
HOUSE BILL 1504

State of Washington

66th Legislature

2019 Regular Session

By Representatives Klippert and Goodman

Read first time 01/23/19. Referred to Committee on Public Safety.

1 AN ACT Relating to impaired driving; amending RCW 9.94A.729,
2 9.94A.533, 10.21.055, 18.360.030, 38.52.430, 46.20.245, 46.20.3101,
3 46.20.720, 46.20.740, 46.20.750, 46.55.113, 46.61.500, 46.61.504, and
4 46.61.5055; reenacting and amending RCW 46.20.355; repealing RCW
5 43.43.3951; and prescribing penalties.

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

7 **Sec. 1.** RCW 9.94A.729 and 2015 c 134 s 4 are each amended to
8 read as follows:

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

18 (b) Any program established pursuant to this section shall allow
19 an offender to earn early release credits for presentence
20 incarceration. If an offender is transferred from a county jail to
21 the department, the administrator of a county jail facility shall

1 certify to the department the amount of time spent in custody at the
2 facility and the number of days of early release credits lost or not
3 earned. The department may approve a jail certification from a
4 correctional agency that calculates early release time based on the
5 actual amount of confinement time served by the offender before
6 sentencing when an erroneous calculation of confinement time served
7 by the offender before sentencing appears on the judgment and
8 sentence. The department must adjust an offender's rate of early
9 release listed on the jail certification to be consistent with the
10 rate applicable to offenders in the department's facilities. However,
11 the department is not authorized to adjust the number of presentence
12 early release days that the jail has certified as lost or not earned.

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

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

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

25 (a) In the case of an offender sentenced pursuant to RCW
26 10.95.030(3) or 10.95.035, the offender may not receive any earned
27 early release time during the minimum term of confinement imposed by
28 the court; for any remaining portion of the sentence served by the
29 offender, the aggregate earned release time may not exceed ten
30 percent of the sentence.

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

35 (c) 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, 2003, the aggregate earned release time may not exceed
38 ten percent of the sentence.

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

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

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

4 (A) A sex offense;

5 (B) A violent offense;

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

7 (D) A felony that is domestic violence as defined in RCW
8 10.99.020;

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

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

13 (G) A violation of, or an attempt, solicitation, or conspiracy to
14 violate, RCW 69.50.406 (delivery of a controlled substance to a
15 minor);

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

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

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

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

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

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

36 (b) The department shall, as a part of its program for release to
37 the community in lieu of earned release, require the offender to
38 propose a release plan that includes an approved residence and living
39 arrangement. All offenders with community custody terms eligible for
40 release to community custody in lieu of earned release shall provide

1 an approved residence and living arrangement prior to release to the
2 community;

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

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

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

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

23 A voucher must be provided in conjunction with additional
24 transition support programming or services that enable an offender to
25 participate in services including, but not limited to, substance
26 abuse treatment, mental health treatment, sex offender treatment,
27 educational programming, or employment programming;

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

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

37 (6) An offender serving a term of confinement imposed under RCW
38 9.94A.670(5)(a) is not eligible for earned release credits under this
39 section.

1 **Sec. 2.** RCW 9.94A.533 and 2018 c 7 s 8 are each amended to read
2 as follows:

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

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

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

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

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

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

37 (d) If the offender is being sentenced for any firearm
38 enhancements under (a), (b), and/or (c) of this subsection and the
39 offender has previously been sentenced for any deadly weapon
40 enhancements after July 23, 1995, under (a), (b), and/or (c) of this

1 subsection or subsection (4)(a), (b), and/or (c) of this section, or
2 both, all firearm enhancements under this subsection shall be twice
3 the amount of the enhancement listed;

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

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

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

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

20 (g) If the standard sentence range under this section exceeds the
21 statutory maximum sentence for the offense, the statutory maximum
22 sentence shall be the presumptive sentence unless the offender is a
23 persistent offender. If the addition of a firearm enhancement
24 increases the sentence so that it would exceed the statutory maximum
25 for the offense, the portion of the sentence representing the
26 enhancement may not be reduced.

