison when:

39 (A) Consent is necessary for nonemergency, outpatient, primary
40 care services, including physical examinations, vision examinations

1 and eyeglasses, dental examinations, hearing examinations and hearing
2 aids, immunizations, treatments for illnesses and conditions, and
3 routine follow-up care customarily provided by a health care provider
4 in an outpatient setting, excluding elective surgeries;

5 (B) The minor patient meets the definition of a "homeless child
6 or youth" under the federal McKinney-Vento homeless education
7 assistance improvements act of 2001, P.L. 107-110, January 8, 2002,
8 115 Stat. 2005; and

9 (C) The minor patient is not under the supervision or control of
10 a parent, custodian, or legal guardian, and is not in the care and
11 custody of the department of social and health services.

12 (ii) A person authorized to consent to care under this subsection
13 (2)(b) and the person's employing school or school district are not
14 subject to administrative sanctions or civil damages resulting from
15 the consent or nonconsent for care, any care, or payment for any
16 care, rendered pursuant to this section. Nothing in this section
17 prevents a health care facility or a health care provider from
18 seeking reimbursement from other sources for care provided to a minor
19 patient under this subsection (2)(b).

20 (iii) Upon request by a health care facility or a health care
21 provider, a person authorized to consent to care under this
22 subsection (2)(b) must provide to the person rendering care a
23 declaration signed and dated under penalty of perjury pursuant to
24 (~~RCW 9A.72.085~~) chapter 5.50 RCW stating that the person is a
25 school nurse, school counselor, or homeless student liaison and that
26 the minor patient meets the elements under (b)(i) of this subsection.
27 The declaration must also include written notice of the exemption
28 from liability under (b)(ii) of this subsection.

29 (c) A health care provider may, but is not required to, rely on
30 the representations or declaration of a person claiming to be a
31 relative responsible for the care of the minor patient, under (a)(v)
32 of this subsection, or a person claiming to be authorized to consent
33 to the health care of the minor patient under (b) of this subsection,
34 if the health care provider does not have actual notice of the
35 falsity of any of the statements made by the person claiming to be a
36 relative responsible for the health care of the minor patient, or
37 person claiming to be authorized to consent to the health care of the
38 minor patient.

39 (d) A health care facility or a health care provider may, in its
40 discretion, require documentation of a person's claimed status as

1 being a relative responsible for the health care of the minor
2 patient, or a person claiming to be authorized to consent to the
3 health care of the minor patient under (b) of this subsection.
4 However, there is no obligation to require such documentation.

5 (e) The health care provider or health care facility where
6 services are rendered shall be immune from suit in any action, civil
7 or criminal, or from professional or other disciplinary action when
8 such reliance is based on a declaration signed under penalty of
9 perjury pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW stating that
10 the adult person is a relative responsible for the health care of the
11 minor patient under (a)(v) of this subsection, or a person claiming
12 to be authorized to consent to the health care of the minor patient
13 under (b) of this subsection.

14 (3) For the purposes of this section, "health care," "health care
15 provider," and "health care facility" shall be defined as established
16 in RCW 70.02.010.

17 **Sec. 9.** RCW 9A.04.030 and 1999 c 349 s 1 are each amended to
18 read as follows:

19 The following persons are liable to punishment:

20 (1) A person who commits in the state any crime, in whole or in
21 part.

22 (2) A person who commits out of the state any act which, if
23 committed within it, would be theft and is afterward found in the
24 state with any of the stolen property.

25 (3) A person who being out of the state, counsels, causes,
26 procures, aids, or abets another to commit a crime in this state.

27 (4) A person who, being out of the state, abducts or kidnaps by
28 force or fraud, any person, contrary to the laws of the place where
29 the act is committed, and brings, sends, or conveys such person into
30 this state.

31 (5) A person who commits an act without the state which affects
32 persons or property within the state, which, if committed within the
33 state, would be a crime.

34 (6) A person who, being out of the state, makes a statement,
35 declaration, verification, or certificate under (~~RCW 9A.72.085~~)
36 chapter 5.50 RCW which, if made within the state, would be perjury.

37 (7) A person who commits an act onboard a conveyance within the
38 state of Washington, including the airspace over the state of

1 Washington, that subsequently lands, docks, or stops within the state
2 which, if committed within the state, would be a crime.

3 **Sec. 10.** RCW 9A.72.010 and 2001 c 171 s 2 are each amended to
4 read as follows:

5 The following definitions are applicable in this chapter unless
6 the context otherwise requires:

7 (1) "Materially false statement" means any false statement oral
8 or written, regardless of its admissibility under the rules of
9 evidence, which could have affected the course or outcome of the
10 proceeding; (~~whether a false statement is material shall be~~
11 ~~determined by the court as a matter of law;~~)

12 (2) "Oath" includes an affirmation and every other mode
13 authorized by law of attesting to the truth of that which is stated;
14 in this chapter, written statements shall be treated as if made under
15 oath if:

16 (a) The statement was made on or pursuant to instructions on an
17 official form bearing notice, authorized by law, to the effect that
18 false statements made therein are punishable;

19 (b) The statement recites that it was made under oath, the
20 declarant was aware of such recitation at the time he or she made the
21 statement, intended that the statement should be represented as a
22 sworn statement, and the statement was in fact so represented by its
23 delivery or utterance with the signed jurat of an officer authorized
24 to administer oaths appended thereto; or

25 (c) It is a statement, declaration, verification, or certificate,
26 made within or outside the state of Washington, which is certified or
27 declared to be true under penalty of perjury as provided in (~~RCW~~
28 ~~9A.72.085~~) chapter 5.50 RCW.

29 (3) An oath is "required or authorized by law" when the use of
30 the oath is specifically provided for by statute or regulatory
31 provision or when the oath is administered by a person authorized by
32 state or federal law to administer oaths;

33 (4) "Official proceeding" means a proceeding heard before any
34 legislative, judicial, administrative, or other government agency or
35 official authorized to hear evidence under oath, including any
36 referee, hearing examiner, commissioner, notary, or other person
37 taking testimony or depositions;

38 (5) "Juror" means any person who is a member of any jury,
39 including a grand jury, impaneled by any court of this state or by

1 any public servant authorized by law to impanel a jury; the term
2 juror also includes any person who has been drawn or summoned to
3 attend as a prospective juror;

4 (6) "Testimony" includes oral or written statements, documents,
5 or any other material that may be offered by a witness in an official
6 proceeding.

7 **Sec. 11.** RCW 10.25.065 and 1981 c 187 s 4 are each amended to
8 read as follows:

9 Perjury committed outside of the state of Washington in a
10 statement, declaration, verification, or certificate authorized by
11 (~~RCW 9A.72.085~~) chapter 5.50 RCW is punishable in the county in
12 this state in which occurs the act, transaction, matter, action, or
13 proceeding, in relation to which the statement, declaration,
14 verification, or certification was given or made.

15 **Sec. 12.** RCW 11.96A.250 and 2013 c 272 s 21 are each amended to
16 read as follows:

17 (1)(a) Any party or the parent of a minor or unborn party may
18 petition the court for the appointment of a special representative to
19 represent a party: (i) Who is a minor; (ii) who is incapacitated
20 without an appointed guardian of his or her estate; (iii) who is yet
21 unborn or unascertained; or (iv) whose identity or address is
22 unknown. The petition may be heard by the court without notice.

23 (b) In appointing the special representative the court shall give
24 due consideration and deference to any nomination(s) made in the
25 petition, the special skills required in the representation, and the
26 need for a representative who will act independently and prudently.
27 The nomination of a person as special representative by the
28 petitioner and the person's willingness to serve as special
29 representative are not grounds by themselves for finding a lack of
30 independence, however, the court may consider any interests that the
31 nominating party may have in the estate or trust in making the
32 determination.

33 (c) The special representative may enter into a binding agreement
34 on behalf of the person or beneficiary. The special representative
35 may be appointed for more than one person or class of persons if the
36 interests of such persons or class are not in conflict. The petition
37 must be verified. The petition and order appointing the special
38 representative may be in the following form:

1 CAPTION PETITION FOR APPOINTMENT
2 OF CASE OF SPECIAL REPRESENTATIVE
3 UNDER RCW 11.96A.250

4 The undersigned petitioner petitions the court for the
5 appointment of a special representative in accordance with RCW
6 11.96A.250 and shows the court as follows:

7 1. Petitioner. Petitioner . . . [is the qualified and presently
8 acting (personal representative) (trustee) of the above (estate)
9 (trust) having been named (personal representative) (trustee) under
10 (describe will and reference probate order or describe trust
11 instrument)] or [is the (describe relationship of the petitioner to
12 the party to be represented or to the matter at issue)].

13 2. Matter. A question concerning . . . has arisen as to (describe
14 issue, for example: Related to interpretation, construction,
15 administration, distribution). The issue is a matter as defined in
16 RCW 11.96A.030 and is appropriate for determination under RCW
17 11.96A.210 through 11.96A.250.

18 3. Party/Parties to be Represented. This matter involves (include
19 description of asset(s) and related beneficiaries and/or interested
20 parties). Resolution of this matter will require the involvement
21 of (name of person or class of persons), who is/are
22 (minors), (incapacitated and without an appointed guardian), (unborn
23 or unascertained) (whose identity or address is unknown).

24 4. Special Representative. The nominated special
25 representative . . . is a lawyer licensed to practice before the
26 courts of this state or an individual with special skill or training
27 in the administration of estates or trusts. The nominated special
28 representative does not have an interest in the matter and is not
29 related to any person interested in the matter. The nominated special
30 representative is willing to serve. The petitioner has no reason to
31 believe that the nominated special representative will not act in an
32 independent and prudent manner and in the best interests of the
33 represented parties. (It is recommended that the petitioner also
34 include information specifying the particular skills of the nominated
35 special representative that relate to the matter in issue.)

36 5. Resolution. Petitioner desires to achieve a resolution of the
37 questions that have arisen in this matter. Petitioner believes that
38 proceeding in accordance with the procedures permitted under RCW

1 11.96A.210 through 11.96A.250 would be in the best interests of the
2 parties, including the party requiring a special representative.

3 6. Request of Court. Petitioner requests that an
4 attorney licensed to practice in the State of Washington,

5 (OR)

6 an individual with special skill or training in the
7 administration of estates or trusts

8 be appointed special representative for . . . (describe party or
9 parties being represented), who is/are (minors), (incapacitated and
10 without an appointed guardian), (unborn or unascertained) (whose
11 identity or address is unknown), as provided under RCW 11.96A.250.

12 DATED this . . . day of,

13
14 (Petitioner)

15 VERIFICATION

16 I certify under penalty of perjury under the laws of the state of
17 Washington that the foregoing is true and correct.

