

ESHB 1504 - S COMM AMD

By Committee on Transportation

ADOPTED AS AMENDED 04/17/2019

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (e) Notwithstanding any other provision of law, all deadly weapon
36 enhancements under this section are mandatory, shall be served in
37 total confinement, and shall run consecutively to all other
38 sentencing provisions, including other firearm or deadly weapon
39 enhancements, for all offenses sentenced under this chapter. However,

1 whether or not a mandatory minimum term has expired, an offender
2 serving a sentence under this subsection may be:

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

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

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

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

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

30 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
31 (a) or (b) or 69.50.410;

32 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
33 (c), (d), or (e);

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

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

38 (6) An additional twenty-four months shall be added to the
39 standard sentence range for any ranked offense involving a violation
40 of chapter 69.50 RCW if the offense was also a violation of RCW

1 69.50.435 or 9.94A.827. All enhancements under this subsection shall
2 run consecutively to all other sentencing provisions, for all
3 offenses sentenced under this chapter.

4 (7) An additional two years shall be added to the standard
5 sentence range for vehicular homicide committed while under the
6 influence of intoxicating liquor or any drug as defined by RCW
7 46.61.502 for each prior offense as defined in RCW 46.61.5055.

8 Notwithstanding any other provision of law, all impaired driving
9 enhancements under this subsection are mandatory, shall be served in
10 total confinement, and shall run consecutively to all other
11 sentencing provisions, including other impaired driving enhancements,
12 for all offenses sentenced under this chapter.

13 An offender serving a sentence under this subsection may be
14 granted an extraordinary medical placement when authorized under RCW
15 9.94A.728(1)(c).

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

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

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

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

37 (iv) If the offender is being sentenced for any sexual motivation
38 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
39 the offender has previously been sentenced for any sexual motivation
40 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or

1 (iii) of this subsection, all sexual motivation enhancements under
2 this subsection shall be twice the amount of the enhancement listed;

3 (b) Notwithstanding any other provision of law, all sexual
4 motivation enhancements under this subsection are mandatory, shall be
5 served in total confinement, and shall run consecutively to all other
6 sentencing provisions, including other sexual motivation
7 enhancements, for all offenses sentenced under this chapter. However,
8 whether or not a mandatory minimum term has expired, an offender
9 serving a sentence under this subsection may be:

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

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

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

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

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

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

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

1 fee, an additional one-year enhancement shall be added to the
2 standard sentence range determined under subsection (2) of this
3 section. For purposes of this subsection, "sexual conduct" means
4 sexual intercourse or sexual contact, both as defined in chapter
5 9A.44 RCW.

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

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

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

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

29 (12) An additional twelve months shall be added to the standard
30 sentence range for an offense that is also a violation of RCW
31 9.94A.831.

32 (13) An additional twelve months shall be added to the standard
33 sentence range for vehicular homicide committed while under the
34 influence of intoxicating liquor or any drug as defined by RCW
35 46.61.520 or for vehicular assault committed while under the
36 influence of intoxicating liquor or any drug as defined by RCW
37 46.61.522, or for any felony driving under the influence (RCW
38 46.61.502(6)) or felony physical control under the influence (RCW
39 46.61.504(6)) for each child passenger under the age of sixteen who
40 is an occupant in the defendant's vehicle. These enhancements shall

1 be mandatory, shall be served in total confinement, and shall run
2 consecutively to all other sentencing provisions, including other
3 minor child enhancements, for all offenses sentenced under this
4 chapter. If the addition of a minor child enhancement increases the
5 sentence so that it would exceed the statutory maximum for the
6 offense, the portion of the sentence representing the enhancement may
7 not be reduced.

8 (14) An additional twelve months shall be added to the standard
9 sentence range for an offense that is also a violation of RCW
10 9.94A.832.

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

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

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

38 (2)(a) An offender who has been convicted of a felony committed
39 after July 23, 1995, that involves any applicable deadly weapon

1 enhancements under RCW 9.94A.533 (3) or (4), or both, shall not
2 receive any good time credits or earned release time for that portion
3 of his or her sentence that results from any deadly weapon
4 enhancements.

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

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

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

17 (b) 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, 1990, and before July 1, 2003, the aggregate earned
20 release time may not exceed fifteen percent of the sentence.

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

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

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

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

30 (A) A sex offense;

31 (B) A violent offense;

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

33 (D) A felony that is domestic violence as defined in RCW
34 10.99.020;

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

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

1 (G) A violation of, or an attempt, solicitation, or conspiracy to
2 violate, RCW 69.50.406 (delivery of a controlled substance to a
3 minor);

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

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

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

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

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

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

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

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

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

3 (i) Transfer an offender to partial confinement in lieu of earned
4 early release for a period not to exceed three months. The three
5 months in partial confinement is in addition to that portion of the
6 offender's term of confinement that may be served in partial
7 confinement as provided in RCW 9.94A.728(~~(5)~~) (1)(e);

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

11 A voucher must be provided in conjunction with additional
12 transition support programming or services that enable an offender to
13 participate in services including, but not limited to, substance
14 abuse treatment, mental health treatment, sex offender treatment,
15 educational programming, or employment programming;

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

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

25 (6) An offender serving a term of confinement imposed under RCW
26 9.94A.670(5)(a) is not eligible for earned release credits under this
27 section.

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

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

37 (i) Have a functioning ignition interlock device installed on all
38 motor vehicles operated by the person, with proof of installation
39 filed with the court by the person or the certified interlock

1 provider within five business days of the date of release from
2 custody or as soon thereafter as determined by the court based on
3 availability within the jurisdiction; or

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

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

11 (iv) Have an ignition interlock device on all motor vehicles
12 operated by the person and that such person agrees not to operate any
13 motor vehicle without an ignition interlock device as required by the
14 court. Under this subsection (1)(a)(iv), the person must file a sworn
15 statement with the court upon release at arraignment that states the
16 person will not operate any motor vehicle without an ignition
17 interlock device while the ignition interlock restriction is imposed
18 by the court. Such person must also submit to 24/7 sobriety program
19 monitoring pursuant to (a)(ii) of this subsection, if available, or
20 alcohol monitoring, at the expense of the person, as provided in RCW
21 46.61.5055(5) (b) and (c).

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

33 (2)(a) Upon acquittal or dismissal of all pending or current
34 charges relating to a violation of RCW 46.61.502, 46.61.504,
35 46.61.520, or 46.61.522, or equivalent local ordinance, the court
36 shall authorize removal of the ignition interlock device and lift any
37 requirement to comply with electronic alcohol/drug monitoring imposed
38 under subsection (1) of this section. Nothing in this section limits
39 the authority of the court or department under RCW 46.20.720.

1 (b) If the court authorizes removal of an ignition interlock
2 device imposed under this section, the court shall immediately notify
3 the department of licensing regarding the lifting of the ignition
4 interlock restriction and the department of licensing shall release
5 any attachment, imprint, or notation on such person's driving record
6 relating to the ignition interlock requirement imposed under this
7 section.

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

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

15 A person whose intoxication causes an incident resulting in an
16 appropriate emergency response, and who, in connection with the
17 incident, has been found guilty of or has had their prosecution
18 deferred for (1) driving while under the influence of intoxicating
19 liquor or any drug, RCW 46.61.502; (2) physical control of a motor
20 vehicle while under the influence of intoxicating liquor or any drug,
21 RCW 46.61.504; (3) operating an aircraft under the influence of
22 intoxicants or drugs, RCW 47.68.220; (~~((3))~~) (4) use of a vessel
23 while under the influence of alcohol or drugs, RCW 79A.60.040;
24 (~~((4))~~) (5) vehicular homicide while under the influence of
25 intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (~~((5))~~) (6)
26 vehicular assault while under the influence of intoxicating liquor or
27 any drug, RCW 46.61.522(1)(b), is liable for the expense of an
28 emergency response by a public agency to the incident.

29 The expense of an emergency response is a charge against the
30 person liable for expenses under this section. The charge constitutes
31 a debt of that person and is collectible by the public agency
32 incurring those costs in the same manner as in the case of an
33 obligation under a contract, expressed or implied. Following a
34 conviction of an offense listed in this section, and prior to
35 sentencing, the prosecution may present to the court information
36 setting forth the expenses incurred by the public agency for its
37 emergency response to the incident. Upon a finding by the court that
38 the expenses are reasonable, the court shall order the defendant to
39 reimburse the public agency. The cost reimbursement shall be included

1 in the sentencing order as an additional monetary obligation of the
2 defendant and may not be substituted for any other fine or cost
3 required or allowed by statute. The court may establish a payment
4 schedule for the payment of the cost reimbursement, separate from any
5 payment schedule imposed for other fines and costs. All payments for
6 the cost reimbursement must be remitted directly to the public agency
7 or agencies that incurred the cost associated with the emergency
8 response.