27 (4) The following additional times shall be added to the standard
28 sentence range for felony crimes committed after July 23, 1995, if
29 the offender or an accomplice was armed with a deadly weapon other
30 than a firearm as defined in RCW 9.41.010 and the offender is being
31 sentenced for one of the crimes listed in this subsection as eligible
32 for any deadly weapon enhancements based on the classification of the
33 completed felony crime. If the offender is being sentenced for more
34 than one offense, the deadly weapon enhancement or enhancements must
35 be added to the total period of confinement for all offenses,
36 regardless of which underlying offense is subject to a deadly weapon
37 enhancement. If the offender or an accomplice was armed with a deadly
38 weapon other than a firearm as defined in RCW 9.41.010 and the
39 offender is being sentenced for an anticipatory offense under chapter
40 9A.28 RCW to commit one of the crimes listed in this subsection as

1 eligible for any deadly weapon enhancements, the following additional
2 times shall be added to the standard sentence range determined under
3 subsection (2) of this section based on the felony crime of
4 conviction as classified under RCW 9A.28.020:

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

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

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

14 (d) If the offender is being sentenced under (a), (b), and/or (c)
15 of this subsection for any deadly weapon enhancements and the
16 offender has previously been sentenced for any deadly weapon
17 enhancements after July 23, 1995, under (a), (b), and/or (c) of this
18 subsection or subsection (3)(a), (b), and/or (c) of this section, or
19 both, all deadly weapon enhancements under this subsection shall be
20 twice the amount of the enhancement listed;

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

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

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

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

37 (g) If the standard sentence range under this section exceeds the
38 statutory maximum sentence for the offense, the statutory maximum
39 sentence shall be the presumptive sentence unless the offender is a
40 persistent offender. If the addition of a deadly weapon enhancement

1 increases the sentence so that it would exceed the statutory maximum
2 for the offense, the portion of the sentence representing the
3 enhancement may not be reduced.

4 (5) The following additional times shall be added to the standard
5 sentence range if the offender or an accomplice committed the offense
6 while in a county jail or state correctional facility and the
7 offender is being sentenced for one of the crimes listed in this
8 subsection. If the offender or an accomplice committed one of the
9 crimes listed in this subsection while in a county jail or state
10 correctional facility, and the offender is being sentenced for an
11 anticipatory offense under chapter 9A.28 RCW to commit one of the
12 crimes listed in this subsection, the following additional times
13 shall be added to the standard sentence range determined under
14 subsection (2) of this section:

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

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

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

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

23 (6) An additional twenty-four months shall be added to the
24 standard sentence range for any ranked offense involving a violation
25 of chapter 69.50 RCW if the offense was also a violation of RCW
26 69.50.435 or 9.94A.827. All enhancements under this subsection shall
27 run consecutively to all other sentencing provisions, for all
28 offenses sentenced under this chapter.

29 (7) An additional two years shall be added to the standard
30 sentence range for vehicular homicide committed while under the
31 influence of intoxicating liquor or any drug as defined by RCW
32 46.61.502 for each prior offense as defined in RCW 46.61.5055.

33 Notwithstanding any other provision of law, all impaired driving
34 enhancements under this subsection are mandatory, shall be served in
35 total confinement, and shall run consecutively to all other
36 sentencing provisions, including other impaired driving enhancements,
37 for all offenses sentenced under this chapter.

38 An offender serving a sentence under this subsection may be
39 granted an extraordinary medical placement when authorized under RCW
40 9.94A.728(1)(c).

1 (8)(a) The following additional times shall be added to the
2 standard sentence range for felony crimes committed on or after July
3 1, 2006, if the offense was committed with sexual motivation, as that
4 term is defined in RCW 9.94A.030. If the offender is being sentenced
5 for more than one offense, the sexual motivation enhancement must be
6 added to the total period of total confinement for all offenses,
7 regardless of which underlying offense is subject to a sexual
8 motivation enhancement. If the offender committed the offense with
9 sexual motivation and the offender is being sentenced for an
10 anticipatory offense under chapter 9A.28 RCW, the following
11 additional times shall be added to the standard sentence range
12 determined under subsection (2) of this section based on the felony
13 crime of conviction as classified under RCW 9A.28.020:

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

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

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

22 (iv) If the offender is being sentenced for any sexual motivation
23 enhancements under (a)(i), (ii), and/or (iii) of this subsection and
24 the offender has previously been sentenced for any sexual motivation
25 enhancements on or after July 1, 2006, under (a)(i), (ii), and/or
26 (iii) of this subsection, all sexual motivation enhancements under
27 this subsection shall be twice the amount of the enhancement listed;

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

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

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

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

1 (d) If the standard sentence range under this subsection exceeds
2 the statutory maximum sentence for the offense, the statutory maximum
3 sentence shall be the presumptive sentence unless the offender is a
4 persistent offender. If the addition of a sexual motivation
5 enhancement increases the sentence so that it would exceed the
6 statutory maximum for the offense, the portion of the sentence
7 representing the enhancement may not be reduced;

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

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

14 (9) An additional one-year enhancement shall be added to the
15 standard sentence range for the felony crimes of RCW 9A.44.073,
16 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on
17 or after July 22, 2007, if the offender engaged, agreed, or offered
18 to engage the victim in the sexual conduct in return for a fee. If
19 the offender is being sentenced for more than one offense, the
20 one-year enhancement must be added to the total period of total
21 confinement for all offenses, regardless of which underlying offense
22 is subject to the enhancement. If the offender is being sentenced for
23 an anticipatory offense for the felony crimes of RCW 9A.44.073,
24 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the
25 offender attempted, solicited another, or conspired to engage, agree,
26 or offer to engage the victim in the sexual conduct in return for a
27 fee, an additional one-year enhancement shall be added to the
28 standard sentence range determined under subsection (2) of this
29 section. For purposes of this subsection, "sexual conduct" means
30 sexual intercourse or sexual contact, both as defined in chapter
31 9A.44 RCW.

32 (10)(a) For a person age eighteen or older convicted of any
33 criminal street gang-related felony offense for which the person
34 compensated, threatened, or solicited a minor in order to involve the
35 minor in the commission of the felony offense, the standard sentence
36 range is determined by locating the sentencing grid sentence range
37 defined by the appropriate offender score and the seriousness level
38 of the completed crime, and multiplying the range by one hundred
39 twenty-five percent. If the standard sentence range under this
40 subsection exceeds the statutory maximum sentence for the offense,

1 the statutory maximum sentence is the presumptive sentence unless the
2 offender is a persistent offender.

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

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

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

15 (12) An additional twelve months shall be added to the standard
16 sentence range for an offense that is also a violation of RCW
17 9.94A.831.

18 (13) An additional twelve months shall be added to the standard
19 sentence range for vehicular homicide committed while under the
20 influence of intoxicating liquor or any drug as defined by RCW
21 46.61.520 or for vehicular assault committed while under the
22 influence of intoxicating liquor or any drug as defined by RCW
23 46.61.522, or for any felony driving under the influence (RCW
24 46.61.502(6)) or felony physical control under the influence (RCW
25 46.61.504(6)) for each child passenger under the age of sixteen who
26 is an occupant in the defendant's vehicle. These enhancements shall
27 be mandatory, shall be served in total confinement, and shall run
28 consecutively to all other sentencing provisions, including other
29 minor child enhancements, for all offenses sentenced under this
30 chapter. If the addition of a minor child enhancement increases the
31 sentence so that it would exceed the statutory maximum for the
32 offense, the portion of the sentence representing the enhancement may
33 not be reduced.

34 (14) An additional twelve months shall be added to the standard
35 sentence range for an offense that is also a violation of RCW
36 9.94A.832.

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

1 (1) (a) When any person charged with a violation of RCW 46.61.502,
2 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior
3 offense as defined in RCW 46.61.5055 and the current offense involves
4 alcohol, is released from custody at arraignment or trial on bail or
5 personal recognizance, the court authorizing the release shall
6 require, as a condition of release that person comply with one of the
7 following four requirements:

8 (i) Have a functioning ignition interlock device installed on all
9 motor vehicles operated by the person, with proof of installation
10 filed with the court by the person or the certified interlock
11 provider within five business days of the date of release from
12 custody or as soon thereafter as determined by the court based on
13 availability within the jurisdiction; or

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

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

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

32 (b) The court shall immediately notify the department of
33 licensing when an ignition interlock restriction is imposed(~~(+-(i))~~)
34 as a condition of release (~~(pursuant to (a) of this subsection;)~~) or
35 (~~(+-(i))~~) after conviction in instances where a person is charged
36 with, or convicted of, a violation of RCW 46.61.502, 46.61.504,
37 46.61.520, or 46.61.522(~~(, and the offense involves alcohol)~~). If the
38 court imposes an ignition interlock restriction, the department of
39 licensing shall attach or imprint a notation on the driving record of
40 any person restricted under this section stating that the person may

1 operate only a motor vehicle equipped with a functioning ignition
2 interlock device.