18 DATED, ((20--)) (year), at,
19 Washington.

20
21 (Petitioner or other person
22 having knowledge)

23 CAPTION PETITION FOR APPOINTMENT
24 OF CASE OF SPECIAL REPRESENTATIVE
25 UNDER RCW 11.96A.250

26 THIS MATTER having come on for hearing before this Court on
27 Petition for Appointment of Special Representative filed herein, and
28 it appearing that it would be in the best interests of the parties
29 related to the matter described in the Petition to appoint a special
30 representative to address the issues that have arisen in the matter
31 and the Court finding that the facts stated in the Petition are true,
32 now, therefore,

33 IT IS ORDERED that . . . is appointed under RCW 11.96A.250 as
34 special representative (describe party or parties being represented)
35 who is/are (minors), (incapacitated and without an appointed

1 guardian), (unborn or unascertained) (whose identity or address is
2 unknown), to represent their respective interests in the matter as
3 provided in RCW 11.96A.250. The special representative shall be
4 discharged of responsibility with respect to the matter as provided
5 in RCW 11.96A.250. The special representative is discharged of
6 responsibility with respect to the matter at such time as a written
7 agreement is executed resolving the present issues, all as provided
8 in that statute, or if an agreement is not reached within six months
9 from entry of this Order, the special representative appointed under
10 this Order is discharged of responsibility, subject to subsequent
11 reappointment under RCW 11.96A.250.

12 DONE IN OPEN COURT this . . . day of,

13

14 JUDGE/COURT COMMISSIONER

15 (2) Upon appointment by the court, the special representative
16 must file a certification made under penalty of perjury in accordance
17 with (~~RCW 9A.72.085~~) chapter 5.50 RCW that he or she (a) is not
18 interested in the matter; (b) is not related to any person interested
19 in the matter; (c) is willing to serve; and (d) will act
20 independently, prudently, and in the best interests of the
21 represented parties.

22 (3) The special representative must be a lawyer licensed to
23 practice before the courts of this state or an individual with
24 special skill or training in the administration of estates or trusts.
25 The special representative may not have an interest in the matter,
26 and may not be related to a person interested in the matter. The
27 special representative is entitled to reasonable compensation for
28 services that must be paid from the principal of an asset involved in
29 the matter.

30 (4) The special representative is discharged from any
31 responsibility and will have no further duties with respect to the
32 matter or with respect to any party, on the earlier of: (a) The
33 expiration of six months from the date the special representative was
34 appointed unless the order appointing the special representative
35 provides otherwise, or (b) the execution of the written agreement by
36 all parties or their virtual representatives. Any action against a
37 special representative must be brought within the time limits
38 provided by RCW 11.96A.070(3)(c)(i).

1 **Sec. 13.** RCW 18.104.093 and 1993 c 387 s 13 are each amended to
2 read as follows:

3 The department may issue a water well construction operator's
4 training license if the person:

5 (1) Has submitted a completed application to the department on
6 forms provided by the department and has paid to the department the
7 application fee required by rules adopted pursuant to this chapter;

8 (2) Has acquired field experience and educational training
9 required by rules adopted pursuant to this chapter;

10 (3) Has passed a written examination as provided for in RCW
11 18.104.080;

12 (4) Has passed an on-site examination by the department; and

13 (5) Presents a statement by a person licensed under this chapter,
14 other than a trainee, signed under penalty of perjury as provided in
15 (~~RCW 9A.72.085~~) chapter 5.50 RCW, verifying that the applicant has
16 the field experience required by rules adopted pursuant to this
17 chapter and assuming liability for any and all well construction
18 activities of the person seeking the training license.

19 A person with a water well construction operator's training
20 license may operate a drilling rig without the direct supervision of
21 a licensed operator if a licensed operator is available by radio,
22 telephone, or other means of communication.

23 **Sec. 14.** RCW 18.104.097 and 1993 c 387 s 15 are each amended to
24 read as follows:

25 The department may issue a resource protection well operator's
26 training license if the person:

27 (1) Has submitted a completed application to the department on
28 forms provided by the department and has paid to the department the
29 application fee required by rules adopted pursuant to this chapter;

30 (2) Has acquired field experience and educational training
31 required by rules adopted pursuant to this chapter;

32 (3) Has passed a written examination as provided for in RCW
33 18.104.080;

34 (4) Has passed an on-site examination by the department; and

35 (5) Presents a statement by a person licensed under this chapter,
36 other than a trainee, signed under penalty of perjury as provided in
37 (~~RCW 9A.72.085~~) chapter 5.50 RCW, verifying that the applicant has
38 the field experience required by rules adopted pursuant to this

1 chapter and assuming liability for any and all well construction
2 activities of the person seeking the training license.

3 A person with a resource protection well construction operator's
4 training license may operate a drilling rig without direct
5 supervision of a licensed operator if a licensed operator is
6 accessible by radio, telephone, or other means of communication.

7 **Sec. 15.** RCW 39.04.350 and 2017 c 258 s 2 are each amended to
8 read as follows:

9 (1) Before award of a public works contract, a bidder must meet
10 the following responsibility criteria to be considered a responsible
11 bidder and qualified to be awarded a public works project. The bidder
12 must:

13 (a) At the time of bid submittal, have a certificate of
14 registration in compliance with chapter 18.27 RCW;

15 (b) Have a current state unified business identifier number;

16 (c) If applicable, have industrial insurance coverage for the
17 bidder's employees working in Washington as required in Title 51 RCW;
18 an employment security department number as required in Title 50 RCW;
19 and a state excise tax registration number as required in Title 82
20 RCW;

21 (d) Not be disqualified from bidding on any public works contract
22 under RCW 39.06.010 or 39.12.065(3);

23 (e) If bidding on a public works project subject to the
24 apprenticeship utilization requirements in RCW 39.04.320, not have
25 been found out of compliance by the Washington state apprenticeship
26 and training council for working apprentices out of ratio, without
27 appropriate supervision, or outside their approved work processes as
28 outlined in their standards of apprenticeship under chapter 49.04 RCW
29 for the one-year period immediately preceding the date of the bid
30 solicitation;

31 (f) Until December 31, 2013, not have violated RCW 39.04.370 more
32 than one time as determined by the department of labor and
33 industries; and

34 (g) Within the three-year period immediately preceding the date
35 of the bid solicitation, not have been determined by a final and
36 binding citation and notice of assessment issued by the department of
37 labor and industries or through a civil judgment entered by a court
38 of limited or general jurisdiction to have willfully violated, as

1 defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or
2 49.52 RCW.

3 (2) Before award of a public works contract, a bidder shall
4 submit to the contracting agency a signed statement in accordance
5 with (~~RCW 9A.72.085~~) chapter 5.50 RCW verifying under penalty of
6 perjury that the bidder is in compliance with the responsible bidder
7 criteria requirement of subsection (1)(g) of this section. A
8 contracting agency may award a contract in reasonable reliance upon
9 such a sworn statement.

10 (3) In addition to the bidder responsibility criteria in
11 subsection (1) of this section, the state or municipality may adopt
12 relevant supplemental criteria for determining bidder responsibility
13 applicable to a particular project which the bidder must meet.

14 (a) Supplemental criteria for determining bidder responsibility,
15 including the basis for evaluation and the deadline for appealing a
16 determination that a bidder is not responsible, must be provided in
17 the invitation to bid or bidding documents.

18 (b) In a timely manner before the bid submittal deadline, a
19 potential bidder may request that the state or municipality modify
20 the supplemental criteria. The state or municipality must evaluate
21 the information submitted by the potential bidder and respond before
22 the bid submittal deadline. If the evaluation results in a change of
23 the criteria, the state or municipality must issue an addendum to the
24 bidding documents identifying the new criteria.

25 (c) If the bidder fails to supply information requested
26 concerning responsibility within the time and manner specified in the
27 bid documents, the state or municipality may base its determination
28 of responsibility upon any available information related to the
29 supplemental criteria or may find the bidder not responsible.

30 (d) If the state or municipality determines a bidder to be not
31 responsible, the state or municipality must provide, in writing, the
32 reasons for the determination. The bidder may appeal the
33 determination within the time period specified in the bidding
34 documents by presenting additional information to the state or
35 municipality. The state or municipality must consider the additional
36 information before issuing its final determination. If the final
37 determination affirms that the bidder is not responsible, the state
38 or municipality may not execute a contract with any other bidder
39 until two business days after the bidder determined to be not
40 responsible has received the final determination.

1 (4) The capital projects advisory review board created in RCW
2 39.10.220 shall develop suggested guidelines to assist the state and
3 municipalities in developing supplemental bidder responsibility
4 criteria. The guidelines must be posted on the board's web site.

5 **Sec. 16.** RCW 39.26.160 and 2017 c 258 s 3 are each amended to
6 read as follows:

7 (1)(a) After bids that are submitted in response to a competitive
8 solicitation process are reviewed by the awarding agency, the
9 awarding agency may:

10 (i) Reject all bids and rebid or cancel the competitive
11 solicitation;

12 (ii) Request best and final offers from responsive and
13 responsible bidders; or

14 (iii) Award the purchase or contract to the lowest responsive and
15 responsible bidder.

16 (b) The agency may award one or more contracts from a competitive
17 solicitation.

18 (2) In determining whether the bidder is a responsible bidder,
19 the agency must consider the following elements:

20 (a) The ability, capacity, and skill of the bidder to perform the
21 contract or provide the service required;

22 (b) The character, integrity, reputation, judgment, experience,
23 and efficiency of the bidder;

24 (c) Whether the bidder can perform the contract within the time
25 specified;

26 (d) The quality of performance of previous contracts or services;

27 (e) The previous and existing compliance by the bidder with laws
28 relating to the contract or services;

29 (f) Whether, within the three-year period immediately preceding
30 the date of the bid solicitation, the bidder has been determined by a
31 final and binding citation and notice of assessment issued by the
32 department of labor and industries or through a civil judgment
33 entered by a court of limited or general jurisdiction to have
34 willfully violated, as defined in RCW 49.48.082, any provision of
35 chapter 49.46, 49.48, or 49.52 RCW; and

36 (g) Such other information as may be secured having a bearing on
37 the decision to award the contract.

1 (3) In determining the lowest responsive and responsible bidder,
2 an agency may consider best value criteria, including but not limited
3 to:

4 (a) Whether the bid satisfies the needs of the state as specified
5 in the solicitation documents;

6 (b) Whether the bid encourages diverse contractor participation;

7 (c) Whether the bid provides competitive pricing, economies, and
8 efficiencies;

9 (d) Whether the bid considers human health and environmental
10 impacts;

11 (e) Whether the bid appropriately weighs cost and noncost
12 considerations; and

13 (f) Life-cycle cost.

14 (4) The solicitation document must clearly set forth the
15 requirements and criteria that the agency will apply in evaluating
16 bid submissions. Before award of a contract, a bidder shall submit to
17 the contracting agency a signed statement in accordance with ((RCW
18 ~~9A.72.085~~) chapter 5.50 RCW verifying under penalty of perjury that
19 the bidder is in compliance with the responsible bidder criteria
20 requirement of subsection (2)(f) of this section. A contracting
21 agency may award a contract in reasonable reliance upon such a sworn
22 statement.

23 (5) The awarding agency may at its discretion reject the bid of
24 any contractor who has failed to perform satisfactorily on a previous
25 contract with the state.

