

ESHB 1504 - S COMM AMD

By Committee on Transportation

ADOPTED AND ENGROSSED 4/17/19

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

3 **"Sec. 1.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read
4 as follows:

5 (1) The provisions of this section apply to the standard sentence
6 ranges determined by RCW 9.94A.510 or 9.94A.517.

7 (2) For persons convicted of the anticipatory offenses of
8 criminal attempt, solicitation, or conspiracy under chapter 9A.28
9 RCW, the standard sentence range is determined by locating the
10 sentencing grid sentence range defined by the appropriate offender
11 score and the seriousness level of the completed crime, and
12 multiplying the range by seventy-five percent.

13 (3) The following additional times shall be added to the standard
14 sentence range for felony crimes committed after July 23, 1995, if
15 the offender or an accomplice was armed with a firearm as defined in
16 RCW 9.41.010 and the offender is being sentenced for one of the
17 crimes listed in this subsection as eligible for any firearm
18 enhancements based on the classification of the completed felony
19 crime. If the offender is being sentenced for more than one offense,
20 the firearm enhancement or enhancements must be added to the total
21 period of confinement for all offenses, regardless of which
22 underlying offense is subject to a firearm enhancement. If the
23 offender or an accomplice was armed with a firearm as defined in RCW
24 9.41.010 and the offender is being sentenced for an anticipatory
25 offense under chapter 9A.28 RCW to commit one of the crimes listed in
26 this subsection as eligible for any firearm enhancements, the
27 following additional times shall be added to the standard sentence
28 range determined under subsection (2) of this section based on the
29 felony crime of conviction as classified under RCW 9A.28.020:

30 (a) Five years for any felony defined under any law as a class A
31 felony or with a statutory maximum sentence of at least twenty years,
32 or both, and not covered under (f) of this subsection;

1 (b) Three years for any felony defined under any law as a class B
2 felony or with a statutory maximum sentence of ten years, or both,
3 and not covered under (f) of this subsection;

4 (c) Eighteen months for any felony defined under any law as a
5 class C felony or with a statutory maximum sentence of five years, or
6 both, and not covered under (f) of this subsection;

7 (d) If the offender is being sentenced for any firearm
8 enhancements under (a), (b), and/or (c) of this subsection and the
9 offender has previously been sentenced for any deadly weapon
10 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
11 subsection or subsection (4)(a), (b), and/or (c) of this section, or
12 both, all firearm enhancements under this subsection shall be twice
13 the amount of the enhancement listed;

14 (e) Notwithstanding any other provision of law, all firearm
15 enhancements under this section are mandatory, shall be served in
16 total confinement, and shall run consecutively to all other
17 sentencing provisions, including other firearm or deadly weapon
18 enhancements, for all offenses sentenced under this chapter. However,
19 whether or not a mandatory minimum term has expired, an offender
20 serving a sentence under this subsection may be:

21 (i) Granted an extraordinary medical placement when authorized
22 under RCW 9.94A.728(1)(c); or

23 (ii) Released under the provisions of RCW 9.94A.730;

24 (f) The firearm enhancements in this section shall apply to all
25 felony crimes except the following: Possession of a machine gun or
26 bump-fire stock, possessing a stolen firearm, drive-by shooting,
27 theft of a firearm, unlawful possession of a firearm in the first and
28 second degree, and use of a machine gun or bump-fire stock in a
29 felony;

30 (g) If the standard sentence range under this section exceeds the
31 statutory maximum sentence for the offense, the statutory maximum
32 sentence shall be the presumptive sentence unless the offender is a
33 persistent offender. If the addition of a firearm enhancement
34 increases the sentence so that it would exceed the statutory maximum
35 for the offense, the portion of the sentence representing the
36 enhancement may not be reduced.

37 (4) The following additional times shall be added to the standard
38 sentence range for felony crimes committed after July 23, 1995, if
39 the offender or an accomplice was armed with a deadly weapon other
40 than a firearm as defined in RCW 9.41.010 and the offender is being

1 sentenced for one of the crimes listed in this subsection as eligible
2 for any deadly weapon enhancements based on the classification of the
3 completed felony crime. If the offender is being sentenced for more
4 than one offense, the deadly weapon enhancement or enhancements must
5 be added to the total period of confinement for all offenses,
6 regardless of which underlying offense is subject to a deadly weapon
7 enhancement. If the offender or an accomplice was armed with a deadly
8 weapon other than a firearm as defined in RCW 9.41.010 and the
9 offender is being sentenced for an anticipatory offense under chapter
10 9A.28 RCW to commit one of the crimes listed in this subsection as
11 eligible for any deadly weapon enhancements, the following additional
12 times shall be added to the standard sentence range determined under
13 subsection (2) of this section based on the felony crime of
14 conviction as classified under RCW 9A.28.020:

15 (a) Two years for any felony defined under any law as a class A
16 felony or with a statutory maximum sentence of at least twenty years,
17 or both, and not covered under (f) of this subsection;

18 (b) One year for any felony defined under any law as a class B
19 felony or with a statutory maximum sentence of ten years, or both,
20 and not covered under (f) of this subsection;

21 (c) Six months for any felony defined under any law as a class C
22 felony or with a statutory maximum sentence of five years, or both,
23 and not covered under (f) of this subsection;

24 (d) If the offender is being sentenced under (a), (b), and/or (c)
25 of this subsection for any deadly weapon enhancements and the
26 offender has previously been sentenced for any deadly weapon
27 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
28 subsection or subsection (3)(a), (b), and/or (c) of this section, or
29 both, all deadly weapon enhancements under this subsection shall be
30 twice the amount of the enhancement listed;

31 (e) Notwithstanding any other provision of law, all deadly weapon
32 enhancements under this section are mandatory, shall be served in
33 total confinement, and shall run consecutively to all other
34 sentencing provisions, including other firearm or deadly weapon
35 enhancements, for all offenses sentenced under this chapter. However,
36 whether or not a mandatory minimum term has expired, an offender
37 serving a sentence under this subsection may be:

38 (i) Granted an extraordinary medical placement when authorized
39 under RCW 9.94A.728(1)(c); or

40 (ii) Released under the provisions of RCW 9.94A.730;

1 (f) The deadly weapon enhancements in this section shall apply to
2 all felony crimes except the following: Possession of a machine gun
3 or bump-fire stock, possessing a stolen firearm, drive-by shooting,
4 theft of a firearm, unlawful possession of a firearm in the first and
5 second degree, and use of a machine gun or bump-fire stock in a
6 felony;

7 (g) If the standard sentence range under this section exceeds the
8 statutory maximum sentence for the offense, the statutory maximum
9 sentence shall be the presumptive sentence unless the offender is a
10 persistent offender. If the addition of a deadly weapon enhancement
11 increases the sentence so that it would exceed the statutory maximum
12 for the offense, the portion of the sentence representing the
13 enhancement may not be reduced.

14 (5) The following additional times shall be added to the standard
15 sentence range if the offender or an accomplice committed the offense
16 while in a county jail or state correctional facility and the
17 offender is being sentenced for one of the crimes listed in this
18 subsection. If the offender or an accomplice committed one of the
19 crimes listed in this subsection while in a county jail or state
20 correctional facility, and the offender is being sentenced for an
21 anticipatory offense under chapter 9A.28 RCW to commit one of the
22 crimes listed in this subsection, the following additional times
23 shall be added to the standard sentence range determined under
24 subsection (2) of this section:

25 (a) Eighteen months for offenses committed under RCW 69.50.401(2)

26 (a) or (b) or 69.50.410;

27 (b) Fifteen months for offenses committed under RCW 69.50.401(2)

28 (c), (d), or (e);

29 (c) Twelve months for offenses committed under RCW 69.50.4013.

30 For the purposes of this subsection, all of the real property of
31 a state correctional facility or county jail shall be deemed to be
32 part of that facility or county jail.

33 (6) An additional twenty-four months shall be added to the
34 standard sentence range for any ranked offense involving a violation
35 of chapter 69.50 RCW if the offense was also a violation of RCW
36 69.50.435 or 9.94A.827. All enhancements under this subsection shall
37 run consecutively to all other sentencing provisions, for all
38 offenses sentenced under this chapter.

39 (7) An additional two years shall be added to the standard
40 sentence range for vehicular homicide committed while under the

1 influence of intoxicating liquor or any drug as defined by RCW
2 46.61.502 for each prior offense as defined in RCW 46.61.5055.

3 Notwithstanding any other provision of law, all impaired driving
4 enhancements under this subsection are mandatory, shall be served in
5 total confinement, and shall run consecutively to all other
6 sentencing provisions, including other impaired driving enhancements,
7 for all offenses sentenced under this chapter.

8 An offender serving a sentence under this subsection may be
9 granted an extraordinary medical placement when authorized under RCW
10 9.94A.728(1)(c).

11 (8)(a) The following additional times shall be added to the
12 standard sentence range for felony crimes committed on or after July
13 1, 2006, if the offense was committed with sexual motivation, as that
14 term is defined in RCW 9.94A.030. If the offender is being sentenced
15 for more than one offense, the sexual motivation enhancement must be
16 added to the total period of total confinement for all offenses,
17 regardless of which underlying offense is subject to a sexual
18 motivation enhancement. If the offender committed the offense with
19 sexual motivation and the offender is being sentenced for an
20 anticipatory offense under chapter 9A.28 RCW, the following
21 additional times shall be added to the standard sentence range
22 determined under subsection (2) of this section based on the felony
23 crime of conviction as classified under RCW 9A.28.020:

24 (i) Two years for any felony defined under the law as a class A
25 felony or with a statutory maximum sentence of at least twenty years,
26 or both;

27 (ii) Eighteen months for any felony defined under any law as a
28 class B felony or with a statutory maximum sentence of ten years, or
29 both;

30 (iii) One year for any felony defined under any law as a class C
31 felony or with a statutory maximum sentence of five years, or both;

32 (iv) If the offender is being sentenced for any sexual motivation
33 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
34 the offender has previously been sentenced for any sexual motivation
35 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
36 (iii) of this subsection, all sexual motivation enhancements under
37 this subsection shall be twice the amount of the enhancement listed;

38 (b) Notwithstanding any other provision of law, all sexual
39 motivation enhancements under this subsection are mandatory, shall be
40 served in total confinement, and shall run consecutively to all other

1 sentencing provisions, including other sexual motivation
2 enhancements, for all offenses sentenced under this chapter. However,
3 whether or not a mandatory minimum term has expired, an offender
4 serving a sentence under this subsection may be:

5 (i) Granted an extraordinary medical placement when authorized
6 under RCW 9.94A.728(1)(c); or

7 (ii) Released under the provisions of RCW 9.94A.730;

8 (c) The sexual motivation enhancements in this subsection apply
9 to all felony crimes;

10 (d) If the standard sentence range under this subsection exceeds
11 the statutory maximum sentence for the offense, the statutory maximum
12 sentence shall be the presumptive sentence unless the offender is a
13 persistent offender. If the addition of a sexual motivation
14 enhancement increases the sentence so that it would exceed the
15 statutory maximum for the offense, the portion of the sentence
16 representing the enhancement may not be reduced;

17 (e) The portion of the total confinement sentence which the
18 offender must serve under this subsection shall be calculated before
19 any earned early release time is credited to the offender;

20 (f) Nothing in this subsection prevents a sentencing court from
21 imposing a sentence outside the standard sentence range pursuant to
22 RCW 9.94A.535.

23 (9) An additional one-year enhancement shall be added to the
24 standard sentence range for the felony crimes of RCW 9A.44.073,
25 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
26 or after July 22, 2007, if the offender engaged, agreed, or offered
27 to engage the victim in the sexual conduct in return for a fee. If
28 the offender is being sentenced for more than one offense, the
29 one-year enhancement must be added to the total period of total
30 confinement for all offenses, regardless of which underlying offense
31 is subject to the enhancement. If the offender is being sentenced for
32 an anticipatory offense for the felony crimes of RCW 9A.44.073,
33 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
34 offender attempted, solicited another, or conspired to engage, agree,
35 or offer to engage the victim in the sexual conduct in return for a
36 fee, an additional one-year enhancement shall be added to the
37 standard sentence range determined under subsection (2) of this
38 section. For purposes of this subsection, "sexual conduct" means
39 sexual intercourse or sexual contact, both as defined in chapter
40 9A.44 RCW.

1 (10)(a) For a person age eighteen or older convicted of any
2 criminal street gang-related felony offense for which the person
3 compensated, threatened, or solicited a minor in order to involve the
4 minor in the commission of the felony offense, the standard sentence
5 range is determined by locating the sentencing grid sentence range
6 defined by the appropriate offender score and the seriousness level
7 of the completed crime, and multiplying the range by one hundred
8 twenty-five percent. If the standard sentence range under this
9 subsection exceeds the statutory maximum sentence for the offense,
10 the statutory maximum sentence is the presumptive sentence unless the
11 offender is a persistent offender.

12 (b) This subsection does not apply to any criminal street gang-
13 related felony offense for which involving a minor in the commission
14 of the felony offense is an element of the offense.

15 (c) The increased penalty specified in (a) of this subsection is
16 unavailable in the event that the prosecution gives notice that it
17 will seek an exceptional sentence based on an aggravating factor
18 under RCW 9.94A.535.

19 (11) An additional twelve months and one day shall be added to
20 the standard sentence range for a conviction of attempting to elude a
21 police vehicle as defined by RCW 46.61.024, if the conviction
22 included a finding by special allegation of endangering one or more
23 persons under RCW 9.94A.834.

24 (12) An additional twelve months shall be added to the standard
25 sentence range for an offense that is also a violation of RCW
26 9.94A.831.

27 (13) An additional twelve months shall be added to the standard
28 sentence range for vehicular homicide committed while under the
29 influence of intoxicating liquor or any drug as defined by RCW
30 46.61.520 or for vehicular assault committed while under the
31 influence of intoxicating liquor or any drug as defined by RCW
32 46.61.522, or for any felony driving under the influence (RCW
33 46.61.502(6)) or felony physical control under the influence (RCW
34 46.61.504(6)) for each child passenger under the age of sixteen who
35 is an occupant in the defendant's vehicle. These enhancements shall
36 be mandatory, shall be served in total confinement, and shall run
37 consecutively to all other sentencing provisions, including other
38 minor child enhancements, for all offenses sentenced under this
39 chapter. If the addition of a minor child enhancement increases the
40 sentence so that it would exceed the statutory maximum for the

1 offense, the portion of the sentence representing the enhancement may
2 not be reduced.