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

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

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

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

30 (2) For persons subject to suspension, revocation, or denial of a
31 driver's license who are eligible for full credit under RCW
32 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section
33 must also notify the person of the obligation to complete the
34 requirements under RCW 46.20.311 and pay the probationary license fee
35 under RCW 46.20.355 by the date specified in the notice in order to
36 avoid license suspension.

37 (3) Within fifteen days after notice has been given to a person
38 under subsection (1) of this section, the person may request in
39 writing an administrative review before the department. If the

1 request is mailed, it must be postmarked within fifteen days after
2 the date the department has given notice. If a person fails to
3 request an administrative review within fifteen days after the date
4 the department gives notice, the person is considered to have
5 defaulted and loses his or her right to an administrative review
6 unless the department finds good cause for a request after the
7 fifteen-day period.

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

14 (b) The only issues to be addressed in the administrative review
15 are:

16 (i) Whether the records relied on by the department identify the
17 correct person; and

18 (ii) Whether the information transmitted from the court or other
19 reporting agency or entity regarding the person accurately describes
20 the action taken by the court or other reporting agency or entity.

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

28 (d) The action subject to the notification requirements of
29 subsection (1) of this section shall be stayed during the
30 administrative review process.

31 (e) Judicial review of a department order affirming the action
32 subject to the notification requirements of subsection (1) of this
33 section after an administrative review shall be available in the same
34 manner as provided in RCW 46.20.308(~~(+9)~~) (8). The department shall
35 certify its record to the court within thirty days after service upon
36 the department of the petition for judicial review. The action
37 subject to the notification requirements of subsection (1) of this
38 section shall not automatically be stayed during the judicial review.
39 If judicial relief is sought for a stay or other temporary remedy
40 from the department's action, the court shall not grant relief unless

1 the court finds that the appellant is likely to prevail in the appeal
2 and that without a stay the appellant will suffer irreparable injury.

3 ~~((3))~~ (4) The department may adopt rules that are considered
4 necessary or convenient by the department for purposes of
5 administering this section, including, but not limited to, rules
6 regarding expedited procedures for issuing orders and expedited
7 notice procedures.

8 ~~((4))~~ (5) This section does not apply where an opportunity for
9 an informal settlement, driver improvement interview, or formal
10 hearing is otherwise provided by law or rule of the department.

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

13 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
14 or deny the arrested person's license, permit, or privilege to drive
15 as follows:

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

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

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

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

30 (a) For a first incident within seven years, where there has not
31 been a previous incident within seven years that resulted in
32 administrative action under this section, suspension for ninety days,
33 unless the person successfully completes or is enrolled in a pretrial
34 24/7 sobriety program;

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

37 (3) In the case of an incident where a person under age twenty-
38 one has submitted to or been administered a test or tests indicating
39 that the alcohol concentration of the person's breath or blood was

1 0.02 or more, or that the THC concentration of the person's blood was
2 above 0.00:

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

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

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

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

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

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

36 (3) Following receipt of an abstract indicating a deferred
37 prosecution has been granted under RCW 10.05.060, or upon
38 reinstatement or reissuance of a driver's license suspended or
39 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,

1 the department shall require the person to obtain a probationary
2 license in order to operate a motor vehicle in the state of
3 Washington, except as otherwise exempt under RCW 46.20.025. The
4 department shall not issue the probationary license unless the person
5 is otherwise qualified for licensing, and the person must renew the
6 probationary license on the same cycle as the person's regular
7 license would have been renewed until the expiration of the five-year
8 probationary status period imposed under subsection (2) of this
9 section.

10 (4) If a person is eligible for full credit under RCW
11 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued
12 under RCW 46.20.245, has completed the requirements under RCW
13 46.20.311 and paid the fee under subsection (5) of this section, the
14 department shall issue a probationary license on the date specified
15 in the notice with no further action required of the person.

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

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

29 **Sec. 8.** RCW 46.20.720 and 2017 c 336 s 5 are each amended to
30 read as follows:

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

34 (a) **Pretrial release.** Upon receipt of notice from a court that an
35 ignition interlock device restriction has been imposed under RCW
36 10.21.055;

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

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

4 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
5 or

6 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
7 if the person would be required under RCW 46.61.5249(4) or
8 46.61.500(3) (a) or (b) to install an ignition interlock device on
9 all vehicles operated by the person in the event of a conviction;

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

12 (i) Due to a conviction of a violation of RCW 46.61.502 or
13 46.61.504 or an equivalent local or out-of-state statute or
14 ordinance; or

15 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
16 46.61.500 or an equivalent local ordinance if the person is required
17 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
18 ignition interlock device on all vehicles operated by the person; or

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

28 (2) **Calibration.** Unless otherwise specified by the court for a
29 restriction imposed under subsection (1)(e) of this section, the
30 ignition interlock device shall be calibrated to prevent the motor
31 vehicle from being started when the breath sample provided has an
32 alcohol concentration of (~~0.025~~) 0.020 or more.

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

34 (a) Subsection (1)(a) of this section shall remain in effect
35 until:

36 (i) The court has authorized the removal of the device under RCW
37 10.21.055; or

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

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

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

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

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

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

12 The restriction of a person who is convicted of a violation of
13 RCW 46.61.502 or 46.61.504 or an equivalent local ordinance and who
14 committed the offense while ((a)) one or more passengers under the
15 age of sixteen ((was)) were in the vehicle shall be extended for an
16 additional ((six-month)) period as required by RCW 46.61.5055(6)(a).

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

19 (e) The period of restriction under (c) or (d) of this subsection
20 shall be extended by one hundred eighty days whenever the department
21 receives notice that the restricted person has been convicted under
22 RCW 46.20.740 or 46.20.750.

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

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

37 (4) **Requirements for removal.** A restriction imposed under
38 subsection (1)(c) or (d) of this section shall remain in effect until
39 the department receives a declaration from the person's ignition
40 interlock device vendor, in a form provided or approved by the

1 department, certifying that there have been none of the following
2 incidents in the one hundred eighty consecutive days prior to the
3 date of release:

4 (a) Any attempt to start the vehicle with a breath alcohol
5 concentration of 0.04 or more unless a subsequent test performed
6 within ten minutes registers a breath alcohol concentration lower
7 than 0.04 and the digital image confirms the same person provided
8 both samples;

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

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

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

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

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

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

38 (6) **Employer exemption.** (a) Except as provided in (b) of this
39 subsection, the installation of an ignition interlock device is not
40 necessary on vehicles owned, leased, or rented by a person's employer

1 and on those vehicles whose care and/or maintenance is the temporary
2 responsibility of the employer, and driven at the direction of a
3 person's employer as a requirement of employment during working
4 hours. The person must provide the department with a declaration
5 pursuant to RCW 9A.72.085 from his or her employer stating that the
6 person's employment requires the person to operate a vehicle owned by
7 the employer or other persons during working hours.

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

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

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

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

33 (1) The department shall attach or imprint a notation on the
34 driving record of any person restricted under RCW 46.20.720,
35 46.61.5055, or 10.05.140 stating that the person may operate only a
36 motor vehicle equipped with a functioning ignition interlock device.
37 The department shall determine the person's eligibility for licensing
38 based upon written verification by a company doing business in the
39 state that it has installed the required device on a vehicle owned or

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

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

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

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

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

27 (a) Tamper with the device by modifying, detaching,
28 disconnecting, or otherwise disabling it to allow the restricted
29 driver to operate the vehicle;

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

33 (c) Has, directs, authorizes, or requests another person to
34 tamper with the device by modifying, detaching, disconnecting, or
35 otherwise disabling it to allow the restricted driver to operate the
36 vehicle; or

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

1 (2) A person who knowingly assists another person who is
2 restricted to the use of a vehicle equipped with an ignition
3 interlock device to circumvent the device or to start and operate
4 that vehicle is guilty of a gross misdemeanor. The provisions of this
5 subsection do not apply if the starting of a motor vehicle, or the
6 request to start a motor vehicle, equipped with an ignition interlock
7 device is done for the purpose of safety or mechanical repair of the
8 device or the vehicle and the person subject to the court order does
9 not operate the vehicle.

10 (3) Any sentence imposed for a violation of subsection (1) of
11 this section shall be served consecutively with any sentence imposed
12 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,
13 46.61.520(1)(a), or 46.61.522(1)(b).

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

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

19 (1) Whenever the driver of a vehicle is arrested for a violation
20 of RCW 46.20.342 or 46.20.345, the vehicle is subject to summary
21 impoundment, pursuant to the terms and conditions of an applicable
22 local ordinance or state agency rule at the direction of a law
23 enforcement officer.

