
THIRD SUBSTITUTE HOUSE BILL 1504

State of Washington **66th Legislature** **2020 Regular Session**

By House Transportation (originally sponsored by Representatives Klippert and Goodman)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to impaired driving; amending RCW 9.94A.533,
2 9.94A.729, 10.21.055, 38.52.430, 46.20.245, 46.20.3101, 46.20.311,
3 46.20.385, 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500,
4 46.61.5055, 46.61.5056, and 46.61.524; reenacting and amending RCW
5 46.20.355; repealing RCW 43.43.3951; prescribing penalties; and
6 providing an effective date.

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

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

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

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

18 (3) The following additional times shall be added to the standard
19 sentence range for felony crimes committed after July 23, 1995, if
20 the offender or an accomplice was armed with a firearm as defined in
21 RCW 9.41.010 and the offender is being sentenced for one of the

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

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

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

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

23 (d) If the offender is being sentenced for any firearm
24 enhancements under (a), (b), and/or (c) of this subsection and the
25 offender has previously been sentenced for any deadly weapon
26 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
27 subsection or subsection (4)(a), (b), and/or (c) of this section, or
28 both, all firearm enhancements under this subsection shall be twice
29 the amount of the enhancement listed;

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

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

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

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

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

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

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

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

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

1 (d) If the offender is being sentenced under (a), (b), and/or (c)
2 of this subsection for any deadly weapon enhancements and the
3 offender has previously been sentenced for any deadly weapon
4 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
5 subsection or subsection (3)(a), (b), and/or (c) of this section, or
6 both, all deadly weapon enhancements under this subsection shall be
7 twice the amount of the enhancement listed;

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

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

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

18 (f) The deadly weapon enhancements in this section shall apply to
19 all felony crimes except the following: Possession of a machine gun
20 or bump-fire stock, possessing a stolen firearm, drive-by shooting,
21 theft of a firearm, unlawful possession of a firearm in the first and
22 second degree, and use of a machine gun or bump-fire stock in a
23 felony;

24 (g) If the standard sentence range under this section exceeds the
25 statutory maximum sentence for the offense, the statutory maximum
26 sentence shall be the presumptive sentence unless the offender is a
27 persistent offender. If the addition of a deadly weapon enhancement
28 increases the sentence so that it would exceed the statutory maximum
29 for the offense, the portion of the sentence representing the
30 enhancement may not be reduced.

31 (5) The following additional times shall be added to the standard
32 sentence range if the offender or an accomplice committed the offense
33 while in a county jail or state correctional facility and the
34 offender is being sentenced for one of the crimes listed in this
35 subsection. If the offender or an accomplice committed one of the
36 crimes listed in this subsection while in a county jail or state
37 correctional facility, and the offender is being sentenced for an
38 anticipatory offense under chapter 9A.28 RCW to commit one of the
39 crimes listed in this subsection, the following additional times

1 shall be added to the standard sentence range determined under
2 subsection (2) of this section:

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

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

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

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

11 (6) An additional twenty-four months shall be added to the
12 standard sentence range for any ranked offense involving a violation
13 of chapter 69.50 RCW if the offense was also a violation of RCW
14 69.50.435 or 9.94A.827. All enhancements under this subsection shall
15 run consecutively to all other sentencing provisions, for all
16 offenses sentenced under this chapter.

17 (7) An additional two years shall be added to the standard
18 sentence range for vehicular homicide committed while under the
19 influence of intoxicating liquor or any drug as defined by RCW
20 46.61.502 for each prior offense as defined in RCW 46.61.5055.

21 Notwithstanding any other provision of law, all impaired driving
22 enhancements under this subsection are mandatory, shall be served in
23 total confinement, and shall run consecutively to all other
24 sentencing provisions, including other impaired driving enhancements,
25 for all offenses sentenced under this chapter.

26 An offender serving a sentence under this subsection may be
27 granted an extraordinary medical placement when authorized under RCW
28 9.94A.728(1)(c).

29 (8)(a) The following additional times shall be added to the
30 standard sentence range for felony crimes committed on or after July
31 1, 2006, if the offense was committed with sexual motivation, as that
32 term is defined in RCW 9.94A.030. If the offender is being sentenced
33 for more than one offense, the sexual motivation enhancement must be
34 added to the total period of total confinement for all offenses,
35 regardless of which underlying offense is subject to a sexual
36 motivation enhancement. If the offender committed the offense with
37 sexual motivation and the offender is being sentenced for an
38 anticipatory offense under chapter 9A.28 RCW, the following
39 additional times shall be added to the standard sentence range

1 determined under subsection (2) of this section based on the felony
2 crime of conviction as classified under RCW 9A.28.020:

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

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

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

11 (iv) If the offender is being sentenced for any sexual motivation
12 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
13 the offender has previously been sentenced for any sexual motivation
14 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
15 (iii) of this subsection, all sexual motivation enhancements under
16 this subsection shall be twice the amount of the enhancement listed;

17 (b) Notwithstanding any other provision of law, all sexual
18 motivation enhancements under this subsection are mandatory, shall be
19 served in total confinement, and shall run consecutively to all other
20 sentencing provisions, including other sexual motivation
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 (c) The sexual motivation enhancements in this subsection apply
28 to all felony crimes;

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

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

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

4 (9) An additional one-year enhancement shall be added to the
5 standard sentence range for the felony crimes of RCW 9A.44.073,
6 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
7 or after July 22, 2007, if the offender engaged, agreed, or offered
8 to engage the victim in the sexual conduct in return for a fee. If
9 the offender is being sentenced for more than one offense, the
10 one-year enhancement must be added to the total period of total
11 confinement for all offenses, regardless of which underlying offense
12 is subject to the enhancement. If the offender is being sentenced for
13 an anticipatory offense for the felony crimes of RCW 9A.44.073,
14 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
15 offender attempted, solicited another, or conspired to engage, agree,
16 or offer to engage the victim in the sexual conduct in return for a
17 fee, an additional one-year enhancement shall be added to the
18 standard sentence range determined under subsection (2) of this
19 section. For purposes of this subsection, "sexual conduct" means
20 sexual intercourse or sexual contact, both as defined in chapter
21 9A.44 RCW.

22 (10)(a) For a person age eighteen or older convicted of any
23 criminal street gang-related felony offense for which the person
24 compensated, threatened, or solicited a minor in order to involve the
25 minor in the commission of the felony offense, the standard sentence
26 range is determined by locating the sentencing grid sentence range
27 defined by the appropriate offender score and the seriousness level
28 of the completed crime, and multiplying the range by one hundred
29 twenty-five percent. If the standard sentence range under this
30 subsection exceeds the statutory maximum sentence for the offense,
31 the statutory maximum sentence is the presumptive sentence unless the
32 offender is a persistent offender.

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

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

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

6 (12) An additional twelve months shall be added to the standard
7 sentence range for an offense that is also a violation of RCW
8 9.94A.831.

9 (13) An additional twelve months shall be added to the standard
10 sentence range for vehicular homicide committed while under the
11 influence of intoxicating liquor or any drug as defined by RCW
12 46.61.520 or for vehicular assault committed while under the
13 influence of intoxicating liquor or any drug as defined by RCW
14 46.61.522, or for any felony driving under the influence (RCW
15 46.61.502(6)) or felony physical control under the influence (RCW
16 46.61.504(6)) for each child passenger under the age of sixteen who
17 is an occupant in the defendant's vehicle. These enhancements shall
18 be mandatory, shall be served in total confinement, and shall run
19 consecutively to all other sentencing provisions, including other
20 minor child enhancements, for all offenses sentenced under this
21 chapter. If the addition of a minor child enhancement increases the
22 sentence so that it would exceed the statutory maximum for the
23 offense, the portion of the sentence representing the enhancement may
24 not be reduced.

