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HOUSE BILL 1315

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State of Washington

69th Legislature

2025 Regular Session

By Representative Donaghy

1 AN ACT Relating to impaired driving; amending RCW 46.61.502,  
2 46.61.503, 46.61.504, 46.61.5055, 46.61.506, 46.20.308, 46.20.3101,  
3 46.61.500, and 46.61.5249; reenacting and amending RCW 9A.04.080;  
4 adding a new section to chapter 43.59 RCW; adding a new section to  
5 chapter 66.44 RCW; adding a new section to chapter 66.08 RCW;  
6 prescribing penalties; providing an effective date; and providing an  
7 expiration date.

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

9 **Sec. 1.** RCW 46.61.502 and 2024 c 306 s 30 are each amended to  
10 read as follows:

11 (1) A person is guilty of driving while under the influence of  
12 intoxicating liquor, cannabis, or any drug if the person drives a  
13 vehicle within this state:

14 (a) And the person has, within two hours after driving, an  
15 alcohol concentration of (~~0.08~~) 0.05 or higher as shown by analysis  
16 of the person's breath or blood made under RCW 46.61.506; or

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

20 (c) While the person is under the influence of or affected by  
21 intoxicating liquor, cannabis, or any drug; or

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

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

7 (3)(a) It is an affirmative defense to a violation of subsection  
8 (1)(a) of this section, which the defendant must prove by a  
9 preponderance of the evidence, that the defendant consumed a  
10 sufficient quantity of alcohol after the time of driving and before  
11 the administration of an analysis of the person's breath or blood to  
12 cause the defendant's alcohol concentration to be (~~(0.08)~~) 0.05 or  
13 more within two hours after driving. The court shall not admit  
14 evidence of this defense unless the defendant notifies the  
15 prosecution prior to the omnibus or pretrial hearing in the case of  
16 the defendant's intent to assert the affirmative defense.

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

27 (4)(a) Analyses of blood or breath samples obtained more than two  
28 hours after the alleged driving may be used as evidence that within  
29 two hours of the alleged driving, a person had an alcohol  
30 concentration of (~~(0.08)~~) 0.05 or more in violation of subsection  
31 (1)(a) of this section, and in any case in which the analysis shows  
32 an alcohol concentration above 0.00 may be used as evidence that a  
33 person was under the influence of or affected by intoxicating liquor  
34 or any drug in violation of subsection (1)(c) or (d) of this section.

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

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

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

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

7 (a) The person has three or more prior offenses within 15 years  
8 as defined in RCW 46.61.5055; or

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

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

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

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

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

17 **Sec. 2.** RCW 46.61.503 and 2022 c 16 s 41 are each amended to  
18 read as follows:

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

23 (a) Is under the age of (~~twenty-one~~) 21; and

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

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

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

32 (2) It is an affirmative defense to a violation of subsection (1)  
33 of this section, which the defendant must prove by a preponderance of  
34 the evidence, that the defendant consumed a sufficient quantity of  
35 alcohol or cannabis after the time of driving or being in physical  
36 control and before the administration of an analysis of the person's  
37 breath or blood to cause the defendant's alcohol or THC concentration  
38 to be in violation of subsection (1) of this section within two hours  
39 after driving or being in physical control. The court shall not admit

1 evidence of this defense unless the defendant notifies the  
2 prosecution prior to the earlier of: (a) Seven days prior to trial;  
3 or (b) the omnibus or pretrial hearing in the case of the defendant's  
4 intent to assert the affirmative defense.

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

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

16 (5) A violation of this section is a misdemeanor. Upon  
17 conviction, the court shall order an expanded substance use disorder  
18 assessment and treatment, if deemed appropriate by the assessment.

19 **Sec. 3.** RCW 46.61.504 and 2024 c 306 s 32 are each amended to  
20 read as follows:

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

25 (a) And the person has, within two hours after being in actual  
26 physical control of the vehicle, an alcohol concentration of (~~0.08~~)  
27 0.05 or higher as shown by analysis of the person's breath or blood  
28 made under RCW 46.61.506; or

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

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

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

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

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

6 (3) (a) It is an affirmative defense to a violation of subsection  
7 (1)(a) of this section which the defendant must prove by a  
8 preponderance of the evidence that the defendant consumed a  
9 sufficient quantity of alcohol after the time of being in actual  
10 physical control of the vehicle and before the administration of an  
11 analysis of the person's breath or blood to cause the defendant's  
12 alcohol concentration to be (~~(0.08)~~) 0.05 or more within two hours  
13 after being in such control. The court shall not admit evidence of  
14 this defense unless the defendant notifies the prosecution prior to  
15 the omnibus or pretrial hearing in the case of the defendant's intent  
16 to assert the affirmative defense.

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

28 (4) (a) Analyses of blood or breath samples obtained more than two  
29 hours after the alleged being in actual physical control of a vehicle  
30 may be used as evidence that within two hours of the alleged being in  
31 such control, a person had an alcohol concentration of (~~(0.08)~~) 0.05  
32 or more in violation of subsection (1)(a) of this section, and in any  
33 case in which the analysis shows an alcohol concentration above 0.00  
34 may be used as evidence that a person was under the influence of or  
35 affected by intoxicating liquor or any drug in violation of  
36 subsection (1)(c) or (d) of this section.