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

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

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

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

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

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

5 (f) Whenever a vehicle without a special license plate, placard,
6 or decal indicating that the vehicle is being used to transport a
7 person with disabilities under RCW 46.19.010 is parked in a stall or
8 space clearly and conspicuously marked under RCW 46.61.581 which
9 space is provided on private property without charge or on public
10 property;

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

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

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

28 (j) Upon determining that a person restricted to use of only a
29 motor vehicle equipped with a functioning ignition interlock device
30 is operating a motor vehicle that is not equipped with such a device
31 in violation of RCW 46.20.740(2).

32 (3) When an arrest is made for a violation of RCW 46.20.342, if
33 the vehicle is a commercial vehicle or farm transport vehicle and the
34 driver of the vehicle is not the owner of the vehicle, before the
35 summary impoundment directed under subsection (1) of this section,
36 the police officer shall attempt in a reasonable and timely manner to
37 contact the owner of the vehicle and may release the vehicle to the
38 owner if the owner is reasonably available, as long as the owner was
39 not in the vehicle at the time of the stop and arrest and the owner

1 has not received a prior release under this subsection or RCW
2 46.55.120(1) (~~(a)~~) (b) (ii).

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

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

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

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

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

26 (b) When a reckless driving conviction is a result of a charge
27 that was originally filed as a violation of RCW 46.61.502 or
28 46.61.504, or an equivalent local ordinance, the department shall
29 grant credit on a day-for-day basis for any portion of a suspension,
30 revocation, or denial already served under an administrative action
31 arising out of the same incident. In the case of a person whose day-
32 for-day credit is for a period equal to or greater than the period of
33 suspension required under this section, the department shall provide
34 notice of full credit, shall provide for no further suspension under
35 this section, and shall impose no additional reissue fees for this
36 credit. During any period of suspension, revocation, or denial due to
37 a conviction for reckless driving as the result of a charge
38 originally filed as a violation of RCW 46.61.502 or 46.61.504, any
39 person who has obtained an ignition interlock driver's license under

1 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the
2 provision of the ignition interlock driver's license without
3 obtaining a separate temporary restricted driver's license under RCW
4 46.20.391.

5 (3) (a) Except as provided under (b) of this subsection, a person
6 convicted of reckless driving who has one or more prior offenses as
7 defined in RCW 46.61.5055(14) within seven years shall be required,
8 under RCW 46.20.720, to install an ignition interlock device on all
9 vehicles operated by the person if the conviction is the result of a
10 charge that was originally filed as a violation of RCW 46.61.502,
11 46.61.504, or an equivalent local ordinance.

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

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

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

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

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

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

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

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

1 to be in violation of subsection (1) of this section within two hours
2 after driving or being in physical control. The court shall not admit
3 evidence of this defense unless the defendant notifies the
4 prosecution prior to the earlier of: (a) Seven days prior to trial;
5 or (b) the omnibus or pretrial hearing in the case of the defendant's
6 intent to assert the affirmative defense.

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

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

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

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

21 (1) A person is guilty of being in actual physical control of a
22 motor vehicle while under the influence of intoxicating liquor or any
23 drug if the person has actual physical control of a vehicle within
24 this state:

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

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

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

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

37 (2) (a) The fact that a person charged with a violation of this
38 section is or has been entitled to use a drug under the laws of this
39 state does not constitute a defense against any charge of violating

1 this section. No person may be convicted under this section and it is
2 an affirmative defense to any action pursuant to RCW 46.20.308 to
3 suspend, revoke, or deny the privilege to drive if, prior to being
4 pursued by a law enforcement officer, the person has moved the
5 vehicle safely off the roadway. A vehicle is safely off the roadway
6 if:

7 (i) The suspected impaired person is not in the driver's seat of
8 the vehicle;

9 (ii) The vehicle is not parked in an area designated for through
10 traffic or in any place not authorized for motor vehicle traffic or
11 parking; and

12 (iii) The vehicle's engine is off.

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

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

28 (b) It is an affirmative defense to a violation of subsection
29 (1)(b) of this section, which the defendant must prove by a
30 preponderance of the evidence, that the defendant consumed a
31 sufficient quantity of marijuana after the time of being in actual
32 physical control of the vehicle and before the administration of an
33 analysis of the person's blood to cause the defendant's THC
34 concentration to be 5.00 or more within two hours after being in
35 control of the vehicle. The court shall not admit evidence of this
36 defense unless the defendant notifies the prosecution prior to the
37 omnibus or pretrial hearing in the case of the defendant's intent to
38 assert the affirmative defense.

39 (4) (a) Analyses of blood or breath samples obtained more than two
40 hours after the alleged being in actual physical control of a vehicle

1 may be used as evidence that within two hours of the alleged being in
2 such control, a person had an alcohol concentration of 0.08 or more
3 in violation of subsection (1)(a) of this section, and in any case in
4 which the analysis shows an alcohol concentration above 0.00 may be
5 used as evidence that a person was under the influence of or affected
6 by intoxicating liquor or any drug in violation of subsection (1)(c)
7 or (d) of this section.

8 (b) Analyses of blood samples obtained more than two hours after
9 the alleged being in actual physical control of a vehicle may be used
10 as evidence that within two hours of the alleged being in control of
11 the vehicle, a person had a THC concentration of 5.00 or more in
12 violation of subsection (1)(b) of this section, and in any case in
13 which the analysis shows a THC concentration above 0.00 may be used
14 as evidence that a person was under the influence of or affected by
15 marijuana in violation of subsection (1)(c) or (d) of this section.

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

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

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

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

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

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

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

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

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

32 (1) **No prior offenses in seven years.** Except as provided in RCW
33 46.61.502(6) or 46.61.504(6), a person who is convicted of a
34 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
35 within seven years shall be punished as follows:

36 (a) **Penalty for alcohol concentration less than 0.15.** In the case
37 of a person whose alcohol concentration was less than 0.15, or for
38 whom for reasons other than the person's refusal to take a test

1 offered pursuant to RCW 46.20.308 there is no test result indicating
2 the person's alcohol concentration:

3 (i) By imprisonment for not less than one day nor more than three
4 hundred sixty-four days. Twenty-four consecutive hours of the
5 imprisonment may not be suspended unless the court finds that the
6 imposition of this mandatory minimum sentence would impose a
7 substantial risk to the offender's physical or mental well-being.
8 Whenever the mandatory minimum sentence is suspended, the court shall
9 state in writing the reason for granting the suspension and the facts
10 upon which the suspension is based. In lieu of the mandatory minimum
11 term of imprisonment required under this subsection (1)(a)(i), the
12 court may order not less than fifteen days of electronic home
13 monitoring or a ninety-day period of 24/7 sobriety program
14 monitoring. The court may consider the offender's pretrial 24/7
15 sobriety program monitoring as fulfilling a portion of posttrial
16 sentencing. The offender shall pay the cost of electronic home
17 monitoring. The county or municipality in which the penalty is being
18 imposed shall determine the cost. The court may also require the
19 offender's electronic home monitoring device or other separate
20 alcohol monitoring device to include an alcohol detection
21 breathalyzer, and the court may restrict the amount of alcohol the
22 offender may consume during the time the offender is on electronic
23 home monitoring; and

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

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

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

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

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

17 (2) **One prior offense 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 one prior offense
20 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 thirty days nor more than
27 three hundred sixty-four days and sixty days of electronic home
28 monitoring. In lieu of the mandatory term of imprisonment and
29 electronic home monitoring under this subsection (2)(a)(i), the court
30 may order a minimum of four days in jail and either one hundred
31 eighty days of electronic home monitoring or a one hundred twenty-day
32 period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300
33 through 36.28A.390. The court may consider the offender's pretrial
34 24/7 sobriety program monitoring as fulfilling a portion of posttrial
35 sentencing. The court shall order an expanded alcohol assessment and
36 treatment, if deemed appropriate by the assessment. The offender
37 shall pay for the cost of the electronic monitoring. The county or
38 municipality where the penalty is being imposed shall determine the
39 cost. The court may also require the offender's electronic home
40 monitoring device include an alcohol detection breathalyzer or other

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

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

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

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

1 suspended, the court shall state in writing the reason for granting
2 the suspension and the facts upon which the suspension is based; and

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

7 (3) **Two prior offenses in seven years.** Except as provided in RCW
8 46.61.502(6) or 46.61.504(6), a person who is convicted of a
9 violation of RCW 46.61.502 or 46.61.504 and who has two prior
10 offenses within seven years shall be punished as follows:

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

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

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

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

6 (i) By imprisonment for not less than one hundred twenty days nor
7 more than three hundred sixty-four days, if available in that county
8 or city, a six-month period of 24/7 sobriety program monitoring
9 pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty
10 days of electronic home monitoring. In lieu of the mandatory minimum
11 term of one hundred fifty days of electronic home monitoring, the
12 court may order at least an additional ten days in jail. The offender
13 shall pay for the cost of the electronic monitoring. The court shall
14 order an expanded alcohol assessment and treatment, if deemed
15 appropriate by the assessment. 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. One hundred twenty days of imprisonment and one hundred
22 fifty days of electronic home monitoring may not be suspended unless
23 the court finds that the imposition of this mandatory minimum
24 sentence would impose a substantial risk to the offender's physical
25 or mental well-being. Whenever the mandatory minimum sentence is
26 suspended, the court shall state in writing the reason for granting
27 the suspension and the facts upon which the suspension is based; and

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

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

35 (a) The person has three or more prior offenses within (~~ten~~)
36 fifteen years; or

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

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

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

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

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

6 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
7 require any person convicted of a violation of RCW 46.61.502 or
8 46.61.504 or an equivalent local ordinance to comply with the rules
9 and requirements of the department regarding the installation and use
10 of a functioning ignition interlock device installed on all motor
11 vehicles operated by the person.

