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HOUSE BILL 2728

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Goodman, Klippert, Smith, Morrell, Gregerson, and Freeman

Read first time 01/29/14. Referred to Committee on Public Safety.

1 AN ACT Relating to impaired driving; amending RCW 10.21.055,  
2 46.20.740, 46.20.308, 46.20.750, 46.25.120, and 46.61.5055; repealing  
3 2013 2nd sp.s. c 35 ss 39 and 40 (uncodified); prescribing penalties;  
4 and making appropriations.

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

6 **Sec. 1.** RCW 10.21.055 and 2013 2nd sp.s. c 35 s 1 are each amended  
7 to read as follows:

8 (1)(a) When any person charged with or arrested for a violation of  
9 RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in which the person  
10 has a prior offense as defined in RCW 46.61.5055 and the current  
11 offense involves alcohol, is released from custody before arraignment  
12 or trial on bail or personal recognizance, the court authorizing the  
13 release shall require, as a condition of release, that person to  
14 ((+a)) (i) have a functioning ignition interlock device installed on  
15 all motor vehicles operated by the person, with proof of installation  
16 filed with the court by the person or the certified interlock provider  
17 within five business days of the date of release from custody or as  
18 soon thereafter as determined by the court based on availability within

1 the jurisdiction; or ~~((b))~~ (ii) comply with 24/7 sobriety program  
2 monitoring, as defined in RCW 36.28A.330; or both.

3 (b) The court shall immediately notify the department of licensing  
4 when an ignition interlock restriction is imposed as a condition of  
5 release pursuant to (a) of this subsection. Pursuant to RCW 46.20.740,  
6 the department of licensing shall attach or imprint a notation on the  
7 driving record of any person restricted under this section stating that  
8 the person may operate only a motor vehicle equipped with a functioning  
9 ignition interlock device.

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

17 (b) Pursuant to (a) of this subsection the court shall immediately  
18 notify the department of licensing regarding the lifting of the  
19 ignition interlock restriction and the department of licensing shall  
20 remove any attachment, imprint, or notation on such person's driving  
21 record relating to the ignition interlock requirement.

22 **Sec. 2.** RCW 46.20.740 and 2010 c 269 s 8 are each amended to read  
23 as follows:

24 (1) The department shall attach or imprint a notation on the  
25 driving record of any person restricted under RCW 46.20.720,  
26 46.61.5055, ~~((or))~~ 10.05.140, or 10.21.055 stating that the person may  
27 operate only a motor vehicle equipped with a functioning ignition  
28 interlock device. The department shall determine the person's  
29 eligibility for licensing based upon written verification by a company  
30 doing business in the state that it has installed the required device  
31 on a vehicle owned or operated by the person seeking reinstatement.  
32 If, based upon notification from the interlock provider or otherwise,  
33 the department determines that an ignition interlock required under  
34 this section is no longer installed or functioning as required, the  
35 department shall suspend the person's license or privilege to drive.  
36 Whenever the license or driving privilege of any person is suspended or  
37 revoked as a result of noncompliance with an ignition interlock

1 requirement, the suspension shall remain in effect until the person  
2 provides notice issued by a company doing business in the state that a  
3 vehicle owned or operated by the person is equipped with a functioning  
4 ignition interlock device.

5 (2) It is a gross misdemeanor for a person with such a notation on  
6 his or her driving record to operate a motor vehicle that is not so  
7 equipped.

8 **Sec. 3.** RCW 46.20.308 and 2013 2nd sp.s. c 35 s 36 are each  
9 amended to read as follows:

10 (1) Any person who operates a motor vehicle within this state is  
11 deemed to have given consent, subject to the provisions of RCW  
12 46.61.506, to a test or tests of his or her breath for the purpose of  
13 determining the alcohol concentration(~~(, THC concentration, or presence~~  
14 ~~of any drug))~~ in his or her breath if arrested for any offense where,  
15 at the time of the arrest, the arresting officer has reasonable grounds  
16 to believe the person had been driving or was in actual physical  
17 control of a motor vehicle while under the influence of intoxicating  
18 liquor or any drug or was in violation of RCW 46.61.503. (~~Neither~~  
19 ~~consent nor this section precludes a police officer from obtaining a~~  
20 ~~search warrant for a person's breath or blood.))~~)