3 (14) An additional twelve months shall be added to the standard
4 sentence range for an offense that is also a violation of RCW
5 9.94A.832.

6 **Sec. 2.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
7 read as follows:

8 (1)(a) The term of the sentence of an offender committed to a
9 correctional facility operated by the department may be reduced by
10 earned release time in accordance with procedures that shall be
11 developed and adopted by the correctional agency having jurisdiction
12 in which the offender is confined. The earned release time shall be
13 for good behavior and good performance, as determined by the
14 correctional agency having jurisdiction. The correctional agency
15 shall not credit the offender with earned release credits in advance
16 of the offender actually earning the credits.

17 (b) Any program established pursuant to this section shall allow
18 an offender to earn early release credits for presentence
19 incarceration. If an offender is transferred from a county jail to
20 the department, the administrator of a county jail facility shall
21 certify to the department the amount of time spent in custody at the
22 facility and the number of days of early release credits lost or not
23 earned. The department may approve a jail certification from a
24 correctional agency that calculates early release time based on the
25 actual amount of confinement time served by the offender before
26 sentencing when an erroneous calculation of confinement time served
27 by the offender before sentencing appears on the judgment and
28 sentence. The department must adjust an offender's rate of early
29 release listed on the jail certification to be consistent with the
30 rate applicable to offenders in the department's facilities. However,
31 the department is not authorized to adjust the number of presentence
32 early release days that the jail has certified as lost or not earned.

33 (2)(a) An offender who has been convicted of a felony committed
34 after July 23, 1995, that involves any applicable deadly weapon
35 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not
36 receive any good time credits or earned release time for that portion
37 of his or her sentence that results from any deadly weapon
38 enhancements.

1 (b) An offender whose sentence includes any impaired driving
2 enhancements under RCW 9.94A.533(7), minor child enhancements under
3 RCW 9.94A.533(13), or both, shall not receive any good time credits
4 or earned release time for any portion of his or her sentence that
5 results from those enhancements.

6 (3) An offender may earn early release time as follows:

7 (a) In the case of an offender sentenced pursuant to RCW
8 10.95.030(3) or 10.95.035, the offender may not receive any earned
9 early release time during the minimum term of confinement imposed by
10 the court; for any remaining portion of the sentence served by the
11 offender, the aggregate earned release time may not exceed ten
12 percent of the sentence.

13 (b) In the case of an offender convicted of a serious violent
14 offense, or a sex offense that is a class A felony, committed on or
15 after July 1, 1990, and before July 1, 2003, the aggregate earned
16 release time may not exceed fifteen percent of the sentence.

17 (c) In the case of an offender convicted of a serious violent
18 offense, or a sex offense that is a class A felony, committed on or
19 after July 1, 2003, the aggregate earned release time may not exceed
20 ten percent of the sentence.

21 (d) An offender is qualified to earn up to fifty percent of
22 aggregate earned release time if he or she:

23 (i) Is not classified as an offender who is at a high risk to
24 reoffend as provided in subsection (4) of this section;

25 (ii) Is not confined pursuant to a sentence for:

26 (A) A sex offense;

27 (B) A violent offense;

28 (C) A crime against persons as defined in RCW 9.94A.411;

29 (D) A felony that is domestic violence as defined in RCW
30 10.99.020;

31 (E) A violation of RCW 9A.52.025 (residential burglary);

32 (F) A violation of, or an attempt, solicitation, or conspiracy to
33 violate, RCW 69.50.401 by manufacture or delivery or possession with
34 intent to deliver methamphetamine; or

35 (G) A violation of, or an attempt, solicitation, or conspiracy to
36 violate, RCW 69.50.406 (delivery of a controlled substance to a
37 minor);

38 (iii) Has no prior conviction for the offenses listed in (d)(ii)
39 of this subsection;

1 (iv) Participates in programming or activities as directed by the
2 offender's individual reentry plan as provided under RCW 72.09.270 to
3 the extent that such programming or activities are made available by
4 the department; and

5 (v) Has not committed a new felony after July 22, 2007, while
6 under community custody.

7 (e) In no other case shall the aggregate earned release time
8 exceed one-third of the total sentence.

9 (4) The department shall perform a risk assessment of each
10 offender who may qualify for earned early release under subsection
11 (3)(d) of this section utilizing the risk assessment tool recommended
12 by the Washington state institute for public policy. Subsection
13 (3)(d) of this section does not apply to offenders convicted after
14 July 1, 2010.

15 (5)(a) A person who is eligible for earned early release as
16 provided in this section and who will be supervised by the department
17 pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to
18 community custody in lieu of earned release time;

19 (b) The department shall, as a part of its program for release to
20 the community in lieu of earned release, require the offender to
21 propose a release plan that includes an approved residence and living
22 arrangement. All offenders with community custody terms eligible for
23 release to community custody in lieu of earned release shall provide
24 an approved residence and living arrangement prior to release to the
25 community;

26 (c) The department may deny transfer to community custody in lieu
27 of earned release time if the department determines an offender's
28 release plan, including proposed residence location and living
29 arrangements, may violate the conditions of the sentence or
30 conditions of supervision, place the offender at risk to violate the
31 conditions of the sentence, place the offender at risk to reoffend,
32 or present a risk to victim safety or community safety. The
33 department's authority under this section is independent of any
34 court-ordered condition of sentence or statutory provision regarding
35 conditions for community custody;

36 (d) If the department is unable to approve the offender's release
37 plan, the department may do one or more of the following:

38 (i) Transfer an offender to partial confinement in lieu of earned
39 early release for a period not to exceed three months. The three
40 months in partial confinement is in addition to that portion of the

1 offender's term of confinement that may be served in partial
2 confinement as provided in RCW 9.94A.728(~~(5)~~) (1)(e);

3 (ii) Provide rental vouchers to the offender for a period not to
4 exceed three months if rental assistance will result in an approved
5 release plan.

6 A voucher must be provided in conjunction with additional
7 transition support programming or services that enable an offender to
8 participate in services including, but not limited to, substance
9 abuse treatment, mental health treatment, sex offender treatment,
10 educational programming, or employment programming;

11 (e) The department shall maintain a list of housing providers
12 that meets the requirements of RCW 72.09.285. If more than two
13 voucher recipients will be residing per dwelling unit, as defined in
14 RCW 59.18.030, rental vouchers for those recipients may only be paid
15 to a housing provider on the department's list;

16 (f) For each offender who is the recipient of a rental voucher,
17 the department shall gather data as recommended by the Washington
18 state institute for public policy in order to best demonstrate
19 whether rental vouchers are effective in reducing recidivism.

20 (6) An offender serving a term of confinement imposed under RCW
21 9.94A.670(5)(a) is not eligible for earned release credits under this
22 section.

23 **Sec. 3.** RCW 10.21.055 and 2016 c 203 s 16 are each amended to
24 read as follows:

25 (1)(a) When any person charged with a violation of RCW 46.61.502,
26 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
27 offense as defined in RCW 46.61.5055 and the current offense involves
28 alcohol, is released from custody at arraignment or trial on bail or
29 personal recognizance, the court authorizing the release shall
30 require, as a condition of release that person comply with one of the
31 following four requirements:

32 (i) Have a functioning ignition interlock device installed on all
33 motor vehicles operated by the person, with proof of installation
34 filed with the court by the person or the certified interlock
35 provider within five business days of the date of release from
36 custody or as soon thereafter as determined by the court based on
37 availability within the jurisdiction; or

38 (ii) Comply with 24/7 sobriety program monitoring, as defined in
39 RCW 36.28A.330; or

1 (iii) Have an ignition interlock device on all motor vehicles
2 operated by the person pursuant to (a)(i) of this subsection and
3 submit to 24/7 sobriety program monitoring pursuant to (a)(ii) of
4 this subsection, if available, or alcohol monitoring, at the expense
5 of the person, as provided in RCW 46.61.5055(5) (b) and (c); or

6 (iv) Have an ignition interlock device on all motor vehicles
7 operated by the person and that such person agrees not to operate any
8 motor vehicle without an ignition interlock device as required by the
9 court. Under this subsection (1)(a)(iv), the person must file a sworn
10 statement with the court upon release at arraignment that states the
11 person will not operate any motor vehicle without an ignition
12 interlock device while the ignition interlock restriction is imposed
13 by the court. Such person must also submit to 24/7 sobriety program
14 monitoring pursuant to (a)(ii) of this subsection, if available, or
15 alcohol monitoring, at the expense of the person, as provided in RCW
16 46.61.5055(5) (b) and (c).

17 (b) The court shall immediately notify the department of
18 licensing when an ignition interlock restriction is imposed(~~(i)~~)
19 as a condition of release (~~(pursuant to (a) of this subsection)~~) or
20 (~~(i)~~) after conviction in instances where a person is charged
21 with, or convicted of, a violation of RCW 46.61.502, 46.61.504,
22 46.61.520, or 46.61.522(~~(, and the offense involves alcohol)~~). If the
23 court imposes an ignition interlock restriction, the department of
24 licensing shall attach or imprint a notation on the driving record of
25 any person restricted under this section stating that the person may
26 operate only a motor vehicle equipped with a functioning ignition
27 interlock device.

28 (2)(a) Upon acquittal or dismissal of all pending or current
29 charges relating to a violation of RCW 46.61.502, 46.61.504,
30 46.61.520, or 46.61.522, or equivalent local ordinance, the court
31 shall authorize removal of the ignition interlock device and lift any
32 requirement to comply with electronic alcohol/drug monitoring imposed
33 under subsection (1) of this section. Nothing in this section limits
34 the authority of the court or department under RCW 46.20.720.

35 (b) If the court authorizes removal of an ignition interlock
36 device imposed under this section, the court shall immediately notify
37 the department of licensing regarding the lifting of the ignition
38 interlock restriction and the department of licensing shall release
39 any attachment, imprint, or notation on such person's driving record

1 relating to the ignition interlock requirement imposed under this
2 section.

3 (3) When an ignition interlock restriction imposed as a condition
4 of release is canceled, the court shall provide a defendant with a
5 written order confirming release of the restriction. The written
6 order shall serve as proof of release of the restriction until which
7 time the department of licensing updates the driving record.

8 **Sec. 4.** RCW 38.52.430 and 2012 c 183 s 6 are each amended to
9 read as follows:

10 A person whose intoxication causes an incident resulting in an
11 appropriate emergency response, and who, in connection with the
12 incident, has been found guilty of or has had their prosecution
13 deferred for (1) driving while under the influence of intoxicating
14 liquor or any drug, RCW 46.61.502; (2) physical control of a motor
15 vehicle while under the influence of intoxicating liquor or any drug,
16 RCW 46.61.504; (3) operating an aircraft under the influence of
17 intoxicants or drugs, RCW 47.68.220; (~~((3))~~) (4) use of a vessel
18 while under the influence of alcohol or drugs, RCW 79A.60.040;
19 (~~((4))~~) (5) vehicular homicide while under the influence of
20 intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (~~((5))~~) (6)
21 vehicular assault while under the influence of intoxicating liquor or
22 any drug, RCW 46.61.522(1)(b), is liable for the expense of an
23 emergency response by a public agency to the incident.

24 The expense of an emergency response is a charge against the
25 person liable for expenses under this section. The charge constitutes
26 a debt of that person and is collectible by the public agency
27 incurring those costs in the same manner as in the case of an
28 obligation under a contract, expressed or implied. Following a
29 conviction of an offense listed in this section, and prior to
30 sentencing, the prosecution may present to the court information
31 setting forth the expenses incurred by the public agency for its
32 emergency response to the incident. Upon a finding by the court that
33 the expenses are reasonable, the court shall order the defendant to
34 reimburse the public agency. The cost reimbursement shall be included
35 in the sentencing order as an additional monetary obligation of the
36 defendant and may not be substituted for any other fine or cost
37 required or allowed by statute. The court may establish a payment
38 schedule for the payment of the cost reimbursement, separate from any
39 payment schedule imposed for other fines and costs. All payments for

1 the cost reimbursement must be remitted directly to the public agency
2 or agencies that incurred the cost associated with the emergency
3 response.

4 In no event shall a person's liability under this section for the
5 expense of an emergency response exceed two thousand five hundred
6 dollars for a particular incident.

7 If more than one public agency makes a claim for payment from an
8 individual for an emergency response to a single incident under the
9 provisions of this section, and the sum of the claims exceeds the
10 amount recovered, the division of the amount recovered shall be
11 determined by an interlocal agreement consistent with the
12 requirements of chapter 39.34 RCW.

13 **Sec. 5.** RCW 46.20.245 and 2005 c 288 s 1 are each amended to
14 read as follows:

15 (1) Whenever the department proposes to withhold the driving
16 privilege of a person or disqualify a person from operating a
17 commercial motor vehicle and this action is made mandatory by the
18 provisions of this chapter or other law, the department must give
19 notice to the person in writing by posting in the United States mail,
20 appropriately addressed, postage prepaid, or by personal service.
21 Notice by mail is given upon deposit in the United States mail.
22 Notice given under this subsection must specify the date upon which
23 the driving privilege is to be withheld which shall not be less than
24 forty-five days after the original notice is given.

25 (2) For persons subject to suspension, revocation, or denial of a
26 driver's license who are eligible for full credit under RCW
27 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section
28 must also notify the person of the obligation to complete the
29 requirements under RCW 46.20.311 and pay the probationary license fee
30 under RCW 46.20.355 by the date specified in the notice in order to
31 avoid license suspension.

32 (3) Within fifteen days after notice has been given to a person
33 under subsection (1) of this section, the person may request in
34 writing an administrative review before the department. If the
35 request is mailed, it must be postmarked within fifteen days after
36 the date the department has given notice. If a person fails to
37 request an administrative review within fifteen days after the date
38 the department gives notice, the person is considered to have
39 defaulted and loses his or her right to an administrative review

1 unless the department finds good cause for a request after the
2 fifteen-day period.