3 (2) (a) Upon acquittal or dismissal of all pending or current
4 charges relating to a violation of RCW 46.61.502, 46.61.504,
5 46.61.520, or 46.61.522, or equivalent local ordinance, the court
6 shall authorize removal of the ignition interlock device and lift any
7 requirement to comply with electronic alcohol/drug monitoring imposed
8 under subsection (1) of this section. Nothing in this section limits
9 the authority of the court or department under RCW 46.20.720.

10 (b) If the court authorizes removal of an ignition interlock
11 device imposed under this section, the court shall immediately notify
12 the department of licensing regarding the lifting of the ignition
13 interlock restriction and the department of licensing shall release
14 any attachment, imprint, or notation on such person's driving record
15 relating to the ignition interlock requirement imposed under this
16 section.

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

22 **Sec. 4.** RCW 18.360.030 and 2017 c 336 s 16 are each amended to
23 read as follows:

24 (1) The secretary shall adopt rules specifying the minimum
25 qualifications for a medical assistant-certified, medical assistant-
26 hemodialysis technician, medical assistant-phlebotomist, and forensic
27 phlebotomist.

28 ~~((a))~~ The qualifications for a medical assistant-hemodialysis
29 technician must be equivalent to the qualifications for hemodialysis
30 technicians regulated pursuant to chapter 18.135 RCW as of January 1,
31 2012.

32 ~~((b) The qualifications for a forensic phlebotomist must include
33 training consistent with the occupational safety and health
34 administration guidelines and must include between twenty and thirty
35 hours of work in a clinical setting with the completion of more than
36 one hundred successful venipunctures. The secretary may not require
37 more than forty hours of classroom training for initial training,
38 which may include online preclass homework.)~~

1 (2) The secretary shall adopt rules that establish the minimum
2 requirements necessary for a health care practitioner, clinic, or
3 group practice to endorse a medical assistant as qualified to perform
4 the duties authorized by this chapter and be able to file an
5 attestation of that endorsement with the department.

6 (3) The medical quality assurance commission, the board of
7 osteopathic medicine and surgery, the podiatric medical board, the
8 nursing care quality assurance commission, the board of naturopathy,
9 and the optometry board shall each review and identify other
10 specialty assistive personnel not included in this chapter and the
11 tasks they perform. The department of health shall compile the
12 information from each disciplining authority listed in this
13 subsection and submit the compiled information to the legislature no
14 later than December 15, 2012.

15 **Sec. 5.** RCW 38.52.430 and 2012 c 183 s 6 are each amended to
16 read as follows:

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

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

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

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

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

20 **Sec. 6.** RCW 46.20.245 and 2005 c 288 s 1 are each amended to
21 read as follows:

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

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

1 (3) Within fifteen days after notice has been given to a person
2 under subsection (1) of this section, the person may request in
3 writing an administrative review before the department. If the
4 request is mailed, it must be postmarked within fifteen days after
5 the date the department has given notice. If a person fails to
6 request an administrative review within fifteen days after the date
7 the department gives notice, the person is considered to have
8 defaulted and loses his or her right to an administrative review
9 unless the department finds good cause for a request after the
10 fifteen-day period.

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

17 (b) The only issues to be addressed in the administrative review
18 are:

19 (i) Whether the records relied on by the department identify the
20 correct person; and

21 (ii) Whether the information transmitted from the court or other
22 reporting agency or entity regarding the person accurately describes
23 the action taken by the court or other reporting agency or entity.

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

31 (d) The action subject to the notification requirements of
32 subsection (1) of this section shall be stayed during the
33 administrative review process.