21 (2) The test or tests of breath shall be administered at the  
22 direction of a law enforcement officer having reasonable grounds to  
23 believe the person to have been driving or in actual physical control  
24 of a motor vehicle within this state while under the influence of  
25 intoxicating liquor or any drug or the person to have been driving or  
26 in actual physical control of a motor vehicle while having alcohol (~~(or~~  
27 ~~THC))~~ in a concentration in violation of RCW 46.61.503 in his or her  
28 system and being under the age of twenty-one. Unless the officer seeks  
29 to have the test administered pursuant to a search warrant, a valid  
30 waiver of the warrant requirement exists, or exigent circumstances as  
31 provided in subsection (4) of this section exists, the officer shall  
32 inform the person of his or her right to refuse the breath test, and of  
33 his or her right to have additional tests administered by any qualified  
34 person of his or her choosing as provided in RCW 46.61.506. The  
35 officer shall warn the driver, in substantially the following language,  
36 that:

1 (a) If the driver refuses to take the test, the driver's license,  
2 permit, or privilege to drive will be revoked or denied for at least  
3 one year; and

4 (b) If the driver refuses to take the test, the driver's refusal to  
5 take the test may be used in a criminal trial; and

6 (c) If the driver submits to the test and the test is administered,  
7 the driver's license, permit, or privilege to drive will be suspended,  
8 revoked, or denied for at least ninety days if:

9 (i) The driver is age twenty-one or over and the test indicates  
10 either that the alcohol concentration of the driver's breath is 0.08 or  
11 more (~~or that the THC concentration of the driver's blood is 5.00 or~~  
12 ~~more)); or~~

13 (ii) The driver is under age twenty-one and the test indicates  
14 either that the alcohol concentration of the driver's breath is 0.02 or  
15 more (~~or that the THC concentration of the driver's blood is above~~  
16 ~~0.00)); or~~

17 (iii) The driver is under age twenty-one and the driver is in  
18 violation of RCW 46.61.502 or 46.61.504; and

19 (d) If the driver's license, permit, or privilege to drive is  
20 suspended, revoked, or denied the driver may be eligible to immediately  
21 apply for an ignition interlock driver's license.

22 ~~(3) ((Except as provided in this section, the test administered~~  
23 ~~shall be of the breath only. If an individual is unconscious or is~~  
24 ~~under arrest for the crime of felony driving under the influence of~~  
25 ~~intoxicating liquor or drugs under RCW 46.61.502(6), felony physical~~  
26 ~~control of a motor vehicle while under the influence of intoxicating~~  
27 ~~liquor or any drug under RCW 46.61.504(6), vehicular homicide as~~  
28 ~~provided in RCW 46.61.520, or vehicular assault as provided in RCW~~  
29 ~~46.61.522, or if an individual is under arrest for the crime of driving~~  
30 ~~while under the influence of intoxicating liquor or drugs as provided~~  
31 ~~in RCW 46.61.502, which arrest results from an accident in which there~~  
32 ~~has been serious bodily injury to another person, a breath or blood~~  
33 ~~test may be administered without the consent of the individual so~~  
34 ~~arrested pursuant to a search warrant, a valid waiver of the warrant~~  
35 ~~requirement, or when exigent circumstances exist.~~

36 ~~(4))~~ If, following his or her arrest and receipt of warnings under  
37 subsection (2) of this section, the person arrested refuses upon the

1 request of a law enforcement officer to submit to a test or tests of  
2 his or her breath, no test shall be given except as authorized by ((a  
3 ~~search warrant~~)) subsection (4) of this section.

4 (4) An arresting officer who at the time of arrest has reasonable  
5 grounds to believe that a person arrested for any offense had been  
6 driving or was in actual physical control of a motor vehicle while  
7 under the influence of intoxicating liquor or any drug or was in  
8 violation of RCW 46.61.503 may require that a breath or blood test be  
9 administered pursuant to a search warrant, a valid waiver of the  
10 warrant requirement, or when exigent circumstances exist.

