

2SSB 5002 - S AMD TO S AMD (S-4427.2/24) **619**

By Senator Fortunato

1 Beginning on page 1, line 3, strike all of sections 1 through 3

2 Renumber the remaining sections consecutively and correct any
3 internal references accordingly.

4 On page 5, line 31, after "**than**" strike "**0.15**" and insert
5 "~~((0.15))~~ 0.10"

6 On page 5, line 32, after "than" strike "0.15" and insert
7 "~~((0.15))~~ 0.10"

8 On page 6, line 16, after "indigent;" strike "or" and insert
9 "~~((or))~~"

10 On page 6, line 17, after "(b)" insert "**Penalty for alcohol**
11 **concentration at least 0.10.** In the case of a person whose alcohol
12 concentration was at least 0.10:

13 (i) By imprisonment for not less than 48 consecutive hours nor
14 more than 364 days. In lieu of the mandatory minimum term of
15 imprisonment required under this subsection (1)(b)(i), the court, in
16 its discretion, may order not less than 30 days of electronic home
17 monitoring or 120-day period of 24/7 sobriety program monitoring. The
18 court may consider the offender's pretrial 24/7 sobriety program
19 testing as fulfilling a portion of posttrial sentencing. The offender
20 shall pay the cost of electronic home monitoring. The county or
21 municipality in which the penalty is being imposed shall determine
22 the cost. The court may also require the offender's electronic home
23 monitoring device to include an alcohol detection breathalyzer or
24 other separate alcohol monitoring device, and the court may restrict
25 the amount of alcohol the offender may consume during the time the
26 offender is on electronic home monitoring; and

27 (ii) By a fine of not less than \$500 nor more than \$5,000. \$500
28 of the fine may not be suspended unless the court finds the offender
29 to be indigent; or

1 (c)"

2 Correct any internal references accordingly.

3 On page 6, line 17, after "**least**" strike "**0.15**" and insert
4 "~~((0.15))~~ 0.12"

5 On page 6, line 18, after "least" strike "0.15" and insert
6 "~~((0.15))~~ 0.12"

7 On page 6, line 38, after "~~dollars))~~" strike "\$500" and insert
8 "\$1,245"

9 On page 7, line 7, after "**than**" strike "**0.15**" and insert
10 "~~((0.15))~~ 0.10"

11 On page 7, line 8, after "than" strike "0.15" and insert
12 "~~((0.15))~~ 0.10"

13 On page 8, line 4, after "indigent;" strike "or" and insert
14 "~~((or))~~"

15 On page 8, line 5, after "(b)" insert "**Penalty for alcohol**
16 **concentration at least 0.10.** In the case of a person whose alcohol
17 concentration was at least 0.10:

18 (i) By imprisonment for not less than 40 days nor more than 364
19 days. In lieu of the mandatory minimum term of imprisonment required
20 under this subsection (2)(b)(i), the court, in its discretion, may
21 order not less than 40 days of electronic home monitoring or 120-day
22 period of 24/7 sobriety program monitoring. The court may consider
23 the offender's pretrial 24/7 sobriety program testing as fulfilling a
24 portion of posttrial sentencing. The offender shall pay the cost of
25 electronic home monitoring. The county or municipality in which the
26 penalty is being imposed shall determine the cost. The court may also
27 require the offender's electronic home monitoring device to include
28 an alcohol detection breathalyzer or other separate alcohol
29 monitoring device, and the court may restrict the amount of alcohol
30 the offender may consume during the time the offender is on
31 electronic home monitoring; and

32 (ii) By a fine of not less than \$600 nor more than \$5,000. \$500
33 of the fine may not be suspended unless the court finds the offender
34 to be indigent; or

1 (c)"