26 (6) After reviewing all bid submissions, an agency may enter into
27 negotiations with the lowest responsive and responsible bidder in
28 order to determine if the bid may be improved. An agency may not use
29 this negotiation opportunity to permit a bidder to change a
30 nonresponsive bid into a responsive bid.

31 (7) The procuring agency must enter into the state's enterprise
32 vendor registration and bid notification system the name of each
33 bidder and an indication as to the successful bidder.

34 **Sec. 17.** RCW 46.09.320 and 2016 c 84 s 2 are each amended to
35 read as follows:

36 (1) The application for a certificate of title of an off-road
37 vehicle must be made by the owner or owner's representative to the
38 department, county auditor or other agent, or subagent appointed by

1 the director on a form furnished or approved by the department and
2 must contain:

3 (a) A description of the off-road vehicle, including make, model,
4 vehicle identification number or engine serial number if no vehicle
5 identification number exists, type of body, and model year of the
6 vehicle;

7 (b) The name and address of the person who is the registered
8 owner of the off-road vehicle and, if the off-road vehicle is subject
9 to a security interest, the name and address of the secured party;
10 and

11 (c) Other information the department may require.

12 (2) The application for a certificate of title must be signed by
13 the person applying to be the registered owner and be sworn to by
14 that person in the manner described under ((~~RCW 9A.72.085~~)) chapter
15 5.50 RCW.

16 (3) The owner must pay the fee established under RCW 46.17.100.

17 (4) Issuance of the certificate of title does not qualify the
18 off-road vehicle for registration under chapter 46.16A RCW.

19 **Sec. 18.** RCW 46.12.530 and 2017 c 147 s 3 are each amended to
20 read as follows:

21 (1) The application for a certificate of title of a vehicle must
22 be made by the owner or owner's representative to the department,
23 county auditor or other agent, or subagent appointed by the director
24 on a form furnished or approved by the department and must contain:

25 (a) A description of the vehicle, including make, model, vehicle
26 identification number, type of body, and the odometer reading at the
27 time of delivery of the vehicle;

28 (b) The name and address of the person who is to be the
29 registered owner of the vehicle and, if the vehicle is subject to a
30 security interest, the name and address of the secured party; and

31 (c) Other information the department may require.

32 (2) The department may require additional information and a
33 physical examination of the vehicle or of any class of vehicles, or
34 either.

35 (3) The application for a certificate of title must be signed by
36 the person applying to be the registered owner and be sworn to by
37 that person in the manner described under ((~~RCW 9A.72.085~~)) chapter
38 5.50 RCW. The department shall keep the application in the original,
39 computer, or photostatic form.

1 (4) The application for an original certificate of title must be
2 accompanied by:

3 (a) A draft, money order, certified bank check, or cash for all
4 fees and taxes due for the application for certificate of title; and

5 (b) The most recent certificate of title or other satisfactory
6 evidence of ownership.

7 (5) Once issued, a certificate of title is not subject to
8 renewal.

9 (6) Whenever any person, after applying for or receiving a
10 certificate of title, moves from the address named in the application
11 or in the certificate of title issued to him or her, or changes his
12 or her name of record, the person shall, within ten days thereafter,
13 notify the department of the name or address change as provided in
14 RCW 46.08.195.

15 **Sec. 19.** RCW 46.12.555 and 2014 c 12 s 1 are each amended to
16 read as follows:

17 (1) The application for a quick title of a vehicle must be
18 submitted by the owner or the owner's representative to the
19 department, participating county auditor or other agent, or subagent
20 appointed by the director on a form furnished or approved by the
21 department and must contain:

22 (a) A description of the vehicle, including make, model, vehicle
23 identification number, type of body, and the odometer reading at the
24 time of delivery of the vehicle, when required;

25 (b) The name and address of the person who is to be the
26 registered owner of the vehicle and, if the vehicle is subject to a
27 security interest, the name and address of the secured party; and

28 (c) Other information as may be required by the department.

29 (2) The application for a quick title must be signed by the
30 person applying to be the registered owner and be sworn to by that
31 person in the manner described under ((~~RCW 9A.72.085~~)) chapter 5.50
32 RCW. The department must keep a copy of the application.

33 (3) The application for a quick title must be accompanied by:

34 (a) All fees and taxes due for an application for a certificate
35 of title, including a quick title service fee under RCW 46.17.160;
36 and

37 (b) The most recent certificate of title or other satisfactory
38 evidence of ownership.

1 (4) All applications for quick title must meet the requirements
2 established by the department.

3 (5) For the purposes of this section, "quick title" means a
4 certificate of title printed at the time of application.

5 (6) The quick title process authorized under this section may not
6 be used to obtain the first title issued to a vehicle previously
7 designated as a salvage vehicle as defined in RCW 46.04.514.

8 (7) A subagent may process a quick title under this section in
9 accordance with rules adopted by the department.

10 **Sec. 20.** RCW 46.16A.435 and 2011 c 121 s 3 are each amended to
11 read as follows:

12 (1) The department shall establish a declaration subject to the
13 requirements of ((RCW 9A.72.085)) chapter 5.50 RCW, which must be
14 submitted by an off-road motorcycle owner when applying for on-road
15 registration of the off-road motorcycle. In order to be registered
16 for on-road use, an off-road motorcycle must travel on two wheels
17 with a seat designed to be straddled by the operator and with
18 handlebar-type steering control.

19 (2) Registration for on-road use of an off-road motorcycle is
20 prohibited for dune buggies, snowmobiles, trimobiles, mopeds, pocket
21 bikes, motor vehicles registered by the department, side-by-sides,
22 utility vehicles, grey-market vehicles, off-road three-wheeled
23 vehicles, and, as determined by the department, any other vehicles
24 that were not originally certified by the manufacturer for use on
25 public roads.

26 (3) The declaration must include the following:

27 (a) Documentation of a safety inspection to be completed by a
28 licensed motorcycle dealer or repair shop in the state of Washington
29 that must outline the vehicle information and certify that all off-
30 road to on-road motorcycle equipment as required under RCW 46.61.705
31 meets the requirements outlined in state and federal law;

32 (b) Documentation that the licensed motorcycle dealer or repair
33 shop did not charge more than one hundred dollars per safety
34 inspection and that the entire safety inspection fee is paid directly
35 and only to the licensed motorcycle dealer or repair shop;

36 (c) A statement that the licensed motorcycle dealer or repair
37 shop is entitled to the full amount charged for the motorcycle safety
38 inspection;

1 (d) A vehicle identification number verification that must be
2 completed by a licensed motorcycle dealer or repair shop in the state
3 of Washington; and

4 (e) A release signed by the owner of the off-road motorcycle and
5 verified by the department, county auditor or other agent, or
6 subagent appointed by the director that releases the state from any
7 liability and outlines that the owner understands that the original
8 off-road motorcycle was not manufactured for on-road use and that it
9 has been modified for use on public roads.

10 (4) The department must track off-road motorcycles in a separate
11 registration category for reporting purposes.

12 **Sec. 21.** RCW 46.20.308 and 2015 2nd sp.s. c 3 s 5 are each
13 amended to read as follows:

14 (1) Any person who operates a motor vehicle within this state is
15 deemed to have given consent, subject to the provisions of RCW
16 46.61.506, to a test or tests of his or her breath for the purpose of
17 determining the alcohol concentration in his or her breath if
18 arrested for any offense where, at the time of the arrest, the
19 arresting officer has reasonable grounds to believe the person had
20 been driving or was in actual physical control of a motor vehicle
21 while under the influence of intoxicating liquor or any drug or was
22 in violation of RCW 46.61.503.

23 (2) The test or tests of breath shall be administered at the
24 direction of a law enforcement officer having reasonable grounds to
25 believe the person to have been driving or in actual physical control
26 of a motor vehicle within this state while under the influence of
27 intoxicating liquor or any drug or the person to have been driving or
28 in actual physical control of a motor vehicle while having alcohol in
29 a concentration in violation of RCW 46.61.503 in his or her system
30 and being under the age of twenty-one. Prior to administering a
31 breath test pursuant to this section, the officer shall inform the
32 person of his or her right under this section to refuse the breath
33 test, and of his or her right to have additional tests administered
34 by any qualified person of his or her choosing as provided in RCW
35 46.61.506. The officer shall warn the driver, in substantially the
36 following language, that:

37 (a) If the driver refuses to take the test, the driver's license,
38 permit, or privilege to drive will be revoked or denied for at least
39 one year; and

1 (b) If the driver refuses to take the test, the driver's refusal
2 to take the test may be used in a criminal trial; and

3 (c) If the driver submits to the test and the test is
4 administered, the driver's license, permit, or privilege to drive
5 will be suspended, revoked, or denied for at least ninety days if:

6 (i) The driver is age twenty-one or over and the test indicates
7 either that the alcohol concentration of the driver's breath is 0.08
8 or more; or

9 (ii) The driver is under age twenty-one and the test indicates
10 either that the alcohol concentration of the driver's breath is 0.02
11 or more; or

12 (iii) The driver is under age twenty-one and the driver is in
13 violation of RCW 46.61.502 or 46.61.504; and

14 (d) If the driver's license, permit, or privilege to drive is
15 suspended, revoked, or denied the driver may be eligible to
16 immediately apply for an ignition interlock driver's license.

17 (3) If, following his or her arrest and receipt of warnings under
18 subsection (2) of this section, the person arrested exercises the
19 right, granted herein, by refusing upon the request of a law
20 enforcement officer to submit to a test or tests of his or her
21 breath, no test shall be given except as otherwise authorized by law.

22 (4) Nothing in subsection (1), (2), or (3) of this section
23 precludes a law enforcement officer from obtaining a person's blood
24 to test for alcohol, marijuana, or any drug, pursuant to a search
25 warrant, a valid waiver of the warrant requirement, when exigent
26 circumstances exist, or under any other authority of law. Any blood
27 drawn for the purpose of determining the person's alcohol, marijuana
28 levels, or any drug, is drawn pursuant to this section when the
29 officer has reasonable grounds to believe that the person is in
30 physical control or driving a vehicle under the influence or in
31 violation of RCW 46.61.503.