3 (a) An administrative review under this subsection shall consist
4 solely of an internal review of documents and records submitted or
5 available to the department, unless the person requests an interview
6 before the department, in which case all or any part of the
7 administrative review may, at the discretion of the department, be
8 conducted by telephone or other electronic means.

9 (b) The only issues to be addressed in the administrative review
10 are:

11 (i) Whether the records relied on by the department identify the
12 correct person; and

13 (ii) Whether the information transmitted from the court or other
14 reporting agency or entity regarding the person accurately describes
15 the action taken by the court or other reporting agency or entity.

16 (c) For the purposes of this section, the notice received from a
17 court or other reporting agency or entity, regardless of form or
18 format, is prima facie evidence that the information from the court
19 or other reporting agency or entity regarding the person is accurate.
20 A person requesting administrative review has the burden of showing
21 by a preponderance of the evidence that the person is not subject to
22 the withholding of the driving privilege.

23 (d) The action subject to the notification requirements of
24 subsection (1) of this section shall be stayed during the
25 administrative review process.

26 (e) Judicial review of a department order affirming the action
27 subject to the notification requirements of subsection (1) of this
28 section after an administrative review shall be available in the same
29 manner as provided in RCW 46.20.308(~~((+9))~~) (8). The department shall
30 certify its record to the court within thirty days after service upon
31 the department of the petition for judicial review. The action
32 subject to the notification requirements of subsection (1) of this
33 section shall not automatically be stayed during the judicial review.
34 If judicial relief is sought for a stay or other temporary remedy
35 from the department's action, the court shall not grant relief unless
36 the court finds that the appellant is likely to prevail in the appeal
37 and that without a stay the appellant will suffer irreparable injury.

38 (~~((+3))~~) (4) The department may adopt rules that are considered
39 necessary or convenient by the department for purposes of
40 administering this section, including, but not limited to, rules

1 regarding expedited procedures for issuing orders and expedited
2 notice procedures.

3 ~~((4))~~ (5) This section does not apply where an opportunity for
4 an informal settlement, driver improvement interview, or formal
5 hearing is otherwise provided by law or rule of the department.

6 **Sec. 6.** RCW 46.20.3101 and 2016 c 203 s 18 are each amended to
7 read as follows:

8 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
9 or deny the arrested person's license, permit, or privilege to drive
10 as follows:

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

12 (a) For a first refusal within seven years, where there has not
13 been a previous incident within seven years that resulted in
14 administrative action under this section, revocation or denial for
15 one year;

16 (b) For a second or subsequent refusal within seven years, or for
17 a first refusal where there has been one or more previous incidents
18 within seven years that have resulted in administrative action under
19 this section, revocation or denial for two years or until the person
20 reaches age twenty-one, whichever is longer.

21 (2) In the case of an incident where a person has submitted to or
22 been administered a test or tests indicating that the alcohol
23 concentration of the person's breath or blood was 0.08 or more, or
24 that the THC concentration of the person's blood was 5.00 or more:

25 (a) For a first incident within seven years, where there has not
26 been a previous incident within seven years that resulted in
27 administrative action under this section, suspension for ninety days,
28 unless the person successfully completes or is enrolled in a pretrial
29 24/7 sobriety program;

30 (b) For a second or subsequent incident within seven years,
31 revocation or denial for two years.

32 (3) In the case of an incident where a person under age twenty-
33 one has submitted to or been administered a test or tests indicating
34 that the alcohol concentration of the person's breath or blood was
35 0.02 or more, or that the THC concentration of the person's blood was
36 above 0.00:

37 (a) For a first incident within seven years, suspension or denial
38 for ninety days;

1 (b) For a second or subsequent incident within seven years,
2 revocation or denial for one year or until the person reaches age
3 twenty-one, whichever is longer.

4 (4) The department shall grant credit on a day-for-day basis for
5 (~~any portion of~~) a suspension, revocation, or denial (~~already~~
6 ~~served~~) imposed under this section for any portion of a suspension,
7 revocation, or denial (~~imposed~~) already served under RCW 46.61.5055
8 arising out of the same incident. If a person has already served a
9 suspension, revocation, or denial under RCW 46.61.5055 for a period
10 equal to or greater than the period imposed under this section, the
11 department shall provide notice of full credit, shall provide for no
12 further suspension or revocation under this section, and shall impose
13 no additional reissue fees for this credit.

14 **Sec. 7.** RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are
15 each reenacted and amended to read as follows:

16 (1) Upon receipt of an abstract indicating a deferred prosecution
17 has been granted under RCW 10.05.060, or upon receipt of a notice of
18 conviction of RCW 46.61.502 or 46.61.504, the department of licensing
19 shall order the person to surrender any nonprobationary Washington
20 state driver's license that may be in his or her possession. The
21 department shall revoke the license, permit, or privilege to drive of
22 any person who fails to surrender it as required by this section for
23 one year, unless the license has been previously surrendered to the
24 department, a law enforcement officer, or a court, or the person has
25 completed an affidavit of lost, stolen, destroyed, or previously
26 surrendered license, such revocation to take effect thirty days after
27 notice is given of the requirement for license surrender.

28 (2) The department shall place a person's driving privilege in
29 probationary status as required by RCW 10.05.060 or 46.61.5055 for a
30 period of five years from the date the probationary status is
31 required to go into effect.

32 (3) Following receipt of an abstract indicating a deferred
33 prosecution has been granted under RCW 10.05.060, or upon
34 reinstatement or reissuance of a driver's license suspended or
35 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,
36 the department shall require the person to obtain a probationary
37 license in order to operate a motor vehicle in the state of
38 Washington, except as otherwise exempt under RCW 46.20.025. The
39 department shall not issue the probationary license unless the person

1 is otherwise qualified for licensing, and the person must renew the
2 probationary license on the same cycle as the person's regular
3 license would have been renewed until the expiration of the five-year
4 probationary status period imposed under subsection (2) of this
5 section.

6 (4) If a person is eligible for full credit under RCW
7 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued
8 under RCW 46.20.245, has completed the requirements under RCW
9 46.20.311 and paid the fee under subsection (5) of this section, the
10 department shall issue a probationary license on the date specified
11 in the notice with no further action required of the person.

12 (5) For each original issue or renewal of a probationary license
13 under this section, the department shall charge a fee of fifty
14 dollars in addition to any other licensing fees required. Except for
15 when renewing a probationary license, the department shall waive the
16 requirement to obtain an additional probationary license and the
17 fifty dollar fee if the person has a probationary license in his or
18 her possession at the time a new probationary license is required.

19 ~~((+5))~~ (6) A probationary license shall enable the department
20 and law enforcement personnel to determine that the person is on
21 probationary status. The fact that a person's driving privilege is in
22 probationary status or that the person has been issued a probationary
23 license shall not be a part of the person's record that is available
24 to insurance companies.

25 **Sec. 8.** 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 mandatory
6 suspension, 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~~) 0.020 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)) one or more passengers under the
10 age of sixteen ((was)) were in the vehicle shall be extended for an
11 additional ((six-month)) period 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) The period of restriction under (c) or (d) of this subsection
15 shall be extended by one hundred eighty days whenever the department
16 receives notice that the restricted person has been convicted under
17 RCW 46.20.740 or 46.20.750.

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

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

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

39 (a) Any attempt to start the vehicle with a breath alcohol
40 concentration of 0.04 or more unless a subsequent test performed

1 within ten minutes registers a breath alcohol concentration lower
2 than 0.04 and the digital image confirms the same person provided
3 both samples;

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

7 (c) Failure to pass any random retest with a breath alcohol
8 concentration of (~~(0.025)~~) 0.020 or lower unless a subsequent test
9 performed within ten minutes registers a breath alcohol concentration
10 lower than (~~(0.025)~~) 0.020, and the digital image confirms the same
11 person provided both samples; or

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

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

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

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

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

1 person's employment requires the person to operate a vehicle owned by
2 the employer or other persons during working hours.

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

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

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

26 **Sec. 9.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each
27 amended to read as follows:

28 (1) The department shall attach or imprint a notation on the
29 driving record of any person restricted under RCW 46.20.720,
30 46.61.5055, or 10.05.140 stating that the person may operate only a
31 motor vehicle equipped with a functioning ignition interlock device.
32 The department shall determine the person's eligibility for licensing
33 based upon written verification by a company doing business in the
34 state that it has installed the required device on a vehicle owned or
35 operated by the person seeking reinstatement. If, based upon
36 notification from the interlock provider or otherwise, the department
37 determines that an ignition interlock required under this section is
38 no longer installed or functioning as required, the department shall
39 suspend the person's license or privilege to drive. Whenever the

1 license or driving privilege of any person is suspended or revoked as
2 a result of noncompliance with an ignition interlock requirement, the
3 suspension shall remain in effect until the person provides notice
4 issued by a company doing business in the state that a vehicle owned
5 or operated by the person is equipped with a functioning ignition
6 interlock device.

7 (2) It is a gross misdemeanor for a person with such a notation
8 on his or her driving record to operate a motor vehicle that is not
9 so equipped, unless the notation resulted from a restriction imposed
10 as a condition of release and the restriction has been released by
11 the court prior to driving. Any time a person is convicted under this
12 section, the court shall immediately notify the department for
13 purposes of RCW 46.20.720(3)(e).

14 (3) Any sentence imposed for a violation of subsection (2) of
15 this section shall be served consecutively with any sentence imposed
16 under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

17 **Sec. 10.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each
18 amended to read as follows:

19 (1) A person who is restricted to the use of a vehicle equipped
20 with an ignition interlock device is guilty of a gross misdemeanor if
21 the restricted driver:

22 (a) Tamper with the device by modifying, detaching,
23 disconnecting, or otherwise disabling it to allow the restricted
24 driver to operate the vehicle;

25 (b) Uses or requests another person to use a filter or other
26 device to circumvent the ignition interlock or to start or operate
27 the vehicle to allow the restricted driver to operate the vehicle;

28 (c) Has, directs, authorizes, or requests another person to
29 tamper with the device by modifying, detaching, disconnecting, or
30 otherwise disabling it to allow the restricted driver to operate the
31 vehicle; or

32 (d) Has, allows, directs, authorizes, or requests another person
33 to blow or otherwise exhale into the device in order to circumvent
34 the device to allow the restricted driver to operate the vehicle.

35 (2) A person who knowingly assists another person who is
36 restricted to the use of a vehicle equipped with an ignition
37 interlock device to circumvent the device or to start and operate
38 that vehicle is guilty of a gross misdemeanor. The provisions of this
39 subsection do not apply if the starting of a motor vehicle, or the

1 request to start a motor vehicle, equipped with an ignition interlock
2 device is done for the purpose of safety or mechanical repair of the
3 device or the vehicle and the person subject to the court order does
4 not operate the vehicle.

5 (3) Any sentence imposed for a violation of subsection (1) of
6 this section shall be served consecutively with any sentence imposed
7 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,
8 46.61.520(1)(a), or 46.61.522(1)(b).

9 (4) Any time a person is convicted under subsection (1) of this
10 section, the court shall immediately notify the department for
11 purposes of RCW 46.20.720(3)(e).

12 **Sec. 11.** RCW 46.55.113 and 2011 c 167 s 6 are each amended to
13 read as follows:

14 (1) Whenever the driver of a vehicle is arrested for a violation
15 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary
16 impoundment, pursuant to the terms and conditions of an applicable
17 local ordinance or state agency rule at the direction of a law
18 enforcement officer.

19 (2) In addition, a police officer may take custody of a vehicle,
20 at his or her discretion, and provide for its prompt removal to a
21 place of safety under any of the following circumstances:

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

27 (b) Whenever a police officer finds a vehicle unattended upon a
28 highway where the vehicle constitutes an obstruction to traffic or
29 jeopardizes public safety;

30 (c) Whenever a police officer finds an unattended vehicle at the
31 scene of an accident or when the driver of a vehicle involved in an
32 accident is physically or mentally incapable of deciding upon steps
33 to be taken to protect his or her property;

34 (d) Whenever the driver of a vehicle is arrested and taken into
35 custody by a police officer;

36 (e) Whenever a police officer discovers a vehicle that the
37 officer determines to be a stolen vehicle;

38 (f) Whenever a vehicle without a special license plate, placard,
39 or decal indicating that the vehicle is being used to transport a

1 person with disabilities under RCW 46.19.010 is parked in a stall or
2 space clearly and conspicuously marked under RCW 46.61.581 which
3 space is provided on private property without charge or on public
4 property;

5 (g) Upon determining that a person is operating a motor vehicle
6 without a valid and, if required, a specially endorsed driver's
7 license or with a license that has been expired for ninety days or
8 more;

9 (h) When a vehicle is illegally occupying a truck, commercial
10 loading zone, restricted parking zone, bus, loading, hooded-meter,
11 taxi, street construction or maintenance, or other similar zone
12 where, by order of the director of transportation or chiefs of police
13 or fire or their designees, parking is limited to designated classes
14 of vehicles or is prohibited during certain hours, on designated days
15 or at all times, if the zone has been established with signage for at
16 least twenty-four hours and where the vehicle is interfering with the
17 proper and intended use of the zone. Signage must give notice to the
18 public that a vehicle will be removed if illegally parked in the
19 zone;

20 (i) When a vehicle with an expired registration of more than
21 forty-five days is parked on a public street;

22 (j) Upon determining that a person restricted to use of only a
23 motor vehicle equipped with a functioning ignition interlock device
24 is operating a motor vehicle that is not equipped with such a device
25 in violation of RCW 46.20.740(2).

26 (3) When an arrest is made for a violation of RCW 46.20.342, if
27 the vehicle is a commercial vehicle or farm transport vehicle and the
28 driver of the vehicle is not the owner of the vehicle, before the
29 summary impoundment directed under subsection (1) of this section,
30 the police officer shall attempt in a reasonable and timely manner to
31 contact the owner of the vehicle and may release the vehicle to the
32 owner if the owner is reasonably available, as long as the owner was
33 not in the vehicle at the time of the stop and arrest and the owner
34 has not received a prior release under this subsection or RCW
35 46.55.120(1) ~~((a))~~ (b) (ii).