34 (e) Judicial review of a department order affirming the action
35 subject to the notification requirements of subsection (1) of this
36 section after an administrative review shall be available in the same
37 manner as provided in RCW 46.20.308(~~(+9)~~) (8). The department shall
38 certify its record to the court within thirty days after service upon
39 the department of the petition for judicial review. The action
40 subject to the notification requirements of subsection (1) of this

1 section shall not automatically be stayed during the judicial review.
2 If judicial relief is sought for a stay or other temporary remedy
3 from the department's action, the court shall not grant relief unless
4 the court finds that the appellant is likely to prevail in the appeal
5 and that without a stay the appellant will suffer irreparable injury.

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

11 ~~((4))~~ (5) This section does not apply where an opportunity for
12 an informal settlement, driver improvement interview, or formal
13 hearing is otherwise provided by law or rule of the department.

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

16 Pursuant to RCW 46.20.308, the department shall suspend, revoke,
17 or deny the arrested person's license, permit, or privilege to drive
18 as follows:

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

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

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

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

33 (a) For a first incident within seven years, where there has not
34 been a previous incident within seven years that resulted in
35 administrative action under this section, suspension for ninety days,
36 unless the person successfully completes or is enrolled in a pretrial
37 24/7 sobriety program;

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

1 (3) In the case of an incident where a person under age twenty-
2 one has submitted to or been administered a test or tests indicating
3 that the alcohol concentration of the person's breath or blood was
4 0.02 or more, or that the THC concentration of the person's blood was
5 above 0.00:

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

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

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

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

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

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

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

14 (4) If a person is eligible for full credit under RCW
15 46.61.5055(9)(b)(ii) and, by the date specified in the notice issued
16 under RCW 46.20.245, has completed the requirements under RCW
17 46.20.311 and paid the fee under subsection (5) of this section, the
18 department shall issue a probationary license on the date specified
19 in the notice with no further action required of the person.

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

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

33 **Sec. 9.** RCW 46.20.720 and 2017 c 336 s 5 are each amended to
34 read as follows:

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

1 (a) **Pretrial release.** Upon receipt of notice from a court that an
2 ignition interlock device restriction has been imposed under RCW
3 10.21.055;

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

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

9 (i) RCW 46.61.502 or 46.61.504 or an equivalent local ordinance;
10 or

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

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

17 (i) Due to a conviction of a violation of RCW 46.61.502 or
18 46.61.504 or an equivalent local or out-of-state statute or
19 ordinance; or

20 (ii) Due to a conviction of a violation of RCW 46.61.5249 or
21 46.61.500 or an equivalent local ordinance if the person is required
22 under RCW 46.61.5249(4) or 46.61.500(3) (a) or (b) to install an
23 ignition interlock device on all vehicles operated by the person; or

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

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

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

39 (a) Subsection (1)(a) of this section shall remain in effect
40 until:

1 (i) The court has authorized the removal of the device under RCW
2 10.21.055; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (c) If the day-for-day credit granted under this subsection
36 equals or exceeds the period of time the ignition interlock device
37 restriction is imposed under subsection (1)(c) or (d) of this section
38 arising out of the same incident, and the person has already met the
39 requirements for removal of the device under subsection (4) of this

1 section, the department may waive the requirement that a device be
2 installed or that the person again meet the requirements for removal.

3 (6) **Employer exemption.** (a) Except as provided in (b) of this
4 subsection, the installation of an ignition interlock device is not
5 necessary on vehicles owned, leased, or rented by a person's employer
6 and on those vehicles whose care and/or maintenance is the temporary
7 responsibility of the employer, and driven at the direction of a
8 person's employer as a requirement of employment during working
9 hours. The person must provide the department with a declaration
10 pursuant to RCW 9A.72.085 from his or her employer stating that the
11 person's employment requires the person to operate a vehicle owned by
12 the employer or other persons during working hours.