11 (5) If, after arrest and after the other applicable conditions and  
12 requirements of this section have been satisfied, a test or tests of  
13 the person's blood or breath is administered and the test results  
14 indicate that the alcohol concentration of the person's breath or blood  
15 is 0.08 or more, or the THC concentration of the person's blood is 5.00  
16 or more, if the person is age twenty-one or over, or that the alcohol  
17 concentration of the person's breath or blood is 0.02 or more, or the  
18 THC concentration of the person's blood is above 0.00, if the person is  
19 under the age of twenty-one, or the person refuses to submit to a test,  
20 the arresting officer or other law enforcement officer at whose  
21 direction any test has been given, or the department, where applicable,  
22 if the arrest results in a test of the person's blood, shall:

23 (a) Serve notice in writing on the person on behalf of the  
24 department of its intention to suspend, revoke, or deny the person's  
25 license, permit, or privilege to drive as required by subsection (6) of  
26 this section;

27 (b) Serve notice in writing on the person on behalf of the  
28 department of his or her right to a hearing, specifying the steps he or  
29 she must take to obtain a hearing as provided by subsection (7) of this  
30 section ((~~and that the person waives the right to a hearing if he or~~  
31 ~~she receives an ignition interlock driver's license~~));

32 (c) Serve notice in writing that the license or permit, if any, is  
33 a temporary license that is valid for sixty days from the date of  
34 arrest or from the date notice has been given in the event notice is  
35 given by the department following a blood test, or until the  
36 suspension, revocation, or denial of the person's license, permit, or  
37 privilege to drive is sustained at a hearing pursuant to subsection (7)

1 of this section, whichever occurs first. No temporary license is valid  
2 to any greater degree than the license or permit that it replaces; and

3 (d) Immediately notify the department of the arrest and transmit to  
4 the department within seventy-two hours, except as delayed as the  
5 result of a blood test, a sworn report or report under a declaration  
6 authorized by RCW 9A.72.085 that states:

7 (i) That the officer had reasonable grounds to believe the arrested  
8 person had been driving or was in actual physical control of a motor  
9 vehicle within this state while under the influence of intoxicating  
10 liquor or drugs, or both, or was under the age of twenty-one years and  
11 had been driving or was in actual physical control of a motor vehicle  
12 while having an alcohol or THC concentration in violation of RCW  
13 46.61.503;

14 (ii) That after receipt of (~~the~~) any applicable warnings required  
15 by subsection (2) of this section the person refused to submit to a  
16 test of his or her breath, or a test was administered and the results  
17 indicated that the alcohol concentration of the person's breath or  
18 blood was 0.08 or more, or the THC concentration of the person's blood  
19 was 5.00 or more, if the person is age twenty-one or over, or that the  
20 alcohol concentration of the person's breath or blood was 0.02 or more,  
21 or the THC concentration of the person's blood was above 0.00, if the  
22 person is under the age of twenty-one; and

23 (iii) Any other information that the director may require by rule.

24 (6) The department of licensing, upon the receipt of a sworn report  
25 or report under a declaration authorized by RCW 9A.72.085 under  
26 subsection (5)(d) of this section, shall suspend, revoke, or deny the  
27 person's license, permit, or privilege to drive or any nonresident  
28 operating privilege, as provided in RCW 46.20.3101, such suspension,  
29 revocation, or denial to be effective beginning sixty days from the  
30 date of arrest or from the date notice has been given in the event  
31 notice is given by the department following a blood test, or when  
32 sustained at a hearing pursuant to subsection (7) of this section,  
33 whichever occurs first.

34 (7) A person receiving notification under subsection (5)(b) of this  
35 section may, within twenty days after the notice has been given,  
36 request in writing a formal hearing before the department. The person  
37 shall pay a fee of three hundred seventy-five dollars as part of the  
38 request. If the request is mailed, it must be postmarked within twenty