37 (b) Analyses of blood samples obtained more than two hours after  
38 the alleged being in actual physical control of a vehicle may be used  
39 as evidence that within two hours of the alleged being in control of  
40 the vehicle, a person had a THC concentration of 5.00 or more in

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

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

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

9 (a) The person has three or more prior offenses within 15 years  
10 as defined in RCW 46.61.5055; or

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

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

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

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

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

19 **Sec. 4.** RCW 46.61.5055 and 2024 c 306 s 31 are each amended to  
20 read as follows:

21 (1) **No prior offenses in seven years.** Except as provided in RCW  
22 46.61.502(6) or 46.61.504(6), a person who is convicted of a  
23 violation of RCW 46.61.502 or 46.61.504 and who has no prior offense  
24 within seven years shall be punished as follows:

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

30 (i) By imprisonment for not less than 24 consecutive hours nor  
31 more than 364 days. In lieu of the mandatory minimum term of  
32 imprisonment required under this subsection (1)(a)(i), the court, in  
33 its discretion, may order not less than 15 days of electronic home  
34 monitoring or a 90-day period of 24/7 sobriety program monitoring.  
35 The court may consider the offender's pretrial 24/7 sobriety program  
36 monitoring as fulfilling a portion of posttrial sentencing. The  
37 offender shall pay the cost of electronic home monitoring. The county  
38 or municipality in which the penalty is being imposed shall determine  
39 the cost. The court may also require the offender's electronic home

1 monitoring device or other separate alcohol monitoring device to  
2 include an alcohol detection breathalyzer, and the court may restrict  
3 the amount of alcohol the offender may consume during the time the  
4 offender is on electronic home monitoring; and

5 (ii) By a fine of not less than \$350 nor more than \$5,000. \$350  
6 of the fine may not be suspended unless the court finds the offender  
7 to be indigent; or

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

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 a 120-day period of 24/7 sobriety program monitoring.  
18 The 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.

30 (2) **One prior offense 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 one 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:

39 (i) By imprisonment for not less than 30 days nor more than 364  
40 days and 60 days of electronic home monitoring. (~~Thirty days of~~

1 ~~imprisonment and 60 days of electronic home monitoring may not be~~  
2 ~~suspended or converted 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,~~  
7 ~~in)) In lieu of the mandatory term of imprisonment and electronic~~  
8 home monitoring under this subsection (2)(a)(i), the court may order  
9 a minimum of four days in jail and either 180 days of electronic home  
10 monitoring or a 120-day period of 24/7 sobriety program monitoring  
11 pursuant to RCW 36.28A.300 through 36.28A.390. Whenever the mandatory  
12 minimum sentence is suspended or converted, the court shall state in  
13 writing the reason for granting the suspension or conversion and the  
14 facts upon which the suspension or conversion is based. The court may  
15 consider the offender's pretrial 24/7 sobriety program monitoring as  
16 fulfilling a portion of posttrial sentencing. The court shall order  
17 an expanded substance use disorder assessment and treatment, if  
18 deemed appropriate by the assessment. The offender shall pay for the  
19 cost of the electronic monitoring. The county or municipality where  
20 the penalty is being imposed shall determine the cost. The court may  
21 also require the offender's electronic home monitoring device include  
22 an alcohol detection breathalyzer or other separate alcohol  
23 monitoring device, and may restrict the amount of alcohol the  
24 offender may consume during the time the offender is on electronic  
25 home monitoring; and

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

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

34 (i) By imprisonment for not less than 45 days nor more than 364  
35 days and 90 days of electronic home monitoring. (~~Forty-five days of~~  
36 ~~imprisonment and 90 days of electronic home monitoring may not be~~  
37 ~~suspended or converted unless the court finds that the imposition of~~  
38 ~~this mandatory minimum sentence would impose a substantial risk to~~  
39 ~~the offender's physical or mental well-being. If the offender shows~~  
40 ~~that the imposition of this mandatory minimum sentence would impose a~~



1 ~~substantial risk to the offender's physical or mental well-being,~~  
2 in)) In lieu of the mandatory minimum term of imprisonment and  
3 electronic home monitoring under this subsection (2)(b)(i), the court  
4 may order a minimum of six days in jail and either six months of  
5 electronic home monitoring or a 120-day period of 24/7 sobriety  
6 program monitoring pursuant to RCW 36.28A.300 through 36.28A.390.  
7 Whenever the mandatory minimum sentence is suspended or converted,  
8 the court shall state in writing the reason for granting the  
9 suspension or conversion and the facts upon which the suspension or  
10 conversion is based. The court may consider the offender's pretrial  
11 24/7 sobriety program monitoring as fulfilling a portion of posttrial  
12 sentencing. The court shall order an expanded substance use disorder  
13 assessment and treatment, if deemed appropriate by the assessment.  
14 The 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  
20 time the offender is on electronic home monitoring; and

21 (ii) By a fine of not less than \$750 nor more than \$5,000. \$750  
22 of the fine may not be suspended unless the court finds the offender  
23 to be indigent.