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

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

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

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

38 (1) The department shall attach or imprint a notation on the
39 driving record of any person restricted under RCW 46.20.720,

1 46.61.5055, or 10.05.140 stating that the person may operate only a
2 motor vehicle equipped with a functioning ignition interlock device.
3 The department shall determine the person's eligibility for licensing
4 based upon written verification by a company doing business in the
5 state that it has installed the required device on a vehicle owned or
6 operated by the person seeking reinstatement. If, based upon
7 notification from the interlock provider or otherwise, the department
8 determines that an ignition interlock required under this section is
9 no longer installed or functioning as required, the department shall
10 suspend the person's license or privilege to drive. Whenever the
11 license or driving privilege of any person is suspended or revoked as
12 a result of noncompliance with an ignition interlock requirement, the
13 suspension shall remain in effect until the person provides notice
14 issued by a company doing business in the state that a vehicle owned
15 or operated by the person is equipped with a functioning ignition
16 interlock device.

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

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

27 **Sec. 11.** RCW 46.20.750 and 2015 2nd sp.s. c 3 s 6 are each
28 amended to read as follows:

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

32 (a) Tamper with the device by modifying, detaching,
33 disconnecting, or otherwise disabling it to allow the restricted
34 driver to operate the vehicle;

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

38 (c) Has, directs, authorizes, or requests another person to
39 tamper with the device by modifying, detaching, disconnecting, or

1 otherwise disabling it to allow the restricted driver to operate the
2 vehicle; or

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

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

15 (3) Any sentence imposed for a violation of subsection (1) of
16 this section shall be served consecutively with any sentence imposed
17 under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055,
18 46.61.520(1)(a), or 46.61.522(1)(b).

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

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

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

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

32 (a) Whenever a police officer finds a vehicle standing upon the
33 roadway in violation of any of the provisions of RCW 46.61.560, the
34 officer may provide for the removal of the vehicle or require the
35 driver or other person in charge of the vehicle to move the vehicle
36 to a position off the roadway;

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

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

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

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

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

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

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

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

32 (j) Upon determining that a person restricted to use of only a
33 motor vehicle equipped with a functioning ignition interlock device
34 is operating a motor vehicle that is not equipped with such a device
35 in violation of RCW 46.20.740(2).

36 (3) When an arrest is made for a violation of RCW 46.20.342, if
37 the vehicle is a commercial vehicle or farm transport vehicle and the
38 driver of the vehicle is not the owner of the vehicle, before the
39 summary impoundment directed under subsection (1) of this section,
40 the police officer shall attempt in a reasonable and timely manner to

1 contact the owner of the vehicle and may release the vehicle to the
2 owner if the owner is reasonably available, as long as the owner was
3 not in the vehicle at the time of the stop and arrest and the owner
4 has not received a prior release under this subsection or RCW
5 46.55.120(1) (~~(a)~~) (b) (ii).

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

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

18 **Sec. 13.** RCW 46.61.500 and 2012 c 183 s 11 are each amended to
19 read as follows:

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

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

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

1 a conviction for reckless driving as the result of a charge
2 originally filed as a violation of RCW 46.61.502 or 46.61.504, any
3 person who has obtained an ignition interlock driver's license under
4 RCW 46.20.385 may continue to drive a motor vehicle pursuant to the
5 provision of the ignition interlock driver's license without
6 obtaining a separate temporary restricted driver's license under RCW
7 46.20.391.

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

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

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

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

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

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

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

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

1 (2) The fact that a person charged with a violation of this
2 section is or has been entitled to use a drug under the laws of this
3 state does not constitute a defense against any charge of violating
4 this section. No person may be convicted under this section (~~and it~~
5 ~~is an affirmative defense~~) or subject to any action pursuant to RCW
6 46.20.308 to suspend, revoke, or deny the privilege to drive if,
7 prior to being pursued by a law enforcement officer, the person has
8 moved the vehicle safely off the roadway. A vehicle is safely off the
9 roadway if:

10 (a) The driver is removed from the driver's seat of the vehicle;

11 (b) The vehicle is not parked in an area designated for through
12 traffic or in any place prohibited for vehicle traffic or parking;
13 and

14 (c) The vehicle's engine is off.

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

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

37 (4) (a) Analyses of blood or breath samples obtained more than two
38 hours after the alleged being in actual physical control of a vehicle
39 may be used as evidence that within two hours of the alleged being in
40 such control, a person had an alcohol concentration of 0.08 or more

1 in violation of subsection (1)(a) of this section, and in any case in
2 which the analysis shows an alcohol concentration above 0.00 may be
3 used as evidence that a person was under the influence of or affected
4 by intoxicating liquor or any drug in violation of subsection (1)(c)
5 or (d) of this section.