1 days after receipt of the notification. Upon timely receipt of such a  
2 request for a formal hearing, including receipt of the required three  
3 hundred seventy-five dollar fee, the department shall afford the person  
4 an opportunity for a hearing. The department may waive the required  
5 three hundred seventy-five dollar fee if the person is an indigent as  
6 defined in RCW 10.101.010. Except as otherwise provided in this  
7 section, the hearing is subject to and shall be scheduled and conducted  
8 in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be  
9 conducted in the county of the arrest, except that all or part of the  
10 hearing may, at the discretion of the department, be conducted by  
11 telephone or other electronic means. The hearing shall be held within  
12 sixty days following the arrest or following the date notice has been  
13 given in the event notice is given by the department following a blood  
14 test, unless otherwise agreed to by the department and the person, in  
15 which case the action by the department shall be stayed, and any valid  
16 temporary license (~~marked~~) under subsection (5) of this section  
17 extended, if the person is otherwise eligible for licensing. For the  
18 purposes of this section, the scope of the hearing shall cover the  
19 issues of whether a law enforcement officer had reasonable grounds to  
20 believe the person had been driving or was in actual physical control  
21 of a motor vehicle within this state while under the influence of  
22 intoxicating liquor or any drug or had been driving or was in actual  
23 physical control of a motor vehicle within this state while having  
24 alcohol in his or her system in a concentration of 0.02 or more, or THC  
25 in his or her system in a concentration above 0.00, if the person was  
26 under the age of twenty-one, whether the person was placed under  
27 arrest, and (a) whether the person refused to submit to the test or  
28 tests upon request of the officer after having been informed that such  
29 refusal would result in the revocation of the person's license, permit,  
30 or privilege to drive, or (b) if a test or tests were administered,  
31 whether the applicable requirements of this section were satisfied  
32 before the administration of the test or tests, whether the person  
33 submitted to the test or tests, or whether a test was administered  
34 (~~without express consent~~) pursuant to a search warrant, a valid  
35 waiver of the warrant requirement, or when exigent circumstances exist  
36 as permitted under this section, and whether the test or tests  
37 indicated that the alcohol concentration of the person's breath or  
38 blood was 0.08 or more, or the THC concentration of the person's blood

1 was 5.00 or more, if the person was age twenty-one or over at the time  
2 of the arrest, or that the alcohol concentration of the person's breath  
3 or blood was 0.02 or more, or the THC concentration of the person's  
4 blood was above 0.00, if the person was under the age of twenty-one at  
5 the time of the arrest. The sworn report or report under a declaration  
6 authorized by RCW 9A.72.085 submitted by a law enforcement officer is  
7 prima facie evidence that the officer had reasonable grounds to believe  
8 the person had been driving or was in actual physical control of a  
9 motor vehicle within this state while under the influence of  
10 intoxicating liquor or drugs, or both, or the person had been driving  
11 or was in actual physical control of a motor vehicle within this state  
12 while having alcohol in his or her system in a concentration of 0.02 or  
13 more, or THC in his or her system in a concentration above 0.00, and  
14 was under the age of twenty-one and that the officer complied with the  
15 requirements of this section.

16 A hearing officer shall conduct the hearing, may issue subpoenas  
17 for the attendance of witnesses and the production of documents, and  
18 shall administer oaths to witnesses. The hearing officer shall not  
19 issue a subpoena for the attendance of a witness at the request of the  
20 person unless the request is accompanied by the fee required by RCW  
21 5.56.010 for a witness in district court. The sworn report or report  
22 under a declaration authorized by RCW 9A.72.085 of the law enforcement  
23 officer and any other evidence accompanying the report shall be  
24 admissible without further evidentiary foundation and the  
25 certifications authorized by the criminal rules for courts of limited  
26 jurisdiction shall be admissible without further evidentiary  
27 foundation. The person may be represented by counsel, may question  
28 witnesses, may present evidence, and may testify. The department shall  
29 order that the suspension, revocation, or denial either be rescinded or  
30 sustained.

31 (8) If the suspension, revocation, or denial is sustained after  
32 such a hearing, the person whose license, privilege, or permit is  
33 suspended, revoked, or denied has the right to file a petition in the  
34 superior court of the county of arrest to review the final order of  
35 revocation by the department in the same manner as an appeal from a  
36 decision of a court of limited jurisdiction. Notice of appeal must be  
37 filed within thirty days after the date the final order is served or  
38 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ

1 1.1, or other statutes or rules referencing de novo review, the appeal  
2 shall be limited to a review of the record of the administrative  
3 hearing. The appellant must pay the costs associated with obtaining  
4 the record of the hearing before the hearing officer. The filing of  
5 the appeal does not stay the effective date of the suspension,  
6 revocation, or denial. A petition filed under this subsection must  
7 include the petitioner's grounds for requesting review. Upon granting  
8 petitioner's request for review, the court shall review the  
9 department's final order of suspension, revocation, or denial as  
10 expeditiously as possible. The review must be limited to a  
11 determination of whether the department has committed any errors of  
12 law. The superior court shall accept those factual determinations  
13 supported by substantial evidence in the record: (a) That were  
14 expressly made by the department; or (b) that may reasonably be  
15 inferred from the final order of the department. The superior court  
16 may reverse, affirm, or modify the decision of the department or remand  
17 the case back to the department for further proceedings. The decision  
18 of the superior court must be in writing and filed in the clerk's  
19 office with the other papers in the case. The court shall state the  
20 reasons for the decision. If judicial relief is sought for a stay or  
21 other temporary remedy from the department's action, the court shall  
22 not grant such relief unless the court finds that the appellant is  
23 likely to prevail in the appeal and that without a stay the appellant  
24 will suffer irreparable injury. If the court stays the suspension,  
25 revocation, or denial it may impose conditions on such stay.