25 (14) An additional twelve months shall be added to the standard
26 sentence range for an offense that is also a violation of RCW
27 9.94A.832.

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

30 (1)(a) The term of the sentence of an offender committed to a
31 correctional facility operated by the department may be reduced by
32 earned release time in accordance with procedures that shall be
33 developed and adopted by the correctional agency having jurisdiction
34 in which the offender is confined. The earned release time shall be
35 for good behavior and good performance, as determined by the
36 correctional agency having jurisdiction. The correctional agency
37 shall not credit the offender with earned release credits in advance
38 of the offender actually earning the credits.

1 (b) Any program established pursuant to this section shall allow
2 an offender to earn early release credits for presentence
3 incarceration. If an offender is transferred from a county jail to
4 the department, the administrator of a county jail facility shall
5 certify to the department the amount of time spent in custody at the
6 facility and the number of days of early release credits lost or not
7 earned. The department may approve a jail certification from a
8 correctional agency that calculates early release time based on the
9 actual amount of confinement time served by the offender before
10 sentencing when an erroneous calculation of confinement time served
11 by the offender before sentencing appears on the judgment and
12 sentence. The department must adjust an offender's rate of early
13 release listed on the jail certification to be consistent with the
14 rate applicable to offenders in the department's facilities. However,
15 the department is not authorized to adjust the number of presentence
16 early release days that the jail has certified as lost or not earned.

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

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

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

29 (a) In the case of an offender sentenced pursuant to RCW
30 10.95.030(3) or 10.95.035, the offender may not receive any earned
31 early release time during the minimum term of confinement imposed by
32 the court; for any remaining portion of the sentence served by the
33 offender, the aggregate earned release time may not exceed ten
34 percent of the sentence.

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

39 (c) In the case of an offender convicted of a serious violent
40 offense, or a sex offense that is a class A felony, committed on or

1 after July 1, 2003, the aggregate earned release time may not exceed
2 ten percent of the sentence.

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

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

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

8 (A) A sex offense;

9 (B) A violent offense;

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

11 (D) A felony that is domestic violence as defined in RCW
12 10.99.020;

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

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

17 (G) A violation of, or an attempt, solicitation, or conspiracy to
18 violate, RCW 69.50.406 (delivery of a controlled substance to a
19 minor);

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

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

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

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

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

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

1 (b) The department shall, as a part of its program for release to
2 the community in lieu of earned release, require the offender to
3 propose a release plan that includes an approved residence and living
4 arrangement. All offenders with community custody terms eligible for
5 release to community custody in lieu of earned release shall provide
6 an approved residence and living arrangement prior to release to the
7 community;

8 (c) The department may deny transfer to community custody in lieu
9 of earned release time if the department determines an offender's
10 release plan, including proposed residence location and living
11 arrangements, may violate the conditions of the sentence or
12 conditions of supervision, place the offender at risk to violate the
13 conditions of the sentence, place the offender at risk to reoffend,
14 or present a risk to victim safety or community safety. The
15 department's authority under this section is independent of any
16 court-ordered condition of sentence or statutory provision regarding
17 conditions for community custody;

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

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

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

28 A voucher must be provided in conjunction with additional
29 transition support programming or services that enable an offender to
30 participate in services including, but not limited to, substance
31 abuse treatment, mental health treatment, sex offender treatment,
32 educational programming, or employment programming;

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

38 (f) For each offender who is the recipient of a rental voucher,
39 the department shall gather data as recommended by the Washington

1 state institute for public policy in order to best demonstrate
2 whether rental vouchers are effective in reducing recidivism.

3 (6) An offender serving a term of confinement imposed under RCW
4 9.94A.670(5)(a) is not eligible for earned release credits under this
5 section.

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

8 (1)(a) When any person charged with a violation of RCW 46.61.502,
9 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
10 offense as defined in RCW 46.61.5055 and the current offense involves
11 alcohol, is released from custody at arraignment or trial on bail or
12 personal recognizance, the court authorizing the release shall
13 require, as a condition of release that person comply with one of the
14 following four requirements:

15 (i) Have a functioning ignition interlock device installed on all
16 motor vehicles operated by the person, with proof of installation
17 filed with the court by the person or the certified interlock
18 provider within five business days of the date of release from
19 custody or as soon thereafter as determined by the court based on
20 availability within the jurisdiction; or

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

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

28 (iv) Have an ignition interlock device on all motor vehicles
29 operated by the person and that such person agrees not to operate any
30 motor vehicle without an ignition interlock device as required by the
31 court. Under this subsection (1)(a)(iv), the person must file a sworn
32 statement with the court upon release at arraignment that states the
33 person will not operate any motor vehicle without an ignition
34 interlock device while the ignition interlock restriction is imposed
35 by the court. Such person must also submit to 24/7 sobriety program
36 monitoring pursuant to (a)(ii) of this subsection, if available, or
37 alcohol monitoring, at the expense of the person, as provided in RCW
38 46.61.5055(5)(b) and (c).

1 (b) The court shall immediately notify the department of
2 licensing when an ignition interlock restriction is imposed(~~(i)~~
3 ~~As~~) as a condition of release (~~pursuant to (a) of this~~
4 ~~subsection~~) or (~~(ii)~~) after conviction in instances where a
5 person is charged with, or convicted of, a violation of RCW
6 46.61.502, 46.61.504, 46.61.520, or 46.61.522(~~, and the offense~~
7 ~~involves alcohol~~). If the court imposes an ignition interlock
8 restriction, the department of licensing shall attach or imprint a
9 notation on the driving record of any person restricted under this
10 section stating that the person may operate only a motor vehicle
11 equipped with a functioning ignition interlock device.

12 (2) (a) Upon acquittal or dismissal of all pending or current
13 charges relating to a violation of RCW 46.61.502, 46.61.504,
14 46.61.520, or 46.61.522, or equivalent local ordinance, the court
15 shall authorize removal of the ignition interlock device and lift any
16 requirement to comply with electronic alcohol/drug monitoring imposed
17 under subsection (1) of this section. Nothing in this section limits
18 the authority of the court or department under RCW 46.20.720.

19 (b) If the court authorizes removal of an ignition interlock
20 device imposed under this section, the court shall immediately notify
21 the department of licensing regarding the lifting of the ignition
22 interlock restriction and the department of licensing shall release
23 any attachment, imprint, or notation on such person's driving record
24 relating to the ignition interlock requirement imposed under this
25 section.

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

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

33 A person whose intoxication causes an incident resulting in an
34 appropriate emergency response, and who, in connection with the
35 incident, has been found guilty of or has had their prosecution
36 deferred for (1) driving while under the influence of intoxicating
37 liquor or any drug, RCW 46.61.502; (2) physical control of a motor
38 vehicle while under the influence of intoxicating liquor or any drug,
39 RCW 46.61.504; (3) operating an aircraft under the influence of

1 intoxicants or drugs, RCW 47.68.220; (~~(3)~~) (4) use of a vessel
2 while under the influence of alcohol or drugs, RCW 79A.60.040;
3 (~~(4)~~) (5) vehicular homicide while under the influence of
4 intoxicating liquor or any drug, RCW 46.61.520(1)(a); or (~~(5)~~) (6)
5 vehicular assault while under the influence of intoxicating liquor or
6 any drug, RCW 46.61.522(1)(b), is liable for the expense of an
7 emergency response by a public agency to the incident.