32 (5) If, after arrest and after any other applicable conditions
33 and requirements of this section have been satisfied, a test or tests
34 of the person's blood or breath is administered and the test results
35 indicate that the alcohol concentration of the person's breath or
36 blood is 0.08 or more, or the THC concentration of the person's blood
37 is 5.00 or more, if the person is age twenty-one or over, or that the
38 alcohol concentration of the person's breath or blood is 0.02 or
39 more, or the THC concentration of the person's blood is above 0.00,
40 if the person is under the age of twenty-one, or the person refuses

1 to submit to a test, the arresting officer or other law enforcement
2 officer at whose direction any test has been given, or the
3 department, where applicable, if the arrest results in a test of the
4 person's blood, shall:

5 (a) Serve notice in writing on the person on behalf of the
6 department of its intention to suspend, revoke, or deny the person's
7 license, permit, or privilege to drive as required by subsection (6)
8 of this section;

9 (b) Serve notice in writing on the person on behalf of the
10 department of his or her right to a hearing, specifying the steps he
11 or she must take to obtain a hearing as provided by subsection (7) of
12 this section;

13 (c) Serve notice in writing that the license or permit, if any,
14 is a temporary license that is valid for sixty days from the date of
15 arrest or from the date notice has been given in the event notice is
16 given by the department following a blood test, or until the
17 suspension, revocation, or denial of the person's license, permit, or
18 privilege to drive is sustained at a hearing pursuant to subsection
19 (7) of this section, whichever occurs first. No temporary license is
20 valid to any greater degree than the license or permit that it
21 replaces; and

22 (d) Immediately notify the department of the arrest and transmit
23 to the department within seventy-two hours, except as delayed as the
24 result of a blood test, a sworn report or report under a declaration
25 authorized by (~~RCW 9A.72.085~~) chapter 5.50 RCW that states:

26 (i) That the officer had reasonable grounds to believe the
27 arrested person had been driving or was in actual physical control of
28 a motor vehicle within this state while under the influence of
29 intoxicating liquor or drugs, or both, or was under the age of
30 twenty-one years and had been driving or was in actual physical
31 control of a motor vehicle while having an alcohol or THC
32 concentration in violation of RCW 46.61.503;

33 (ii) That after receipt of any applicable warnings required by
34 subsection (2) of this section the person refused to submit to a test
35 of his or her breath, or a test was administered and the results
36 indicated that the alcohol concentration of the person's breath or
37 blood was 0.08 or more, or the THC concentration of the person's
38 blood was 5.00 or more, if the person is age twenty-one or over, or
39 that the alcohol concentration of the person's breath or blood was

1 0.02 or more, or the THC concentration of the person's blood was
2 above 0.00, if the person is under the age of twenty-one; and

3 (iii) Any other information that the director may require by
4 rule.

5 (6) The department of licensing, upon the receipt of a sworn
6 report or report under a declaration authorized by (~~RCW 9A.72.085~~)
7 chapter 5.50 RCW under subsection (5)(d) of this section, shall
8 suspend, revoke, or deny the person's license, permit, or privilege
9 to drive or any nonresident operating privilege, as provided in RCW
10 46.20.3101, such suspension, revocation, or denial to be effective
11 beginning sixty days from the date of arrest or from the date notice
12 has been given in the event notice is given by the department
13 following a blood test, or when sustained at a hearing pursuant to
14 subsection (7) of this section, whichever occurs first.

15 (7) A person receiving notification under subsection (5)(b) of
16 this section may, within twenty days after the notice has been given,
17 request in writing a formal hearing before the department. The person
18 shall pay a fee of three hundred seventy-five dollars as part of the
19 request. If the request is mailed, it must be postmarked within
20 twenty days after receipt of the notification. Upon timely receipt of
21 such a request for a formal hearing, including receipt of the
22 required three hundred seventy-five dollar fee, the department shall
23 afford the person an opportunity for a hearing. The department may
24 waive the required three hundred seventy-five dollar fee if the
25 person is an indigent as defined in RCW 10.101.010. Except as
26 otherwise provided in this section, the hearing is subject to and
27 shall be scheduled and conducted in accordance with RCW 46.20.329 and
28 46.20.332. The hearing shall be conducted in the county of the
29 arrest, except that all or part of the hearing may, at the discretion
30 of the department, be conducted by telephone or other electronic
31 means. The hearing shall be held within sixty days following the
32 arrest or following the date notice has been given in the event
33 notice is given by the department following a blood test, unless
34 otherwise agreed to by the department and the person, in which case
35 the action by the department shall be stayed, and any valid temporary
36 license under subsection (5) of this section extended, if the person
37 is otherwise eligible for licensing. For the purposes of this
38 section, the scope of the hearing shall cover the issues of whether a
39 law enforcement officer had reasonable grounds to believe the person
40 had been driving or was in actual physical control of a motor vehicle

1 within this state while under the influence of intoxicating liquor or
2 any drug or had been driving or was in actual physical control of a
3 motor vehicle within this state while having alcohol in his or her
4 system in a concentration of 0.02 or more, or THC in his or her
5 system in a concentration above 0.00, if the person was under the age
6 of twenty-one, whether the person was placed under arrest, and (a)
7 whether the person refused to submit to the test or tests upon
8 request of the officer after having been informed that such refusal
9 would result in the revocation of the person's license, permit, or
10 privilege to drive, or (b) if a test or tests were administered,
11 whether the applicable requirements of this section were satisfied
12 before the administration of the test or tests, whether the person
13 submitted to the test or tests, or whether a test was administered
14 pursuant to a search warrant, a valid waiver of the warrant
15 requirement, when exigent circumstances exist, or under any other
16 authority of law as permitted under this section, and whether the
17 test or tests indicated that the alcohol concentration of the
18 person's breath or blood was 0.08 or more, or the THC concentration
19 of the person's blood was 5.00 or more, if the person was age twenty-
20 one or over at the time of the arrest, or that the alcohol
21 concentration of the person's breath or blood was 0.02 or more, or
22 the THC concentration of the person's blood was above 0.00, if the
23 person was under the age of twenty-one at the time of the arrest.
24 Where a person is found to be in actual physical control of a motor
25 vehicle while under the influence of intoxicating liquor or any drug
26 or was under the age of twenty-one at the time of the arrest and was
27 in physical control of a motor vehicle while having alcohol in his or
28 her system in a concentration of 0.02 or THC concentration above
29 0.00, the person may petition the hearing officer to apply the
30 affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The
31 driver has the burden to prove the affirmative defense by a
32 preponderance of the evidence. The sworn report or report under a
33 declaration authorized by ((~~RCW 9A.72.085~~)) chapter 5.50 RCW
34 submitted by a law enforcement officer is prima facie evidence that
35 the officer had reasonable grounds to believe the person had been
36 driving or was in actual physical control of a motor vehicle within
37 this state while under the influence of intoxicating liquor or drugs,
38 or both, or the person had been driving or was in actual physical
39 control of a motor vehicle within this state while having alcohol in
40 his or her system in a concentration of 0.02 or more, or THC in his

1 or her system in a concentration above 0.00, and was under the age of
2 twenty-one and that the officer complied with the requirements of
3 this section.

4 A hearing officer shall conduct the hearing, may issue subpoenas
5 for the attendance of witnesses and the production of documents, and
6 shall administer oaths to witnesses. The hearing officer shall not
7 issue a subpoena for the attendance of a witness at the request of
8 the person unless the request is accompanied by the fee required by
9 RCW 5.56.010 for a witness in district court. The sworn report or
10 report under a declaration authorized by (~~RCW 9A.72.085~~) chapter
11 5.50 RCW of the law enforcement officer and any other evidence
12 accompanying the report shall be admissible without further
13 evidentiary foundation and the certifications authorized by the
14 criminal rules for courts of limited jurisdiction shall be admissible
15 without further evidentiary foundation. The person may be represented
16 by counsel, may question witnesses, may present evidence, and may
17 testify. The department shall order that the suspension, revocation,
18 or denial either be rescinded or sustained.

19 (8) If the suspension, revocation, or denial is sustained after
20 such a hearing, the person whose license, privilege, or permit is
21 suspended, revoked, or denied has the right to file a petition in the
22 superior court of the county of arrest to review the final order of
23 revocation by the department in the same manner as an appeal from a
24 decision of a court of limited jurisdiction. Notice of appeal must be
25 filed within thirty days after the date the final order is served or
26 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ
27 1.1, or other statutes or rules referencing de novo review, the
28 appeal shall be limited to a review of the record of the
29 administrative hearing. The appellant must pay the costs associated
30 with obtaining the record of the hearing before the hearing officer.
31 The filing of the appeal does not stay the effective date of the
32 suspension, revocation, or denial. A petition filed under this
33 subsection must include the petitioner's grounds for requesting
34 review. Upon granting petitioner's request for review, the court
35 shall review the department's final order of suspension, revocation,
36 or denial as expeditiously as possible. The review must be limited to
37 a determination of whether the department has committed any errors of
38 law. The superior court shall accept those factual determinations
39 supported by substantial evidence in the record: (a) That were
40 expressly made by the department; or (b) that may reasonably be

1 inferred from the final order of the department. The superior court
2 may reverse, affirm, or modify the decision of the department or
3 remand the case back to the department for further proceedings. The
4 decision of the superior court must be in writing and filed in the
5 clerk's office with the other papers in the case. The court shall
6 state the reasons for the decision. If judicial relief is sought for
7 a stay or other temporary remedy from the department's action, the
8 court shall not grant such relief unless the court finds that the
9 appellant is likely to prevail in the appeal and that without a stay
10 the appellant will suffer irreparable injury. If the court stays the
11 suspension, revocation, or denial it may impose conditions on such
12 stay.

13 (9)(a) If a person whose driver's license, permit, or privilege
14 to drive has been or will be suspended, revoked, or denied under
15 subsection (6) of this section, other than as a result of a breath
16 test refusal, and who has not committed an offense for which he or
17 she was granted a deferred prosecution under chapter 10.05 RCW,
18 petitions a court for a deferred prosecution on criminal charges
19 arising out of the arrest for which action has been or will be taken
20 under subsection (6) of this section, or notifies the department of
21 licensing of the intent to seek such a deferred prosecution, then the
22 license suspension or revocation shall be stayed pending entry of the
23 deferred prosecution. The stay shall not be longer than one hundred
24 fifty days after the date charges are filed, or two years after the
25 date of the arrest, whichever time period is shorter. If the court
26 stays the suspension, revocation, or denial, it may impose conditions
27 on such stay. If the person is otherwise eligible for licensing, the
28 department shall issue a temporary license, or extend any valid
29 temporary license under subsection (5) of this section, for the
30 period of the stay. If a deferred prosecution treatment plan is not
31 recommended in the report made under RCW 10.05.050, or if treatment
32 is rejected by the court, or if the person declines to accept an
33 offered treatment plan, or if the person violates any condition
34 imposed by the court, then the court shall immediately direct the
35 department to cancel the stay and any temporary license or extension
36 of a temporary license issued under this subsection.

37 (b) A suspension, revocation, or denial imposed under this
38 section, other than as a result of a breath test refusal, shall be
39 stayed if the person is accepted for deferred prosecution as provided
40 in chapter 10.05 RCW for the incident upon which the suspension,

1 revocation, or denial is based. If the deferred prosecution is
2 terminated, the stay shall be lifted and the suspension, revocation,
3 or denial reinstated. If the deferred prosecution is completed, the
4 stay shall be lifted and the suspension, revocation, or denial
5 canceled.

6 (c) The provisions of (b) of this subsection relating to a stay
7 of a suspension, revocation, or denial and the cancellation of any
8 suspension, revocation, or denial do not apply to the suspension,
9 revocation, denial, or disqualification of a person's commercial
10 driver's license or privilege to operate a commercial motor vehicle.