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

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

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

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

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

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

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

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

7 (c) In any case in which the person has one prior offense within
8 seven years, and except as provided in RCW 46.61.502(6) or
9 46.61.504(6), order an additional five days of imprisonment and a
10 fine of not less than two thousand dollars and not more than five
11 thousand dollars. One thousand dollars of the fine may not be
12 suspended unless the court finds the offender to be indigent;

13 (d) In any case in which the person has two prior offense within
14 seven years, and except as provided in RCW 46.61.502(6) or
15 46.61.504(6), order an additional ten days of imprisonment and a fine
16 of not less than three thousand dollars and not more than ten
17 thousand dollars. One thousand dollars of the fine may not be
18 suspended unless the court finds the offender to be indigent.

19 (7) **Other items courts must consider while setting penalties.** In
20 exercising its discretion in setting penalties within the limits
21 allowed by this section, the court shall particularly consider the
22 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 Upon receipt of a notice from the court under RCW 36.28A.390 that
10 a participant has been removed from a 24/7 sobriety program, the
11 department must resume any suspension, revocation, or denial that had
12 been terminated early under this subsection due to participation in
13 the program, granting credit on a day-for-day basis for any portion
14 of a suspension, revocation, or denial already served under RCW
15 46.20.3101 or this section arising out of the same incident.

16 Upon its own motion or upon motion by a person, a court may find,
17 on the record, that notice to the department under RCW 46.20.270 has
18 been delayed for three years or more as a result of a clerical or
19 court error. If so, the court may order that the person's license,
20 permit, or nonresident privilege shall not be revoked, suspended, or
21 denied for that offense. The court shall send notice of the finding
22 and order to the department and to the person. Upon receipt of the
23 notice from the court, the department shall not revoke, suspend, or
24 deny the license, permit, or nonresident privilege of the person for
25 that offense.

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

29 **(10) Probation of driving privilege.** After expiration of any
30 period of suspension, revocation, or denial of the offender's
31 license, permit, or privilege to drive required by this section, the
32 department shall place the offender's driving privilege in
33 probationary status pursuant to RCW 46.20.355.

34 **(11) Conditions of probation.** (a) In addition to any
35 nonsuspendable and nondeferrable jail sentence required by this
36 section, whenever the court imposes up to three hundred sixty-four
37 days in jail, the court shall also suspend but shall not defer a
38 period of confinement for a period not exceeding five years. The
39 court shall impose conditions of probation that include: (i) Not
40 driving a motor vehicle within this state without a valid license to

1 drive; (ii) not driving a motor vehicle within this state without
2 proof of liability insurance or other financial responsibility for
3 the future pursuant to RCW 46.30.020; (iii) not driving or being in
4 physical control of a motor vehicle within this state while having an
5 alcohol concentration of 0.08 or more or a THC concentration of 5.00
6 nanograms per milliliter of whole blood or higher, within two hours
7 after driving; (iv) not refusing to submit to a test of his or her
8 breath or blood to determine alcohol or drug concentration upon
9 request of a law enforcement officer who has reasonable grounds to
10 believe the person was driving or was in actual physical control of a
11 motor vehicle within this state while under the influence of
12 intoxicating liquor or drug; and (v) not driving a motor vehicle in
13 this state without a functioning ignition interlock device as
14 required by the department under RCW 46.20.720. The court may impose
15 conditions of probation that include nonrepetition, installation of
16 an ignition interlock device on the probationer's motor vehicle,
17 alcohol or drug treatment, supervised probation, or other conditions
18 that may be appropriate. The sentence may be imposed in whole or in
19 part upon violation of a condition of probation during the suspension
20 period.

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

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

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

37 (a) The offender does not have a dwelling, telephone service, or
38 any other necessity to operate an electronic home monitoring system.
39 However, if a court determines that an alcohol monitoring device
40 utilizing wireless reporting technology is reasonably available, the

1 court may require the person to obtain such a device during the
2 period of required electronic home monitoring;

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (vii) A conviction for a violation of RCW 47.68.220 or an
5 equivalent local ordinance committed in a careless or reckless manner
6 if the conviction is the result of a charge that was originally filed
7 as a violation of RCW 47.68.220 or an equivalent local ordinance
8 while under the influence of intoxicating liquor or any drug;

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

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

13 (x) A conviction for a violation of RCW 46.61.520 committed while
14 under the influence of intoxicating liquor or any drug, or a
15 conviction for a violation of RCW 46.61.520 committed in a reckless
16 manner or with the disregard for the safety of others if the
17 conviction is the result of a charge that was originally filed as a
18 violation of RCW 46.61.520 committed while under the influence of
19 intoxicating liquor or any drug;

20 (xi) A conviction for a violation of RCW 46.61.522 committed
21 while under the influence of intoxicating liquor or any drug, or a
22 conviction for a violation of RCW 46.61.522 committed in a reckless
23 manner or with the disregard for the safety of others if the
24 conviction is the result of a charge that was originally filed as a
25 violation of RCW 46.61.522 committed while under the influence of
26 intoxicating liquor or any drug;

27 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
28 or 9A.36.050 or an equivalent local ordinance, if the conviction is
29 the result of a charge that was originally filed as a violation of
30 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
31 RCW 46.61.520 or 46.61.522;

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

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

38 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
39 prosecution for a violation of RCW 46.61.5249, or an equivalent local
40 ordinance, if the charge under which the deferred prosecution was

1 granted was originally filed as a violation of RCW 46.61.502 or
2 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
3 46.61.522;

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

10 (xvii) A deferred sentence imposed in a prosecution for a
11 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
12 equivalent local ordinance, if the charge under which the deferred
13 sentence was imposed was originally filed as a violation of RCW
14 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
15 violation of RCW 46.61.520 or 46.61.522;

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

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

22 (c) "Within seven years" means that the arrest for a prior
23 offense occurred within seven years before or after the arrest for
24 the current offense; and

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

28 (15) All fines imposed by this section apply to adult offenders
29 only.

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

32 (1) **No prior offenses in seven years.** Except as provided in RCW
33 46.61.502(6) or 46.61.504(6), a person who is convicted of a
34 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
35 within seven years shall be punished as follows:

36 (a) **Penalty for alcohol concentration less than 0.15.** In the case
37 of a person whose alcohol concentration was less than 0.15, or for
38 whom for reasons other than the person's refusal to take a test

1 offered pursuant to RCW 46.20.308 there is no test result indicating
2 the person's alcohol concentration:

3 (i) By imprisonment for not less than (~~one day~~) twenty-four
4 consecutive hours nor more than three hundred sixty-four days.
5 (~~Twenty-four consecutive hours of the imprisonment may not be~~
6 ~~suspended unless the court finds that the imposition of this~~
7 ~~mandatory minimum sentence would impose a substantial risk to the~~
8 ~~offender's physical or mental well-being. Whenever the mandatory~~
9 ~~minimum sentence is suspended, the court shall state in writing the~~
10 ~~reason for granting the suspension and the facts upon which the~~
11 ~~suspension is based.)) In lieu of the mandatory minimum term of~~
12 imprisonment required under this subsection (1)(a)(i), the court, in
13 its discretion, may order not less than fifteen days of electronic
14 home monitoring or a ninety-day period of 24/7 sobriety program
15 monitoring. The court may consider the offender's pretrial 24/7
16 sobriety program monitoring as fulfilling a portion of posttrial
17 sentencing. The offender shall pay the cost of electronic home
18 monitoring. The county or municipality in which the penalty is being
19 imposed shall determine the cost. The court may also require the
20 offender's electronic home monitoring device or other separate
21 alcohol monitoring device to include an alcohol detection
22 breathalyzer, and the court may restrict the amount of alcohol the
23 offender may consume during the time the offender is on electronic
24 home monitoring; and