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

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

33 (i) By imprisonment for not less than 90 days nor more than 364  
34 days, if available in that county or city, a six-month period of 24/7  
35 sobriety program monitoring pursuant to RCW 36.28A.300 through  
36 36.28A.390, and 120 days of electronic home monitoring. Ninety days  
37 of imprisonment and 120 days of electronic home monitoring may not be  
38 suspended or converted unless the court finds that the imposition of  
39 this mandatory minimum sentence would impose a substantial risk to  
40 the offender's physical or mental well-being. If the offender shows

1 that the imposition of this mandatory minimum sentence would impose a  
2 substantial risk to the offender's physical or mental well-being, in  
3 lieu of the mandatory minimum term of 90 days of imprisonment and 120  
4 days of electronic home monitoring, the court may order 360 days of  
5 electronic home monitoring or a 360-day period of 24/7 sobriety  
6 monitoring pursuant to RCW 36.28A.300 through 36.28A.390. Whenever  
7 the mandatory minimum sentence is suspended or converted, the court  
8 shall state in writing the reason for granting the suspension or  
9 conversion and the facts upon which the suspension or conversion is  
10 based. The court shall order an expanded substance use disorder  
11 assessment and treatment, if deemed appropriate by the assessment.  
12 The offender shall pay for the cost of the electronic monitoring. The  
13 county or municipality where the penalty is being imposed shall  
14 determine the cost. The court may also require the offender's  
15 electronic home monitoring device include an alcohol detection  
16 breathalyzer or other separate alcohol monitoring device, and may  
17 restrict the amount of alcohol the offender may consume during the  
18 time the offender is on electronic home monitoring; and

19 (ii) By a fine of not less than \$1,000 nor more than \$5,000.  
20 \$1,000 of the fine may not be suspended unless the court finds the  
21 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 120 days nor more than 364  
28 days, if available in that county or city, a six-month period of 24/7  
29 sobriety program monitoring pursuant to RCW 36.28A.300 through  
30 36.28A.390, and 150 days of electronic home monitoring. One hundred  
31 twenty days of imprisonment and 150 days of electronic home  
32 monitoring may not be suspended or converted unless the court finds  
33 that the imposition of this mandatory minimum sentence would impose a  
34 substantial risk to the offender's physical or mental well-being. If  
35 the offender shows that the imposition of this mandatory minimum  
36 sentence would impose a substantial risk to the offender's physical  
37 or mental well-being, in lieu of the mandatory minimum term of 120  
38 days of imprisonment and 150 days of electronic home monitoring, the  
39 court may order 360 days of electronic home monitoring or a 360-day  
40 period of 24/7 sobriety monitoring pursuant to RCW 36.28A.300 through

1 36.28A.390. Whenever the mandatory minimum sentence is suspended or  
2 converted, the court shall state in writing the reason for granting  
3 the suspension or conversion and the facts upon which the suspension  
4 or conversion is based. The offender shall pay for the cost of the  
5 electronic monitoring. The court shall order an expanded substance  
6 use disorder assessment and treatment, if deemed appropriate by the  
7 assessment. The county or municipality where the penalty is being  
8 imposed shall determine the cost. The court may also require the  
9 offender's electronic home monitoring device include an alcohol  
10 detection breathalyzer or other separate alcohol monitoring device,  
11 and may restrict the amount of alcohol the offender may consume  
12 during the time the offender is on electronic home monitoring; and

13 (ii) By a fine of not less than \$1,500 nor more than \$5,000.  
14 \$1,500 (~~dollars~~) of the fine may not be suspended unless the court  
15 finds the offender to be indigent.

16 (4) **Three or more prior offenses in 15 years.** A person who is  
17 convicted of a violation of RCW 46.61.502 or 46.61.504 shall be  
18 punished under chapter 9.94A RCW if:

19 (a) The person has three or more prior offenses within 15 years;  
20 or

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

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

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

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

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

29 (5) **Monitoring.** (a) **Ignition interlock device.** The court shall  
30 require any person convicted of a violation of RCW 46.61.502 or  
31 46.61.504 or an equivalent local ordinance to comply with the rules  
32 and requirements of the department regarding the installation and use  
33 of a functioning ignition interlock device installed on all motor  
34 vehicles operated by the person.

35 (b) **Monitoring devices.** If the court orders that a person refrain  
36 from consuming any alcohol, the court may order the person to submit  
37 to alcohol monitoring through an alcohol detection breathalyzer  
38 device, transdermal sensor device, or other technology designed to  
39 detect alcohol in a person's system. The person shall pay for the  
40 cost of the monitoring, unless the court specifies that the cost of

1 monitoring will be paid with funds that are available from an  
2 alternative source identified by the court. The county or  
3 municipality where the penalty is being imposed shall determine the  
4 cost.