26 (9)(a) If a person whose driver's license, permit, or privilege to  
27 drive has been or will be suspended, revoked, or denied under  
28 subsection (6) of this section, other than as a result of a breath test  
29 refusal, and who has not committed an offense for which he or she was  
30 granted a deferred prosecution under chapter 10.05 RCW, petitions a  
31 court for a deferred prosecution on criminal charges arising out of the  
32 arrest for which action has been or will be taken under subsection (6)  
33 of this section, or notifies the department of licensing of the intent  
34 to seek such a deferred prosecution, then the license suspension or  
35 revocation shall be stayed pending entry of the deferred prosecution.  
36 The stay shall not be longer than one hundred fifty days after the date  
37 charges are filed, or two years after the date of the arrest, whichever  
38 time period is shorter. If the court stays the suspension, revocation,

1 or denial, it may impose conditions on such stay. If the person is  
2 otherwise eligible for licensing, the department shall issue a  
3 temporary license, or extend any valid temporary license under  
4 subsection (5) of this section, for the period of the stay. If a  
5 deferred prosecution treatment plan is not recommended in the report  
6 made under RCW 10.05.050, or if treatment is rejected by the court, or  
7 if the person declines to accept an offered treatment plan, or if the  
8 person violates any condition imposed by the court, then the court  
9 shall immediately direct the department to cancel the stay and any  
10 temporary ((marked)) license or extension of a temporary license issued  
11 under this subsection.

12 (b) A suspension, revocation, or denial imposed under this section,  
13 other than as a result of a breath test refusal, shall be stayed if the  
14 person is accepted for deferred prosecution as provided in chapter  
15 10.05 RCW for the incident upon which the suspension, revocation, or  
16 denial is based. If the deferred prosecution is terminated, the stay  
17 shall be lifted and the suspension, revocation, or denial reinstated.  
18 If the deferred prosecution is completed, the stay shall be lifted and  
19 the suspension, revocation, or denial canceled.

20 (c) The provisions of (b) of this subsection relating to a stay of  
21 a suspension, revocation, or denial and the cancellation of any  
22 suspension, revocation, or denial do not apply to the suspension,  
23 revocation, denial, or disqualification of a person's commercial  
24 driver's license or privilege to operate a commercial motor vehicle.

25 (10) When it has been finally determined under the procedures of  
26 this section that a nonresident's privilege to operate a motor vehicle  
27 in this state has been suspended, revoked, or denied, the department  
28 shall give information in writing of the action taken to the motor  
29 vehicle administrator of the state of the person's residence and of any  
30 state in which he or she has a license.

31 **Sec. 4.** RCW 46.20.750 and 2005 c 200 s 2 are each amended to read  
32 as follows:

33 (1) A person who is restricted to the use of a vehicle equipped  
34 with an ignition interlock device ((and who tampers with the device or  
35 directs, authorizes, or requests another to tamper with the device, in  
36 order to circumvent the device by modifying, detaching, disconnecting,

1 ~~or otherwise disabling it,~~) is guilty of a gross misdemeanor when, in  
2 order to circumvent the device, the person:

3 (a) Tamper with the device by modifying, detaching, disconnecting,  
4 or otherwise disabling it;

5 (b) Directs, authorizes, or requests another to tamper with the  
6 device by modifying, detaching, disconnecting, or otherwise disabling  
7 it;

8 (c) Directs, authorizes, or requests another to blow or otherwise  
9 exhale into the device.

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

19 **Sec. 5.** RCW 46.25.120 and 2013 2nd sp.s. c 35 s 12 are each  
20 amended to read as follows:

21 (1) A person who drives a commercial motor vehicle within this  
22 state is deemed to have given consent, subject to RCW 46.61.506, to  
23 take a test or tests of that person's (~~blood or~~) breath for the  
24 purpose of determining that person's alcohol concentration (~~or the~~  
25 ~~presence of other drugs~~)).