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

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

34 (i) By imprisonment for not less than (~~two days~~) forty-eight
35 consecutive hours nor more than three hundred sixty-four days.
36 (~~Forty-eight consecutive hours of the imprisonment may not be~~
37 ~~suspended unless the court finds that the imposition of this~~
38 ~~mandatory minimum sentence would impose a substantial risk to the~~
39 ~~offender's physical or mental well-being. Whenever the mandatory~~
40 ~~minimum sentence is suspended, the court shall state in writing the~~

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

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

19 (2) **One prior offense in seven years.** Except as provided in RCW
20 46.61.502(6) or 46.61.504(6), a person who is convicted of a
21 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
22 within seven years shall be punished as follows:

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

28 (i) By imprisonment for not less than thirty days nor more than
29 three hundred sixty-four days and sixty days of electronic home
30 monitoring. Thirty days of imprisonment and sixty days of electronic
31 home monitoring may not be suspended unless the court finds that the
32 imposition of this mandatory minimum sentence would impose a
33 substantial risk to the offender's physical or mental well-being. If
34 the offender shows that the imposition of this mandatory minimum
35 sentence would impose a substantial risk to the offender's physical
36 or mental well-being, in lieu of the mandatory term of imprisonment
37 and electronic home monitoring under this subsection (2)(a)(i), the
38 court may order a minimum of (~~four days in jail and~~) either one
39 hundred eighty days of electronic home monitoring or a one hundred
40 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW

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

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

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

29 (i) By imprisonment for not less than forty-five days nor more
30 than three hundred sixty-four days and ninety days of electronic home
31 monitoring. Forty-five days of imprisonment and ninety days of
32 electronic home monitoring may not be suspended unless the court
33 finds that the imposition of this mandatory minimum sentence would
34 impose a substantial risk to the offender's physical or mental well-
35 being. If the offender shows that the imposition of this mandatory
36 minimum sentence would impose a substantial risk to the offender's
37 physical or mental well-being, in lieu of the mandatory minimum term
38 of imprisonment and electronic home monitoring under this subsection
39 (2)(b)(i), the court may order a minimum of (~~six days in jail and~~)
40 either six months of electronic home monitoring or a one hundred

1 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW
2 36.28A.300 through 36.28A.390. Whenever the mandatory minimum
3 sentence is suspended, the court shall state in writing the reason
4 for granting the suspension and the facts upon which the suspension
5 is based. The court may consider the offender's pretrial 24/7
6 sobriety program monitoring as fulfilling a portion of posttrial
7 sentencing. The court shall order an expanded alcohol assessment and
8 treatment, if deemed appropriate by the assessment. The offender
9 shall pay for the cost of the electronic monitoring. 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(~~(. Forty-five days of imprisonment and~~
16 ~~ninety days of electronic home monitoring may not be suspended unless~~
17 ~~the court finds that the imposition of this mandatory minimum~~
18 ~~sentence would impose a substantial risk to the offender's physical~~
19 ~~or mental well-being. Whenever the mandatory minimum sentence is~~
20 ~~suspended, the court shall state in writing the reason for granting~~
21 ~~the suspension and the facts upon which the suspension is based));~~
22 and

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

27 (3) **Two prior offenses in seven years.** Except as provided in RCW
28 46.61.502(6) or 46.61.504(6), a person who is convicted of a
29 violation of RCW 46.61.502 or 46.61.504 and who has two prior
30 offenses within seven years shall be punished as follows:

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

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

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

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

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

38 (i) By imprisonment for not less than one hundred twenty days nor
39 more than three hundred sixty-four days, if available in that county
40 or city, a six-month period of 24/7 sobriety program monitoring

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

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

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

1 (a) The person has three or more prior offenses within fifteen
2 years; or
3 (b) The person has ever previously been convicted of:
4 (i) A violation of RCW 46.61.520 committed while under the
5 influence of intoxicating liquor or any drug;
6 (ii) A violation of RCW 46.61.522 committed while under the
7 influence of intoxicating liquor or any drug;
8 (iii) An out-of-state offense comparable to the offense specified
9 in (b) (i) or (ii) of this subsection; or
10 (iv) A violation of RCW 46.61.502(6) or 46.61.504(6).
11 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
12 require any person convicted of a violation of RCW 46.61.502 or
13 46.61.504 or an equivalent local ordinance to comply with the rules
14 and requirements of the department regarding the installation and use
15 of a functioning ignition interlock device installed on all motor
16 vehicles operated by the person.
17 (b) **Monitoring devices.** If the court orders that a person refrain
18 from consuming any alcohol, the court may order the person to submit
19 to alcohol monitoring through an alcohol detection breathalyzer
20 device, transdermal sensor device, or other technology designed to
21 detect alcohol in a person's system. The person shall pay for the
22 cost of the monitoring, unless the court specifies that the cost of
23 monitoring will be paid with funds that are available from an
24 alternative source identified by the court. The county or
25 municipality where the penalty is being imposed shall determine the
26 cost.
27 (c) **24/7 sobriety program monitoring.** In any county or city where
28 a 24/7 sobriety program is available and verified by the Washington
29 association of sheriffs and police chiefs, the court shall:
30 (i) Order the person to install and use a functioning ignition
31 interlock or other device in lieu of such period of 24/7 sobriety
32 program monitoring;
33 (ii) Order the person to a period of 24/7 sobriety program
34 monitoring pursuant to subsections (1) through (3) of this section;
35 or
36 (iii) Order the person to install and use a functioning ignition
37 interlock or other device in addition to a period of 24/7 sobriety
38 program monitoring pursuant to subsections (1) through (3) of this
39 section.

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

5 (a) Order the use of an ignition interlock or other device for an
6 additional ((six)) twelve months for each passenger under the age of
7 sixteen when the person is subject to the penalties under subsection
8 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an
9 ignition interlock device for an additional eighteen months for each
10 passenger under the age of sixteen when the person is subject to the
11 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this
12 section;

13 (b) In any case in which the person has no prior offenses within
14 seven years, and except as provided in RCW 46.61.502(6) or
15 46.61.504(6), order an additional twenty-four hours of imprisonment
16 to be served consecutively for each passenger under the age of
17 sixteen, and a fine of not less than one thousand dollars and not
18 more than five thousand dollars for each passenger under the age of
19 sixteen. One thousand dollars of the fine for each passenger under
20 the age of sixteen may not be suspended unless the court finds the
21 offender to be indigent;

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

31 (d) In any case in which the person has two prior offenses within
32 seven years, and except as provided in RCW 46.61.502(6) or
33 46.61.504(6), order an additional ten days of imprisonment to be
34 served consecutively for each passenger under the age of sixteen, and
35 a fine of not less than three thousand dollars and not more than ten
36 thousand dollars for each passenger under the age of sixteen. One
37 thousand dollars of the fine for each passenger under the age of
38 sixteen may not be suspended unless the court finds the offender to
39 be indigent.

1 (7) **Other items courts must consider while setting penalties.** In
2 exercising its discretion in setting penalties within the limits
3 allowed by this section, the court shall particularly consider the
4 following:

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

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

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

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

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

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

22 ~~((a))~~ (i) **Penalty for alcohol concentration less than 0.15.** If
23 the person's alcohol concentration was less than 0.15, or if for
24 reasons other than the person's refusal to take a test offered under
25 RCW 46.20.308 there is no test result indicating the person's alcohol
26 concentration:

27 ~~((i))~~ (A) Where there has been no prior offense within seven
28 years, be suspended or denied by the department for ninety days or
29 until the person is evaluated by an alcoholism agency or probation
30 department pursuant to RCW 46.20.311 and the person completes or is
31 enrolled in a ninety-day period of 24/7 sobriety program monitoring.
32 In no circumstances shall the license suspension be for fewer than
33 two days;

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

1 ((~~iii~~)) (C) Where there have been two or more prior offenses
2 within seven years, be revoked or denied by the department for three
3 years;

4 ((~~b~~)) (ii) **Penalty for alcohol concentration at least 0.15.** If
5 the person's alcohol concentration was at least 0.15:

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

13 ((~~ii~~)) (B) Where there has been one prior offense within seven
14 years, be revoked or denied by the department for nine hundred days;
15 or

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

19 ((~~e~~)) (iii) **Penalty for refusing to take test.** If by reason of
20 the person's refusal to take a test offered under RCW 46.20.308,
21 there is no test result indicating the person's alcohol
22 concentration:

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

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

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

30 (b)(i) The department shall grant credit on a day-for-day basis
31 for (~~any portion of~~) a suspension, revocation, or denial (~~already~~
32 ~~served~~) imposed under this subsection (9) for any portion of a
33 suspension, revocation, or denial (~~imposed~~) already served under
34 RCW 46.20.3101 arising out of the same incident.