36 (4) Nothing in this section may derogate from the powers of
37 police officers under the common law. For the purposes of this
38 section, a place of safety may include the business location of a
39 registered tow truck operator.

1 (5) For purposes of this section "farm transport vehicle" means a
2 motor vehicle owned by a farmer and that is being actively used in
3 the transportation of the farmer's or another farmer's farm, orchard,
4 aquatic farm, or dairy products, including livestock and plant or
5 animal wastes, from point of production to market or disposal, or
6 supplies or commodities to be used on the farm, orchard, aquatic
7 farm, or dairy, and that has a gross vehicle weight rating of 7,258
8 kilograms (16,001 pounds) or more.

9 **Sec. 12.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to
10 read as follows:

11 (1) Any person who drives any vehicle in willful or wanton
12 disregard for the safety of persons or property is guilty of reckless
13 driving. Violation of the provisions of this section is a gross
14 misdemeanor punishable by imprisonment for up to three hundred sixty-
15 four days and by a fine of not more than five thousand dollars.

16 (2) (a) Subject to (b) of this subsection, the license or permit
17 to drive or any nonresident privilege of any person convicted of
18 reckless driving shall be suspended by the department for not less
19 than thirty days.

20 (b) When a reckless driving conviction is a result of a charge
21 that was originally filed as a violation of RCW 46.61.502 or
22 46.61.504, or an equivalent local ordinance, the department shall
23 grant credit on a day-for-day basis for any portion of a suspension,
24 revocation, or denial already served under an administrative action
25 arising out of the same incident. In the case of a person whose day-
26 for-day credit is for a period equal to or greater than the period of
27 suspension required under this section, the department shall provide
28 notice of full credit, shall provide for no further suspension under
29 this section, and shall impose no additional reissue fees for this
30 credit. During any period of suspension, revocation, or denial due to
31 a conviction for reckless driving as the result of a charge
32 originally filed as a violation of RCW 46.61.502 or 46.61.504, any
33 person who has obtained an ignition interlock driver's license under
34 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the
35 provision of the ignition interlock driver's license without
36 obtaining a separate temporary restricted driver's license under RCW
37 46.20.391.

38 (3) (a) Except as provided under (b) of this subsection, a person
39 convicted of reckless driving who has one or more prior offenses as

1 defined in RCW 46.61.5055(14) within seven years shall be required,
2 under RCW 46.20.720, to install an ignition interlock device on all
3 vehicles operated by the person if the conviction is the result of a
4 charge that was originally filed as a violation of RCW 46.61.502,
5 46.61.504, or an equivalent local ordinance.

6 (b) A person convicted of reckless driving shall be required,
7 under RCW 46.20.720, to install an ignition interlock device on all
8 vehicles operated by the person if the conviction is the result of a
9 charge that was originally filed as a violation of RCW 46.61.520
10 committed while under the influence of intoxicating liquor or any
11 drug or RCW 46.61.522 committed while under the influence of
12 intoxicating liquor or any drug.

13 **Sec. 13.** RCW 46.61.503 and 2015 2nd sp.s. c 3 s 14 are each
14 amended to read as follows:

15 (1) Notwithstanding any other provision of this title, a person
16 is guilty of driving or being in physical control of a motor vehicle
17 after consuming alcohol or marijuana if the person operates or is in
18 physical control of a motor vehicle within this state and the person:

19 (a) Is under the age of twenty-one; and

20 (b) Has, within two hours after operating or being in physical
21 control of the motor vehicle, either:

22 (i) An alcohol concentration of at least 0.02 but less than the
23 concentration specified in RCW 46.61.502, as shown by analysis of the
24 person's breath or blood made under RCW 46.61.506; or

25 (ii) A THC concentration above 0.00 but less than the
26 concentration specified in RCW 46.61.502, as shown by analysis of the
27 person's blood made under RCW 46.61.506.

28 (2) It is an affirmative defense to a violation of subsection (1)
29 of this section, which the defendant must prove by a preponderance of
30 the evidence, that the defendant consumed a sufficient quantity of
31 alcohol or marijuana after the time of driving or being in physical
32 control and before the administration of an analysis of the person's
33 breath or blood to cause the defendant's alcohol or THC concentration
34 to be in violation of subsection (1) of this section within two hours
35 after driving or being in physical control. The court shall not admit
36 evidence of this defense unless the defendant notifies the
37 prosecution prior to the earlier of: (a) Seven days prior to trial;
38 or (b) the omnibus or pretrial hearing in the case of the defendant's
39 intent to assert the affirmative defense.

1 (3) No person may be convicted under this section for being in
2 physical control of a motor vehicle and it is an affirmative defense
3 to any action pursuant to RCW 46.20.308 to suspend, revoke, or deny
4 the privilege to drive, if, prior to being pursued by a law
5 enforcement officer, the person has moved the vehicle safely off the
6 roadway as described in RCW 46.61.504(2).

7 (4) Analyses of blood or breath samples obtained more than two
8 hours after the alleged driving or being in physical control may be
9 used as evidence that within two hours of the alleged driving or
10 being in physical control, a person had an alcohol or THC
11 concentration in violation of subsection (1) of this section.

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

13 **Sec. 14.** RCW 46.61.504 and 2017 c 335 s 2 are each amended to
14 read as follows:

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

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

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

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

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

31 (2) (a) The fact that a person charged with a violation of this
32 section is or has been entitled to use a drug under the laws of this
33 state does not constitute a defense against any charge of violating
34 this section. No person may be convicted under this section and it is
35 an affirmative defense to any action pursuant to RCW 46.20.308 to
36 suspend, revoke, or deny the privilege to drive if, prior to being
37 pursued by a law enforcement officer, the person has moved the
38 vehicle safely off the roadway. Whether the vehicle is safely off the
39 roadway is a fact specific determination for the trier of fact unless

1 the vehicle is parked in an area designated for through traffic or in
2 a place where motor vehicle traffic or parking is prohibited.

3 (b) For purposes of (a)(i) of this subsection, the requirement
4 that the suspected impaired person is not in the driver's seat of the
5 vehicle does not apply to an individual who has current approved
6 disability parking privileges from the department.

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

18 (b) It is an affirmative defense to a violation of subsection
19 (1)(b) of this section, which the defendant must prove by a
20 preponderance of the evidence, that the defendant consumed a
21 sufficient quantity of marijuana after the time of being in actual
22 physical control of the vehicle and before the administration of an
23 analysis of the person's blood to cause the defendant's THC
24 concentration to be 5.00 or more within two hours after being in
25 control of the vehicle. The court shall not admit evidence of this
26 defense unless the defendant notifies the prosecution prior to the
27 omnibus or pretrial hearing in the case of the defendant's intent to
28 assert the affirmative defense.

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

38 (b) Analyses of blood samples obtained more than two hours after
39 the alleged being in actual physical control of a vehicle may be used
40 as evidence that within two hours of the alleged being in control of

1 the vehicle, a person had a THC concentration of 5.00 or more in
2 violation of subsection (1)(b) of this section, and in any case in
3 which the analysis shows a THC concentration above 0.00 may be used
4 as evidence that a person was under the influence of or affected by
5 marijuana in violation of subsection (1)(c) or (d) of this section.

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

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

10 (a) The person has three or more prior offenses within (~~ten~~)
11 fifteen years as defined in RCW 46.61.5055; or

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

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

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

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

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

20 **Sec. 15.** RCW 46.61.5055 and 2018 c 201 s 9009 are each amended
21 to read as follows:

22 (1) **No prior offenses in seven years.** Except as provided in RCW
23 46.61.502(6) or 46.61.504(6), a person who is convicted of a
24 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
25 within seven years shall be punished as follows:

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

31 (i) By imprisonment for not less than one day nor more than three
32 hundred sixty-four days. Twenty-four consecutive hours of the
33 imprisonment may not be suspended unless the court finds that the
34 imposition of this mandatory minimum sentence would impose a
35 substantial risk to the offender's physical or mental well-being.
36 Whenever the mandatory minimum sentence is suspended, the court shall
37 state in writing the reason for granting the suspension and the facts
38 upon which the suspension is based. In lieu of the mandatory minimum
39 term of imprisonment required under this subsection (1)(a)(i), the

1 court may order not less than fifteen days of electronic home
2 monitoring or a ninety-day period of 24/7 sobriety program
3 monitoring. The court may consider the offender's pretrial 24/7
4 sobriety program monitoring as fulfilling a portion of posttrial
5 sentencing. The offender shall pay the cost of electronic home
6 monitoring. The county or municipality in which the penalty is being
7 imposed shall determine the cost. The court may also require the
8 offender's electronic home monitoring device or other separate
9 alcohol monitoring device to include an alcohol detection
10 breathalyzer, and the court may restrict the amount of alcohol the
11 offender may consume during the time the offender is on electronic
12 home monitoring; and

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

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

22 (i) By imprisonment for not less than two days nor more than
23 three hundred sixty-four days. Forty-eight consecutive hours of the
24 imprisonment may not be suspended unless the court finds that the
25 imposition of this mandatory minimum sentence would impose a
26 substantial risk to the offender's physical or mental well-being.
27 Whenever the mandatory minimum sentence is suspended, the court shall
28 state in writing the reason for granting the suspension and the facts
29 upon which the suspension is based. In lieu of the mandatory minimum
30 term of imprisonment required under this subsection (1)(b)(i), the
31 court may order not less than thirty days of electronic home
32 monitoring or a one hundred twenty day period of 24/7 sobriety
33 program monitoring. The court may consider the offender's pretrial
34 24/7 sobriety program testing as fulfilling a portion of posttrial
35 sentencing. The offender shall pay the cost of electronic home
36 monitoring. The county or municipality in which the penalty is being
37 imposed shall determine the cost. The court may also require the
38 offender's electronic home monitoring device to include an alcohol
39 detection breathalyzer or other separate alcohol monitoring device,
40 and the court may restrict the amount of alcohol the offender may

1 consume during the time the offender is on electronic home
2 monitoring; and

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

6 (2) **One prior offense in seven years.** Except as provided in RCW
7 46.61.502(6) or 46.61.504(6), a person who is convicted of a
8 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
9 within seven years shall be punished as follows:

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

15 (i) By imprisonment for not less than thirty days nor more than
16 three hundred sixty-four days and sixty days of electronic home
17 monitoring. In lieu of the mandatory term of imprisonment and
18 electronic home monitoring under this subsection (2)(a)(i), the court
19 may order a minimum of four days in jail and either one hundred
20 eighty days of electronic home monitoring or a one hundred twenty-day
21 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300
22 through 36.28A.390. The court may consider the offender's pretrial
23 24/7 sobriety program monitoring as fulfilling a portion of posttrial
24 sentencing. The court shall order an expanded alcohol assessment and
25 treatment, if deemed appropriate by the assessment. The offender
26 shall pay for the cost of the electronic monitoring. The county or
27 municipality where the penalty is being imposed shall determine the
28 cost. The court may also require the offender's electronic home
29 monitoring device include an alcohol detection breathalyzer or other
30 separate alcohol monitoring device, and may restrict the amount of
31 alcohol the offender may consume during the time the offender is on
32 electronic home monitoring. Thirty days of imprisonment and sixty
33 days of electronic home monitoring may not be suspended unless the
34 court finds that the imposition of this mandatory minimum sentence
35 would impose a substantial risk to the offender's physical or mental
36 well-being. Whenever the mandatory minimum sentence is suspended, the
37 court shall state in writing the reason for granting the suspension
38 and the facts upon which the suspension is based; and

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

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

9 (i) By imprisonment for not less than forty-five days nor more
10 than three hundred sixty-four days and ninety days of electronic home
11 monitoring. In lieu of the mandatory minimum term of imprisonment and
12 electronic home monitoring under this subsection (2)(b)(i), the court
13 may order a minimum of six days in jail and either six months of
14 electronic home monitoring or a one hundred twenty-day period of 24/7
15 sobriety program monitoring pursuant to RCW 36.28A.300 through
16 36.28A.390. The court may consider the offender's pretrial 24/7
17 sobriety program monitoring as fulfilling a portion of posttrial
18 sentencing. The court shall order an expanded alcohol assessment and
19 treatment, if deemed appropriate by the assessment. The offender
20 shall pay for the cost of the electronic monitoring. The county or
21 municipality where the penalty is being imposed shall determine the
22 cost. The court may also require the offender's electronic home
23 monitoring device include an alcohol detection breathalyzer or other
24 separate alcohol monitoring device, and may restrict the amount of
25 alcohol the offender may consume during the time the offender is on
26 electronic home monitoring. Forty-five days of imprisonment and
27 ninety days of electronic home monitoring may not be suspended unless
28 the court finds that the imposition of this mandatory minimum
29 sentence would impose a substantial risk to the offender's physical
30 or mental well-being. Whenever the mandatory minimum sentence is
31 suspended, the court shall state in writing the reason for granting
32 the suspension and the facts upon which the suspension is based; and

33 (ii) By a fine of not less than seven hundred fifty dollars nor
34 more than five thousand dollars. Seven hundred fifty dollars of the
35 fine may not be suspended unless the court finds the offender to be
36 indigent.