26 (2) A test or tests may be administered at the direction of a law  
27 enforcement officer, who after stopping or detaining the commercial  
28 motor vehicle driver, has probable cause to believe that driver was  
29 driving a commercial motor vehicle while having alcohol in his or her  
30 system or while under the influence of any drug.

31 (3) The law enforcement officer requesting the test under  
32 subsection (1) of this section shall warn the person requested to  
33 submit to the test that a refusal to submit will result in that person  
34 being disqualified from operating a commercial motor vehicle under RCW  
35 46.25.090.

36 (4) A law enforcement officer who at the time of stopping or  
37 detaining a commercial motor vehicle driver has probable cause to

1 believe that driver was driving a commercial motor vehicle while having  
2 alcohol in his or her system or while under the influence of any drug  
3 may require that a breath or blood test be administered pursuant to a  
4 search warrant, a valid waiver of the warrant requirement, or when  
5 exigent circumstances exist.

6 (5) If the person refuses testing, or (~~submits to~~) a test is  
7 administered that discloses an alcohol concentration of 0.04 or more or  
8 any measurable amount of THC concentration, the law enforcement officer  
9 shall submit a sworn report to the department certifying that the test  
10 was requested pursuant to subsection (1) of this section or a breath or  
11 blood test was administered pursuant to subsection (4) of this section  
12 and that the person refused to submit to testing, or (~~submitted to~~)  
13 a test was administered that disclosed an alcohol concentration of 0.04  
14 or more or any measurable amount of THC concentration.

15 ((+5)) (6) Upon receipt of the sworn report of a law enforcement  
16 officer under subsection ((+4)) (5) of this section, the department  
17 shall disqualify the driver from driving a commercial motor vehicle  
18 under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329  
19 and 46.20.332. The hearing shall be conducted in the county of the  
20 arrest. For the purposes of this section, the hearing shall cover the  
21 issues of whether a law enforcement officer had reasonable grounds to  
22 believe the person had been driving or was in actual physical control  
23 of a commercial motor vehicle within this state while having alcohol in  
24 the person's system or while under the influence of any drug, whether  
25 the person refused to submit to the test or tests upon request of the  
26 officer after having been informed that the refusal would result in the  
27 disqualification of the person from driving a commercial motor vehicle,  
28 if applicable, and, if the test was administered, whether the results  
29 indicated an alcohol concentration of 0.04 percent or more or any  
30 measurable amount of THC concentration. The department shall order  
31 that the disqualification of the person either be rescinded or  
32 sustained. Any decision by the department disqualifying a person from  
33 driving a commercial motor vehicle is stayed and does not take effect  
34 while a formal hearing is pending under this section or during the  
35 pendency of a subsequent appeal to superior court so long as there is  
36 no conviction for a moving violation or no finding that the person has  
37 committed a traffic infraction that is a moving violation during the  
38 pendency of the hearing and appeal. If the disqualification of the

1 person is sustained after the hearing, the person who is disqualified  
2 may file a petition in the superior court of the county of arrest to  
3 review the final order of disqualification by the department in the  
4 manner provided in RCW 46.20.334.

5 ~~((+6))~~ (7) If a motor carrier or employer who is required to have  
6 a testing program under 49 C.F.R. 382 knows that a commercial driver in  
7 his or her employ has refused to submit to testing under this section  
8 and has not been disqualified from driving a commercial motor vehicle,  
9 the employer may notify law enforcement or his or her medical review  
10 officer or breath alcohol technician that the driver has refused to  
11 submit to the required testing.

12 ~~((+7))~~ (8) The hearing provisions of this section do not apply to  
13 those persons disqualified from driving a commercial motor vehicle  
14 under RCW 46.25.090(7).