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

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

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

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

18 (6) **Penalty for having a minor passenger in vehicle.** If a person  
19 who is convicted of a violation of RCW 46.61.502 or 46.61.504  
20 committed the offense while one or more passengers under the age of  
21 16 were in the vehicle, the court shall:

22 (a) Order the use of an ignition interlock or other device for an  
23 additional 12 months for each passenger under the age of 16 when the  
24 person is subject to the penalties under subsection (1)(a), (2)(a),  
25 or (3)(a) of this section; and order the use of an ignition interlock  
26 device for an additional 18 months for each passenger under the age  
27 of 16 when the person is subject to the penalties under subsection  
28 (1)(b), (2)(b), (3)(b), or (4) of this section;

29 (b) In any case in which the person has no prior offenses within  
30 seven years, and except as provided in RCW 46.61.502(6) or  
31 46.61.504(6), order an additional 24 hours of imprisonment to be  
32 served consecutively for each passenger under the age of 16, and a  
33 fine of not less than \$1,000 and not more than \$5,000 for each  
34 passenger under the age of 16. \$1,000 of the fine for each passenger  
35 under the age of 16 may not be suspended unless the court finds the  
36 offender to be indigent;

37 (c) In any case in which the person has one prior offense within  
38 seven years, and except as provided in RCW 46.61.502(6) or  
39 46.61.504(6), order an additional five days of imprisonment to be  
40 served consecutively for each passenger under the age of 16, and a

1 fine of not less than \$2,000 and not more than \$5,000 for each  
2 passenger under the age of 16. One thousand dollars of the fine for  
3 each passenger under the age of 16 may not be suspended unless the  
4 court finds the offender to be indigent;

5 (d) In any case in which the person has two prior offenses within  
6 seven years, and except as provided in RCW 46.61.502(6) or  
7 46.61.504(6), order an additional ten days of imprisonment to be  
8 served consecutively for each passenger under the age of 16, and a  
9 fine of not less than \$3,000 and not more than \$10,000 for each  
10 passenger under the age of 16. \$1,000 of the fine for each passenger  
11 under the age of 16 may not be suspended unless the court finds the  
12 offender to be indigent.

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

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

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

21 (c) Whether the driver was driving in the opposite direction of  
22 the normal flow of traffic on a multiple lane highway, as defined by  
23 RCW 46.04.350, with a posted speed limit of 45 miles per hour or  
24 greater; and

25 (d) Whether a child passenger under the age of 16 was an occupant  
26 in the driver's vehicle.

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

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

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

39 (A) Where there has been no prior offense within seven years, be  
40 suspended or denied by the department for 90 days or until the person

1 is evaluated by a substance use disorder agency or probation  
2 department pursuant to RCW 46.20.311 and the person completes or is  
3 enrolled in a 90-day period of 24/7 sobriety program monitoring. In  
4 no circumstances shall the license suspension be for fewer than two  
5 days;

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

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

15 (ii) **Penalty for alcohol concentration at least 0.15.** If the  
16 person's alcohol concentration was at least 0.15:

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

24 (B) Where there has been one prior offense within seven years, be  
25 revoked or denied by the department for 900 days; or

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

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

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

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

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

37 (b) (i) The department shall grant credit on a day-for-day basis  
38 for a suspension, revocation, or denial imposed under this subsection  
39 (9) for any portion of a suspension, revocation, or denial already  
40 served under RCW 46.20.3101 arising out of the same incident.

1 (ii) If a person has already served a suspension, revocation, or  
2 denial under RCW 46.20.3101 for a period equal to or greater than the  
3 period imposed under this subsection (9), the department shall  
4 provide notice of full credit, shall provide for no further  
5 suspension or revocation under this subsection provided the person  
6 has completed the requirements under RCW 46.20.311 and paid the  
7 probationary license fee under RCW 46.20.355 by the date specified in  
8 the notice under RCW 46.20.245, and shall impose no additional  
9 reissue fees for this credit.

10 (c) Upon receipt of a notice from the court under RCW 36.28A.390  
11 that a participant has been removed from a 24/7 sobriety program, the  
12 department must resume any suspension, revocation, or denial that had  
13 been terminated early under this subsection due to participation in  
14 the program, granting credit on a day-for-day basis for any portion  
15 of a suspension, revocation, or denial already served under RCW  
16 46.20.3101 or this section arising out of the same incident.

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

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

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

35 (11) **Conditions of probation.** (a) In addition to any  
36 nonsuspendable and nondeferrable jail sentence required by this  
37 section, whenever the court imposes up to 364 days in jail, the court  
38 shall also suspend but shall not defer a period of confinement for a  
39 period not exceeding five years. The court shall impose conditions of  
40 probation that include: (i) Not driving a motor vehicle within this

1 state without a valid license to drive; (ii) not driving a motor  
2 vehicle within this state without proof of liability insurance or  
3 other financial responsibility for the future pursuant to RCW  
4 46.30.020; (iii) not driving or being in physical control of a motor  
5 vehicle within this state while having an alcohol concentration of  
6 (~~0.08~~) 0.05 or more or a THC concentration of 5.00 nanograms per  
7 milliliter of whole blood or higher, within two hours after driving;  
8 (iv) not refusing to submit to a test of his or her breath or blood  
9 to determine alcohol or drug concentration upon request of a law  
10 enforcement officer who has reasonable grounds to believe the person  
11 was driving or was in actual physical control of a motor vehicle  
12 within this state while under the influence of intoxicating liquor or  
13 drug; and (v) not driving a motor vehicle in this state without a  
14 functioning ignition interlock device as required by the department  
15 under RCW 46.20.720. The court may impose conditions of probation  
16 that include nonrepetition, installation of an ignition interlock  
17 device on the probationer's motor vehicle, substance use disorder  
18 treatment, supervised probation, or other conditions that may be  
19 appropriate. The sentence may be imposed in whole or in part upon  
20 violation of a condition of probation during the suspension period.