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

17 **Sec. 22.** RCW 46.20.308 and 2016 c 203 s 15 are each amended to
18 read as follows:

19 (1) Any person who operates a motor vehicle within this state is
20 deemed to have given consent, subject to the provisions of RCW
21 46.61.506, to a test or tests of his or her breath for the purpose of
22 determining the alcohol concentration in his or her breath if
23 arrested for any offense where, at the time of the arrest, the
24 arresting officer has reasonable grounds to believe the person had
25 been driving or was in actual physical control of a motor vehicle
26 while under the influence of intoxicating liquor or any drug or was
27 in violation of RCW 46.61.503.

28 (2) The test or tests of breath shall be administered at the
29 direction of a law enforcement officer having reasonable grounds to
30 believe the person to have been driving or in actual physical control
31 of a motor vehicle within this state while under the influence of
32 intoxicating liquor or any drug or the person to have been driving or
33 in actual physical control of a motor vehicle while having alcohol in
34 a concentration in violation of RCW 46.61.503 in his or her system
35 and being under the age of twenty-one. Prior to administering a
36 breath test pursuant to this section, the officer shall inform the
37 person of his or her right under this section to refuse the breath
38 test, and of his or her right to have additional tests administered
39 by any qualified person of his or her choosing as provided in RCW

1 46.61.506. The officer shall warn the driver, in substantially the
2 following language, that:

3 (a) If the driver refuses to take the test, the driver's license,
4 permit, or privilege to drive will be revoked or denied for at least
5 one year; and

6 (b) If the driver refuses to take the test, the driver's refusal
7 to take the test may be used in a criminal trial; and

8 (c) If the driver submits to the test and the test is
9 administered, the driver's license, permit, or privilege to drive
10 will be suspended, revoked, or denied for at least ninety days if:

11 (i) The driver is age twenty-one or over and the test indicates
12 either that the alcohol concentration of the driver's breath is 0.08
13 or more; or

14 (ii) The driver is under age twenty-one and the test indicates
15 either that the alcohol concentration of the driver's breath is 0.02
16 or more; or

17 (iii) The driver is under age twenty-one and the driver is in
18 violation of RCW 46.61.502 or 46.61.504; and

19 (d) If the driver's license, permit, or privilege to drive is
20 suspended, revoked, or denied the driver may be eligible to
21 immediately apply for an ignition interlock driver's license.

22 (3) If, following his or her arrest and receipt of warnings under
23 subsection (2) of this section, the person arrested exercises the
24 right, granted herein, by refusing upon the request of a law
25 enforcement officer to submit to a test or tests of his or her
26 breath, no test shall be given except as otherwise authorized by law.

27 (4) Nothing in subsection (1), (2), or (3) of this section
28 precludes a law enforcement officer from obtaining a person's blood
29 to test for alcohol, marijuana, or any drug, pursuant to a search
30 warrant, a valid waiver of the warrant requirement, when exigent
31 circumstances exist, or under any other authority of law. Any blood
32 drawn for the purpose of determining the person's alcohol, marijuana
33 levels, or any drug, is drawn pursuant to this section when the
34 officer has reasonable grounds to believe that the person is in
35 physical control or driving a vehicle under the influence or in
36 violation of RCW 46.61.503.

37 (5) If, after arrest and after any other applicable conditions
38 and requirements of this section have been satisfied, a test or tests
39 of the person's blood or breath is administered and the test results
40 indicate that the alcohol concentration of the person's breath or

1 blood is 0.08 or more, or the THC concentration of the person's blood
2 is 5.00 or more, if the person is age twenty-one or over, or that the
3 alcohol concentration of the person's breath or blood is 0.02 or
4 more, or the THC concentration of the person's blood is above 0.00,
5 if the person is under the age of twenty-one, or the person refuses
6 to submit to a test, the arresting officer or other law enforcement
7 officer at whose direction any test has been given, or the
8 department, where applicable, if the arrest results in a test of the
9 person's blood, shall:

10 (a) Serve notice in writing on the person on behalf of the
11 department of its intention to suspend, revoke, or deny the person's
12 license, permit, or privilege to drive as required by subsection (6)
13 of this section;

14 (b) Serve notice in writing on the person on behalf of the
15 department of his or her right to a hearing, specifying the steps he
16 or she must take to obtain a hearing as provided by subsection (7) of
17 this section;

18 (c) Serve notice in writing that the license or permit, if any,
19 is a temporary license that is valid for thirty days from the date of
20 arrest or from the date notice has been given in the event notice is
21 given by the department following a blood test, or until the
22 suspension, revocation, or denial of the person's license, permit, or
23 privilege to drive is sustained at a hearing pursuant to subsection
24 (7) of this section, whichever occurs first. No temporary license is
25 valid to any greater degree than the license or permit that it
26 replaces; and

27 (d) Immediately notify the department of the arrest and transmit
28 to the department within seventy-two hours, except as delayed as the
29 result of a blood test, a sworn report or report under a declaration
30 authorized by (~~RCW 9A.72.085~~) chapter 5.50 RCW that states:

31 (i) That the officer had reasonable grounds to believe the
32 arrested person had been driving or was in actual physical control of
33 a motor vehicle within this state while under the influence of
34 intoxicating liquor or drugs, or both, or was under the age of
35 twenty-one years and had been driving or was in actual physical
36 control of a motor vehicle while having an alcohol or THC
37 concentration in violation of RCW 46.61.503;

38 (ii) That after receipt of any applicable warnings required by
39 subsection (2) of this section the person refused to submit to a test
40 of his or her breath, or a test was administered and the results

1 indicated that the alcohol concentration of the person's breath or
2 blood was 0.08 or more, or the THC concentration of the person's
3 blood was 5.00 or more, if the person is age twenty-one or over, or
4 that the alcohol concentration of the person's breath or blood was
5 0.02 or more, or the THC concentration of the person's blood was
6 above 0.00, if the person is under the age of twenty-one; and

7 (iii) Any other information that the director may require by
8 rule.

9 (6) The department of licensing, upon the receipt of a sworn
10 report or report under a declaration authorized by (~~RCW 9A.72.085~~)
11 chapter 5.50 RCW under subsection (5)(d) of this section, shall
12 suspend, revoke, or deny the person's license, permit, or privilege
13 to drive or any nonresident operating privilege, as provided in RCW
14 46.20.3101, such suspension, revocation, or denial to be effective
15 beginning thirty days from the date of arrest or from the date notice
16 has been given in the event notice is given by the department
17 following a blood test, or when sustained at a hearing pursuant to
18 subsection (7) of this section, whichever occurs first.

19 (7) A person receiving notification under subsection (5)(b) of
20 this section may, within seven days after the notice has been given,
21 request in writing a formal hearing before the department. The person
22 shall pay a fee of three hundred seventy-five dollars as part of the
23 request. If the request is mailed, it must be postmarked within seven
24 days after receipt of the notification. Upon timely receipt of such a
25 request for a formal hearing, including receipt of the required three
26 hundred seventy-five dollar fee, the department shall afford the
27 person an opportunity for a hearing. The department may waive the
28 required three hundred seventy-five dollar fee if the person is an
29 indigent as defined in RCW 10.101.010. Except as otherwise provided
30 in this section, the hearing is subject to and shall be scheduled and
31 conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing
32 shall be conducted in the county of the arrest, except that all or
33 part of the hearing may, at the discretion of the department, be
34 conducted by telephone or other electronic means. The hearing shall
35 be held within thirty days, excluding Saturdays, Sundays, and legal
36 holidays, following the date of timely receipt of such request for a
37 formal hearing before the department or thirty days, excluding
38 Saturdays, Sundays, and legal holidays following the date notice has
39 been given in the event notice is given by the department following a
40 blood test, unless otherwise agreed to by the department and the

1 person, in which case the action by the department shall be stayed,
2 and any valid temporary license under subsection (5) of this section
3 extended, if the person is otherwise eligible for licensing. Unless
4 otherwise agreed to by the department and the person, the department
5 must give five days notice of the hearing to the person. For the
6 purposes of this section, the scope of the hearing shall cover the
7 issues of whether a law enforcement officer had reasonable grounds to
8 believe the person had been driving or was in actual physical control
9 of a motor vehicle within this state while under the influence of
10 intoxicating liquor or any drug or had been driving or was in actual
11 physical control of a motor vehicle within this state while having
12 alcohol in his or her system in a concentration of 0.02 or more, or
13 THC in his or her system in a concentration above 0.00, if the person
14 was under the age of twenty-one, whether the person was placed under
15 arrest, and (a) whether the person refused to submit to the test or
16 tests upon request of the officer after having been informed that
17 such refusal would result in the revocation of the person's license,
18 permit, or privilege to drive, or (b) if a test or tests were
19 administered, whether the applicable requirements of this section
20 were satisfied before the administration of the test or tests,
21 whether the person submitted to the test or tests, or whether a test
22 was administered pursuant to a search warrant, a valid waiver of the
23 warrant requirement, when exigent circumstances exist, or under any
24 other authority of law as permitted under this section, and whether
25 the test or tests indicated that the alcohol concentration of the
26 person's breath or blood was 0.08 or more, or the THC concentration
27 of the person's blood was 5.00 or more, if the person was age twenty-
28 one or over at the time of the arrest, or that the alcohol
29 concentration of the person's breath or blood was 0.02 or more, or
30 the THC concentration of the person's blood was above 0.00, if the
31 person was under the age of twenty-one at the time of the arrest.
32 Where a person is found to be in actual physical control of a motor
33 vehicle while under the influence of intoxicating liquor or any drug
34 or was under the age of twenty-one at the time of the arrest and was
35 in physical control of a motor vehicle while having alcohol in his or
36 her system in a concentration of 0.02 or THC concentration above
37 0.00, the person may petition the hearing officer to apply the
38 affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The
39 driver has the burden to prove the affirmative defense by a
40 preponderance of the evidence. The sworn report or report under a

1 declaration authorized by ((RCW—9A.72.085)) chapter 5.50 RCW
2 submitted by a law enforcement officer is prima facie evidence that
3 the officer had reasonable grounds to believe the person had been
4 driving or was in actual physical control of a motor vehicle within
5 this state while under the influence of intoxicating liquor or drugs,
6 or both, or the person had been driving or was in actual physical
7 control of a motor vehicle within this state while having alcohol in
8 his or her system in a concentration of 0.02 or more, or THC in his
9 or her system in a concentration above 0.00, and was under the age of
10 twenty-one and that the officer complied with the requirements of
11 this section.

12 A hearing officer shall conduct the hearing, may issue subpoenas
13 for the attendance of witnesses and the production of documents, and
14 shall administer oaths to witnesses. The hearing officer shall not
15 issue a subpoena for the attendance of a witness at the request of
16 the person unless the request is accompanied by the fee required by
17 RCW 5.56.010 for a witness in district court. The sworn report or
18 report under a declaration authorized by ((RCW—9A.72.085)) chapter
19 5.50 RCW of the law enforcement officer and any other evidence
20 accompanying the report shall be admissible without further
21 evidentiary foundation and the certifications authorized by the
22 criminal rules for courts of limited jurisdiction shall be admissible
23 without further evidentiary foundation. The person may be represented
24 by counsel, may question witnesses, may present evidence, and may
25 testify. The department shall order that the suspension, revocation,
26 or denial either be rescinded or sustained.