8 The expense of an emergency response is a charge against the
9 person liable for expenses under this section. The charge constitutes
10 a debt of that person and is collectible by the public agency
11 incurring those costs in the same manner as in the case of an
12 obligation under a contract, expressed or implied. Following a
13 conviction of an offense listed in this section, and prior to
14 sentencing, the prosecution may present to the court information
15 setting forth the expenses incurred by the public agency for its
16 emergency response to the incident. Upon a finding by the court that
17 the expenses are reasonable, the court shall order the defendant to
18 reimburse the public agency. The cost reimbursement shall be included
19 in the sentencing order as an additional monetary obligation of the
20 defendant and may not be substituted for any other fine or cost
21 required or allowed by statute. The court may establish a payment
22 schedule for the payment of the cost reimbursement, separate from any
23 payment schedule imposed for other fines and costs. All payments for
24 the cost reimbursement must be remitted directly to the public agency
25 or agencies that incurred the cost associated with the emergency
26 response.

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

30 If more than one public agency makes a claim for payment from an
31 individual for an emergency response to a single incident under the
32 provisions of this section, and the sum of the claims exceeds the
33 amount recovered, the division of the amount recovered shall be
34 determined by an interlocal agreement consistent with the
35 requirements of chapter 39.34 RCW.

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

38 (1) Whenever the department proposes to withhold the driving
39 privilege of a person or disqualify a person from operating a

1 commercial motor vehicle and this action is made mandatory by the
2 provisions of this chapter or other law, the department must give
3 notice to the person in writing by posting in the United States mail,
4 appropriately addressed, postage prepaid, or by personal service.
5 Notice by mail is given upon deposit in the United States mail.
6 Notice given under this subsection must specify the date upon which
7 the driving privilege is to be withheld which shall not be less than
8 forty-five days after the original notice is given.

9 (2) For persons subject to suspension, revocation, or denial of a
10 driver's license who are eligible for full credit under RCW
11 46.61.5055(9)(b)(ii), the notice in subsection (1) of this section
12 must also notify the person of the obligation to complete the
13 requirements under RCW 46.20.311 and pay the probationary license fee
14 under RCW 46.20.355 by the date specified in the notice in order to
15 avoid license suspension.

16 (3) Within fifteen days after notice has been given to a person
17 under subsection (1) of this section, the person may request in
18 writing an administrative review before the department. If the
19 request is mailed, it must be postmarked within fifteen days after
20 the date the department has given notice. If a person fails to
21 request an administrative review within fifteen days after the date
22 the department gives notice, the person is considered to have
23 defaulted and loses his or her right to an administrative review
24 unless the department finds good cause for a request after the
25 fifteen-day period.

26 (a) An administrative review under this subsection shall consist
27 solely of an internal review of documents and records submitted or
28 available to the department, unless the person requests an interview
29 before the department, in which case all or any part of the
30 administrative review may, at the discretion of the department, be
31 conducted by telephone or other electronic means.

32 (b) The only issues to be addressed in the administrative review
33 are:

34 (i) Whether the records relied on by the department identify the
35 correct person; and

36 (ii) Whether the information transmitted from the court or other
37 reporting agency or entity regarding the person accurately describes
38 the action taken by the court or other reporting agency or entity.

39 (c) For the purposes of this section, the notice received from a
40 court or other reporting agency or entity, regardless of form or

1 format, is prima facie evidence that the information from the court
2 or other reporting agency or entity regarding the person is accurate.
3 A person requesting administrative review has the burden of showing
4 by a preponderance of the evidence that the person is not subject to
5 the withholding of the driving privilege.

6 (d) The action subject to the notification requirements of
7 subsection (1) of this section shall be stayed during the
8 administrative review process.

9 (e) Judicial review of a department order affirming the action
10 subject to the notification requirements of subsection (1) of this
11 section after an administrative review shall be available in the same
12 manner as provided in RCW 46.20.308(~~((9))~~) (8). The department shall
13 certify its record to the court within thirty days after service upon
14 the department of the petition for judicial review. The action
15 subject to the notification requirements of subsection (1) of this
16 section shall not automatically be stayed during the judicial review.
17 If judicial relief is sought for a stay or other temporary remedy
18 from the department's action, the court shall not grant relief unless
19 the court finds that the appellant is likely to prevail in the appeal
20 and that without a stay the appellant will suffer irreparable injury.

21 (~~((3))~~) (4) The department may adopt rules that are considered
22 necessary or convenient by the department for purposes of
23 administering this section, including, but not limited to, rules
24 regarding expedited procedures for issuing orders and expedited
25 notice procedures.

26 (~~((4))~~) (5) This section does not apply where an opportunity for
27 an informal settlement, driver improvement interview, or formal
28 hearing is otherwise provided by law or rule of the department.

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

31 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
32 or deny the arrested person's license, permit, or privilege to drive
33 as follows:

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

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

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

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

10 (a) For a first incident within seven years, where there has not
11 been a previous incident within seven years that resulted in
12 administrative action under this section, suspension for ninety days,
13 unless the person successfully completes or is enrolled in a pretrial
14 24/7 sobriety program;

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

17 (3) In the case of an incident where a person under age twenty-
18 one has submitted to or been administered a test or tests indicating
19 that the alcohol concentration of the person's breath or blood was
20 0.02 or more, or that the THC concentration of the person's blood was
21 above 0.00:

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

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

27 (4) The department shall grant credit on a day-for-day basis for
28 (~~any portion of~~) a suspension, revocation, or denial (~~already~~
29 ~~served~~) imposed under this section for any portion of a suspension,
30 revocation, or denial (~~imposed~~) already served under RCW 46.61.5055
31 arising out of the same incident. If a person has already served a
32 suspension, revocation, or denial under RCW 46.61.5055 for a period
33 equal to or greater than the period imposed under this section, the
34 department shall provide notice of full credit, shall provide for no
35 further suspension or revocation under this section, and shall impose
36 no additional reissue fees for this credit.

37 **Sec. 7.** RCW 46.20.311 and 2016 c 203 s 12 are each amended to
38 read as follows:

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

5 (b) Except for a suspension under RCW 46.20.267, 46.20.289,
6 46.20.291(5), 46.61.740, or 74.20A.320, whenever the license or
7 driving privilege of any person is suspended by reason of a
8 conviction, a finding that a traffic infraction has been committed,
9 pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291 or
10 46.20.308, the suspension shall remain in effect until the person
11 gives and thereafter maintains proof of financial responsibility for
12 the future as provided in chapter 46.29 RCW.