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

25 (c)(i) Except as provided in (c)(ii) of this subsection, for each  
26 incident involving a violation of a mandatory condition of probation  
27 imposed under this subsection, the license, permit, or privilege to  
28 drive of the person shall be suspended by the court for 30 days or,  
29 if such license, permit, or privilege to drive already is suspended,  
30 revoked, or denied at the time the finding of probation violation is  
31 made, the suspension, revocation, or denial then in effect shall be  
32 extended by 30 days. The court shall notify the department of any  
33 suspension, revocation, or denial or any extension of a suspension,  
34 revocation, or denial imposed under this subsection. The person may  
35 apply for an ignition interlock driver's license under RCW 46.20.385  
36 during the suspension period.

37 (ii) For each incident involving a violation of RCW  
38 46.20.342(1)(c), the court has discretion not to impose a suspension  
39 when the person provides the court with proof that the violation has



1 been cured within 30 days. The court is not required to notify the  
2 department of the violation unless it is not cured within 30 days.

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

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

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

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

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

22 Whenever the combination of jail time and electronic home  
23 monitoring or alternative sentence would exceed 364 days, the  
24 offender shall serve the jail portion of the sentence first, and the  
25 electronic home monitoring or alternative portion of the sentence  
26 shall be reduced so that the combination does not exceed 364 days.

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

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

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

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

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

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

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

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

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

10 (vii) A conviction for a violation of RCW 47.68.220 or an  
11 equivalent local ordinance committed in a careless or reckless manner  
12 if the conviction is the result of a charge that was originally filed  
13 as a violation of RCW 47.68.220 or an equivalent local ordinance  
14 while under the influence of intoxicating liquor or any drug;

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

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

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

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

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

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

1 (xiv) 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 (xv) 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 (xvi) 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 (xvii) A deferred sentence imposed in a prosecution for a  
17 violation of RCW 46.61.5249, 46.61.500, or 9A.36.050, or an  
18 equivalent local ordinance, if the charge under which the deferred  
19 sentence was imposed was originally filed as a violation of RCW  
20 46.61.502 or 46.61.504, or an equivalent local ordinance, or a  
21 violation of RCW 46.61.520 or 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 substance use disorder treatment licensed  
27 or certified by the department of health;

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

31 (d) "Within 15 years" means that the arrest for a prior offense  
32 occurred within 15 years before or after the arrest for the current  
33 offense.

34 (15) All fines imposed by this section apply to adult offenders  
35 only.

36 **Sec. 5.** RCW 46.61.506 and 2020 c 80 s 33 are each amended to  
37 read as follows:

38 (1) Upon the trial of any civil or criminal action or proceeding  
39 arising out of acts alleged to have been committed by any person

1 while driving or in actual physical control of a vehicle while under  
2 the influence of intoxicating liquor or any drug, if the person's  
3 alcohol concentration is less than (~~(0.08)~~) 0.05 or the person's THC  
4 concentration is less than 5.00, it is evidence that may be  
5 considered with other competent evidence in determining whether the  
6 person was under the influence of intoxicating liquor or any drug.

7 (2) (a) The breath analysis of the person's alcohol concentration  
8 shall be based upon grams of alcohol per (~~(two hundred ten)~~) 210  
9 liters of breath.

10 (b) The blood analysis of the person's THC concentration shall be  
11 based upon nanograms per milliliter of whole blood.

12 (c) The foregoing provisions of this section shall not be  
13 construed as limiting the introduction of any other competent  
14 evidence bearing upon the question whether the person was under the  
15 influence of intoxicating liquor or any drug.

16 (3) Analysis of the person's blood or breath to be considered  
17 valid under the provisions of this section or RCW 46.61.502 or  
18 46.61.504 shall have been performed according to methods approved by  
19 the state toxicologist and by an individual possessing a valid permit  
20 issued by the state toxicologist for this purpose. The state  
21 toxicologist is directed to approve satisfactory techniques or  
22 methods, to supervise the examination of individuals to ascertain  
23 their qualifications and competence to conduct such analyses, and to  
24 issue permits which shall be subject to termination or revocation at  
25 the discretion of the state toxicologist.