27 (8) If the suspension, revocation, or denial is sustained after
28 such a hearing, the person whose license, privilege, or permit is
29 suspended, revoked, or denied has the right to file a petition in the
30 superior court of the county of arrest to review the final order of
31 revocation by the department in the same manner as an appeal from a
32 decision of a court of limited jurisdiction. Notice of appeal must be
33 filed within thirty days after the date the final order is served or
34 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ
35 1.1, or other statutes or rules referencing de novo review, the
36 appeal shall be limited to a review of the record of the
37 administrative hearing. The appellant must pay the costs associated
38 with obtaining the record of the hearing before the hearing officer.
39 The filing of the appeal does not stay the effective date of the
40 suspension, revocation, or denial. A petition filed under this

1 subsection must include the petitioner's grounds for requesting
2 review. Upon granting petitioner's request for review, the court
3 shall review the department's final order of suspension, revocation,
4 or denial as expeditiously as possible. The review must be limited to
5 a determination of whether the department has committed any errors of
6 law. The superior court shall accept those factual determinations
7 supported by substantial evidence in the record: (a) That were
8 expressly made by the department; or (b) that may reasonably be
9 inferred from the final order of the department. The superior court
10 may reverse, affirm, or modify the decision of the department or
11 remand the case back to the department for further proceedings. The
12 decision of the superior court must be in writing and filed in the
13 clerk's office with the other papers in the case. The court shall
14 state the reasons for the decision. If judicial relief is sought for
15 a stay or other temporary remedy from the department's action, the
16 court shall not grant such relief unless the court finds that the
17 appellant is likely to prevail in the appeal and that without a stay
18 the appellant will suffer irreparable injury. If the court stays the
19 suspension, revocation, or denial it may impose conditions on such
20 stay.

21 (9)(a) If a person whose driver's license, permit, or privilege
22 to drive has been or will be suspended, revoked, or denied under
23 subsection (6) of this section, other than as a result of a breath
24 test refusal, and who has not committed an offense for which he or
25 she was granted a deferred prosecution under chapter 10.05 RCW,
26 petitions a court for a deferred prosecution on criminal charges
27 arising out of the arrest for which action has been or will be taken
28 under subsection (6) of this section, or notifies the department of
29 licensing of the intent to seek such a deferred prosecution, then the
30 license suspension or revocation shall be stayed pending entry of the
31 deferred prosecution. The stay shall not be longer than one hundred
32 fifty days after the date charges are filed, or two years after the
33 date of the arrest, whichever time period is shorter. If the court
34 stays the suspension, revocation, or denial, it may impose conditions
35 on such stay. If the person is otherwise eligible for licensing, the
36 department shall issue a temporary license, or extend any valid
37 temporary license under subsection (5) of this section, for the
38 period of the stay. If a deferred prosecution treatment plan is not
39 recommended in the report made under RCW 10.05.050, or if treatment
40 is rejected by the court, or if the person declines to accept an

1 offered treatment plan, or if the person violates any condition
2 imposed by the court, then the court shall immediately direct the
3 department to cancel the stay and any temporary license or extension
4 of a temporary license issued under this subsection.

5 (b) A suspension, revocation, or denial imposed under this
6 section, other than as a result of a breath test refusal, shall be
7 stayed if the person is accepted for deferred prosecution as provided
8 in chapter 10.05 RCW for the incident upon which the suspension,
9 revocation, or denial is based. If the deferred prosecution is
10 terminated, the stay shall be lifted and the suspension, revocation,
11 or denial reinstated. If the deferred prosecution is completed, the
12 stay shall be lifted and the suspension, revocation, or denial
13 canceled.

14 (c) The provisions of (b) of this subsection relating to a stay
15 of a suspension, revocation, or denial and the cancellation of any
16 suspension, revocation, or denial do not apply to the suspension,
17 revocation, denial, or disqualification of a person's commercial
18 driver's license or privilege to operate a commercial motor vehicle.

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

25 **Sec. 23.** RCW 46.20.720 and 2017 c 336 s 5 are each amended to
26 read as follows:

27 (1) **Ignition interlock restriction.** The department shall require
28 that a person may drive only a motor vehicle equipped with a
29 functioning ignition interlock device:

30 (a) **Pretrial release.** Upon receipt of notice from a court that an
31 ignition interlock device restriction has been imposed under RCW
32 10.21.055;

33 (b) **Ignition interlock driver's license.** As required for issuance
34 of an ignition interlock driver's license under RCW 46.20.385;

35 (c) **Deferred prosecution.** Upon receipt of notice from a court
36 that the person is participating in a deferred prosecution program
37 under RCW 10.05.020 for a violation of:

38 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
39 or

1 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
2 if the person would be required under RCW 46.61.5249(4) or
3 46.61.500(3) (a) or (b) to install an ignition interlock device on
4 all vehicles operated by the person in the event of a conviction;

5 (d) **Post conviction.** After any applicable period of suspension,
6 revocation, or denial of driving privileges:

7 (i) Due to a conviction of a violation of RCW 46.61.502 or
8 46.61.504 or an equivalent local or out-of-state statute or
9 ordinance; or

10 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
11 46.61.500 or an equivalent local ordinance if the person is required
12 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
13 ignition interlock device on all vehicles operated by the person; or

14 (e) **Court order.** Upon receipt of an order by a court having
15 jurisdiction that a person charged or convicted of any offense
16 involving the use, consumption, or possession of alcohol while
17 operating a motor vehicle may drive only a motor vehicle equipped
18 with a functioning ignition interlock. The court shall establish a
19 specific calibration setting at which the ignition interlock will
20 prevent the vehicle from being started. The court shall also
21 establish the period of time for which ignition interlock use will be
22 required.

23 (2) **Calibration.** Unless otherwise specified by the court for a
24 restriction imposed under subsection (1)(e) of this section, the
25 ignition interlock device shall be calibrated to prevent the motor
26 vehicle from being started when the breath sample provided has an
27 alcohol concentration of 0.025 or more.

28 (3) **Duration of restriction.** A restriction imposed under:

29 (a) Subsection (1)(a) of this section shall remain in effect
30 until:

31 (i) The court has authorized the removal of the device under RCW
32 10.21.055; or

33 (ii) The department has imposed a restriction under subsection
34 (1)(b), (c), or (d) of this section arising out of the same incident.

35 (b) Subsection (1)(b) of this section remains in effect during
36 the validity of any ignition interlock driver's license that has been
37 issued to the person.

38 (c) Subsection (1)(c)(i) or (d)(i) of this section shall be for
39 no less than:

1 (i) For a person who has not previously been restricted under
2 this subsection, a period of one year;

3 (ii) For a person who has previously been restricted under (c)(i)
4 of this subsection, a period of five years;

5 (iii) For a person who has previously been restricted under
6 (c)(ii) of this subsection, a period of ten years.

7 The restriction of a person who is convicted of a violation of
8 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who
9 committed the offense while a passenger under the age of sixteen was
10 in the vehicle shall be extended for an additional six-month period
11 as required by RCW 46.61.5055(6)(a).

12 (d) Subsection (1)(c)(ii) or (d)(ii) of this section shall be for
13 a period of no less than six months.

14 (e) Subsection (1)(e) of this section shall remain in effect for
15 the period of time specified by the court.

16 The period of restriction under (c) and (d) of this subsection
17 based on incidents occurring on or after June 9, 2016, must be tolled
18 for any period in which the person does not have an ignition
19 interlock device installed on a vehicle owned or operated by the
20 person unless the person receives a determination from the department
21 that the person is unable to operate an ignition interlock device due
22 to a physical disability. The department's determination that a
23 person is unable to operate an ignition interlock device must be
24 reasonable and be based upon good and substantial evidence. This
25 determination is subject to review by a court of competent
26 jurisdiction. The department may charge a person seeking a medical
27 exemption under this subsection a reasonable fee for the assessment.

28 **(4) Requirements for removal.** A restriction imposed under
29 subsection (1)(c) or (d) of this section shall remain in effect until
30 the department receives a declaration from the person's ignition
31 interlock device vendor, in a form provided or approved by the
32 department, certifying that there have been none of the following
33 incidents in the one hundred eighty consecutive days prior to the
34 date of release:

35 (a) Any attempt to start the vehicle with a breath alcohol
36 concentration of 0.04 or more unless a subsequent test performed
37 within ten minutes registers a breath alcohol concentration lower
38 than 0.04 and the digital image confirms the same person provided
39 both samples;

1 (b) Failure to take any random test unless a review of the
2 digital image confirms that the vehicle was not occupied by the
3 driver at the time of the missed test;

4 (c) Failure to pass any random retest with a breath alcohol
5 concentration of 0.025 or lower unless a subsequent test performed
6 within ten minutes registers a breath alcohol concentration lower
7 than 0.025, and the digital image confirms the same person provided
8 both samples; or

9 (d) Failure of the person to appear at the ignition interlock
10 device vendor when required for maintenance, repair, calibration,
11 monitoring, inspection, or replacement of the device.

12 (5) **Day-for-day credit.** (a) The time period during which a person
13 has an ignition interlock device installed in order to meet the
14 requirements of subsection (1)(b) of this section shall apply on a
15 day-for-day basis toward satisfying the period of time the ignition
16 interlock device restriction is imposed under subsection (1)(c) or
17 (d) of this section arising out of the same incident.

18 (b) The department must also give the person a day-for-day credit
19 for any time period, beginning from the date of the incident, during
20 which the person kept an ignition interlock device installed on all
21 vehicles the person operates, other than those subject to the
22 employer exemption under subsection (6) of this section.

23 (c) If the day-for-day credit granted under this subsection
24 equals or exceeds the period of time the ignition interlock device
25 restriction is imposed under subsection (1)(c) or (d) of this section
26 arising out of the same incident, and the person has already met the
27 requirements for removal of the device under subsection (4) of this
28 section, the department may waive the requirement that a device be
29 installed or that the person again meet the requirements for removal.

30 (6) **Employer exemption.** (a) Except as provided in (b) of this
31 subsection, the installation of an ignition interlock device is not
32 necessary on vehicles owned, leased, or rented by a person's employer
33 and on those vehicles whose care and/or maintenance is the temporary
34 responsibility of the employer, and driven at the direction of a
35 person's employer as a requirement of employment during working
36 hours. The person must provide the department with a declaration
37 pursuant to (~~RCW 9A.72.085~~) chapter 5.50 RCW from his or her
38 employer stating that the person's employment requires the person to
39 operate a vehicle owned by the employer or other persons during
40 working hours.

1 (b) The employer exemption does not apply when the employer's
2 vehicle is assigned exclusively to the restricted driver and used
3 solely for commuting to and from employment.