37 (3) **Two prior offenses in seven years.** Except as provided in RCW
38 46.61.502(6) or 46.61.504(6), a person who is convicted of a
39 violation of RCW 46.61.502 or 46.61.504 and who has two prior
40 offenses within seven years shall be punished as follows:

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

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

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

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

36 (i) By imprisonment for not less than one hundred twenty days nor
37 more than three hundred sixty-four days, if available in that county
38 or city, a six-month period of 24/7 sobriety program monitoring
39 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
40 days of electronic home monitoring. In lieu of the mandatory minimum

1 term of one hundred fifty days of electronic home monitoring, the
2 court may order at least an additional ten days in jail. The offender
3 shall pay for the cost of the electronic monitoring. The court shall
4 order an expanded alcohol assessment and treatment, if deemed
5 appropriate by the assessment. The county or municipality where the
6 penalty is being imposed shall determine the cost. The court may also
7 require the offender's electronic home monitoring device include an
8 alcohol detection breathalyzer or other separate alcohol monitoring
9 device, and may restrict the amount of alcohol the offender may
10 consume during the time the offender is on electronic home
11 monitoring. One hundred twenty days of imprisonment and one hundred
12 fifty days of electronic home monitoring may not be suspended unless
13 the court finds that the imposition of this mandatory minimum
14 sentence would impose a substantial risk to the offender's physical
15 or mental well-being. Whenever the mandatory minimum sentence is
16 suspended, the court shall state in writing the reason for granting
17 the suspension and the facts upon which the suspension is based; and

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

22 (4) **Three or more prior offenses in ((ten)) fifteen years.** A
23 person who is convicted of a violation of RCW 46.61.502 or 46.61.504
24 shall be punished under chapter 9.94A RCW if:

25 (a) The person has three or more prior offenses within ((ten))
26 fifteen years; or

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

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

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

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

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

35 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
36 require any person convicted of a violation of RCW 46.61.502 or
37 46.61.504 or an equivalent local ordinance to comply with the rules
38 and requirements of the department regarding the installation and use
39 of a functioning ignition interlock device installed on all motor
40 vehicles operated by the person.

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

11 (c) **24/7 sobriety program monitoring.** In any county or city where
12 a 24/7 sobriety program is available and verified by the Washington
13 association of sheriffs and police chiefs, the court shall:

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

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

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

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

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

30 (b) In any case in which the person has no prior offenses within
31 seven years, and except as provided in RCW 46.61.502(6) or
32 46.61.504(6), order an additional twenty-four hours of imprisonment
33 and a fine of not less than one thousand dollars and not more than
34 five thousand dollars. One thousand dollars of the fine may not be
35 suspended unless the court finds the offender to be indigent;

36 (c) In any case in which the person has one prior offense within
37 seven years, and except as provided in RCW 46.61.502(6) or
38 46.61.504(6), order an additional five days of imprisonment and a
39 fine of not less than two thousand dollars and not more than five

1 thousand dollars. One thousand dollars of the fine may not be
2 suspended unless the court finds the offender to be indigent;

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

9 (7) **Other items courts must consider while setting penalties.** In
10 exercising its discretion in setting penalties within the limits
11 allowed by this section, the court shall particularly consider the
12 following:

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

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

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

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

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

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

30 (a) **Penalty for alcohol concentration less than 0.15.** If the
31 person's alcohol concentration was less than 0.15, or if for reasons
32 other than the person's refusal to take a test offered under RCW
33 46.20.308 there is no test result indicating the person's alcohol
34 concentration:

35 (i) Where there has been no prior offense within seven years, be
36 suspended or denied by the department for ninety days or until the
37 person is evaluated by an alcoholism agency or probation department
38 pursuant to RCW 46.20.311 and the person completes or is enrolled in
39 a ninety-day period of 24/7 sobriety program monitoring. In no

1 circumstances shall the license suspension be for fewer than two
2 days;

3 (ii) Where there has been one prior offense within seven years,
4 be revoked or denied by the department for two years or until the
5 person is evaluated by an alcoholism agency or probation department
6 pursuant to RCW 46.20.311 and the person completes or is enrolled in
7 a six-month period of 24/7 sobriety program monitoring. In no
8 circumstances shall the license suspension be for less than one year;
9 or

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

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

14 (i) Where there has been no prior offense within seven years, be
15 revoked or denied by the department for one year or until the person
16 is evaluated by an alcoholism agency or probation department pursuant
17 to RCW 46.20.311 and the person completes or is enrolled in a one
18 hundred twenty day period of 24/7 sobriety program monitoring. In no
19 circumstances shall the license revocation be for fewer than four
20 days;

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

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

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

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

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

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

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

39 Upon receipt of a notice from the court under RCW 36.28A.390 that
40 a participant has been removed from a 24/7 sobriety program, the

1 department must resume any suspension, revocation, or denial that had
2 been terminated early under this subsection due to participation in
3 the program, granting credit on a day-for-day basis for any portion
4 of a suspension, revocation, or denial already served under RCW
5 46.20.3101 or this section arising out of the same incident.

6 Upon its own motion or upon motion by a person, a court may find,
7 on the record, that notice to the department under RCW 46.20.270 has
8 been delayed for three years or more as a result of a clerical or
9 court error. If so, the court may order that the person's license,
10 permit, or nonresident privilege shall not be revoked, suspended, or
11 denied for that offense. The court shall send notice of the finding
12 and order to the department and to the person. Upon receipt of the
13 notice from the court, the department shall not revoke, suspend, or
14 deny the license, permit, or nonresident privilege of the person for
15 that offense.

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

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

24 **(11) Conditions of probation.** (a) In addition to any
25 nonsuspendable and nondeferrable jail sentence required by this
26 section, whenever the court imposes up to three hundred sixty-four
27 days in jail, the court shall also suspend but shall not defer a
28 period of confinement for a period not exceeding five years. The
29 court shall impose conditions of probation that include: (i) Not
30 driving a motor vehicle within this state without a valid license to
31 drive; (ii) not driving a motor vehicle within this state without
32 proof of liability insurance or other financial responsibility for
33 the future pursuant to RCW 46.30.020; (iii) not driving or being in
34 physical control of a motor vehicle within this state while having an
35 alcohol concentration of 0.08 or more or a THC concentration of 5.00
36 nanograms per milliliter of whole blood or higher, within two hours
37 after driving; (iv) not refusing to submit to a test of his or her
38 breath or blood to determine alcohol or drug concentration upon
39 request of a law enforcement officer who has reasonable grounds to
40 believe the person was driving or was in actual physical control of a

1 motor vehicle within this state while under the influence of
2 intoxicating liquor or drug; and (v) not driving a motor vehicle in
3 this state without a functioning ignition interlock device as
4 required by the department under RCW 46.20.720. The court may impose
5 conditions of probation that include nonrepetition, installation of
6 an ignition interlock device on the probationer's motor vehicle,
7 alcohol or drug treatment, supervised probation, or other conditions
8 that may be appropriate. The sentence may be imposed in whole or in
9 part upon violation of a condition of probation during the suspension
10 period.

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

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

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

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

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

34 (c) The court determines that there is reason to believe that the
35 offender would violate the conditions of the electronic home
36 monitoring penalty.

37 Whenever the mandatory minimum term of electronic home monitoring
38 is waived, the court shall state in writing the reason for granting
39 the waiver and the facts upon which the waiver is based, and shall
40 impose an alternative sentence with similar punitive consequences.

1 The alternative sentence may include, but is not limited to, use of
2 an ignition interlock device, the 24/7 sobriety program monitoring,
3 additional jail time, work crew, or work camp.

4 Whenever the combination of jail time and electronic home
5 monitoring or alternative sentence would exceed three hundred sixty-
6 four days, the offender shall serve the jail portion of the sentence
7 first, and the electronic home monitoring or alternative portion of
8 the sentence shall be reduced so that the combination does not exceed
9 three hundred sixty-four days.

10 (13) **Extraordinary medical placement.** An offender serving a
11 sentence under this section, whether or not a mandatory minimum term
12 has expired, may be granted an extraordinary medical placement by the
13 jail administrator subject to the standards and limitations set forth
14 in RCW 9.94A.728(1) (c).

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

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

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

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

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

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

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

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

33 (vii) A conviction for a violation of RCW 47.68.220 or an
34 equivalent local ordinance committed in a careless or reckless manner
35 if the conviction is the result of a charge that was originally filed
36 as a violation of RCW 47.68.220 or an equivalent local ordinance
37 while under the influence of intoxicating liquor or any drug;

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

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

3 (x) A conviction for a violation of RCW 46.61.520 committed while
4 under the influence of intoxicating liquor or any drug, or a
5 conviction for a violation of RCW 46.61.520 committed in a reckless
6 manner or with the disregard for the safety of others if the
7 conviction is the result of a charge that was originally filed as a
8 violation of RCW 46.61.520 committed while under the influence of
9 intoxicating liquor or any drug;

10 (xi) A conviction for a violation of RCW 46.61.522 committed
11 while under the influence of intoxicating liquor or any drug, or a
12 conviction for a violation of RCW 46.61.522 committed in a reckless
13 manner or with the disregard for the safety of others if the
14 conviction is the result of a charge that was originally filed as a
15 violation of RCW 46.61.522 committed while under the influence of
16 intoxicating liquor or any drug;

17 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
18 or 9A.36.050 or an equivalent local ordinance, if the conviction is
19 the result of a charge that was originally filed as a violation of
20 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
21 RCW 46.61.520 or 46.61.522;

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

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

28 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
29 prosecution for a violation of RCW 46.61.5249, or an equivalent local
30 ordinance, if the charge under which the deferred prosecution was
31 granted was originally filed as a violation of RCW 46.61.502 or
32 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
33 46.61.522;

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

1 (xvii) A deferred sentence imposed in a prosecution for a
2 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
3 equivalent local ordinance, if the charge under which the deferred
4 sentence was imposed was originally filed as a violation of RCW
5 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
6 violation of RCW 46.61.520 or 46.61.522;

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

11 (b) "Treatment" means substance use disorder treatment licensed
12 or certified by the department of health;

13 (c) "Within seven years" means that the arrest for a prior
14 offense occurred within seven years before or after the arrest for
15 the current offense; and

16 (d) "Within ~~((ten))~~ fifteen years" means that the arrest for a
17 prior offense occurred within ~~((ten))~~ fifteen years before or after
18 the arrest for the current offense.

19 (15) All fines imposed by this section apply to adult offenders
20 only.

21 **Sec. 16.** RCW 46.61.5055 and 2019 c ... s 15 (section 15 of this
22 act) are each amended to read as follows:

23 (1) **No prior offenses in seven years.** Except as provided in RCW
24 46.61.502(6) or 46.61.504(6), a person who is convicted of a
25 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
26 within seven years shall be punished as follows:

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

32 (i) By imprisonment for not less than ~~((one-day))~~ twenty-four
33 consecutive hours nor more than three hundred sixty-four days.
34 ~~((Twenty-four consecutive hours of the imprisonment may not be~~
35 ~~suspended unless the court finds that the imposition of this~~
36 ~~mandatory minimum sentence would impose a substantial risk to the~~
37 ~~offender's physical or mental well-being. Whenever the mandatory~~
38 ~~minimum sentence is suspended, the court shall state in writing the~~
39 ~~reason for granting the suspension and the facts upon which the~~

1 ~~suspension is based.)~~) In lieu of the mandatory minimum term of
2 imprisonment required under this subsection (1)(a)(i), the court, in
3 its discretion, may order not less than fifteen days of electronic
4 home monitoring or a ninety-day period of 24/7 sobriety program
5 monitoring. The court may consider the offender's pretrial 24/7
6 sobriety program monitoring as fulfilling a portion of posttrial
7 sentencing. The offender shall pay the cost of electronic home
8 monitoring. The county or municipality in which the penalty is being
9 imposed shall determine the cost. The court may also require the
10 offender's electronic home monitoring device or other separate
11 alcohol monitoring device to include an alcohol detection
12 breathalyzer, and the court may restrict the amount of alcohol the
13 offender may consume during the time the offender is on electronic
14 home monitoring; and

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

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

24 (i) By imprisonment for not less than (~~two days~~) forty-eight
25 consecutive hours nor more than three hundred sixty-four days.
26 (~~Forty-eight consecutive hours of the imprisonment may not be~~
27 ~~suspended unless the court finds that the imposition of this~~
28 ~~mandatory minimum sentence would impose a substantial risk to the~~
29 ~~offender's physical or mental well-being. Whenever the mandatory~~
30 ~~minimum sentence is suspended, the court shall state in writing the~~
31 ~~reason for granting the suspension and the facts upon which the~~
32 ~~suspension is based.)~~) In lieu of the mandatory minimum term of
33 imprisonment required under this subsection (1)(b)(i), the court, in
34 its discretion, may order not less than thirty days of electronic
35 home monitoring or a one hundred twenty day period of 24/7 sobriety
36 program monitoring. The court may consider the offender's pretrial
37 24/7 sobriety program testing as fulfilling a portion of posttrial
38 sentencing. The offender shall pay the cost of electronic home
39 monitoring. The county or municipality in which the penalty is being
40 imposed shall determine the cost. The court may also require the

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

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

9 (2) **One prior offense in seven years.** Except as provided in RCW
10 46.61.502(6) or 46.61.504(6), a person who is convicted of a
11 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
12 within seven years shall be punished as follows:

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

18 (i) By imprisonment for not less than thirty days nor more than
19 three hundred sixty-four days and sixty days of electronic home
20 monitoring. Thirty days of imprisonment and sixty days of electronic
21 home monitoring may not be suspended unless the court finds that the
22 imposition of this mandatory minimum sentence would impose a
23 substantial risk to the offender's physical or mental well-being. If
24 the offender shows that the imposition of this mandatory minimum
25 sentence would impose a substantial risk to the offender's physical
26 or mental well-being, in lieu of the mandatory term of imprisonment
27 and electronic home monitoring under this subsection (2)(a)(i), the
28 court may order a minimum of ((four days in jail and)) either one
29 hundred eighty days of electronic home monitoring or a one hundred
30 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW
31 36.28A.300 through 36.28A.390. Whenever the mandatory minimum
32 sentence is suspended, the court shall state in writing the reason
33 for granting the suspension and the facts upon which the suspension
34 is based. The court may consider the offender's pretrial 24/7
35 sobriety program monitoring as fulfilling a portion of posttrial
36 sentencing. The court shall order an expanded alcohol assessment and
37 treatment, if deemed appropriate by the assessment. The offender
38 shall pay for the cost of the electronic monitoring. The county or
39 municipality where the penalty is being imposed shall determine the
40 cost. The court may also require the offender's electronic home