26 (4) (a) A breath test performed by any instrument approved by the  
27 state toxicologist shall be admissible at trial or in an  
28 administrative proceeding if the prosecution or department produces  
29 prima facie evidence of the following:

30 (i) The person who performed the test was authorized to perform  
31 such test by the state toxicologist;

32 (ii) The person being tested did not vomit or have anything to  
33 eat, drink, or smoke for at least (~~(fifteen)~~) 15 minutes prior to  
34 administration of the test;

35 (iii) The person being tested did not have any foreign  
36 substances, not to include dental work or piercings, fixed or  
37 removable, in his or her mouth at the beginning of the (~~(fifteen-~~  
38 ~~minute)~~) 15-minute observation period;

39 (iv) Prior to the start of the test, the temperature of any  
40 liquid simulator solution utilized as an external standard, as

1 measured by a thermometer approved of by the state toxicologist was  
2 (~~thirty-four~~) 34 degrees centigrade plus or minus 0.3 degrees  
3 centigrade;

4 (v) The internal standard test resulted in the message  
5 "verified";

6 (vi) The two breath samples agree to within plus or minus (~~ten~~)  
7 10 percent of their mean to be determined by the method approved by  
8 the state toxicologist;

9 (vii) The result of the test of the liquid simulator solution  
10 external standard or dry gas external standard result did lie between  
11 (~~.072 to .088~~) .045 to .055 inclusive; and

12 (viii) All blank tests gave results of .000.

13 (b) For purposes of this section, "prima facie evidence" is  
14 evidence of sufficient circumstances that would support a logical and  
15 reasonable inference of the facts sought to be proved. In assessing  
16 whether there is sufficient evidence of the foundational facts, the  
17 court or administrative tribunal is to assume the truth of the  
18 prosecution's or department's evidence and all reasonable inferences  
19 from it in a light most favorable to the prosecution or department.

20 (c) Nothing in this section shall be deemed to prevent the  
21 subject of the test from challenging the reliability or accuracy of  
22 the test, the reliability or functioning of the instrument, or any  
23 maintenance procedures. Such challenges, however, shall not preclude  
24 the admissibility of the test once the prosecution or department has  
25 made a prima facie showing of the requirements contained in (a) of  
26 this subsection. Instead, such challenges may be considered by the  
27 trier of fact in determining what weight to give to the test result.

28 (5) When a blood test is administered under the provisions of RCW  
29 46.20.308, the withdrawal of blood for the purpose of determining its  
30 alcohol or drug content may be performed only by a physician licensed  
31 under chapter 18.71 RCW; an osteopathic physician licensed under  
32 chapter 18.57 RCW; a registered nurse, licensed practical nurse, or  
33 advanced registered nurse practitioner licensed under chapter 18.79  
34 RCW; a physician assistant licensed under chapter 18.71A RCW; an  
35 advanced emergency medical technician or paramedic certified under  
36 chapter 18.71 RCW; or a medical assistant-certified or medical  
37 assistant-phlebotomist certified under chapter 18.360 RCW, a person  
38 holding another credential under Title 18 RCW whose scope of practice  
39 includes performing venous blood draws, or a forensic phlebotomist  
40 certified under chapter 18.360 RCW. When the blood test is performed

1 outside the state of Washington, the withdrawal of blood for the  
2 purpose of determining its alcohol or drug content may be performed  
3 by any person who is authorized by the out-of-state jurisdiction to  
4 perform venous blood draws. Proof of qualification to draw blood may  
5 be established through the department of health's provider credential  
6 search. This limitation shall not apply to the taking of breath  
7 specimens.

8 (6) When a venous blood sample is performed by a forensic  
9 phlebotomist certified under chapter 18.360 RCW, it must be done  
10 under the following conditions:

11 (a) If taken at the scene, it must be performed in an ambulance  
12 or aid service vehicle licensed by the department of health under  
13 chapter 18.73 RCW.

14 (b) The collection of blood samples must not interfere with the  
15 provision of essential medical care.

16 (c) The blood sample must be collected using sterile equipment  
17 and the skin area of puncture must be thoroughly cleansed and  
18 disinfected.

19 (d) The person whose blood is collected must be seated, reclined,  
20 or lying down when the blood is collected.

21 (7) The person tested may have a licensed or certified health  
22 care provider listed in subsection (5) of this section, or a  
23 qualified technician, chemist, or other qualified person of his or  
24 her own choosing administer one or more tests in addition to any  
25 administered at the direction of a law enforcement officer. The test  
26 will be admissible if the person establishes the general  
27 acceptability of the testing technique or method. The failure or  
28 inability to obtain an additional test by a person shall not preclude  
29 the admission of evidence relating to the test or tests taken at the  
30 direction of a law enforcement officer.

31 (8) Upon the request of the person who shall submit to a test or  
32 tests at the request of a law enforcement officer, full information  
33 concerning the test or tests shall be made available to him or her or  
34 his or her attorney.

35 **Sec. 6.** RCW 46.20.308 and 2022 c 16 s 38 are each amended to  
36 read as follows:

37 (1) Any person who operates a motor vehicle within this state is  
38 deemed to have given consent, subject to the provisions of RCW  
39 46.61.506, to a test or tests of his or her breath for the purpose of

1 determining the alcohol concentration in his or her breath if  
2 arrested for any offense where, at the time of the arrest, the  
3 arresting officer has reasonable grounds to believe the person had  
4 been driving or was in actual physical control of a motor vehicle  
5 while under the influence of intoxicating liquor or any drug or was  
6 in violation of RCW 46.61.503.