4 (7) **Ignition interlock device revolving account.** In addition to
5 any other costs associated with the use of an ignition interlock
6 device imposed on the person restricted under this section, the
7 person shall pay an additional fee of twenty dollars per month.
8 Payments must be made directly to the ignition interlock company. The
9 company shall remit the additional fee to the department to be
10 deposited into the ignition interlock device revolving account,
11 except that the company may retain twenty-five cents per month of the
12 additional fee to cover the expenses associated with administering
13 the fee. The department may waive the monthly fee if the person is
14 indigent under RCW 10.101.010.

15 (8) **Foreign jurisdiction.** For a person restricted under this
16 section who is residing outside of the state of Washington, the
17 department may accept verification of installation of an ignition
18 interlock device by an ignition interlock company authorized to do
19 business in the jurisdiction in which the person resides, provided
20 the device meets any applicable requirements of that jurisdiction.
21 The department may waive the monthly fee required by subsection (7)
22 of this section if collection of the fee would be impractical in the
23 case of a person residing in another jurisdiction.

24 **Sec. 24.** RCW 47.68.250 and 2017 3rd sp.s. c 25 s 44 are each
25 amended to read as follows:

26 (1) Every aircraft must be registered with the department for
27 each calendar year in which the aircraft is operated or is based
28 within this state. A fee of fifteen dollars is charged for each such
29 registration and each annual renewal thereof.

30 (2) Possession of the appropriate effective federal certificate,
31 permit, rating, or license relating to ownership and airworthiness of
32 the aircraft, and payment of the excise tax imposed by Title 82 RCW
33 for the privilege of using the aircraft within this state during the
34 year for which the registration is sought, and payment of the
35 registration fee required by this section are the only requisites for
36 registration of an aircraft under this section.

37 (3) The registration fee imposed by this section is payable to
38 and collected by the secretary. The fee for any calendar year must be
39 paid during the month of January, and must be collected by the

1 secretary at the time of the collection by him or her of the excise
2 tax. If the secretary is satisfied that the requirements for
3 registration of the aircraft have been met, he or she must issue to
4 the owner of the aircraft a certificate of registration therefor. The
5 secretary must pay to the state treasurer the registration fees
6 collected under this section, which registration fees must be
7 credited to the aeronautics account.

8 (4) It is not necessary for the registrant to provide the
9 secretary with originals or copies of federal certificates, permits,
10 ratings, or licenses. The secretary must issue certificates of
11 registration, or such other evidences of registration or payment of
12 fees as he or she may deem proper; and in connection therewith may
13 prescribe requirements for the possession and exhibition of such
14 certificates or other evidences.

15 (5) The provisions of this section do not apply to:

16 (a) An aircraft owned by and used exclusively in the service of
17 any government or any political subdivision thereof, including the
18 government of the United States, any state, territory, or possession
19 of the United States, or the District of Columbia, which is not
20 engaged in carrying persons or property for commercial purposes;

21 (b) An aircraft registered under the laws of a foreign country;

22 (c) An aircraft that is owned by a nonresident if:

23 (i) The aircraft remains in this state or is based in this state,
24 or both, for a period less than ninety days; or

25 (ii) The aircraft is a large private airplane as defined in RCW
26 82.08.215 and remains in this state for a period of ninety days or
27 longer, but only when:

28 (A) The airplane is in this state exclusively for the purpose of
29 repairs, alterations, or reconstruction, including any flight testing
30 related to the repairs, alterations, or reconstruction, or for the
31 purpose of continual storage of not less than one full calendar year;

32 (B) An employee of the facility providing these services is on
33 board the airplane during any flight testing; and

34 (C) Within ninety days of the date the airplane first arrived in
35 this state during the calendar year, the nonresident files a written
36 statement with the department indicating that the airplane is exempt
37 from registration under this subsection (5)(c)(ii). The written
38 statement must be filed in a form and manner prescribed by the
39 department and must include such information as the department
40 requires. The department may require additional periodic verification

1 that the airplane remains exempt from registration under this
2 subsection (5)(c)(ii) and that written statements conform with the
3 provisions of ((~~RCW 9A.72.085~~)) chapter 5.50 RCW;

4 (d) An aircraft engaged principally in commercial flying
5 constituting an act of interstate or foreign commerce;

6 (e) An aircraft owned by the commercial manufacturer thereof
7 while being operated for test or experimental purposes, or for the
8 purpose of training crews for purchasers of the aircraft;

9 (f) An aircraft being held for sale, exchange, delivery, test, or
10 demonstration purposes solely as stock in trade of an aircraft dealer
11 licensed under Title 14 RCW; and

12 (g) An aircraft based within the state that is in an unairworthy
13 condition, is not operated within the registration period, and has
14 obtained a written exemption issued by the secretary.

15 (6) The secretary must be notified within thirty days of any
16 change in ownership of a registered aircraft. The notification must
17 contain the N, NC, NR, NL, or NX number of the aircraft, the full
18 name and address of the former owner, and the full name and address
19 of the new owner. For failure to so notify the secretary, the
20 registration of that aircraft may be canceled by the secretary,
21 subject to reinstatement upon application and payment of a
22 reinstatement fee of ten dollars by the new owner.

23 (7) A municipality or port district that owns, operates, or
24 leases an airport, as defined in RCW 47.68.020, with the intent to
25 operate, must require from an aircraft owner proof of aircraft
26 registration as a condition of leasing or selling tiedown or hangar
27 space for an aircraft. It is the responsibility of the lessee or
28 purchaser to register the aircraft. Proof of registration must be
29 provided according to the following schedule:

30 (a) For the purchase of tiedown or hangar space, the municipality
31 or port district must allow the purchaser thirty days from the date
32 of the application for purchase to produce proof of aircraft
33 registration.

34 (b) For the lease of tiedown or hangar space that extends thirty
35 days or more, the municipality or port district must allow the lessee
36 thirty days to produce proof of aircraft registration from the date
37 of the application for lease of tiedown or hangar space.

38 (c) For the lease of tiedown or hangar space that extends less
39 than thirty days, the municipality or port district must allow the

1 lessee to produce proof of aircraft registration at any point prior
2 to the final day of the lease.

3 (8) The airport must work with the aviation division to assist in
4 its efforts to register aircraft by providing information about based
5 aircraft on an annual basis as requested by the division.

6 **Sec. 25.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and
7 amended to read as follows:

8 As used in this chapter:

9 (1) "Certificate of inspection" means an unsworn statement,
10 declaration, verification, or certificate made in accordance with the
11 requirements of ((~~RCW 9A.72.085~~)) chapter 5.50 RCW by a qualified
12 inspector that states that the landlord has not failed to fulfill any
13 substantial obligation imposed under RCW 59.18.060 that endangers or
14 impairs the health or safety of a tenant, including (a) structural
15 members that are of insufficient size or strength to carry imposed
16 loads with safety, (b) exposure of the occupants to the weather, (c)
17 plumbing and sanitation defects that directly expose the occupants to
18 the risk of illness or injury, (d) not providing facilities adequate
19 to supply heat and water and hot water as reasonably required by the
20 tenant, (e) providing heating or ventilation systems that are not
21 functional or are hazardous, (f) defective, hazardous, or missing
22 electrical wiring or electrical service, (g) defective or hazardous
23 exits that increase the risk of injury to occupants, and (h)
24 conditions that increase the risk of fire.

25 (2) "Commercially reasonable manner," with respect to a sale of a
26 deceased tenant's personal property, means a sale where every aspect
27 of the sale, including the method, manner, time, place, and other
28 terms, must be commercially reasonable. If commercially reasonable, a
29 landlord may sell the tenant's property by public or private
30 proceedings, by one or more contracts, as a unit or in parcels, and
31 at any time and place and on any terms.

32 (3) "Comprehensive reusable tenant screening report" means a
33 tenant screening report prepared by a consumer reporting agency at
34 the direction of and paid for by the prospective tenant and made
35 available directly to a prospective landlord at no charge, which
36 contains all of the following: (a) A consumer credit report prepared
37 by a consumer reporting agency within the past thirty days; (b) the
38 prospective tenant's criminal history; (c) the prospective tenant's

1 eviction history; (d) an employment verification; and (e) the
2 prospective tenant's address and rental history.

3 (4) "Criminal history" means a report containing or summarizing
4 (a) the prospective tenant's criminal convictions and pending cases,
5 the final disposition of which antedates the report by no more than
6 seven years, and (b) the results of a sex offender registry and
7 United States department of the treasury's office of foreign assets
8 control search, all based on at least seven years of address history
9 and alias information provided by the prospective tenant or available
10 in the consumer credit report.

11 (5) "Designated person" means a person designated by the tenant
12 under RCW 59.18.590.

13 (6) "Distressed home" has the same meaning as in RCW 61.34.020.

14 (7) "Distressed home conveyance" has the same meaning as in RCW
15 61.34.020.

16 (8) "Distressed home purchaser" has the same meaning as in RCW
17 61.34.020.

18 (9) "Dwelling unit" is a structure or that part of a structure
19 which is used as a home, residence, or sleeping place by one person
20 or by two or more persons maintaining a common household, including
21 but not limited to single-family residences and units of multiplexes,
22 apartment buildings, and mobile homes.

23 (10) "Eviction history" means a report containing or summarizing
24 the contents of any records of unlawful detainer actions concerning
25 the prospective tenant that are reportable in accordance with state
26 law, are lawful for landlords to consider, and are obtained after a
27 search based on at least seven years of address history and alias
28 information provided by the prospective tenant or available in the
29 consumer credit report.

30 (11) "Gang" means a group that: (a) Consists of three or more
31 persons; (b) has identifiable leadership or an identifiable name,
32 sign, or symbol; and (c) on an ongoing basis, regularly conspires and
33 acts in concert mainly for criminal purposes.

34 (12) "Gang-related activity" means any activity that occurs
35 within the gang or advances a gang purpose.

36 (13) "In danger of foreclosure" means any of the following:

37 (a) The homeowner has defaulted on the mortgage and, under the
38 terms of the mortgage, the mortgagee has the right to accelerate full
39 payment of the mortgage and repossess, sell, or cause to be sold the
40 property;

1 (b) The homeowner is at least thirty days delinquent on any loan
2 that is secured by the property; or

3 (c) The homeowner has a good faith belief that he or she is
4 likely to default on the mortgage within the upcoming four months due
5 to a lack of funds, and the homeowner has reported this belief to:

6 (i) The mortgagee;

7 (ii) A person licensed or required to be licensed under chapter
8 19.134 RCW;

9 (iii) A person licensed or required to be licensed under chapter
10 19.146 RCW;

11 (iv) A person licensed or required to be licensed under chapter
12 18.85 RCW;

13 (v) An attorney-at-law;

14 (vi) A mortgage counselor or other credit counselor licensed or
15 certified by any federal, state, or local agency; or

16 (vii) Any other party to a distressed property conveyance.

17 (14) "Landlord" means the owner, lessor, or sublessor of the
18 dwelling unit or the property of which it is a part, and in addition
19 means any person designated as representative of the owner, lessor,
20 or sublessor including, but not limited to, an agent, a resident
21 manager, or a designated property manager.

22 (15) "Mortgage" is used in the general sense and includes all
23 instruments, including deeds of trust, that are used to secure an
24 obligation by an interest in real property.