13 (c) If the suspension is the result of a nonfelony violation of
14 RCW 46.61.502 or 46.61.504, the department shall determine the
15 person's eligibility for licensing based upon the reports provided by
16 the (~~alcoholism~~) substance use disorder agency or probation
17 department designated under RCW 46.61.5056 and shall deny
18 reinstatement until enrollment and participation in an approved
19 program has been established and the person is otherwise qualified.
20 If the suspension is the result of a violation of RCW 46.61.502(6) or
21 46.61.504(6), the department shall determine the person's eligibility
22 for licensing based upon the reports provided by the (~~alcohol or~~
23 ~~drug dependency~~) substance use disorder agency required under RCW
24 46.61.524 and shall deny reinstatement until satisfactory progress in
25 an approved program has been established and the person is otherwise
26 qualified. If the suspension is the result of a violation of RCW
27 46.61.502 or 46.61.504, and the person is required pursuant to RCW
28 46.20.720 to drive only a motor vehicle equipped with a functioning
29 ignition interlock, the department shall determine the person's
30 eligibility for licensing based upon written verification by a
31 company doing business in the state that it has installed the
32 required device on a vehicle owned or operated by the person seeking
33 reinstatement. The department may waive the requirement for written
34 verification under this subsection if it determines to its
35 satisfaction that a device previously verified as having been
36 installed on a vehicle owned or operated by the person is still
37 installed and functioning or as permitted by RCW 46.20.720(8). If,
38 based upon notification from the interlock provider or otherwise, the
39 department determines that an interlock required under RCW 46.20.720
40 is no longer installed or functioning as required, the department

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

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

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

17 (ii) (~~(if)~~) Except as provided in subsection (4) of this section,
18 if the suspension is the result of a violation of RCW 46.61.502 or
19 46.61.504, or is the result of administrative action under RCW
20 46.20.308, the reissue fee shall be one hundred (~~(fifty)~~) seventy-
21 five dollars.

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

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

35 (ii) (~~(if)~~) Except as provided in subsection (4) of this section,
36 if the revocation is the result of a violation of RCW 46.20.308,
37 46.61.502, or 46.61.504, the reissue fee shall be one hundred
38 (~~(fifty)~~) seventy-five dollars. If the revocation is the result of a
39 nonfelony violation of RCW 46.61.502 or 46.61.504, the department
40 shall determine the person's eligibility for licensing based upon the

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

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

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

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

8 (b) (~~(f)~~) Except as provided in subsection (4) of this section,
9 if the suspension is the result of a violation of the laws of this or
10 any other state, province, or other jurisdiction involving (i) the
11 operation or physical control of a motor vehicle upon the public
12 highways while under the influence of intoxicating liquor or drugs,
13 or (ii) the refusal to submit to a chemical test of the driver's
14 blood alcohol content, the reissue fee shall be one hundred (~~(fifty)~~)
15 seventy-five dollars.

16 (4) When the department reinstates a person's driver's license
17 following a suspension, revocation, or denial under RCW 46.20.3101 or
18 46.61.5055, and the person is entitled to full day-for-day credit
19 under RCW 46.20.3101(4) or 46.61.5055(9)(b)(ii) for an additional
20 restriction arising from the same incident, the department shall
21 impose no additional reissue fees under subsection (1)(e)(ii),
22 (2)(b)(ii), or (3)(b) of this section associated with the additional
23 restriction.

24 **Sec. 8.** RCW 46.20.355 and 1998 c 209 s 3 and 1998 c 41 s 5 are
25 each reenacted and amended to read as follows:

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

38 (2) The department shall place a person's driving privilege in
39 probationary status as required by RCW 10.05.060 or 46.61.5055 for a

1 period of five years from the date the probationary status is
2 required to go into effect.

3 (3) Following receipt of an abstract indicating a deferred
4 prosecution has been granted under RCW 10.05.060, or upon
5 reinstatement or reissuance of a driver's license suspended or
6 revoked as the result of a conviction of RCW 46.61.502 or 46.61.504,
7 the department shall require the person to obtain a probationary
8 license in order to operate a motor vehicle in the state of
9 Washington, except as otherwise exempt under RCW 46.20.025. The
10 department shall not issue the probationary license unless the person
11 is otherwise qualified for licensing, and the person must renew the
12 probationary license on the same cycle as the person's regular
13 license would have been renewed until the expiration of the five-year
14 probationary status period imposed under subsection (2) of this
15 section.

16 (4) If a person is eligible for full credit under RCW
17 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued
18 under RCW 46.20.245, has completed the requirements under RCW
19 46.20.311 and paid the fee under subsection (5) of this section, the
20 department shall issue a probationary license on the date specified
21 in the notice with no further action required of the person.

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

29 ~~((+5))~~ (6) A probationary license shall enable the department
30 and law enforcement personnel to determine that the person is on
31 probationary status. The fact that a person's driving privilege is in
32 probationary status or that the person has been issued a probationary
33 license shall not be a part of the person's record that is available
34 to insurance companies.

35 **Sec. 9.** RCW 46.20.385 and 2017 c 336 s 4 are each amended to
36 read as follows:

37 (1)(a) Any person licensed under this chapter or who has a valid
38 driver's license from another state, who is convicted of: (i) A
39 violation of RCW 46.61.502 or 46.61.504 or an equivalent local or

1 out-of-state statute or ordinance, or (ii) a violation of RCW
2 46.61.520(1)(a) or an equivalent local or out-of-state statute or
3 ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1)
4 (b) or (c) if the conviction is the result of a charge that was
5 originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW
6 46.61.522(1)(b) or an equivalent local or out-of-state statute or
7 ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is
8 the result of a charge that was originally filed as a violation of
9 RCW 46.61.522(1)(b) committed while under the influence of
10 intoxicating liquor or any drug, or (vi) who has had or will have his
11 or her license suspended, revoked, or denied under RCW 46.20.3101, or
12 who is otherwise permitted under subsection (8) of this section, may
13 submit to the department an application for an ignition interlock
14 driver's license. The department, upon receipt of the prescribed fee
15 and upon determining that the petitioner is eligible to receive the
16 license, may issue an ignition interlock driver's license.

17 (b) A person may apply for an ignition interlock driver's license
18 anytime, including immediately after receiving the notices under RCW
19 46.20.308 or after his or her license is suspended, revoked, or
20 denied.

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

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

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

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

1 (3) Upon receipt of evidence that a holder of an ignition
2 interlock driver's license granted under this subsection no longer
3 has a functioning ignition interlock device installed on all vehicles
4 operated by the driver, the director shall give written notice by
5 first-class mail to the driver that the ignition interlock driver's
6 license shall be canceled. If at any time before the cancellation
7 goes into effect the driver submits evidence that a functioning
8 ignition interlock device has been installed on all vehicles operated
9 by the driver, the cancellation shall be stayed. If the cancellation
10 becomes effective, the driver may obtain, at no additional charge, a
11 new ignition interlock driver's license upon submittal of evidence
12 that a functioning ignition interlock device has been installed on
13 all vehicles operated by the driver.

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

17 (5) The director shall cancel an ignition interlock driver's
18 license after receiving notice that the holder thereof has been
19 convicted of operating a motor vehicle in violation of its
20 restrictions, no longer meets the eligibility requirements, or has
21 been convicted of or found to have committed a separate offense or
22 any other act or omission that under this chapter would warrant
23 suspension or revocation of a regular driver's license. The
24 department must give notice of the cancellation as provided under RCW
25 46.20.245. A person whose ignition interlock driver's license has
26 been canceled under this section may reapply for a new ignition
27 interlock driver's license if he or she is otherwise qualified under
28 this section and pays the fee required under RCW 46.20.380.