35 (ii) If a person has already served a suspension, revocation, or
36 denial under RCW 46.20.3101 for a period equal to or greater than the
37 period imposed under this subsection (9), the department shall
38 provide notice of full credit, shall provide for no further
39 suspension or revocation under this subsection provided the person
40 has completed the requirements under RCW 46.20.311 and paid the

1 probationary license fee under RCW 46.20.355 by the date specified in
2 the notice under RCW 46.20.245, and shall impose no additional
3 reissue fees for this credit.

4 (c) Upon receipt of a notice from the court under RCW 36.28A.390
5 that a participant has been removed from a 24/7 sobriety program, the
6 department must resume any suspension, revocation, or denial that had
7 been terminated early under this subsection due to participation in
8 the program, granting credit on a day-for-day basis for any portion
9 of a suspension, revocation, or denial already served under RCW
10 46.20.3101 or this section arising out of the same incident.

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

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

24 (10) **Probation of driving privilege.** After expiration of any
25 period of suspension, revocation, or denial of the offender's
26 license, permit, or privilege to drive required by this section, the
27 department shall place the offender's driving privilege in
28 probationary status pursuant to RCW 46.20.355.

29 (11) **Conditions of probation.** (a) In addition to any
30 nonsuspendable and nondeferrable jail sentence required by this
31 section, whenever the court imposes up to three hundred sixty-four
32 days in jail, the court shall also suspend but shall not defer a
33 period of confinement for a period not exceeding five years. The
34 court shall impose conditions of probation that include: (i) Not
35 driving a motor vehicle within this state without a valid license to
36 drive; (ii) not driving a motor vehicle within this state without
37 proof of liability insurance or other financial responsibility for
38 the future pursuant to RCW 46.30.020; (iii) not driving or being in
39 physical control of a motor vehicle within this state while having an
40 alcohol concentration of 0.08 or more or a THC concentration of 5.00

1 nanograms per milliliter of whole blood or higher, within two hours
2 after driving; (iv) not refusing to submit to a test of his or her
3 breath or blood to determine alcohol or drug concentration upon
4 request of a law enforcement officer who has reasonable grounds to
5 believe the person was driving or was in actual physical control of a
6 motor vehicle within this state while under the influence of
7 intoxicating liquor or drug; and (v) not driving a motor vehicle in
8 this state without a functioning ignition interlock device as
9 required by the department under RCW 46.20.720. The court may impose
10 conditions of probation that include nonrepetition, installation of
11 an ignition interlock device on the probationer's motor vehicle,
12 alcohol or drug treatment, supervised probation, or other conditions
13 that may be appropriate. The sentence may be imposed in whole or in
14 part upon violation of a condition of probation during the suspension
15 period.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (vii) A conviction for a violation of RCW 47.68.220 or an
2 equivalent local ordinance committed in a careless or reckless manner
3 if the conviction is the result of a charge that was originally filed
4 as a violation of RCW 47.68.220 or an equivalent local ordinance
5 while under the influence of intoxicating liquor or any drug;

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

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

10 (x) A conviction for a violation of RCW 46.61.520 committed while
11 under the influence of intoxicating liquor or any drug, or a
12 conviction for a violation of RCW 46.61.520 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 46.61.520 committed while under the influence of
16 intoxicating liquor or any drug;

17 (xi) A conviction for a violation of RCW 46.61.522 committed
18 while under the influence of intoxicating liquor or any drug, or a
19 conviction for a violation of RCW 46.61.522 committed in a reckless
20 manner or with the disregard for the safety of others if the
21 conviction is the result of a charge that was originally filed as a
22 violation of RCW 46.61.522 committed while under the influence of
23 intoxicating liquor or any drug;

24 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
25 or 9A.36.050 or an equivalent local ordinance, if the conviction is
26 the result of a charge that was originally filed as a violation of
27 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
28 RCW 46.61.520 or 46.61.522;

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

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

35 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
36 prosecution for a violation of RCW 46.61.5249, or an equivalent local
37 ordinance, if the charge under which the deferred prosecution was
38 granted was originally filed as a violation of RCW 46.61.502 or
39 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
40 46.61.522;

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

7 (xvii) A deferred sentence imposed in a prosecution for a
8 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
9 equivalent local ordinance, if the charge under which the deferred
10 sentence was imposed was originally filed as a violation of RCW
11 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
12 violation of RCW 46.61.520 or 46.61.522;

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

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

19 (c) "Within seven years" means that the arrest for a prior
20 offense occurred within seven years before or after the arrest for
21 the current offense; and

22 (d) "Within fifteen years" means that the arrest for a prior
23 offense occurred within fifteen years before or after the arrest for
24 the current offense.

25 (15) All fines imposed by this section apply to adult offenders
26 only.

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

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

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

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

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

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

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

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 driving and before
11 the administration of an analysis of the person's breath or blood to
12 cause the defendant's alcohol concentration to be 0.08 or more within
13 two hours after driving. The court shall not admit evidence of this
14 defense unless the defendant notifies the prosecution prior to the
15 omnibus or pretrial hearing in the case of the defendant's intent to
16 assert the affirmative defense.

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

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

35 (b) Analyses of blood samples obtained more than two hours after
36 the alleged driving may be used as evidence that within two hours of
37 the alleged driving, a person had a THC concentration of 5.00 or more
38 in violation of subsection (1)(b) of this section, and in any case in
39 which the analysis shows a THC concentration above 0.00 may be used

1 as evidence that a person was under the influence of or affected by
2 marijuana in violation of subsection (1)(c) or (d) of this section.

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

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

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

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

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

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

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

16 (iv) A violation of this subsection (6) or RCW 46.61.504(6).

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

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

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

23 (1) A prior conviction is a conviction which exists before the
24 date of sentencing for the offense for which the offender score is
25 being computed. Convictions entered or sentenced on the same date as
26 the conviction for which the offender score is being computed shall
27 be deemed "other current offenses" within the meaning of RCW
28 9.94A.589.

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

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

38 (c) Except as provided in (e) of this subsection, class C prior
39 felony convictions other than sex offenses shall not be included in

1 the offender score if, since the last date of release from
2 confinement (including full-time residential treatment) pursuant to a
3 felony conviction, if any, or entry of judgment and sentence, the
4 offender had spent five consecutive years in the community without
5 committing any crime that subsequently results in a conviction.

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

13 (e) If the present conviction is felony driving while under the
14 influence of intoxicating liquor or any drug (RCW 46.61.502(6)) or
15 felony physical control of a vehicle while under the influence of
16 intoxicating liquor or any drug (RCW 46.61.504(6)), all predicate
17 crimes for the offense as defined by RCW 46.61.5055(14) shall be
18 included in the offender score, and prior convictions for felony
19 driving while under the influence of intoxicating liquor or any drug
20 (RCW 46.61.502(6)) or felony physical control of a vehicle while
21 under the influence of intoxicating liquor or any drug (RCW
22 46.61.504(6)) shall always be included in the offender score. All
23 other convictions of the defendant shall be scored according to this
24 section.

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

31 (g) This subsection applies to both adult and juvenile prior
32 convictions.

33 (3) Out-of-state convictions for offenses shall be classified
34 according to the comparable offense definitions and sentences
35 provided by Washington law. Federal convictions for offenses shall be
36 classified according to the comparable offense definitions and
37 sentences provided by Washington law. If there is no clearly
38 comparable offense under Washington law or the offense is one that is
39 usually considered subject to exclusive federal jurisdiction, the

1 offense shall be scored as a class C felony equivalent if it was a
2 felony under the relevant federal statute.

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

6 (5) (a) In the case of multiple prior convictions, for the purpose
7 of computing the offender score, count all convictions separately,
8 except:

9 (i) Prior offenses which were found, under RCW 9.94A.589(1) (a),
10 to encompass the same criminal conduct, shall be counted as one
11 offense, the offense that yields the highest offender score. The
12 current sentencing court shall determine with respect to other prior
13 adult offenses for which sentences were served concurrently or prior
14 juvenile offenses for which sentences were served consecutively,
15 whether those offenses shall be counted as one offense or as separate
16 offenses using the "same criminal conduct" analysis found in RCW
17 9.94A.589(1) (a), and if the court finds that they shall be counted as
18 one offense, then the offense that yields the highest offender score
19 shall be used. The current sentencing court may presume that such
20 other prior offenses were not the same criminal conduct from
21 sentences imposed on separate dates, or in separate counties or
22 jurisdictions, or in separate complaints, indictments, or
23 informations;

24 (ii) In the case of multiple prior convictions for offenses
25 committed before July 1, 1986, for the purpose of computing the
26 offender score, count all adult convictions served concurrently as
27 one offense, and count all juvenile convictions entered on the same
28 date as one offense. Use the conviction for the offense that yields
29 the highest offender score.