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

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

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

19 (i) By imprisonment for not less than forty-five days nor more
20 than three hundred sixty-four days and ninety days of electronic home
21 monitoring. Forty-five days of imprisonment and ninety days of
22 electronic home monitoring may not be suspended unless the court
23 finds that the imposition of this mandatory minimum sentence would
24 impose a substantial risk to the offender's physical or mental well-
25 being. If the offender shows that the imposition of this mandatory
26 minimum sentence would impose a substantial risk to the offender's
27 physical or mental well-being, in lieu of the mandatory minimum term
28 of imprisonment and electronic home monitoring under this subsection
29 (2)(b)(i), the court may order a minimum of ((six days in jail and))
30 either six months of electronic home monitoring or a one hundred
31 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW
32 36.28A.300 through 36.28A.390. Whenever the mandatory minimum
33 sentence is suspended, the court shall state in writing the reason
34 for granting the suspension and the facts upon which the suspension
35 is based. The court may consider the offender's pretrial 24/7
36 sobriety program monitoring as fulfilling a portion of posttrial
37 sentencing. The court shall order an expanded alcohol assessment and
38 treatment, if deemed appropriate by the assessment. The offender
39 shall pay for the cost of the electronic monitoring. The county or
40 municipality where the penalty is being imposed shall determine the

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

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

17 (3) **Two prior offenses in seven years.** Except as provided in RCW
18 46.61.502(6) or 46.61.504(6), a person who is convicted of a
19 violation of RCW 46.61.502 or 46.61.504 and who has two prior
20 offenses within seven years shall be punished as follows:

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

26 (i) By imprisonment for not less than ninety days nor more than
27 three hundred sixty-four days, if available in that county or city, a
28 six-month period of 24/7 sobriety program monitoring pursuant to RCW
29 36.28A.300 through 36.28A.390, and one hundred twenty days of
30 electronic home monitoring. Ninety days of imprisonment and one
31 hundred twenty days of electronic home monitoring may not be
32 suspended unless the court finds that the imposition of this
33 mandatory minimum sentence would impose a substantial risk to the
34 offender's physical or mental well-being. If the offender shows that
35 the imposition of this mandatory minimum sentence would impose a
36 substantial risk to the offender's physical or mental well-being, in
37 lieu of the mandatory minimum term of ninety days of imprisonment and
38 one hundred twenty days of electronic home monitoring, the court may
39 order ((at least an additional eight days in jail)) three hundred
40 sixty days of electronic home monitoring or a three hundred sixty-day

1 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through
2 36.28A.390. Whenever the mandatory minimum sentence is suspended, the
3 court shall state in writing the reason for granting the suspension
4 and the facts upon which the suspension is based. The court shall
5 order an expanded alcohol assessment and treatment, if deemed
6 appropriate by the assessment. The offender shall pay for the cost of
7 the electronic monitoring. The county or municipality where the
8 penalty is being imposed shall determine the cost. The court may also
9 require the offender's electronic home monitoring device include an
10 alcohol detection breathalyzer or other separate alcohol monitoring
11 device, and may restrict the amount of alcohol the offender may
12 consume during the time the offender is on electronic home
13 monitoring(~~(. Ninety days of imprisonment and one hundred twenty days~~
14 ~~of electronic home monitoring may not be suspended unless the court~~
15 ~~finds that the imposition of this mandatory minimum sentence would~~
16 ~~impose a substantial risk to the offender's physical or mental well-~~
17 ~~being. Whenever the mandatory minimum sentence is suspended, the~~
18 ~~court shall state in writing the reason for granting the suspension~~
19 ~~and the facts upon which the suspension is based)); and~~

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

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

28 (i) By imprisonment for not less than one hundred twenty days nor
29 more than three hundred sixty-four days, if available in that county
30 or city, a six-month period of 24/7 sobriety program monitoring
31 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
32 days of electronic home monitoring. One hundred twenty days of
33 imprisonment and one hundred fifty days of electronic home monitoring
34 may not be suspended unless the court finds that the imposition of
35 this mandatory minimum sentence would impose a substantial risk to
36 the offender's physical or mental well-being. If the offender shows
37 that the imposition of this mandatory minimum sentence would impose a
38 substantial risk to the offender's physical or mental well-being, in
39 lieu of the mandatory minimum term of one hundred twenty days of
40 imprisonment and one hundred fifty days of electronic home

1 monitoring, the court may order (~~at least an additional ten days in~~
2 ~~jail~~) three hundred sixty days of electronic home monitoring or a
3 three hundred sixty-day period of 24/7 sobriety monitoring pursuant
4 to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory minimum
5 sentence is suspended, the court shall state in writing the reason
6 for granting the suspension and the facts upon which the suspension
7 is based. The offender shall pay for the cost of the electronic
8 monitoring. The court shall order an expanded alcohol assessment and
9 treatment, if deemed appropriate by the assessment. The county or
10 municipality where the penalty is being imposed shall determine the
11 cost. The court may also require the offender's electronic home
12 monitoring device include an alcohol detection breathalyzer or other
13 separate alcohol monitoring device, and may restrict the amount of
14 alcohol the offender may consume during the time the offender is on
15 electronic home monitoring(~~(. One hundred twenty days of imprisonment~~
16 ~~and one hundred fifty days of electronic home monitoring may not be~~
17 ~~suspended unless the court finds that the imposition of this~~
18 ~~mandatory minimum sentence would impose a substantial risk to the~~
19 ~~offender's physical or mental well-being. Whenever the mandatory~~
20 ~~minimum sentence is suspended, the court shall state in writing the~~
21 ~~reason for granting the suspension and the facts upon which the~~
22 ~~suspension is based)); and~~

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

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

30 (a) The person has three or more prior offenses within fifteen
31 years; or

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

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

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

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

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

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

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

17 (c) **24/7 sobriety program monitoring.** In any county or city where
18 a 24/7 sobriety program is available and verified by the Washington
19 association of sheriffs and police chiefs, the court shall:

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

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

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

30 (6) **Penalty for having a minor passenger in vehicle.** If a person
31 who is convicted of a violation of RCW 46.61.502 or 46.61.504
32 committed the offense while ((a)) one or more passengers under the
33 age of sixteen ((was)) were in the vehicle, the court shall:

34 (a) Order the use of an ignition interlock or other device for an
35 additional ((six)) twelve months for each passenger under the age of
36 sixteen when the person is subject to the penalties under subsection
37 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an
38 ignition interlock device for an additional eighteen months for each
39 passenger under the age of sixteen when the person is subject to the

1 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this
2 section;

3 (b) In any case in which the person has no prior offenses within
4 seven years, and except as provided in RCW 46.61.502(6) or
5 46.61.504(6), order an additional twenty-four hours of imprisonment
6 to be served consecutively for each passenger under the age of
7 sixteen, and a fine of not less than one thousand dollars and not
8 more than five thousand dollars for each passenger under the age of
9 sixteen. One thousand dollars of the fine for each passenger under
10 the age of sixteen may not be suspended unless the court finds the
11 offender to be indigent;

12 (c) In any case in which the person has one prior offense within
13 seven years, and except as provided in RCW 46.61.502(6) or
14 46.61.504(6), order an additional five days of imprisonment to be
15 served consecutively for each passenger under the age of sixteen, and
16 a fine of not less than two thousand dollars and not more than five
17 thousand dollars for each passenger under the age of sixteen. One
18 thousand dollars of the fine for each passenger under the age of
19 sixteen may not be suspended unless the court finds the offender to
20 be indigent;

21 (d) In any case in which the person has two prior offenses within
22 seven years, and except as provided in RCW 46.61.502(6) or
23 46.61.504(6), order an additional ten days of imprisonment to be
24 served consecutively for each passenger under the age of sixteen, and
25 a fine of not less than three thousand dollars and not more than ten
26 thousand dollars for each passenger under the age of sixteen. One
27 thousand dollars of the fine for each passenger under the age of
28 sixteen may not be suspended unless the court finds the offender to
29 be indigent.

30 (7) **Other items courts must consider while setting penalties.** In
31 exercising its discretion in setting penalties within the limits
32 allowed by this section, the court shall particularly consider the
33 following:

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

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

38 (c) Whether the driver was driving in the opposite direction of
39 the normal flow of traffic on a multiple lane highway, as defined by

1 RCW 46.04.350, with a posted speed limit of forty-five miles per hour
2 or greater; and

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

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

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

12 ((+a)) (i) **Penalty for alcohol concentration less than 0.15.** If
13 the person's alcohol concentration was less than 0.15, or if for
14 reasons other than the person's refusal to take a test offered under
15 RCW 46.20.308 there is no test result indicating the person's alcohol
16 concentration:

17 ((+i)) (A) Where there has been no prior offense within seven
18 years, be suspended or denied by the department for ninety days or
19 until the person is evaluated by an alcoholism agency or probation
20 department pursuant to RCW 46.20.311 and the person completes or is
21 enrolled in a ninety-day period of 24/7 sobriety program monitoring.
22 In no circumstances shall the license suspension be for fewer than
23 two days;

24 ((+ii)) (B) Where there has been one prior offense within seven
25 years, be revoked or denied by the department for two years or until
26 the person is evaluated by an alcoholism agency or probation
27 department pursuant to RCW 46.20.311 and the person completes or is
28 enrolled in a six-month period of 24/7 sobriety program monitoring.
29 In no circumstances shall the license suspension be for less than one
30 year; or

31 ((+iii)) (C) Where there have been two or more prior offenses
32 within seven years, be revoked or denied by the department for three
33 years;

34 ((+b)) (ii) **Penalty for alcohol concentration at least 0.15.** If
35 the person's alcohol concentration was at least 0.15:

36 ((+i)) (A) Where there has been no prior offense within seven
37 years, be revoked or denied by the department for one year or until
38 the person is evaluated by an alcoholism agency or probation
39 department pursuant to RCW 46.20.311 and the person completes or is
40 enrolled in a one hundred twenty day period of 24/7 sobriety program

1 monitoring. In no circumstances shall the license revocation be for
2 fewer than four days;

3 ~~((i))~~ (B) Where there has been one prior offense within seven
4 years, be revoked or denied by the department for nine hundred days;
5 or

6 ~~((iii))~~ (C) Where there have been two or more prior offenses
7 within seven years, be revoked or denied by the department for four
8 years; or

9 ~~((e))~~ (iii) Penalty for refusing to take test. If by reason of
10 the person's refusal to take a test offered under RCW 46.20.308,
11 there is no test result indicating the person's alcohol
12 concentration:

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

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

17 ~~((iii))~~ (C) Where there have been two or more previous offenses
18 within seven years, be revoked or denied by the department for four
19 years.

20 (b)(i) The department shall grant credit on a day-for-day basis
21 for ~~((any portion of))~~ a suspension, revocation, or denial ~~((already~~
22 ~~served))~~ imposed under this subsection (9) for any portion of a
23 suspension, revocation, or denial ~~((imposed))~~ already served under
24 RCW 46.20.3101 arising out of the same incident.

25 (ii) If a person has already served a suspension, revocation, or
26 denial under RCW 46.20.3101 for a period equal to or greater than the
27 period imposed under this subsection (9), the department shall
28 provide notice of full credit, shall provide for no further
29 suspension or revocation under this subsection provided the person
30 has completed the requirements under RCW 46.20.311 and paid the
31 probationary license fee under RCW 46.20.355 by the date specified in
32 the notice under RCW 46.20.245, and shall impose no additional
33 reissue fees for this credit.

34 (c) Upon receipt of a notice from the court under RCW 36.28A.390
35 that a participant has been removed from a 24/7 sobriety program, the
36 department must resume any suspension, revocation, or denial that had
37 been terminated early under this subsection due to participation in
38 the program, granting credit on a day-for-day basis for any portion
39 of a suspension, revocation, or denial already served under RCW
40 46.20.3101 or this section arising out of the same incident.

1 (d) Upon its own motion or upon motion by a person, a court may
2 find, on the record, that notice to the department under RCW
3 46.20.270 has been delayed for three years or more as a result of a
4 clerical or court error. If so, the court may order that the person's
5 license, permit, or nonresident privilege shall not be revoked,
6 suspended, or denied for that offense. The court shall send notice of
7 the finding and order to the department and to the person. Upon
8 receipt of the notice from the court, the department shall not
9 revoke, suspend, or deny the license, permit, or nonresident
10 privilege of the person for that offense.

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

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

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

1 an ignition interlock device on the probationer's motor vehicle,
2 alcohol or drug treatment, supervised probation, or other conditions
3 that may be appropriate. The sentence may be imposed in whole or in
4 part upon violation of a condition of probation during the suspension
5 period.

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

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

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

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

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

29 (c) The court determines that there is reason to believe that the
30 offender would violate the conditions of the electronic home
31 monitoring penalty.

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

39 Whenever the combination of jail time and electronic home
40 monitoring or alternative sentence would exceed three hundred sixty-

1 four days, the offender shall serve the jail portion of the sentence
2 first, and the electronic home monitoring or alternative portion of
3 the sentence shall be reduced so that the combination does not exceed
4 three hundred sixty-four days.

5 (13) **Extraordinary medical placement.** An offender serving a
6 sentence under this section, whether or not a mandatory minimum term
7 has expired, may be granted an extraordinary medical placement by the
8 jail administrator subject to the standards and limitations set forth
9 in RCW 9.94A.728(1) (c).