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

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

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

18 (a) The person has three or more prior offenses within ten years
19 as defined in RCW 46.61.5055; or

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

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

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

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

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

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

30 (1) **No prior offenses in seven years.** Except as provided in RCW
31 46.61.502(6) or 46.61.504(6), a person who is convicted of a
32 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense
33 within seven years shall be punished as follows:

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

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

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

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

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

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

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

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

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

26 (i) By imprisonment for not less than thirty days nor more than
27 three hundred sixty-four days and sixty days of electronic home
28 monitoring. Thirty days of imprisonment and sixty days of electronic
29 home monitoring may not be suspended unless the court finds that the
30 imposition of this mandatory minimum sentence would impose a
31 substantial risk to the offender's physical or mental well-being. If
32 the offender shows that the imposition of this mandatory minimum
33 sentence would impose a substantial risk to the offender's physical
34 or mental well-being, in lieu of the mandatory term of imprisonment
35 and electronic home monitoring under this subsection (2)(a)(i), the
36 court may order a minimum of ((four days in jail and)) either one
37 hundred eighty days of electronic home monitoring or a one hundred
38 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW
39 36.28A.300 through 36.28A.390. Whenever the mandatory minimum
40 sentence is suspended, the court shall state in writing the reason

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

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

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

27 (i) By imprisonment for not less than forty-five days nor more
28 than three hundred sixty-four days and ninety days of electronic home
29 monitoring. Forty-five days of imprisonment and ninety days of
30 electronic home monitoring may not be suspended unless the court
31 finds that the imposition of this mandatory minimum sentence would
32 impose a substantial risk to the offender's physical or mental well-
33 being. If the offender shows that the imposition of this mandatory
34 minimum sentence would impose a substantial risk to the offender's
35 physical or mental well-being, in lieu of the mandatory minimum term
36 of imprisonment and electronic home monitoring under this subsection
37 (2)(b)(i), the court may order a minimum of (~~six days in jail and~~)
38 either six months of electronic home monitoring or a one hundred
39 twenty-day period of 24/7 sobriety program monitoring pursuant to RCW
40 36.28A.300 through 36.28A.390. Whenever the mandatory minimum

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

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

25 (3) **Two prior offenses in seven years.** Except as provided in RCW
26 46.61.502(6) or 46.61.504(6), a person who is convicted of a
27 violation of RCW 46.61.502 or 46.61.504 and who has two prior
28 offenses within seven years shall be punished as follows:

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

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

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

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

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

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

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

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

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

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

39 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (7) **Other items courts must consider while setting penalties.** In
37 exercising its discretion in setting penalties within the limits
38 allowed by this section, the court shall particularly consider the
39 following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 Whenever the mandatory minimum term of electronic home monitoring
40 is waived, the court shall state in writing the reason for granting

1 the waiver and the facts upon which the waiver is based, and shall
2 impose an alternative sentence with similar punitive consequences.
3 The alternative sentence may include, but is not limited to, use of
4 an ignition interlock device, the 24/7 sobriety program monitoring,
5 additional jail time, work crew, or work camp.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (xv) A deferred prosecution under chapter 10.05 RCW granted in a
31 prosecution for a violation of RCW 46.61.5249, or an equivalent local
32 ordinance, if the charge under which the deferred prosecution was
33 granted was originally filed as a violation of RCW 46.61.502 or
34 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
35 46.61.522;

36 (xvi) A deferred prosecution granted in another state for a
37 violation of driving or having physical control of a vehicle while
38 under the influence of intoxicating liquor or any drug if the out-of-
39 state deferred prosecution is equivalent to the deferred prosecution

1 under chapter 10.05 RCW, including a requirement that the defendant
2 participate in a chemical dependency treatment program; or

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

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

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

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

18 (d) "Within ten years" means that the arrest for a prior offense
19 occurred within ten years before or after the arrest for the current
20 offense.

21 (15) All fines imposed by this section apply to adult offenders
22 only.

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

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