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

36 (6) If the present conviction is one of the anticipatory offenses
37 of criminal attempt, solicitation, or conspiracy, count each prior
38 conviction as if the present conviction were for a completed offense.
39 When these convictions are used as criminal history, score them the
40 same as a completed crime.

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

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

12 (9) If the present conviction is for a serious violent offense,
13 count three points for prior adult and juvenile convictions for
14 crimes in this category, two points for each prior adult and juvenile
15 violent conviction (not already counted), one point for each prior
16 adult nonviolent felony conviction, and 1/2 point for each prior
17 juvenile nonviolent felony conviction.

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

23 (11) If the present conviction is for a felony traffic offense
24 count two points for each adult or juvenile prior conviction for
25 Vehicular Homicide or Vehicular Assault; for each felony offense
26 count one point for each adult and 1/2 point for each juvenile prior
27 conviction; for each serious traffic offense, other than those used
28 for an enhancement pursuant to RCW 46.61.520(2), count one point for
29 each adult and 1/2 point for each juvenile prior conviction; count
30 one point for each adult and 1/2 point for each juvenile prior
31 conviction for operation of a vessel while under the influence of
32 intoxicating liquor or any drug.

33 (12) If the present conviction is for homicide by watercraft or
34 assault by watercraft count two points for each adult or juvenile
35 prior conviction for homicide by watercraft or assault by watercraft;
36 for each felony offense count one point for each adult and 1/2 point
37 for each juvenile prior conviction; count one point for each adult
38 and 1/2 point for each juvenile prior conviction for driving under
39 the influence of intoxicating liquor or any drug, actual physical
40 control of a motor vehicle while under the influence of intoxicating

1 liquor or any drug, or operation of a vessel while under the
2 influence of intoxicating liquor or any drug.

3 (13) If the present conviction is for manufacture of
4 methamphetamine count three points for each adult prior manufacture
5 of methamphetamine conviction and two points for each juvenile
6 manufacture of methamphetamine offense. If the present conviction is
7 for a drug offense and the offender has a criminal history that
8 includes a sex offense or serious violent offense, count three points
9 for each adult prior felony drug offense conviction and two points
10 for each juvenile drug offense. All other adult and juvenile felonies
11 are scored as in subsection (8) of this section if the current drug
12 offense is violent, or as in subsection (7) of this section if the
13 current drug offense is nonviolent.

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

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

21 (16) If the present conviction is for Burglary 2 or residential
22 burglary, count priors as in subsection (7) of this section; however,
23 count two points for each adult and juvenile prior Burglary 1
24 conviction, two points for each adult prior Burglary 2 or residential
25 burglary conviction, and one point for each juvenile prior Burglary 2
26 or residential burglary conviction.

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

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

38 (19) If the present conviction is for an offense committed while
39 the offender was under community custody, add one point. For purposes

1 of this subsection, community custody includes community placement or
2 postrelease supervision, as defined in chapter 9.94B RCW.

3 (20) If the present conviction is for Theft of a Motor Vehicle,
4 Possession of a Stolen Vehicle, Taking a Motor Vehicle Without
5 Permission 1, or Taking a Motor Vehicle Without Permission 2, count
6 priors as in subsections (7) through (18) of this section; however
7 count one point for prior convictions of Vehicle Prowling 2, and
8 three points for each adult and juvenile prior Theft 1 (of a motor
9 vehicle), Theft 2 (of a motor vehicle), Possession of Stolen Property
10 1 (of a motor vehicle), Possession of Stolen Property 2 (of a motor
11 vehicle), Theft of a Motor Vehicle, Possession of a Stolen Vehicle,
12 Taking a Motor Vehicle Without Permission 1, or Taking a Motor
13 Vehicle Without Permission 2 conviction.

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

18 (a) Count two points for each adult prior conviction where
19 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
20 after August 1, 2011, for any of the following offenses: A felony
21 violation of a no-contact or protection order RCW 26.50.110, felony
22 Harassment (RCW 9A.46.020(2)(b)), felony Stalking (RCW
23 9A.46.110(5)(b)), Burglary 1 (RCW 9A.52.020), Kidnapping 1 (RCW
24 9A.40.020), Kidnapping 2 (RCW 9A.40.030), Unlawful imprisonment (RCW
25 9A.40.040), Robbery 1 (RCW 9A.56.200), Robbery 2 (RCW 9A.56.210),
26 Assault 1 (RCW 9A.36.011), Assault 2 (RCW 9A.36.021), Assault 3 (RCW
27 9A.36.031), Arson 1 (RCW 9A.48.020), or Arson 2 (RCW 9A.48.030);

28 (b) Count two points for each adult prior conviction where
29 domestic violence as defined in RCW 9.94A.030 was pleaded and proven
30 after July 23, 2017, for any of the following offenses: Assault of a
31 child in the first degree, RCW 9A.36.120; Assault of a child in the
32 second degree, RCW 9A.36.130; Assault of a child in the third degree,
33 RCW 9A.36.140; Criminal Mistreatment in the first degree, RCW
34 9A.42.020; or Criminal Mistreatment in the second degree, RCW
35 9A.42.030;

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

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

5 (22) The fact that a prior conviction was not included in an
6 offender's offender score or criminal history at a previous
7 sentencing shall have no bearing on whether it is included in the
8 criminal history or offender score for the current offense. Prior
9 convictions that were not counted in the offender score or included
10 in criminal history under repealed or previous versions of the
11 sentencing reform act shall be included in criminal history and shall
12 count in the offender score if the current version of the sentencing
13 reform act requires including or counting those convictions. Prior
14 convictions that were not included in criminal history or in the
15 offender score shall be included upon any resentencing to ensure
16 imposition of an accurate sentence.

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

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

23 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
24 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
25 driving privilege of any person is suspended by reason of a
26 conviction, a finding that a traffic infraction has been committed,
27 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
28 46.20.308, the suspension shall remain in effect until the person
29 gives and thereafter maintains proof of financial responsibility for
30 the future as provided in chapter 46.29 RCW.

31 (c) If the suspension is the result of a nonfelony violation of
32 RCW 46.61.502 or 46.61.504, the department shall determine the
33 person's eligibility for licensing based upon the reports provided by
34 the alcoholism agency or probation department designated under RCW
35 46.61.5056 and shall deny reinstatement until enrollment and
36 participation in an approved program has been established and the
37 person is otherwise qualified. If the suspension is the result of a
38 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
39 determine the person's eligibility for licensing based upon the

1 reports provided by the alcohol or drug dependency agency required
2 under RCW 46.61.524 and shall deny reinstatement until satisfactory
3 progress in an approved program has been established and the person
4 is otherwise qualified. If the suspension is the result of a
5 violation of RCW 46.61.502 or 46.61.504, and the person is required
6 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
7 a functioning ignition interlock, the department shall determine the
8 person's eligibility for licensing based upon written verification by
9 a company doing business in the state that it has installed the
10 required device on a vehicle owned or operated by the person seeking
11 reinstatement. The department may waive the requirement for written
12 verification under this subsection if it determines to its
13 satisfaction that a device previously verified as having been
14 installed on a vehicle owned or operated by the person is still
15 installed and functioning or as permitted by RCW 46.20.720(8). If,
16 based upon notification from the interlock provider or otherwise, the
17 department determines that an interlock required under RCW 46.20.720
18 is no longer installed or functioning as required, the department
19 shall suspend the person's license or privilege to drive. Whenever
20 the license or driving privilege of any person is suspended or
21 revoked as a result of noncompliance with an ignition interlock
22 requirement, the suspension shall remain in effect until the person
23 provides notice issued by a company doing business in the state that
24 a vehicle owned or operated by the person is equipped with a
25 functioning ignition interlock device.

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

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

35 (ii) If the suspension is the result of a violation of RCW
36 46.61.502 or 46.61.504, or is the result of administrative action
37 under RCW 46.20.308, the reissue fee shall be one hundred (~~fifty~~)
38 seventy-five dollars.

39 (2)(a) Any person whose license or privilege to drive a motor
40 vehicle on the public highways has been revoked, unless the

1 revocation was for a cause which has been removed, is not entitled to
2 have the license or privilege renewed or restored until: (i) After
3 the expiration of one year from the date the license or privilege to
4 drive was revoked; (ii) after the expiration of the applicable
5 revocation period provided by RCW 46.20.3101 or 46.61.5055; (iii)
6 after the expiration of two years for persons convicted of vehicular
7 homicide; or (iv) after the expiration of the applicable revocation
8 period provided by RCW 46.20.265.