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

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

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

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

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

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

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

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

28 (vii) A conviction for a violation of RCW 47.68.220 or an
29 equivalent local ordinance committed in a careless or reckless manner
30 if the conviction is the result of a charge that was originally filed
31 as a violation of RCW 47.68.220 or an equivalent local ordinance
32 while under the influence of intoxicating liquor or any drug;

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

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

37 (x) A conviction for a violation of RCW 46.61.520 committed while
38 under the influence of intoxicating liquor or any drug, or a
39 conviction for a violation of RCW 46.61.520 committed in a reckless
40 manner or with the disregard for the safety of others if the

1 conviction is the result of a charge that was originally filed as a
2 violation of RCW 46.61.520 committed while under the influence of
3 intoxicating liquor or any drug;

4 (xi) A conviction for a violation of RCW 46.61.522 committed
5 while under the influence of intoxicating liquor or any drug, or a
6 conviction for a violation of RCW 46.61.522 committed in a reckless
7 manner or with the disregard for the safety of others if the
8 conviction is the result of a charge that was originally filed as a
9 violation of RCW 46.61.522 committed while under the influence of
10 intoxicating liquor or any drug;

11 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
12 or 9A.36.050 or an equivalent local ordinance, if the conviction is
13 the result of a charge that was originally filed as a violation of
14 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
15 RCW 46.61.520 or 46.61.522;

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

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

22 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
23 prosecution for a violation of RCW 46.61.5249, or an equivalent local
24 ordinance, if the charge under which the deferred prosecution was
25 granted was originally filed as a violation of RCW 46.61.502 or
26 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
27 46.61.522;

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

34 (xvii) A deferred sentence imposed in a prosecution for a
35 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
36 equivalent local ordinance, if the charge under which the deferred
37 sentence was imposed was originally filed as a violation of RCW
38 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
39 violation of RCW 46.61.520 or 46.61.522;

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

5 (b) "Treatment" means substance use disorder treatment licensed
6 or certified by the department of health;

7 (c) "Within seven years" means that the arrest for a prior
8 offense occurred within seven years before or after the arrest for
9 the current offense; and

10 (d) "Within fifteen years" means that the arrest for a prior
11 offense occurred within fifteen years before or after the arrest for
12 the current offense.

13 (15) All fines imposed by this section apply to adult offenders
14 only.

15 **Sec. 17.** RCW 46.61.502 and 2017 c 335 s 1 are each amended to
16 read as follows:

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

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

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

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

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

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

34 (3)(a) It is an affirmative defense to a violation of subsection
35 (1)(a) of this section, which the defendant must prove by a
36 preponderance of the evidence, that the defendant consumed a
37 sufficient quantity of alcohol after the time of driving and before
38 the administration of an analysis of the person's breath or blood to
39 cause the defendant's alcohol concentration to be 0.08 or more within

1 two hours after driving. The court shall not admit evidence of this
2 defense unless the defendant notifies the prosecution prior to the
3 omnibus or pretrial hearing in the case of the defendant's intent to
4 assert the affirmative defense.

5 (b) It is an affirmative defense to a violation of subsection
6 (1)(b) of this section, which the defendant must prove by a
7 preponderance of the evidence, that the defendant consumed a
8 sufficient quantity of marijuana after the time of driving and before
9 the administration of an analysis of the person's blood to cause the
10 defendant's THC concentration to be 5.00 or more within two hours
11 after driving. The court shall not admit evidence of this defense
12 unless the defendant notifies the prosecution prior to the omnibus or
13 pretrial hearing in the case of the defendant's intent to assert the
14 affirmative defense.

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

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

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

32 (6) It is a class B felony punishable under chapter 9.94A RCW, or
33 chapter 13.40 RCW if the person is a juvenile, if:

34 (a) The person has three or more prior offenses within (~~ten~~)
35 fifteen years as defined in RCW 46.61.5055; or

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

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

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

- 1 (iii) An out-of-state offense comparable to the offense specified
2 in (b) (i) or (ii) of this subsection; or
3 (iv) A violation of this subsection (6) or RCW 46.61.504(6).

4 **Sec. 18.** RCW 9.94A.525 and 2017 c 272 s 3 are each amended to
5 read as follows:

6 The offender score is measured on the horizontal axis of the
7 sentencing grid. The offender score rules are as follows:

8 The offender score is the sum of points accrued under this
9 section rounded down to the nearest whole number.

10 (1) A prior conviction is a conviction which exists before the
11 date of sentencing for the offense for which the offender score is
12 being computed. Convictions entered or sentenced on the same date as
13 the conviction for which the offender score is being computed shall
14 be deemed "other current offenses" within the meaning of RCW
15 9.94A.589.

16 (2) (a) Class A and sex prior felony convictions shall always be
17 included in the offender score.

18 (b) Class B prior felony convictions other than sex offenses
19 shall not be included in the offender score, if since the last date
20 of release from confinement (including full-time residential
21 treatment) pursuant to a felony conviction, if any, or entry of
22 judgment and sentence, the offender had spent ten consecutive years
23 in the community without committing any crime that subsequently
24 results in a conviction.

25 (c) Except as provided in (e) of this subsection, class C prior
26 felony convictions other than sex offenses shall not be included in
27 the offender score if, since the last date of release from
28 confinement (including full-time residential treatment) pursuant to a
29 felony conviction, if any, or entry of judgment and sentence, the
30 offender had spent five consecutive years in the community without
31 committing any crime that subsequently results in a conviction.

32 (d) Except as provided in (e) of this subsection, serious traffic
33 convictions shall not be included in the offender score if, since the
34 last date of release from confinement (including full-time
35 residential treatment) pursuant to a conviction, if any, or entry of
36 judgment and sentence, the offender spent five years in the community
37 without committing any crime that subsequently results in a
38 conviction.

1 (e) If the present conviction is felony driving while under the
2 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
3 felony physical control of a vehicle while under the influence of
4 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
5 crimes for the offense as defined by RCW 46.61.5055(14) shall be
6 included in the offender score, and prior convictions for felony
7 driving while under the influence of intoxicating liquor or any drug
8 (RCW 46.61.502(6)) or felony physical control of a vehicle while
9 under the influence of intoxicating liquor or any drug (RCW
10 46.61.504(6)) shall always be included in the offender score. All
11 other convictions of the defendant shall be scored according to this
12 section.

13 (f) Prior convictions for a repetitive domestic violence offense,
14 as defined in RCW 9.94A.030, shall not be included in the offender
15 score if, since the last date of release from confinement or entry of
16 judgment and sentence, the offender had spent ten consecutive years
17 in the community without committing any crime that subsequently
18 results in a conviction.

19 (g) This subsection applies to both adult and juvenile prior
20 convictions.

21 (3) Out-of-state convictions for offenses shall be classified
22 according to the comparable offense definitions and sentences
23 provided by Washington law. Federal convictions for offenses shall be
24 classified according to the comparable offense definitions and
25 sentences provided by Washington law. If there is no clearly
26 comparable offense under Washington law or the offense is one that is
27 usually considered subject to exclusive federal jurisdiction, the
28 offense shall be scored as a class C felony equivalent if it was a
29 felony under the relevant federal statute.

30 (4) Score prior convictions for felony anticipatory offenses
31 (attempts, criminal solicitations, and criminal conspiracies) the
32 same as if they were convictions for completed offenses.

33 (5) (a) In the case of multiple prior convictions, for the purpose
34 of computing the offender score, count all convictions separately,
35 except:

36 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),
37 to encompass the same criminal conduct, shall be counted as one
38 offense, the offense that yields the highest offender score. The
39 current sentencing court shall determine with respect to other prior
40 adult offenses for which sentences were served concurrently or prior

1 juvenile offenses for which sentences were served consecutively,
2 whether those offenses shall be counted as one offense or as separate
3 offenses using the "same criminal conduct" analysis found in RCW
4 9.94A.589(1)(a), and if the court finds that they shall be counted as
5 one offense, then the offense that yields the highest offender score
6 shall be used. The current sentencing court may presume that such
7 other prior offenses were not the same criminal conduct from
8 sentences imposed on separate dates, or in separate counties or
9 jurisdictions, or in separate complaints, indictments, or
10 informations;

11 (ii) In the case of multiple prior convictions for offenses
12 committed before July 1, 1986, for the purpose of computing the
13 offender score, count all adult convictions served concurrently as
14 one offense, and count all juvenile convictions entered on the same
15 date as one offense. Use the conviction for the offense that yields
16 the highest offender score.

17 (b) As used in this subsection (5), "served concurrently" means
18 that: (i) The latter sentence was imposed with specific reference to
19 the former; (ii) the concurrent relationship of the sentences was
20 judicially imposed; and (iii) the concurrent timing of the sentences
21 was not the result of a probation or parole revocation on the former
22 offense.

23 (6) If the present conviction is one of the anticipatory offenses
24 of criminal attempt, solicitation, or conspiracy, count each prior
25 conviction as if the present conviction were for a completed offense.
26 When these convictions are used as criminal history, score them the
27 same as a completed crime.

28 (7) If the present conviction is for a nonviolent offense and not
29 covered by subsection (11), (12), or (13) of this section, count one
30 point for each adult prior felony conviction and one point for each
31 juvenile prior violent felony conviction and 1/2 point for each
32 juvenile prior nonviolent felony conviction.

33 (8) If the present conviction is for a violent offense and not
34 covered in subsection (9), (10), (11), (12), or (13) of this section,
35 count two points for each prior adult and juvenile violent felony
36 conviction, one point for each prior adult nonviolent felony
37 conviction, and 1/2 point for each prior juvenile nonviolent felony
38 conviction.

39 (9) If the present conviction is for a serious violent offense,
40 count three points for prior adult and juvenile convictions for

1 crimes in this category, two points for each prior adult and juvenile
2 violent conviction (not already counted), one point for each prior
3 adult nonviolent felony conviction, and 1/2 point for each prior
4 juvenile nonviolent felony conviction.

5 (10) If the present conviction is for Burglary 1, count prior
6 convictions as in subsection (8) of this section; however count two
7 points for each prior adult Burglary 2 or residential burglary
8 conviction, and one point for each prior juvenile Burglary 2 or
9 residential burglary conviction.

10 (11) If the present conviction is for a felony traffic offense
11 count two points for each adult or juvenile prior conviction for
12 Vehicular Homicide or Vehicular Assault; for each felony offense
13 count one point for each adult and 1/2 point for each juvenile prior
14 conviction; for each serious traffic offense, other than those used
15 for an enhancement pursuant to RCW 46.61.520(2), count one point for
16 each adult and 1/2 point for each juvenile prior conviction; count
17 one point for each adult and 1/2 point for each juvenile prior
18 conviction for operation of a vessel while under the influence of
19 intoxicating liquor or any drug.

20 (12) If the present conviction is for homicide by watercraft or
21 assault by watercraft count two points for each adult or juvenile
22 prior conviction for homicide by watercraft or assault by watercraft;
23 for each felony offense count one point for each adult and 1/2 point
24 for each juvenile prior conviction; count one point for each adult
25 and 1/2 point for each juvenile prior conviction for driving under
26 the influence of intoxicating liquor or any drug, actual physical
27 control of a motor vehicle while under the influence of intoxicating
28 liquor or any drug, or operation of a vessel while under the
29 influence of intoxicating liquor or any drug.

30 (13) If the present conviction is for manufacture of
31 methamphetamine count three points for each adult prior manufacture
32 of methamphetamine conviction and two points for each juvenile
33 manufacture of methamphetamine offense. If the present conviction is
34 for a drug offense and the offender has a criminal history that
35 includes a sex offense or serious violent offense, count three points
36 for each adult prior felony drug offense conviction and two points
37 for each juvenile drug offense. All other adult and juvenile felonies
38 are scored as in subsection (8) of this section if the current drug
39 offense is violent, or as in subsection (7) of this section if the
40 current drug offense is nonviolent.

1 (14) If the present conviction is for Escape from Community
2 Custody, RCW 72.09.310, count only prior escape convictions in the
3 offender score. Count adult prior escape convictions as one point and
4 juvenile prior escape convictions as 1/2 point.

5 (15) If the present conviction is for Escape 1, RCW 9A.76.110, or
6 Escape 2, RCW 9A.76.120, count adult prior convictions as one point
7 and juvenile prior convictions as 1/2 point.

8 (16) If the present conviction is for Burglary 2 or residential
9 burglary, count priors as in subsection (7) of this section; however,
10 count two points for each adult and juvenile prior Burglary 1
11 conviction, two points for each adult prior Burglary 2 or residential
12 burglary conviction, and one point for each juvenile prior Burglary 2
13 or residential burglary conviction.

14 (17) If the present conviction is for a sex offense, count priors
15 as in subsections (7) through (11) and (13) through (16) of this
16 section; however count three points for each adult and juvenile prior
17 sex offense conviction.

18 (18) If the present conviction is for failure to register as a
19 sex offender under RCW (~~9A.44.130 or~~) 9A.44.132, count priors as in
20 subsections (7) through (11) and (13) through (16) of this section;
21 however count three points for each adult and juvenile prior sex
22 offense conviction, excluding prior convictions for failure to
23 register as a sex offender under RCW (~~9A.44.130 or~~) 9A.44.132,
24 which shall count as one point.

25 (19) If the present conviction is for an offense committed while
26 the offender was under community custody, add one point. For purposes
27 of this subsection, community custody includes community placement or
28 postrelease supervision, as defined in chapter 9.94B RCW.

29 (20) If the present conviction is for Theft of a Motor Vehicle,
30 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
31 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
32 priors as in subsections (7) through (18) of this section; however
33 count one point for prior convictions of Vehicle Prowling 2, and
34 three points for each adult and juvenile prior Theft 1 (of a motor
35 vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property
36 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor
37 vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle,
38 Taking a Motor Vehicle Without Permission 1, or Taking a Motor
39 Vehicle Without Permission 2 conviction.

1 (21) If the present conviction is for a felony domestic violence
2 offense where domestic violence as defined in RCW 9.94A.030 was
3 pleaded and proven, count priors as in subsections (7) through (20)
4 of this section; however, count points as follows:

5 (a) Count two points for each adult prior conviction where
6 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
7 after August 1, 2011, for any of the following offenses: A felony
8 violation of a no-contact or protection order RCW 26.50.110, felony
9 Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW
10 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW
11 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW
12 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210),
13 Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW
14 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

15 (b) Count two points for each adult prior conviction where
16 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
17 after July 23, 2017, for any of the following offenses: Assault of a
18 child in the first degree, RCW 9A.36.120; Assault of a child in the
19 second degree, RCW 9A.36.130; Assault of a child in the third degree,
20 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
21 9A.42.020; or Criminal Mistreatment in the second degree, RCW
22 9A.42.030;

23 (c) Count one point for each second and subsequent juvenile
24 conviction where domestic violence as defined in RCW 9.94A.030 was
25 pleaded and proven after August 1, 2011, for the offenses listed in
26 (a) of this subsection; and

27 (d) Count one point for each adult prior conviction for a
28 repetitive domestic violence offense as defined in RCW 9.94A.030,
29 where domestic violence as defined in RCW 9.94A.030, was pleaded and
30 proven after August 1, 2011.