7 (2) The test or tests of breath shall be administered at the  
8 direction of a law enforcement officer having reasonable grounds to  
9 believe the person to have been driving or in actual physical control  
10 of a motor vehicle within this state while under the influence of  
11 intoxicating liquor or any drug or the person to have been driving or  
12 in actual physical control of a motor vehicle while having alcohol in  
13 a concentration in violation of RCW 46.61.503 in his or her system  
14 and being under the age of (~~(twenty-one)~~) 21. Prior to administering  
15 a breath test pursuant to this section, the officer shall inform the  
16 person of his or her right under this section to refuse the breath  
17 test, and of his or her right to have additional tests administered  
18 by any qualified person of his or her choosing as provided in RCW  
19 46.61.506. The officer shall warn the driver, in substantially the  
20 following language, that:

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

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

26 (c) If the driver submits to the test and the test is  
27 administered, the driver's license, permit, or privilege to drive  
28 will be suspended, revoked, or denied for at least (~~(ninety)~~) 90 days  
29 if:

30 (i) The driver is age (~~(twenty-one)~~) 21 or over and the test  
31 indicates either that the alcohol concentration of the driver's  
32 breath is (~~(0.08)~~) 0.05 or more; or

33 (ii) The driver is under age (~~(twenty-one)~~) 21 and the test  
34 indicates either that the alcohol concentration of the driver's  
35 breath is 0.02 or more; or

36 (iii) The driver is under age (~~(twenty-one)~~) 21 and the driver is  
37 in violation of RCW 46.61.502 or 46.61.504; and

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

1 (3) If, following his or her arrest and receipt of warnings under  
2 subsection (2) of this section, the person arrested exercises the  
3 right, granted herein, by refusing upon the request of a law  
4 enforcement officer to submit to a test or tests of his or her  
5 breath, no test shall be given except as otherwise authorized by law.

6 (4) Nothing in subsection (1), (2), or (3) of this section  
7 precludes a law enforcement officer from obtaining a person's blood  
8 to test for alcohol, cannabis, or any drug, pursuant to a search  
9 warrant, a valid waiver of the warrant requirement, when exigent  
10 circumstances exist, or under any other authority of law. Any blood  
11 drawn for the purpose of determining the person's alcohol, cannabis  
12 levels, or any drug, is drawn pursuant to this section when the  
13 officer has reasonable grounds to believe that the person is in  
14 physical control or driving a vehicle under the influence or in  
15 violation of RCW 46.61.503.

16 (5) If, after arrest and after any other applicable conditions  
17 and requirements of this section have been satisfied, a test or tests  
18 of the person's blood or breath is administered and the test results  
19 indicate that the alcohol concentration of the person's breath or  
20 blood is ~~((0.08))~~ 0.05 or more, or the THC concentration of the  
21 person's blood is 5.00 or more, if the person is age ~~((twenty-one))~~  
22 21 or over, or that the alcohol concentration of the person's breath  
23 or blood is 0.02 or more, or the THC concentration of the person's  
24 blood is above 0.00, if the person is under the age of ~~((twenty-one))~~  
25 21, or the person refuses to submit to a test, the arresting officer  
26 or other law enforcement officer at whose direction any test has been  
27 given, or the department, where applicable, if the arrest results in  
28 a test of the person's blood, shall:

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

33 (b) Serve notice in writing on the person on behalf of the  
34 department of his or her right to a hearing, specifying the steps he  
35 or she must take to obtain a hearing as provided by subsection (7) of  
36 this section;

37 (c) Serve notice in writing that the license or permit, if any,  
38 is a temporary license that is valid for ~~((thirty))~~ 30 days from the  
39 date of arrest or from the date notice has been given in the event  
40 notice is given by the department following a blood test, or until



1 the suspension, revocation, or denial of the person's license,  
2 permit, or privilege to drive is sustained at a hearing pursuant to  
3 subsection (7) of this section, whichever occurs first. No temporary  
4 license is valid to any greater degree than the license or permit  
5 that it replaces; and

6 (d) Immediately notify the department of the arrest and transmit  
7 to the department within (~~(seventy-two)~~) 72 hours, except as delayed  
8 as the result of a blood test, a sworn report or report under a  
9 declaration authorized by chapter 5.50 RCW that states:

10 (i) That the officer had reasonable grounds to believe the  
11 arrested person had been driving or was in actual physical control of  
12 a motor vehicle within this state while under the influence of  
13 intoxicating liquor or drugs, or both, or was under the age of  
14 (~~(twenty-one)~~) 21 years and had been driving or was in actual  
15 physical control of a motor vehicle while having an alcohol or THC  
16 concentration in violation of RCW 46.61.503;