15 **Sec. 6.** RCW 46.61.5055 and 2013 2nd sp.s. c 35 s 13 are each  
16 amended to read as follows:

17 (1) **No prior offenses in seven years.** Except as provided in RCW  
18 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation  
19 of RCW 46.61.502 or 46.61.504 and who has no prior offense within seven  
20 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 whom  
23 for reasons other than the person's refusal to take a test offered  
24 pursuant to RCW 46.20.308 there is no test result indicating the  
25 person's alcohol concentration:

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

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

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

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

15 (i) By imprisonment for not less than two days nor more than three  
16 hundred sixty-four days. Forty-eight consecutive hours of the  
17 imprisonment may not be suspended unless the court finds that the  
18 imposition of this mandatory minimum sentence would impose a  
19 substantial risk to the offender's physical or mental well-being.  
20 Whenever the mandatory minimum sentence is suspended, the court shall  
21 state in writing the reason for granting the suspension and the facts  
22 upon which the suspension is based. In lieu of the mandatory minimum  
23 term of imprisonment required under this subsection (1)(b)(i), the  
24 court may order not less than thirty days of electronic home  
25 monitoring. The offender shall pay the cost of electronic home  
26 monitoring. The county or municipality in which the penalty is being  
27 imposed shall determine the cost. The court may also require the  
28 offender's electronic home monitoring device to include an alcohol  
29 detection breathalyzer or other separate alcohol monitoring device, and  
30 the court may restrict the amount of alcohol the offender may consume  
31 during the time the offender is on electronic home monitoring; and

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

35 (2) **One prior offense in seven years.** Except as provided in RCW  
36 46.61.502(6) or 46.61.504(6), a person who is convicted of a violation  
37 of RCW 46.61.502 or 46.61.504 and who has one prior offense within  
38 seven years shall be punished as follows:

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

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

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

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

35 (i) By imprisonment for not less than forty-five days nor more than  
36 three hundred sixty-four days and ninety days of electronic home  
37 monitoring. In lieu of the mandatory minimum term of ninety days  
38 electronic home monitoring, the court may order at least an additional

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

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

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

26 (a) **Penalty for alcohol concentration less than 0.15.** In the case  
27 of a person whose alcohol concentration was less than 0.15, or for whom  
28 for reasons other than 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:

31 (i) By imprisonment for not less than ninety days nor more than  
32 three hundred sixty-four days, if available in that county or city, a  
33 six-month period of 24/7 sobriety program monitoring pursuant to RCW  
34 36.28A.300 through 36.28A.390, and one hundred twenty days of  
35 electronic home monitoring. In lieu of the mandatory minimum term of  
36 one hundred twenty days of electronic home monitoring, the court may  
37 order at least an additional eight days in jail. The court shall order  
38 an expanded alcohol assessment and treatment, if deemed appropriate by

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

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

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

23 (i) By imprisonment for not less than one hundred twenty days nor  
24 more than three hundred sixty-four days, if available in that county or  
25 city, a six-month period of 24/7 sobriety program monitoring pursuant  
26 to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of  
27 electronic home monitoring. In lieu of the mandatory minimum term of  
28 one hundred fifty days of electronic home monitoring, the court may  
29 order at least an additional ten days in jail. The offender shall pay  
30 for the cost of the electronic monitoring. The court shall order an  
31 expanded alcohol assessment and treatment, if deemed appropriate by the  
32 assessment. The county or municipality where the penalty is being  
33 imposed shall determine the cost. The court may also require the  
34 offender's electronic home monitoring device include an alcohol  
35 detection breathalyzer or other separate alcohol monitoring device, and  
36 may restrict the amount of alcohol the offender may consume during the  
37 time the offender is on electronic home monitoring. One hundred twenty  
38 days of imprisonment and one hundred fifty days of electronic home

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19           (d) In any case in which the person has two or three prior offenses  
20 within seven years, and except as provided in RCW 46.61.502(6) or  
21 46.61.504(6), order an additional ten days of imprisonment and a fine  
22 of not less than three thousand dollars and not more than ten thousand  
23 dollars. One thousand dollars of the fine may not be suspended unless  
24 the court finds the offender to be indigent.

25           (7) **Other items courts must consider while setting penalties.** In  
26 exercising its discretion in setting penalties within the limits  
27 allowed by this section, the court shall particularly consider the  
28 following:

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

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

33           (c) Whether the driver was driving in the opposite direction of the  
34 normal flow of traffic on a multiple lane highway, as defined by RCW  
35 46.04.350, with a posted speed limit of forty-five miles per hour or  
36 greater; and

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

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

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

8 (a) **Penalty for alcohol concentration less than 0.15.** If the  
9 person's alcohol concentration was less than 0.15, or if for reasons  
10 other than the person's refusal to take a test offered under RCW  
11 46.20.308 there is no test result indicating the person's alcohol  
12 concentration:

13 (i) Where there has been no prior offense within seven years, be  
14 suspended or denied by the department for ninety days;

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

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

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

21 (i) Where there has been no prior offense within seven years, be  
22 revoked or denied by the department for one year;

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

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

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

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

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

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

36 The department shall grant credit on a day-for-day basis for any  
37 portion of a suspension, revocation, or denial already served under

1 this subsection for a suspension, revocation, or denial imposed under  
2 RCW 46.20.3101 arising out of the same incident.