31 (22) The fact that a prior conviction was not included in an
32 offender's offender score or criminal history at a previous
33 sentencing shall have no bearing on whether it is included in the
34 criminal history or offender score for the current offense. Prior
35 convictions that were not counted in the offender score or included
36 in criminal history under repealed or previous versions of the
37 sentencing reform act shall be included in criminal history and shall
38 count in the offender score if the current version of the sentencing
39 reform act requires including or counting those convictions. Prior
40 convictions that were not included in criminal history or in the

1 offender score shall be included upon any resentencing to ensure
2 imposition of an accurate sentence.

3 **Sec. 19.** RCW 46.20.311 and 2016 c 203 s 12 are each amended to
4 read as follows:

5 (1)(a) The department shall not suspend a driver's license or
6 privilege to drive a motor vehicle on the public highways for a fixed
7 period of more than one year, except as specifically permitted under
8 RCW 46.20.267, 46.20.342, or other provision of law.

9 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
10 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
11 driving privilege of any person is suspended by reason of a
12 conviction, a finding that a traffic infraction has been committed,
13 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
14 46.20.308, the suspension shall remain in effect until the person
15 gives and thereafter maintains proof of financial responsibility for
16 the future as provided in chapter 46.29 RCW.

17 (c) If the suspension is the result of a nonfelony violation of
18 RCW 46.61.502 or 46.61.504, the department shall determine the
19 person's eligibility for licensing based upon the reports provided by
20 the alcoholism agency or probation department designated under RCW
21 46.61.5056 and shall deny reinstatement until enrollment and
22 participation in an approved program has been established and the
23 person is otherwise qualified. If the suspension is the result of a
24 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
25 determine the person's eligibility for licensing based upon the
26 reports provided by the alcohol or drug dependency agency required
27 under RCW 46.61.524 and shall deny reinstatement until satisfactory
28 progress in an approved program has been established and the person
29 is otherwise qualified. If the suspension is the result of a
30 violation of RCW 46.61.502 or 46.61.504, and the person is required
31 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
32 a functioning ignition interlock, the department shall determine the
33 person's eligibility for licensing based upon written verification by
34 a company doing business in the state that it has installed the
35 required device on a vehicle owned or operated by the person seeking
36 reinstatement. The department may waive the requirement for written
37 verification under this subsection if it determines to its
38 satisfaction that a device previously verified as having been
39 installed on a vehicle owned or operated by the person is still

1 installed and functioning or as permitted by RCW 46.20.720(8). If,
2 based upon notification from the interlock provider or otherwise, the
3 department determines that an interlock required under RCW 46.20.720
4 is no longer installed or functioning as required, the department
5 shall suspend the person's license or privilege to drive. Whenever
6 the license or driving privilege of any person is suspended or
7 revoked as a result of noncompliance with an ignition interlock
8 requirement, the suspension shall remain in effect until the person
9 provides notice issued by a company doing business in the state that
10 a vehicle owned or operated by the person is equipped with a
11 functioning ignition interlock device.

12 (d) Whenever the license or driving privilege of any person is
13 suspended as a result of certification of noncompliance with a child
14 support order under chapter 74.20A RCW, the suspension shall remain
15 in effect until the person provides a release issued by the
16 department of social and health services stating that the person is
17 in compliance with the order.

18 (e)(i) The department shall not issue to the person a new,
19 duplicate, or renewal license until the person pays a reissue fee of
20 seventy-five dollars.

21 (ii) If the suspension is the result of a violation of RCW
22 46.61.502 or 46.61.504, or is the result of administrative action
23 under RCW 46.20.308, the reissue fee shall be one hundred (~~fifty~~)
24 seventy-five dollars.

25 (2)(a) Any person whose license or privilege to drive a motor
26 vehicle on the public highways has been revoked, unless the
27 revocation was for a cause which has been removed, is not entitled to
28 have the license or privilege renewed or restored until: (i) After
29 the expiration of one year from the date the license or privilege to
30 drive was revoked; (ii) after the expiration of the applicable
31 revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii)
32 after the expiration of two years for persons convicted of vehicular
33 homicide; or (iv) after the expiration of the applicable revocation
34 period provided by RCW 46.20.265.

35 (b)(i) After the expiration of the appropriate period, the person
36 may make application for a new license as provided by law together
37 with a reissue fee in the amount of seventy-five dollars.

38 (ii) If the revocation is the result of a violation of RCW
39 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
40 hundred (~~fifty~~) seventy-five dollars. If the revocation is the

1 result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the
2 department shall determine the person's eligibility for licensing
3 based upon the reports provided by the alcoholism agency or probation
4 department designated under RCW 46.61.5056 and shall deny reissuance
5 of a license, permit, or privilege to drive until enrollment and
6 participation in an approved program has been established and the
7 person is otherwise qualified. If the suspension is the result of a
8 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
9 determine the person's eligibility for licensing based upon the
10 reports provided by the alcohol or drug dependency agency required
11 under RCW 46.61.524 and shall deny reinstatement until satisfactory
12 progress in an approved program has been established and the person
13 is otherwise qualified. If the revocation is the result of a
14 violation of RCW 46.61.502 or 46.61.504, and the person is required
15 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
16 a functioning ignition interlock or other biological or technical
17 device, the department shall determine the person's eligibility for
18 licensing based upon written verification by a company doing business
19 in the state that it has installed the required device on a vehicle
20 owned or operated by the person applying for a new license. The
21 department may waive the requirement for written verification under
22 this subsection if it determines to its satisfaction that a device
23 previously verified as having been installed on a vehicle owned or
24 operated by the person is still installed and functioning or as
25 permitted by RCW 46.20.720(8). If, following issuance of a new
26 license, the department determines, based upon notification from the
27 interlock provider or otherwise, that an interlock required under RCW
28 46.20.720 is no longer functioning, the department shall suspend the
29 person's license or privilege to drive until the department has
30 received written verification from an interlock provider that a
31 functioning interlock is installed.

32 (c) Except for a revocation under RCW 46.20.265, the department
33 shall not then issue a new license unless it is satisfied after
34 investigation of the driving ability of the person that it will be
35 safe to grant the privilege of driving a motor vehicle on the public
36 highways, and until the person gives and thereafter maintains proof
37 of financial responsibility for the future as provided in chapter
38 46.29 RCW. For a revocation under RCW 46.20.265, the department shall
39 not issue a new license unless it is satisfied after investigation of
40 the driving ability of the person that it will be safe to grant that

1 person the privilege of driving a motor vehicle on the public
2 highways.

3 (3) (a) Whenever the driver's license of any person is suspended
4 pursuant to Article IV of the nonresident violators compact or RCW
5 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not
6 issue to the person any new or renewal license until the person pays
7 a reissue fee of seventy-five dollars.

8 (b) If the suspension is the result of a violation of the laws of
9 this or any other state, province, or other jurisdiction involving
10 (i) the operation or physical control of a motor vehicle upon the
11 public highways while under the influence of intoxicating liquor or
12 drugs, or (ii) the refusal to submit to a chemical test of the
13 driver's blood alcohol content, the reissue fee shall be one hundred
14 (~~fifty~~) seventy-five dollars.

15 **Sec. 20.** RCW 46.20.385 and 2017 c 336 s 4 are each amended to
16 read as follows:

17 (1) (a) Any person licensed under this chapter or who has a valid
18 driver's license from another state, who is convicted of: (i) A
19 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
20 out-of-state statute or ordinance, or (ii) a violation of RCW
21 46.61.520(1)(a) or an equivalent local or out-of-state statute or
22 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
23 (b) or (c) if the conviction is the result of a charge that was
24 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
25 46.61.522(1)(b) or an equivalent local or out-of-state statute or
26 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
27 the result of a charge that was originally filed as a violation of
28 RCW 46.61.522(1)(b) committed while under the influence of
29 intoxicating liquor or any drug, or (vi) who has had or will have his
30 or her license suspended, revoked, or denied under RCW 46.20.3101, or
31 who is otherwise permitted under subsection (8) of this section, may
32 submit to the department an application for an ignition interlock
33 driver's license. The department, upon receipt of the prescribed fee
34 and upon determining that the petitioner is eligible to receive the
35 license, may issue an ignition interlock driver's license.

36 (b) A person may apply for an ignition interlock driver's license
37 anytime, including immediately after receiving the notices under RCW
38 46.20.308 or after his or her license is suspended, revoked, or
39 denied.

1 (c) An applicant under this subsection shall provide proof to the
2 satisfaction of the department that a functioning ignition interlock
3 device has been installed on all vehicles operated by the person.

4 (i) The department shall require the person to maintain the
5 device on all vehicles operated by the person and shall restrict the
6 person to operating only vehicles equipped with the device, for the
7 remainder of the period of suspension, revocation, or denial, unless
8 otherwise permitted under RCW 46.20.720(6).

9 (ii) Subject to any periodic renewal requirements established by
10 the department under this section and subject to any applicable
11 compliance requirements under this chapter or other law, an ignition
12 interlock driver's license granted upon a suspension or revocation
13 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
14 portion of any concurrent or consecutive suspension or revocation
15 that may be imposed as the result of administrative action and
16 criminal conviction arising out of the same incident.

17 (2) An applicant for an ignition interlock driver's license who
18 qualifies under subsection (1) of this section is eligible to receive
19 a license only if the applicant files satisfactory proof of financial
20 responsibility under chapter 46.29 RCW.

21 (3) Upon receipt of evidence that a holder of an ignition
22 interlock driver's license granted under this subsection no longer
23 has a functioning ignition interlock device installed on all vehicles
24 operated by the driver, the director shall give written notice by
25 first-class mail to the driver that the ignition interlock driver's
26 license shall be canceled. If at any time before the cancellation
27 goes into effect the driver submits evidence that a functioning
28 ignition interlock device has been installed on all vehicles operated
29 by the driver, the cancellation shall be stayed. If the cancellation
30 becomes effective, the driver may obtain, at no additional charge, a
31 new ignition interlock driver's license upon submittal of evidence
32 that a functioning ignition interlock device has been installed on
33 all vehicles operated by the driver.

34 (4) A person aggrieved by the decision of the department on the
35 application for an ignition interlock driver's license may request a
36 hearing as provided by rule of the department.

37 (5) The director shall cancel an ignition interlock driver's
38 license after receiving notice that the holder thereof has been
39 convicted of operating a motor vehicle in violation of its
40 restrictions, no longer meets the eligibility requirements, or has

1 been convicted of or found to have committed a separate offense or
2 any other act or omission that under this chapter would warrant
3 suspension or revocation of a regular driver's license. The
4 department must give notice of the cancellation as provided under RCW
5 46.20.245. A person whose ignition interlock driver's license has
6 been canceled under this section may reapply for a new ignition
7 interlock driver's license if he or she is otherwise qualified under
8 this section and pays the fee required under RCW 46.20.380.

9 (6) (a) Unless costs are waived by the ignition interlock company
10 or the person is indigent under RCW 10.101.010, the applicant shall
11 pay the cost of installing, removing, and leasing the ignition
12 interlock device and shall pay an additional fee of twenty-one
13 dollars per month. Payments shall be made directly to the ignition
14 interlock company. The company shall remit the additional fee to the
15 department, except that the company may retain twenty-five cents per
16 month of the additional fee to cover the expenses associated with
17 administering the fee.

18 (b) The department shall deposit the proceeds of the twenty-one
19 dollar fee into the ignition interlock device revolving account.
20 Expenditures from the account may be used only to administer and
21 operate the ignition interlock device revolving account program. The
22 department shall adopt rules to provide monetary assistance according
23 to greatest need and when funds are available.

24 (7) The department shall adopt rules to implement ignition
25 interlock licensing. The department shall consult with the
26 administrative office of the courts, the state patrol, the Washington
27 association of sheriffs and police chiefs, ignition interlock
28 companies, and any other organization or entity the department deems
29 appropriate.

30 (8) (a) Any person licensed under this chapter who is convicted of
31 a violation of RCW 46.61.500 when the charge was originally filed as
32 a violation of RCW 46.61.502 or 46.61.504, or an equivalent local
33 ordinance, may submit to the department an application for an
34 ignition interlock driver's license under this section.

35 (b) A person who does not have any driver's license under this
36 chapter, but who would otherwise be eligible under this section to
37 apply for an ignition interlock license, may submit to the department
38 an application for an ignition interlock license. The department may
39 require the person to take any driver's licensing examination under

1 this chapter and may require the person to also apply and qualify for
2 a temporary restricted driver's license under RCW 46.20.391.

3 NEW SECTION. **Sec. 21.** (1) Within existing resources, the
4 Washington association of sheriffs and police chiefs shall review
5 current laws and regulations regarding the sentencing structure for
6 impaired driving offenses in an effort to reduce fatalities from
7 individuals driving under the influence. The review must include
8 looking at lookback periods, number of previous offenses, and other
9 possible recommendations to reduce these fatalities. The Washington
10 association of sheriffs and police chiefs shall provide its
11 recommendations to the governor and appropriate committees of the
12 legislature by December 1, 2019.

13 (2) This section expires June 30, 2020.

14 NEW SECTION. **Sec. 22.** RCW 43.43.3951 (Ignition interlock
15 devices—Limited exemption for companies not using devices employing
16 fuel cell technology) and 2010 c 268 s 3 are each repealed.

17 NEW SECTION. **Sec. 23.** Sections 2, 3, 5 through 10, 12, 16, and
18 20 of this act take effect January 1, 2020."

ESHB 1504 - S COMM AMD

By Committee on Transportation

ADOPTED 4/17/19

19 On page 1, line 1 of the title, after "driving;" strike the
20 remainder of the title and insert "amending RCW 9.94A.533, 9.94A.729,
21 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.720, 46.20.740,
22 46.20.750, 46.55.113, 46.61.500, 46.61.503, 46.61.504, 46.61.5055,
23 46.61.5055, 46.61.502, 9.94A.525, 46.20.311, and 46.20.385;
24 reenacting and amending RCW 46.20.355; creating a new section;
25 repealing RCW 43.43.3951; prescribing penalties; providing an
26 effective date; and providing an expiration date."

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