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

12 (ii) If the revocation is the result of a violation of RCW
13 46.20.308, 46.61.502, or 46.61.504, the reissue fee shall be one
14 hundred (~~(fifty)~~) seventy-five dollars. If the revocation is the
15 result of a nonfelony violation of RCW 46.61.502 or 46.61.504, the
16 department shall determine the person's eligibility for licensing
17 based upon the reports provided by the alcoholism agency or probation
18 department designated under RCW 46.61.5056 and shall deny reissuance
19 of a license, permit, or privilege to drive until enrollment and
20 participation in an approved program has been established and the
21 person is otherwise qualified. If the suspension is the result of a
22 violation of RCW 46.61.502(6) or 46.61.504(6), the department shall
23 determine the person's eligibility for licensing based upon the
24 reports provided by the alcohol or drug dependency agency required
25 under RCW 46.61.524 and shall deny reinstatement until satisfactory
26 progress in an approved program has been established and the person
27 is otherwise qualified. If the revocation is the result of a
28 violation of RCW 46.61.502 or 46.61.504, and the person is required
29 pursuant to RCW 46.20.720 to drive only a motor vehicle equipped with
30 a functioning ignition interlock or other biological or technical
31 device, the department shall determine the person's eligibility for
32 licensing based upon written verification by a company doing business
33 in the state that it has installed the required device on a vehicle
34 owned or operated by the person applying for a new license. The
35 department may waive the requirement for written verification under
36 this subsection if it determines to its satisfaction that a device
37 previously verified as having been installed on a vehicle owned or
38 operated by the person is still installed and functioning or as
39 permitted by RCW 46.20.720(8). If, following issuance of a new
40 license, the department determines, based upon notification from the

1 interlock provider or otherwise, that an interlock required under RCW
2 46.20.720 is no longer functioning, the department shall suspend the
3 person's license or privilege to drive until the department has
4 received written verification from an interlock provider that a
5 functioning interlock is installed.

6 (c) Except for a revocation under RCW 46.20.265, the department
7 shall not then issue a new license unless it is satisfied after
8 investigation of the driving ability of the person that it will be
9 safe to grant the privilege of driving a motor vehicle on the public
10 highways, and until the person gives and thereafter maintains proof
11 of financial responsibility for the future as provided in chapter
12 46.29 RCW. For a revocation under RCW 46.20.265, the department shall
13 not issue a new license unless it is satisfied after investigation of
14 the driving ability of the person that it will be safe to grant that
15 person the privilege of driving a motor vehicle on the public
16 highways.

17 (3) (a) Whenever the driver's license of any person is suspended
18 pursuant to Article IV of the nonresident violators compact or RCW
19 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not
20 issue to the person any new or renewal license until the person pays
21 a reissue fee of seventy-five dollars.

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

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

31 (1) (a) Any person licensed under this chapter or who has a valid
32 driver's license from another state, who is convicted of: (i) A
33 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or
34 out-of-state statute or ordinance, or (ii) a violation of RCW
35 46.61.520(1)(a) or an equivalent local or out-of-state statute or
36 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
37 (b) or (c) if the conviction is the result of a charge that was
38 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
39 46.61.522(1)(b) or an equivalent local or out-of-state statute or

1 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
2 the result of a charge that was originally filed as a violation of
3 RCW 46.61.522(1)(b) committed while under the influence of
4 intoxicating liquor or any drug, or (vi) who has had or will have his
5 or her license suspended, revoked, or denied under RCW 46.20.3101, or
6 who is otherwise permitted under subsection (8) of this section, may
7 submit to the department an application for an ignition interlock
8 driver's license. The department, upon receipt of the prescribed fee
9 and upon determining that the petitioner is eligible to receive the
10 license, may issue an ignition interlock driver's license.

11 (b) A person may apply for an ignition interlock driver's license
12 anytime, including immediately after receiving the notices under RCW
13 46.20.308 or after his or her license is suspended, revoked, or
14 denied.

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

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

23 (ii) Subject to any periodic renewal requirements established by
24 the department under this section and subject to any applicable
25 compliance requirements under this chapter or other law, an ignition
26 interlock driver's license granted upon a suspension or revocation
27 under RCW 46.61.5055 or 46.20.3101 extends through the remaining
28 portion of any concurrent or consecutive suspension or revocation
29 that may be imposed as the result of administrative action and
30 criminal conviction arising out of the same incident.

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

35 (3) Upon receipt of evidence that a holder of an ignition
36 interlock driver's license granted under this subsection no longer
37 has a functioning ignition interlock device installed on all vehicles
38 operated by the driver, the director shall give written notice by
39 first-class mail to the driver that the ignition interlock driver's
40 license shall be canceled. If at any time before the cancellation

1 goes into effect the driver submits evidence that a functioning
2 ignition interlock device has been installed on all vehicles operated
3 by the driver, the cancellation shall be stayed. If the cancellation
4 becomes effective, the driver may obtain, at no additional charge, a
5 new ignition interlock driver's license upon submittal of evidence
6 that a functioning ignition interlock device has been installed on
7 all vehicles operated by the driver.

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

11 (5) The director shall cancel an ignition interlock driver's
12 license after receiving notice that the holder thereof has been
13 convicted of operating a motor vehicle in violation of its
14 restrictions, no longer meets the eligibility requirements, or has
15 been convicted of or found to have committed a separate offense or
16 any other act or omission that under this chapter would warrant
17 suspension or revocation of a regular driver's license. The
18 department must give notice of the cancellation as provided under RCW
19 46.20.245. A person whose ignition interlock driver's license has
20 been canceled under this section may reapply for a new ignition
21 interlock driver's license if he or she is otherwise qualified under
22 this section and pays the fee required under RCW 46.20.380.

23 (6) (a) Unless costs are waived by the ignition interlock company
24 or the person is indigent under RCW 10.101.010, the applicant shall
25 pay the cost of installing, removing, and leasing the ignition
26 interlock device and shall pay an additional fee of twenty-one
27 dollars per month. Payments shall be made directly to the ignition
28 interlock company. The company shall remit the additional fee to the
29 department, except that the company may retain twenty-five cents per
30 month of the additional fee to cover the expenses associated with
31 administering the fee.

32 (b) The department shall deposit the proceeds of the twenty-one
33 dollar fee into the ignition interlock device revolving account.
34 Expenditures from the account may be used only to administer and
35 operate the ignition interlock device revolving account program. The
36 department shall adopt rules to provide monetary assistance according
37 to greatest need and when funds are available.

38 (7) The department shall adopt rules to implement ignition
39 interlock licensing. The department shall consult with the
40 administrative office of the courts, the state patrol, the Washington

1 association of sheriffs and police chiefs, ignition interlock
2 companies, and any other organization or entity the department deems
3 appropriate.

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

9 (b) A person who does not have any driver's license under this
10 chapter, but who would otherwise be eligible under this section to
11 apply for an ignition interlock license, may submit to the department
12 an application for an ignition interlock license. The department may
13 require the person to take any driver's licensing examination under
14 this chapter and may require the person to also apply and qualify for
15 a temporary restricted driver's license under RCW 46.20.391.

16 NEW SECTION. **Sec. 21.** (1) Within existing resources, the
17 Washington association of sheriffs and police chiefs shall review
18 current laws and regulations regarding the sentencing structure for
19 impaired driving offenses in an effort to reduce fatalities from
20 individuals driving under the influence. The review must include
21 looking at lookback periods, number of previous offenses, and other
22 possible recommendations to reduce these fatalities. The Washington
23 association of sheriffs and police chiefs shall provide its
24 recommendations to the governor and appropriate committees of the
25 legislature by December 1, 2019.

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

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

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

ESHB 1504 - S COMM AMD
By Committee on Transportation

ADOPTED AS AMENDED 04/17/2019

1 On page 1, line 1 of the title, after "driving;" strike the
2 remainder of the title and insert "amending RCW 9.94A.533, 9.94A.729,
3 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.720, 46.20.740,
4 46.20.750, 46.55.113, 46.61.500, 46.61.503, 46.61.504, 46.61.5055,
5 46.61.5055, 46.61.502, 9.94A.525, 46.20.311, and 46.20.385;
6 reenacting and amending RCW 46.20.355; creating a new section;
7 repealing RCW 43.43.3951; prescribing penalties; providing an
8 effective date; and providing an expiration date."

EFFECT: (1) Revises the lookback provision for prior offenses from a ten-year lookback to a fifteen-year lookback when a person has three or more prior convictions for driving under the influence or physical control of a motor vehicle under the influence.

(2) Excludes a driver who has disability parking privileges from the Department of Licensing from the requirement of moving out of the driver's seat for purposes of an affirmative defense to physical control of a vehicle under the influence.

(3) Removes changes to the current qualifications for forensic phlebotomists.

(4) Increases the driver's license reinstatement fee for an alcohol related suspension from \$150 to \$175.

(5) Increases the ignition interlock monthly fee from \$20 to \$21.

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