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

38 (b) The department shall deposit the proceeds of the (~~twenty~~)
39 twenty-one dollar fee into the ignition interlock device revolving
40 account. Expenditures from the account may be used only to administer

1 and operate the ignition interlock device revolving account program.
2 The department shall adopt rules to provide monetary assistance
3 according to greatest need and when funds are available.

4 (7) The department shall adopt rules to implement ignition
5 interlock licensing. The department shall consult with the
6 administrative office of the courts, the state patrol, the Washington
7 association of sheriffs and police chiefs, ignition interlock
8 companies, and any other organization or entity the department deems
9 appropriate.

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

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

22 **Sec. 10.** RCW 46.20.720 and 2019 c 232 s 22 are each amended to
23 read as follows:

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

27 (a) **Pretrial release.** Upon receipt of notice from a court that an
28 ignition interlock device restriction has been imposed under RCW
29 10.21.055;

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

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

35 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
36 or

37 (ii) RCW 46.61.5249 or 46.61.500 or an equivalent local ordinance
38 if the person would be required under RCW 46.61.5249(4) or

1 46.61.500(3) (a) or (b) to install an ignition interlock device on
2 all vehicles operated by the person in the event of a conviction;

3 (d) **Post conviction.** After any applicable period of mandatory
4 suspension, revocation, or denial of driving privileges, or upon
5 fulfillment of day-for-day credit under RCW 46.61.5055(9)(b)(ii) for
6 a suspension, revocation, or denial of driving privileges:

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

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

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

23 (2) (~~(Calibration-)~~) **Alcohol set point.** Unless otherwise
24 specified by the court for a restriction imposed under subsection
25 (1)(e) of this section, the ignition interlock device shall (~~(be~~
26 ~~calibrated to prevent)~~) have an alcohol set point that prevents the
27 motor vehicle from being started when the breath sample provided has
28 an alcohol concentration of (~~(0.025)~~) 0.020 or more.

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

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

32 (i) The court has authorized the removal of the device under RCW
33 10.21.055; or

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

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

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

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

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

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

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

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

15 (e) The period of restriction under (c) or (d) of this subsection
16 shall be extended by one hundred eighty days whenever the department
17 receives notice that the restricted person has been convicted under
18 RCW 46.20.740 or 46.20.750. If the period of restriction under (c) or
19 (d) of this subsection has been fulfilled and cannot be extended, the
20 department must add a new one hundred eighty-day restriction that is
21 imposed from the date of conviction and is subject to the
22 requirements for removal under subsection (4) of this section.

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

1 interlock device vendor, in a form provided or approved by the
2 department, certifying ~~((that))~~ the following:

3 (a) That there have been none of the following incidents in the
4 one hundred eighty consecutive days prior to the date of release:

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

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

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

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

21 (v) Removal of the ignition interlock device by a person other
22 than an ignition interlock technician certified by the Washington
23 state patrol; and

24 (b) That the ignition interlock device was inspected at the
25 conclusion of the one hundred eighty-day period by an ignition
26 interlock technician certified by the Washington state patrol and no
27 evidence was found that the device was tampered with in the manner
28 described in RCW 46.20.750.

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

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

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

8 (6) **Employer exemption.** (a) Except as provided in (b) of this
9 subsection, the installation of an ignition interlock device is not
10 necessary on vehicles owned, leased, or rented by a person's employer
11 and on those vehicles whose care and/or maintenance is the temporary
12 responsibility of the employer, and driven at the direction of a
13 person's employer as a requirement of employment during working
14 hours. The person must provide the department with a declaration
15 pursuant to chapter 5.50 RCW from his or her employer stating that
16 the person's employment requires the person to operate a vehicle
17 owned by the employer or other persons during working hours. When the
18 department receives a declaration under this subsection, it shall
19 attach or imprint a notation on the person's driving record stating
20 that the employer exemption applies.

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

24 (7) **Ignition interlock device revolving account.** In addition to
25 any other costs associated with the use of an ignition interlock
26 device imposed on the person restricted under this section, the
27 person shall pay an additional fee of (~~twenty~~) twenty-one dollars
28 per month. Payments must be made directly to the ignition interlock
29 company. The company shall remit the additional fee to the department
30 to be deposited into the ignition interlock device revolving account,
31 except that the company may retain twenty-five cents per month of the
32 additional fee to cover the expenses associated with administering
33 the fee. The department may waive the monthly fee if the person is
34 indigent under RCW 10.101.010.

35 (8) **Foreign jurisdiction.** For a person restricted under this
36 section who is residing outside of the state of Washington, the
37 department may accept verification of installation of an ignition
38 interlock device by an ignition interlock company authorized to do
39 business in the jurisdiction in which the person resides, provided
40 the device meets any applicable requirements of that jurisdiction.

1 The department may waive one or more requirements for removal under
2 subsection (4) of this section if compliance with the requirement or
3 requirements would be impractical in the case of a person residing in
4 another jurisdiction, provided the person is in compliance with any
5 equivalent requirement of that jurisdiction. The department may waive
6 the monthly fee required by subsection (7) of this section if
7 collection of the fee would be impractical in the case of a person
8 residing in another jurisdiction.

9 **Sec. 11.** RCW 46.20.740 and 2015 2nd sp.s. c 3 s 4 are each
10 amended to read as follows:

11 (1) The department shall attach or imprint a notation on the
12 driving record of any person restricted under RCW 46.20.720,
13 46.61.5055, or 10.05.140 stating that the person may operate only a
14 motor vehicle equipped with a functioning ignition interlock device.
15 The department shall determine the person's eligibility for licensing
16 based upon written verification by a company doing business in the
17 state that it has installed the required device on a vehicle owned or
18 operated by the person seeking reinstatement. If, based upon
19 notification from the interlock provider or otherwise, the department
20 determines that an ignition interlock required under this section is
21 no longer installed or functioning as required, the department shall
22 suspend the person's license or privilege to drive. Whenever the
23 license or driving privilege of any person is suspended or revoked as
24 a result of noncompliance with an ignition interlock requirement, the
25 suspension shall remain in effect until the person provides notice
26 issued by a company doing business in the state that a vehicle owned
27 or operated by the person is equipped with a functioning ignition
28 interlock device.

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

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

1 **Sec. 12.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each
2 amended to read as follows:

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

6 (a) Tampers with the device or any components of the device, or
7 otherwise interferes with the proper functionality of the device, by
8 modifying, detaching, disconnecting, or otherwise disabling it to
9 allow the restricted driver to operate the vehicle;

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

13 (c) Has, directs, authorizes, or requests another person to
14 tamper with the device or any components of the device, or otherwise
15 interfere with the proper functionality of the device, by modifying,
16 detaching, disconnecting, or otherwise disabling it to allow the
17 restricted driver to operate the vehicle; or

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

21 (2) A person who knowingly assists another person who is
22 restricted to the use of a vehicle equipped with an ignition
23 interlock device to circumvent the device or any components of the
24 device, or otherwise interfere with the proper functionality of the
25 device, or to start and operate that vehicle is guilty of a gross
26 misdemeanor. The provisions of this subsection do not apply if the
27 starting of a motor vehicle, or the request to start a motor vehicle,
28 equipped with an ignition interlock device is done for the purpose of
29 safety or mechanical repair of the device or the vehicle and the
30 person subject to the court order does not operate the vehicle.

31 (3) Any sentence imposed for a violation of subsection (1) of
32 this section shall be served consecutively with any sentence imposed
33 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,
34 46.61.520(1)(a), or 46.61.522(1)(b).