2 Correct any internal references accordingly.

3 On page 8, line 5, after "**least**" strike "**0.15**" and insert
4 "~~((0.15))~~ 0.12"

5 On page 8, line 6, after "least" strike "0.15" and insert
6 "~~((0.15))~~ 0.12"

7 On page 9, line 7, after "**than**" strike "**0.15**" and insert
8 "~~((0.15))~~ 0.10"

9 On page 9, line 8, after "than" strike "0.15" and insert
10 "~~((0.15))~~ 0.10"

11 On page 10, line 4, after "indigent;" strike "or" and insert
12 "~~((or))~~"

13 On page 10, line 5, after "**least**" strike "**0.15**" and insert
14 "~~((0.15))~~ 0.10"

15 On page 10 line 6, after "least" strike "0.15" and insert
16 "~~((0.15))~~ 0.10"

17 On page 10, line 10, after "~~twenty))~~" strike "120" and insert
18 "105"

19 On page 10, line 22, after "~~twenty))~~" strike "120" and insert
20 "105"

21 On page 10, at the beginning of line 40, after "~~dollars))~~" strike
22 "\$1,500" and insert "\$1,250"

23 On page 11, line 1, after "five" strike "hundred))" \$1,500
24 dollars" and insert "~~hundred-dollars))~~ \$1,000"

25 On page 11, line 2, after "indigent" insert "; or

26 (c) **Penalty for alcohol concentration at least 0.12.** In the case
27 of a person whose alcohol concentration was at least 0.12, or for
28 whom by reason of the person's refusal to take a test offered
29 pursuant to RCW 46.20.308 there is no test result indicating the
30 person's alcohol concentration:

1 (i) By imprisonment for not less than 120 days nor more than 364
2 days, if available in that county or city, a six-month period of 24/7
3 sobriety program monitoring pursuant to RCW 36.28A.300 through
4 36.28A.390, and 150 days of electronic home monitoring. 120 days of
5 imprisonment and 150 days of electronic home monitoring may not be
6 suspended or converted unless the court finds that the imposition of
7 this mandatory minimum sentence would impose a substantial risk to
8 the offender's physical or mental well-being. If the offender shows
9 that the imposition of this mandatory minimum sentence would impose a
10 substantial risk to the offender's physical or mental well-being, in
11 lieu of the mandatory minimum term of 120 days of imprisonment and
12 150 days of electronic home monitoring, the court may order 360 days
13 of electronic home monitoring or 360-day period of 24/7 sobriety
14 monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever
15 the mandatory minimum sentence is suspended or converted, the court
16 shall state in writing the reason for granting the suspension or
17 conversion and the facts upon which the suspension or conversion is
18 based. The offender shall pay the cost of the electronic monitoring.
19 The court shall order an expanded substance use disorder assessment
20 and treatment, if deemed appropriate by the assessment. The county or
21 municipality where the penalty is being imposed shall determine the
22 cost. The court may also require the offender's electronic home
23 monitoring device include an alcohol detection breathalyzer or other
24 separate alcohol monitoring device, and may restrict the amount of
25 alcohol the offender may consume during the time the offender is on
26 electronic home monitoring; and

27 (ii) By a fine of not less than \$1,500 nor more than \$5,000.
28 \$1,500 of the fine may not be suspended unless the court finds the
29 offender to be indigent"

30 Beginning on page 19, line 24, strike all of sections 5 through
31 10

32 Renumber the remaining sections consecutively and correct any
33 internal references accordingly.

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By Senator Fortunato

1 On page 38, beginning on line 6, after "RCW" strike all material
2 through "79A.60.040" on line 8 and insert "46.61.5055"

3 On page 38, line 10, after "RCW;" strike "creating a new
4 section;"

EFFECT: (1) Removes the intent section with findings supporting a
0.05 alcohol concentration.

(2) Retains the legal limit of 0.08 alcohol concentration.

(3) Changes the penalty schedule for violations of alcohol
concentration:

(a) Adds 0.10 as a penalty threshold; and

(b) Reduces the 0.15 penalty threshold to 0.12.

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