25 (16) "Owner" means one or more persons, jointly or severally, in
26 whom is vested:

27 (a) All or any part of the legal title to property; or

28 (b) All or part of the beneficial ownership, and a right to
29 present use and enjoyment of the property.

30 (17) "Person" means an individual, group of individuals,
31 corporation, government, or governmental agency, business trust,
32 estate, trust, partnership, or association, two or more persons
33 having a joint or common interest, or any other legal or commercial
34 entity.

35 (18) "Premises" means a dwelling unit, appurtenances thereto,
36 grounds, and facilities held out for the use of tenants generally and
37 any other area or facility which is held out for use by the tenant.

38 (19) "Property" or "rental property" means all dwelling units on
39 a contiguous quantity of land managed by the same landlord as a
40 single, rental complex.

1 (20) "Prospective landlord" means a landlord or a person who
2 advertises, solicits, offers, or otherwise holds a dwelling unit out
3 as available for rent.

4 (21) "Prospective tenant" means a tenant or a person who has
5 applied for residential housing that is governed under this chapter.

6 (22) "Qualified inspector" means a United States department of
7 housing and urban development certified inspector; a Washington state
8 licensed home inspector; an American society of home inspectors
9 certified inspector; a private inspector certified by the national
10 association of housing and redevelopment officials, the American
11 association of code enforcement, or other comparable professional
12 association as approved by the local municipality; a municipal code
13 enforcement officer; a Washington licensed structural engineer; or a
14 Washington licensed architect.

15 (23) "Reasonable attorneys' fees," where authorized in this
16 chapter, means an amount to be determined including the following
17 factors: The time and labor required, the novelty and difficulty of
18 the questions involved, the skill requisite to perform the legal
19 service properly, the fee customarily charged in the locality for
20 similar legal services, the amount involved and the results obtained,
21 and the experience, reputation and ability of the lawyer or lawyers
22 performing the services.

23 (24) "Reasonable manner," with respect to disposing of a deceased
24 tenant's personal property, means to dispose of the property by
25 donation to a not-for-profit charitable organization, by removal of
26 the property by a trash hauler or recycler, or by any other method
27 that is reasonable under the circumstances.

28 (25) "Rental agreement" means all agreements which establish or
29 modify the terms, conditions, rules, regulations, or any other
30 provisions concerning the use and occupancy of a dwelling unit.

31 (26) A "single-family residence" is a structure maintained and
32 used as a single dwelling unit. Notwithstanding that a dwelling unit
33 shares one or more walls with another dwelling unit, it shall be
34 deemed a single-family residence if it has direct access to a street
35 and shares neither heating facilities nor hot water equipment, nor
36 any other essential facility or service, with any other dwelling
37 unit.

38 (27) A "tenant" is any person who is entitled to occupy a
39 dwelling unit primarily for living or dwelling purposes under a
40 rental agreement.

1 (28) "Tenant representative" means:

2 (a) A personal representative of a deceased tenant's estate if
3 known to the landlord;

4 (b) If the landlord has no knowledge that a personal
5 representative has been appointed for the deceased tenant's estate, a
6 person claiming to be a successor of the deceased tenant who has
7 provided the landlord with proof of death and an affidavit made by
8 the person that meets the requirements of RCW 11.62.010(2);

9 (c) In the absence of a personal representative under (a) of this
10 subsection or a person claiming to be a successor under (b) of this
11 subsection, a designated person; or

12 (d) In the absence of a personal representative under (a) of this
13 subsection, a person claiming to be a successor under (b) of this
14 subsection, or a designated person under (c) of this subsection, any
15 person who provides the landlord with reasonable evidence that he or
16 she is a successor of the deceased tenant as defined in RCW
17 11.62.005. The landlord has no obligation to identify all of the
18 deceased tenant's successors.

19 (29) "Tenant screening" means using a consumer report or other
20 information about a prospective tenant in deciding whether to make or
21 accept an offer for residential rental property to or from a
22 prospective tenant.

23 (30) "Tenant screening report" means a consumer report as defined
24 in RCW 19.182.010 and any other information collected by a tenant
25 screening service.

26 **Sec. 26.** RCW 71.09.070 and 2015 c 278 s 1 are each amended to
27 read as follows:

28 (1) Each person committed under this chapter shall have a current
29 examination of his or her mental condition made by the department at
30 least once every year.

31 (2) The evaluator must prepare a report that includes
32 consideration of whether:

33 (a) The committed person currently meets the definition of a
34 sexually violent predator;

35 (b) Conditional release to a less restrictive alternative is in
36 the best interest of the person; and

37 (c) Conditions can be imposed that would adequately protect the
38 community.

1 (3) The department, on request of the committed person, shall
2 allow a record of the annual review interview to be preserved by
3 audio recording and made available to the committed person.

4 (4) The evaluator must indicate in the report whether the
5 committed person participated in the interview and examination.

6 (5) The department shall file the report with the court that
7 committed the person under this chapter. The report shall be in the
8 form of a declaration or certification in compliance with the
9 requirements of (~~RCW 9A.72.085~~) chapter 5.50 RCW and shall be
10 prepared by a professionally qualified person as defined by rules
11 adopted by the secretary. A copy of the report shall be served on the
12 prosecuting agency involved in the initial commitment and upon the
13 committed person and his or her counsel.

14 (6)(a) The committed person may retain, or if he or she is
15 indigent and so requests, the court may appoint a qualified expert or
16 a professional person to examine him or her, and such expert or
17 professional person shall have access to all records concerning the
18 person.

19 (b) Any report prepared by the expert or professional person and
20 any expert testimony on the committed person's behalf is not
21 admissible in a proceeding pursuant to RCW 71.09.090, unless the
22 committed person participated in the most recent interview and
23 evaluation completed by the department.

24 (7) If an unconditional release trial is ordered pursuant to RCW
25 71.09.090, this section is suspended until the completion of that
26 trial. If the individual is found either by jury or the court to
27 continue to meet the definition of a sexually violent predator, the
28 department must conduct an examination pursuant to this section no
29 later than one year after the date of the order finding that the
30 individual continues to be a sexually violent predator. The
31 examination must comply with the requirements of this section.

32 (8) During any period of confinement pursuant to a criminal
33 conviction, or for any period of detention awaiting trial on criminal
34 charges, this section is suspended. Upon the return of the person
35 committed under this chapter to the custody of the department, the
36 department shall initiate an examination of the person's mental
37 condition. The examination must comply with the requirements of
38 subsection (1) of this section.

1 **Sec. 27.** RCW 81.84.020 and 2007 c 234 s 93 are each amended to
2 read as follows:

3 (1) Upon the filing of an application, the commission shall give
4 reasonable notice to the department, affected cities, counties, and
5 public transportation benefit areas and any common carrier which
6 might be adversely affected, of the time and place for hearing on
7 such application. The commission may, after notice and an opportunity
8 for a hearing, issue the certificate as prayed for, or refuse to
9 issue it, or issue it for the partial exercise only of the privilege
10 sought, and may attach to the exercise of the rights granted by the
11 certificate any terms and conditions as in its judgment the public
12 convenience and necessity may require; but the commission may not
13 grant a certificate to operate between districts or into any
14 territory prohibited by RCW 47.60.120 or already served by an
15 existing certificate holder, unless the existing certificate holder
16 has failed or refused to furnish reasonable and adequate service, has
17 failed to provide the service described in its certificate or tariffs
18 after the time allowed to initiate service has elapsed, or has not
19 objected to the issuance of the certificate as prayed for.

20 (2) Before issuing a certificate, the commission shall determine
21 that the applicant has the financial resources to operate the
22 proposed service for at least twelve months, based upon the
23 submission by the applicant of a pro forma financial statement of
24 operations. Issuance of a certificate must be determined upon, but
25 not limited to, the following factors: Ridership and revenue
26 forecasts; the cost of service for the proposed operation; an
27 estimate of the cost of the assets to be used in providing the
28 service; a statement of the total assets on hand of the applicant
29 that will be expended on the proposed operation; and a statement of
30 prior experience, if any, in such field by the applicant. The
31 documentation required of the applicant under this section must
32 comply with the provisions of (~~RCW 9A.72.085~~) chapter 5.50 RCW.

33 (3) In granting a certificate for passenger-only ferries and
34 determining what conditions to place on the certificate, the
35 commission shall consider and give substantial weight to the effect
36 of its decisions on public agencies operating, or eligible to
37 operate, passenger-only ferry service.

38 (4) Until July 1, 2007, the commission shall not accept or
39 consider an application for passenger-only ferry service serving any
40 county in the Puget Sound area with a population of over one million

1 people. Applications for passenger-only ferry service serving any
2 county in the Puget Sound area with a population of over one million
3 pending before the commission as of May 9, 2005, must be held in
4 abeyance and not be considered before July 1, 2007.

5 **Sec. 28.** RCW 88.02.540 and 2011 c 326 s 4 are each amended to
6 read as follows:

7 (1) The application for a quick title of a vessel must be made by
8 the owner or the owner's representative to the department,
9 participating county auditor or other agent, or subagent appointed by
10 the director on a form furnished or approved by the department and
11 must contain:

12 (a) A description of the vessel, including make, model, hull
13 identification number, series, and body;

14 (b) The name and address of the person who is to be the
15 registered owner of the vessel and, if the vessel is subject to a
16 security interest, the name and address of the secured party; and

17 (c) Other information as may be required by the department.

18 (2) The application for a quick title must be signed by the
19 person applying to be the registered owner and be sworn to by that
20 person in the manner described under ((~~RCW 9A.72.085~~)) chapter 5.50
21 RCW. The department must keep a copy of the application.

22 (3) The application for a quick title must be accompanied by:

23 (a) All fees and taxes due for an application for a certificate
24 of title, including a quick title service fee under RCW 88.02.640(1);
25 and

26 (b) The most recent certificate of title or other satisfactory
27 evidence of ownership.

28 (4) All applications for quick title must meet the requirements
29 established by the department.

30 (5) For the purposes of this section, "quick title" means a
31 certificate of title printed at the time of application.

32 (6) A subagent may process a quick title under this section only
33 after (a) the department has instituted a process in which blank
34 certificates of title can be inventoried; (b) the county auditor of
35 the county in which the subagent is located has processed quick
36 titles for a minimum of six months; and (c) the county auditor
37 approves a request from a subagent in its county to process quick
38 titles.

1 NEW SECTION. **Sec. 29.** (1) Section 21 of this act expires
2 January 1, 2019.

3 (2) Section 24 of this act expires July 1, 2021.

4 NEW SECTION. **Sec. 30.** Section 22 of this act takes effect
5 January 1, 2019."

6 Correct the title.

EFFECT: Retains the entirety of the underlying bill and, in addition, pulls in and amends statutes that currently refer to RCW 9A.72.085 (the statute being repealed in the bill) to refer instead to chapter 5.50 RCW, which is the chapter being amended under the bill.

Strikes language in section 10 which was declared unconstitutional in *State v. Abrams*, 163 Wn.2d 277 (2008) as violative of right to trial by jury.

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