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

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

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

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

9 (a) Whenever a police officer finds a vehicle standing upon the
10 roadway in violation of any of the provisions of RCW 46.61.560, the
11 officer may provide for the removal of the vehicle or require the
12 driver or other person in charge of the vehicle to move the vehicle
13 to a position off the roadway;

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

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

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

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

25 (f) Whenever a vehicle without a special license plate, placard,
26 or decal indicating that the vehicle is being used to transport a
27 person with disabilities under RCW 46.19.010 is parked in a stall or
28 space clearly and conspicuously marked under RCW 46.61.581 which
29 space is provided on private property without charge or on public
30 property;

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

35 (h) When a vehicle is illegally occupying a truck, commercial
36 loading zone, restricted parking zone, bus, loading, hooded-meter,
37 taxi, street construction or maintenance, or other similar zone
38 where, by order of the director of transportation or chiefs of police
39 or fire or their designees, parking is limited to designated classes
40 of vehicles or is prohibited during certain hours, on designated days

1 or at all times, if the zone has been established with signage for at
2 least twenty-four hours and where the vehicle is interfering with the
3 proper and intended use of the zone. Signage must give notice to the
4 public that a vehicle will be removed if illegally parked in the
5 zone;

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

8 (j) Upon determining that a person restricted to use of only a
9 motor vehicle equipped with a functioning ignition interlock device
10 is operating a motor vehicle that is not equipped with such a device
11 in violation of RCW 46.20.740(2).

12 (3) When an arrest is made for a violation of RCW 46.20.342, if
13 the vehicle is a commercial vehicle or farm transport vehicle and the
14 driver of the vehicle is not the owner of the vehicle, before the
15 summary impoundment directed under subsection (1) of this section,
16 the police officer shall attempt in a reasonable and timely manner to
17 contact the owner of the vehicle and may release the vehicle to the
18 owner if the owner is reasonably available, as long as the owner was
19 not in the vehicle at the time of the stop and arrest and the owner
20 has not received a prior release under this subsection or RCW
21 46.55.120(1) ~~((a))~~ (b) (ii).

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

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

34 **Sec. 14.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to
35 read as follows:

36 (1) Any person who drives any vehicle in willful or wanton
37 disregard for the safety of persons or property is guilty of reckless
38 driving. Violation of the provisions of this section is a gross

1 misdemeanor punishable by imprisonment for up to three hundred sixty-
2 four days and by a fine of not more than five thousand dollars.

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

7 (b) When a reckless driving conviction is a result of a charge
8 that was originally filed as a violation of RCW 46.61.502 or
9 46.61.504, or an equivalent local ordinance, the department shall
10 grant credit on a day-for-day basis for any portion of a suspension,
11 revocation, or denial already served under an administrative action
12 arising out of the same incident. In the case of a person whose day-
13 for-day credit is for a period equal to or greater than the period of
14 suspension required under this section, the department shall provide
15 notice of full credit, shall provide for no further suspension under
16 this section, and shall impose no additional reissue fees for this
17 credit. During any period of suspension, revocation, or denial due to
18 a conviction for reckless driving as the result of a charge
19 originally filed as a violation of RCW 46.61.502 or 46.61.504, any
20 person who has obtained an ignition interlock driver's license under
21 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the
22 provision of the ignition interlock driver's license without
23 obtaining a separate temporary restricted driver's license under RCW
24 46.20.391.

25 (3) (a) Except as provided under (b) of this subsection, a person
26 convicted of reckless driving who has one or more prior offenses as
27 defined in RCW 46.61.5055(14) within seven years shall be required,
28 under RCW 46.20.720, to install an ignition interlock device on all
29 vehicles operated by the person if the conviction is the result of a
30 charge that was originally filed as a violation of RCW 46.61.502,
31 46.61.504, or an equivalent local ordinance.

32 (b) A person convicted of reckless driving shall be required,
33 under RCW 46.20.720, to install an ignition interlock device on all
34 vehicles operated by the person if the conviction is the result of a
35 charge that was originally filed as a violation of RCW 46.61.520
36 committed while under the influence of intoxicating liquor or any
37 drug or RCW 46.61.522 committed while under the influence of
38 intoxicating liquor or any drug.

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

3 (1) **No prior offenses in seven years.** Except as provided in RCW
4 46.61.502(6) or 46.61.504(6), a person who is convicted of a
5 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
6 within seven years shall be punished as follows:

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

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

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

38 (b) **Penalty for alcohol concentration at least 0.15.** In the case
39 of a person whose alcohol concentration was at least 0.15, or for
40 whom by reason of the person's refusal to take a test offered

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

3 (i) By imprisonment for not less than (~~two days~~) forty-eight
4 consecutive hours nor more than three hundred sixty-four days.
5 (~~Forty-eight 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)(b)(i), the court, in
13 its discretion, may order not less than thirty days of electronic
14 home monitoring or a one hundred twenty day period of 24/7 sobriety
15 program monitoring. The court may consider the offender's pretrial
16 24/7 sobriety program testing 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 to include an alcohol
21 detection breathalyzer or other separate alcohol monitoring device,
22 and the court may restrict the amount of alcohol the offender may
23 consume during the time the offender is on electronic home
24 monitoring; and

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

28 (2) **One prior offense in seven years.** Except as provided in RCW
29 46.61.502(6) or 46.61.504(6), a person who is convicted of a
30 violation of RCW 46.61.502 or 46.61.504 and who has one prior offense
31 within seven years shall be punished as follows:

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

37 (i) By imprisonment for not less than thirty days nor more than
38 three hundred sixty-four days and sixty days of electronic home
39 monitoring. Thirty days of imprisonment and sixty days of electronic
40 home monitoring may not be suspended or converted unless the court

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

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

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

39 (i) By imprisonment for not less than forty-five days nor more
40 than three hundred sixty-four days and ninety days of electronic home

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

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

38 (3) **Two prior offenses in seven years.** Except as provided in RCW
39 46.61.502(6) or 46.61.504(6), a person who is convicted of a

1 violation of RCW 46.61.502 or 46.61.504 and who has two prior
2 offenses within seven years shall be punished as follows:

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

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

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

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

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

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

1 ~~electronic home monitoring may not be suspended unless the court~~
2 ~~finds that the imposition of this mandatory minimum sentence would~~
3 ~~impose a substantial risk to the offender's physical or mental well-~~
4 ~~being. Whenever the mandatory minimum sentence is suspended, the~~
5 ~~court shall state in writing the reason for granting the suspension~~
6 ~~and the facts upon which the suspension is based)); and~~

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

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

14 (a) The person has three or more prior offenses within ten years;
15 or

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

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

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

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

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

24 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall
25 require any person convicted of a violation of RCW 46.61.502 or
26 46.61.504 or an equivalent local ordinance to comply with the rules
27 and requirements of the department regarding the installation and use
28 of a functioning ignition interlock device installed on all motor
29 vehicles operated by the person.

30 (b) **Monitoring devices.** If the court orders that a person refrain
31 from consuming any alcohol, the court may order the person to submit
32 to alcohol monitoring through an alcohol detection breathalyzer
33 device, transdermal sensor device, or other technology designed to
34 detect alcohol in a person's system. The person shall pay for the
35 cost of the monitoring, unless the court specifies that the cost of
36 monitoring will be paid with funds that are available from an
37 alternative source identified by the court. The county or
38 municipality where the penalty is being imposed shall determine the
39 cost.