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

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

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

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

1 alcohol or drug treatment, supervised probation, or other conditions  
2 that may be appropriate. The sentence may be imposed in whole or in  
3 part upon violation of a condition of probation during the suspension  
4 period.

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

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

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

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

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

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

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

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

7           (13) **Extraordinary medical placement.** An offender serving a  
8 sentence under this section, whether or not a mandatory minimum term  
9 has expired, may be granted an extraordinary medical placement by the  
10 jail administrator subject to the standards and limitations set forth  
11 in RCW 9.94A.728(3).

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

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

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

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

19           (iii) A conviction for a violation of RCW 46.61.520 committed while  
20 under the influence of intoxicating liquor or any drug, or a conviction  
21 for a violation of RCW 46.61.520 committed in a reckless manner or with  
22 the disregard for the safety of others if the conviction is the result  
23 of a charge that was originally filed as a violation of RCW 46.61.520  
24 committed while under the influence of intoxicating liquor or any drug;

25           (iv) A conviction for a violation of RCW 46.61.522 committed while  
26 under the influence of intoxicating liquor or any drug, or a conviction  
27 for a violation of RCW 46.61.522 committed in a reckless manner or with  
28 the disregard for the safety of others if the conviction is the result  
29 of a charge that was originally filed as a violation of RCW 46.61.522  
30 committed while under the influence of intoxicating liquor or any drug;

31           (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or  
32 9A.36.050 or an equivalent local ordinance, if the conviction is the  
33 result of a charge that was originally filed as a violation of RCW  
34 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW  
35 46.61.520 or 46.61.522;

36           (vi) An out-of-state conviction for a violation that would have  
37 been a violation of (a)(i), (ii), (iii), (iv), or (v) of this  
38 subsection if committed in this state;

1 (vii) A deferred prosecution under chapter 10.05 RCW granted in a  
2 prosecution for a violation of RCW 46.61.502, 46.61.504, or an  
3 equivalent local ordinance;

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

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

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

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

26 (b) "Treatment" means alcohol or drug treatment approved by the  
27 department of social and health services;

28 (c) "Within seven years" means that the arrest for a prior offense  
29 occurred within seven years before or after the arrest for the current  
30 offense; and

31 (d) "Within ten years" means that the arrest for a prior offense  
32 occurred within ten years before or after the arrest for the current  
33 offense.

34 NEW SECTION. **Sec. 7.** The sum of one hundred seventy-six thousand  
35 dollars of the state general fund for fiscal year ending June 30, 2014,  
36 and one hundred seventy-six thousand dollars of the state general fund

1 for fiscal year ending June 30, 2015, or as much thereof as may be  
2 necessary, is appropriated to the Washington state criminal justice  
3 training commission solely for the purposes of RCW 36.28A.320.

4 NEW SECTION. **Sec. 8.** The sum of two hundred seventy thousand  
5 dollars from the state general fund for fiscal year ending June 30,  
6 2014, and three hundred sixty thousand dollars of the state general  
7 fund for fiscal year ending June 30, 2015, or as much thereof as may be  
8 necessary, is appropriated for expenditure into the county criminal  
9 justice assistance account. The treasurer shall make quarterly  
10 distributions from the county criminal justice assistance account of  
11 the amounts provided in this section in accordance with RCW 82.14.310,  
12 for the purposes of reimbursing local jurisdictions for increased costs  
13 incurred as a result of mandatory arrest of repeat offenders from the  
14 changes made in RCW 10.31.100(2)(d). The appropriations and  
15 distributions made under this section constitute appropriate  
16 reimbursement for costs for any new programs or increased level of  
17 services for purposes of RCW 43.135.060.

18 NEW SECTION. **Sec. 9.** The following acts or parts of acts are each  
19 repealed:

- 20 (1) 2013 2nd sp.s. c 35 s 39 (uncodified); and  
21 (2) 2013 2nd sp.s. c 35 s 40 (uncodified).

--- END ---