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

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

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

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

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

18 (a) Order the use of an ignition interlock or other device for an
19 additional ((six)) twelve months for each passenger under the age of
20 sixteen when the person is subject to the penalties under subsection
21 (1)(a), (2)(a), or (3)(a) of this section; and order the use of an
22 ignition interlock device for an additional eighteen months for each
23 passenger under the age of sixteen when the person is subject to the
24 penalties under subsection (1)(b), (2)(b), (3)(b), or (4) of this
25 section;

26 (b) In any case in which the person has no prior offenses within
27 seven years, and except as provided in RCW 46.61.502(6) or
28 46.61.504(6), order an additional twenty-four hours of imprisonment
29 to be served consecutively for each passenger under the age of
30 sixteen, and a fine of not less than one thousand dollars and not
31 more than five thousand dollars for each passenger under the age of
32 sixteen. One thousand dollars of the fine for each passenger under
33 the age of sixteen may not be suspended unless the court finds the
34 offender to be indigent;

35 (c) In any case in which the person has one prior offense within
36 seven years, and except as provided in RCW 46.61.502(6) or
37 46.61.504(6), order an additional five days of imprisonment to be
38 served consecutively for each passenger under the age of sixteen, and
39 a fine of not less than two thousand dollars and not more than five
40 thousand dollars for each passenger under the age of sixteen. One

1 thousand dollars of the fine for each passenger under the age of
2 sixteen may not be suspended unless the court finds the offender to
3 be indigent;

4 (d) In any case in which the person has two prior offenses within
5 seven years, and except as provided in RCW 46.61.502(6) or
6 46.61.504(6), order an additional ten days of imprisonment to be
7 served consecutively for each passenger under the age of sixteen, and
8 a fine of not less than three thousand dollars and not more than ten
9 thousand dollars for each passenger under the age of sixteen. One
10 thousand dollars of the fine for each passenger under the age of
11 sixteen may not be suspended unless the court finds the offender to
12 be indigent.

13 (7) **Other items courts must consider while setting penalties.** In
14 exercising its discretion in setting penalties within the limits
15 allowed by this section, the court shall particularly consider the
16 following:

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

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

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

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

27 (8) **Treatment and information school.** An offender punishable
28 under this section is subject to the ~~((alcohol))~~ substance use
29 disorder assessment and treatment provisions of RCW 46.61.5056.

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

34 ~~((+a))~~ (i) **Penalty for alcohol concentration less than 0.15.** If
35 the person's alcohol concentration was less than 0.15, or if for
36 reasons other than the person's refusal to take a test offered under
37 RCW 46.20.308 there is no test result indicating the person's alcohol
38 concentration:

39 ~~((+i))~~ (A) Where there has been no prior offense within seven
40 years, be suspended or denied by the department for ninety days or

1 until the person is evaluated by (~~(an alcoholism)~~) a substance use
2 disorder agency or probation department pursuant to RCW 46.20.311 and
3 the person completes or is enrolled in a ninety-day period of 24/7
4 sobriety program monitoring. In no circumstances shall the license
5 suspension be for fewer than two days;

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

13 (~~(+iii+)~~) (C) Where there have been two or more prior offenses
14 within seven years, be revoked or denied by the department for three
15 years;

16 (~~(+b+)~~) (ii) Penalty for alcohol concentration at least 0.15. If
17 the person's alcohol concentration was at least 0.15:

18 (~~(+i+)~~) (A) Where there has been no prior offense within seven
19 years, be revoked or denied by the department for one year or until
20 the person is evaluated by (~~(an alcoholism)~~) a substance use disorder
21 agency or probation department pursuant to RCW 46.20.311 and the
22 person completes or is enrolled in a one hundred twenty day period of
23 24/7 sobriety program monitoring. In no circumstances shall the
24 license revocation be for fewer than four days;

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

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

31 (~~(+e+)~~) (iii) Penalty for refusing to take test. If by reason of
32 the person's refusal to take a test offered under RCW 46.20.308,
33 there is no test result indicating the person's alcohol
34 concentration:

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

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

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

4 **(b)(i)** The department shall grant credit on a day-for-day basis
5 for (~~any portion of~~) a suspension, revocation, or denial (~~already~~
6 ~~served~~) imposed under this subsection (9) for any portion of a
7 suspension, revocation, or denial (~~imposed~~) already served under
8 RCW 46.20.3101 arising out of the same incident.

9 **(ii)** If a person has already served a suspension, revocation, or
10 denial under RCW 46.20.3101 for a period equal to or greater than the
11 period imposed under this subsection (9), the department shall
12 provide notice of full credit, shall provide for no further
13 suspension or revocation under this subsection provided the person
14 has completed the requirements under RCW 46.20.311 and paid the
15 probationary license fee under RCW 46.20.355 by the date specified in
16 the notice under RCW 46.20.245, and shall impose no additional
17 reissue fees for this credit.

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

25 **(d)** Upon its own motion or upon motion by a person, a court may
26 find, on the record, that notice to the department under RCW
27 46.20.270 has been delayed for three years or more as a result of a
28 clerical or court error. If so, the court may order that the person's
29 license, permit, or nonresident privilege shall not be revoked,
30 suspended, or denied for that offense. The court shall send notice of
31 the finding and order to the department and to the person. Upon
32 receipt of the notice from the court, the department shall not
33 revoke, suspend, or deny the license, permit, or nonresident
34 privilege of the person for that offense.

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

38 **(10) Probation of driving privilege.** After expiration of any
39 period of suspension, revocation, or denial of the offender's
40 license, permit, or privilege to drive required by this section, the

1 department shall place the offender's driving privilege in
2 probationary status pursuant to RCW 46.20.355.

3 (11) **Conditions of probation.** (a) In addition to any
4 nonsuspendable and nondeferrable jail sentence required by this
5 section, whenever the court imposes up to three hundred sixty-four
6 days in jail, the court shall also suspend but shall not defer a
7 period of confinement for a period not exceeding five years. The
8 court shall impose conditions of probation that include: (i) Not
9 driving a motor vehicle within this state without a valid license to
10 drive; (ii) not driving a motor vehicle within this state without
11 proof of liability insurance or other financial responsibility for
12 the future pursuant to RCW 46.30.020; (iii) not driving or being in
13 physical control of a motor vehicle within this state while having an
14 alcohol concentration of 0.08 or more or a THC concentration of 5.00
15 nanograms per milliliter of whole blood or higher, within two hours
16 after driving; (iv) not refusing to submit to a test of his or her
17 breath or blood to determine alcohol or drug concentration upon
18 request of a law enforcement officer who has reasonable grounds to
19 believe the person was driving or was in actual physical control of a
20 motor vehicle within this state while under the influence of
21 intoxicating liquor or drug; and (v) not driving a motor vehicle in
22 this state without a functioning ignition interlock device as
23 required by the department under RCW 46.20.720. The court may impose
24 conditions of probation that include nonrepetition, installation of
25 an ignition interlock device on the probationer's motor vehicle,
26 (~~alcohol or drug~~) substance use disorder treatment, supervised
27 probation, or other conditions that may be appropriate. The sentence
28 may be imposed in whole or in part upon violation of a condition of
29 probation during the suspension period.

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

34 (c) For each incident involving a violation of a mandatory
35 condition of probation imposed under this subsection, the license,
36 permit, or privilege to drive of the person shall be suspended by the
37 court for thirty days or, if such license, permit, or privilege to
38 drive already is suspended, revoked, or denied at the time the
39 finding of probation violation is made, the suspension, revocation,
40 or denial then in effect shall be extended by thirty days. The court

1 shall notify the department of any suspension, revocation, or denial
2 or any extension of a suspension, revocation, or denial imposed under
3 this subsection.

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

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

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

13 (c) The court determines that there is reason to believe that the
14 offender would violate the conditions of the electronic home
15 monitoring penalty.

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

23 Whenever the combination of jail time and electronic home
24 monitoring or alternative sentence would exceed three hundred sixty-
25 four days, the offender shall serve the jail portion of the sentence
26 first, and the electronic home monitoring or alternative portion of
27 the sentence shall be reduced so that the combination does not exceed
28 three hundred sixty-four days.

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

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

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

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

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

- 1 (iii) A conviction for a violation of RCW 46.25.110 or an
2 equivalent local ordinance;
- 3 (iv) A conviction for a violation of RCW 79A.60.040(2) or an
4 equivalent local ordinance;
- 5 (v) A conviction for a violation of RCW 79A.60.040(1) or an
6 equivalent local ordinance committed in a reckless manner if the
7 conviction is the result of a charge that was originally filed as a
8 violation of RCW 79A.60.040(2) or an equivalent local ordinance;
- 9 (vi) A conviction for a violation of RCW 47.68.220 or an
10 equivalent local ordinance committed while under the influence of
11 intoxicating liquor or any drug;
- 12 (vii) A conviction for a violation of RCW 47.68.220 or an
13 equivalent local ordinance committed in a careless or reckless manner
14 if the conviction is the result of a charge that was originally filed
15 as a violation of RCW 47.68.220 or an equivalent local ordinance
16 while under the influence of intoxicating liquor or any drug;
- 17 (viii) A conviction for a violation of RCW 46.09.470(2) or an
18 equivalent local ordinance;
- 19 (ix) A conviction for a violation of RCW 46.10.490(2) or an
20 equivalent local ordinance;
- 21 (x) A conviction for a violation of RCW 46.61.520 committed while
22 under the influence of intoxicating liquor or any drug, or a
23 conviction for a violation of RCW 46.61.520 committed in a reckless
24 manner or with the disregard for the safety of others if the
25 conviction is the result of a charge that was originally filed as a
26 violation of RCW 46.61.520 committed while under the influence of
27 intoxicating liquor or any drug;
- 28 (xi) A conviction for a violation of RCW 46.61.522 committed
29 while under the influence of intoxicating liquor or any drug, or a
30 conviction for a violation of RCW 46.61.522 committed in a reckless
31 manner or with the disregard for the safety of others if the
32 conviction is the result of a charge that was originally filed as a
33 violation of RCW 46.61.522 committed while under the influence of
34 intoxicating liquor or any drug;
- 35 (xii) A conviction for a violation of RCW 46.61.5249, 46.61.500,
36 or 9A.36.050 or an equivalent local ordinance, if the conviction is
37 the result of a charge that was originally filed as a violation of
38 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, or of
39 RCW 46.61.520 or 46.61.522;

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

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

7 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
8 prosecution for a violation of RCW 46.61.5249, or an equivalent local
9 ordinance, if the charge under which the deferred prosecution was
10 granted was originally filed as a violation of RCW 46.61.502 or
11 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
12 46.61.522;

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

19 (xvii) A deferred sentence imposed in a prosecution for a
20 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an
21 equivalent local ordinance, if the charge under which the deferred
22 sentence was imposed was originally filed as a violation of RCW
23 46.61.502 or 46.61.504, or an equivalent local ordinance, or a
24 violation of RCW 46.61.520 or 46.61.522;

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

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

31 (c) "Within seven years" means that the arrest for a prior
32 offense occurred within seven years before or after the arrest for
33 the current offense; and

34 (d) "Within ten years" means that the arrest for a prior offense
35 occurred within ten years before or after the arrest for the current
36 offense.

37 (15) All fines imposed by this section apply to adult offenders
38 only.

1 **Sec. 16.** RCW 46.61.5056 and 2018 c 201 s 9010 are each amended
2 to read as follows:

3 (1) A person subject to (~~alcohol~~) substance use disorder
4 assessment and treatment under RCW 46.61.5055 shall be required by
5 the court to complete a course in an alcohol and drug information
6 school licensed or certified by the department of health or to
7 complete more intensive treatment in a substance use disorder
8 treatment program licensed or certified by the department of health,
9 as determined by the court. The court shall notify the department of
10 licensing whenever it orders a person to complete a course or
11 treatment program under this section.

12 (2) A diagnostic evaluation and treatment recommendation shall be
13 prepared under the direction of the court by a substance use disorder
14 treatment program licensed or certified by the department of health
15 or a qualified probation department approved by the department of
16 social and health services. A copy of the report shall be forwarded
17 to the court and the department of licensing. Based on the diagnostic
18 evaluation, the court shall determine whether the person shall be
19 required to complete a course in an alcohol and drug information
20 school licensed or certified by the department of health or more
21 intensive treatment in an approved substance use disorder treatment
22 program licensed or certified by the department of health.

23 (3) Standards for approval for (~~alcohol~~) substance use disorder
24 treatment programs shall be prescribed by the department of health.
25 The department of health shall periodically review the costs of
26 alcohol and drug information schools and treatment programs.

27 (4) Any agency that provides treatment ordered under RCW
28 46.61.5055, shall immediately report to the appropriate probation
29 department where applicable, otherwise to the court, and to the
30 department of licensing any noncompliance by a person with the
31 conditions of his or her ordered treatment. The court shall notify
32 the department of licensing and the department of health of any
33 failure by an agency to so report noncompliance. Any agency with
34 knowledge of noncompliance that fails to so report shall be fined two
35 hundred fifty dollars by the department of health. Upon three such
36 failures by an agency within one year, the department of health shall
37 revoke the agency's license or certification under this section.

38 (5) The department of licensing and the department of health may
39 adopt such rules as are necessary to carry out this section.

1 **Sec. 17.** RCW 46.61.524 and 2008 c 231 s 46 are each amended to
2 read as follows:

3 As provided for under RCW 46.20.285, the department shall revoke
4 the license, permit to drive, or a nonresident privilege of a person
5 convicted of vehicular homicide under RCW 46.61.520 or vehicular
6 assault under RCW 46.61.522. The department shall determine the
7 eligibility of a person convicted of vehicular homicide under RCW
8 46.61.520(1)(a) or vehicular assault under RCW 46.61.522(1)(b) to
9 receive a license based upon the report provided by the designated
10 ((~~alcoholism~~)) substance use disorder treatment facility or probation
11 department designated pursuant to RCW 9.94A.703(4)(b), and shall deny
12 reinstatement until satisfactory progress in an approved program has
13 been established and the person is otherwise qualified.

14 NEW SECTION. **Sec. 18.** RCW 43.43.3951 (Ignition interlock
15 devices—Limited exemption for companies not using devices employing
16 fuel cell technology) and 2010 c 268 s 3 are each repealed.

17 NEW SECTION. **Sec. 19.** Sections 2, 3, 5 through 12, and 14
18 through 17 of this act take effect January 1, 2022.

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