17 (ii) That after receipt of any applicable warnings required by  
18 subsection (2) of this section the person refused to submit to a test  
19 of his or her breath, or a test was administered and the results  
20 indicated that the alcohol concentration of the person's breath or  
21 blood was (~~(0.08)~~) 0.05 or more, or the THC concentration of the  
22 person's blood was 5.00 or more, if the person is age (~~(twenty-one)~~)  
23 21 or over, or that the alcohol concentration of the person's breath  
24 or blood was 0.02 or more, or the THC concentration of the person's  
25 blood was above 0.00, if the person is under the age of (~~(twenty-~~  
26 ~~one)~~) 21; and

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

29 (6) The department of licensing, upon the receipt of a sworn  
30 report or report under a declaration authorized by chapter 5.50 RCW  
31 under subsection (5)(d) of this section, shall suspend, revoke, or  
32 deny the person's license, permit, or privilege to drive or any  
33 nonresident operating privilege, as provided in RCW 46.20.3101, such  
34 suspension, revocation, or denial to be effective beginning thirty  
35 days from the date of arrest or from the date notice has been given  
36 in the event notice is given by the department following a blood  
37 test, or when sustained at a hearing pursuant to subsection (7) of  
38 this section, whichever occurs first.

39 (7) A person receiving notification under subsection (5)(b) of  
40 this section may, within seven days after the notice has been given,

1 request in writing a formal hearing before the department. The person  
2 shall pay a fee of (~~three hundred seventy-five dollars~~) \$375 as  
3 part of the request. If the request is mailed, it must be postmarked  
4 within seven days after receipt of the notification. Upon timely  
5 receipt of such a request for a formal hearing, including receipt of  
6 the required (~~three hundred seventy-five dollar~~) \$375 fee, the  
7 department shall afford the person an opportunity for a hearing. The  
8 department may waive the required (~~three hundred seventy-five~~  
9 ~~dollar~~) \$375 fee if the person is an indigent as defined in RCW  
10 10.101.010. Except as otherwise provided in this section, the hearing  
11 is subject to and shall be scheduled and conducted in accordance with  
12 RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the  
13 county of the arrest, except that all or part of the hearing may, at  
14 the discretion of the department, be conducted by telephone or other  
15 electronic means. The hearing shall be held within (~~thirty~~) 30  
16 days, excluding Saturdays, Sundays, and legal holidays, following the  
17 date of timely receipt of such request for a formal hearing before  
18 the department or (~~thirty~~) 30 days, excluding Saturdays, Sundays,  
19 and legal holidays following the date notice has been given in the  
20 event notice is given by the department following a blood test,  
21 unless otherwise agreed to by the department and the person, in which  
22 case the action by the department shall be stayed, and any valid  
23 temporary license under subsection (5) of this section extended, if  
24 the person is otherwise eligible for licensing. Unless otherwise  
25 agreed to by the department and the person, the department must give  
26 five days notice of the hearing to the person. For the purposes of  
27 this section, the scope of the hearing shall cover the issues of  
28 whether a law enforcement officer had reasonable grounds to believe  
29 the person had been driving or was in actual physical control of a  
30 motor vehicle within this state while under the influence of  
31 intoxicating liquor or any drug or had been driving or was in actual  
32 physical control of a motor vehicle within this state while having  
33 alcohol in his or her system in a concentration of 0.02 or more, or  
34 THC in his or her system in a concentration above 0.00, if the person  
35 was under the age of (~~twenty-one~~) 21, whether the person was placed  
36 under arrest, and (a) whether the person refused to submit to the  
37 test or tests upon request of the officer after having been informed  
38 that such refusal would result in the revocation of the person's  
39 license, permit, or privilege to drive, or (b) if a test or tests  
40 were administered, whether the applicable requirements of this

1 section were satisfied before the administration of the test or  
2 tests, whether the person submitted to the test or tests, or whether  
3 a test was administered pursuant to a search warrant, a valid waiver  
4 of the warrant requirement, when exigent circumstances exist, or  
5 under any other authority of law as permitted under this section, and  
6 whether the test or tests indicated that the alcohol concentration of  
7 the person's breath or blood was (~~(0.08)~~) 0.05 or more, or the THC  
8 concentration of the person's blood was 5.00 or more, if the person  
9 was age (~~(twenty-one)~~) 21 or over at the time of the arrest, or that  
10 the alcohol concentration of the person's breath or blood was 0.02 or  
11 more, or the THC concentration of the person's blood was above 0.00,  
12 if the person was under the age of (~~(twenty-one)~~) 21 at the time of  
13 the arrest. Where a person is found to be in actual physical control  
14 of a motor vehicle while under the influence of intoxicating liquor  
15 or any drug or was under the age of (~~(twenty-one)~~) 21 at the time of  
16 the arrest and was in physical control of a motor vehicle while  
17 having alcohol in his or her system in a concentration of 0.02 or THC  
18 concentration above 0.00, the person may petition the hearing officer  
19 to apply the affirmative defense found in RCW 46.61.504(3) and  
20 46.61.503(2). The driver has the burden to prove the affirmative  
21 defense by a preponderance of the evidence. The sworn report or  
22 report under a declaration authorized by chapter 5.50 RCW submitted  
23 by a law enforcement officer is prima facie evidence that the officer  
24 had reasonable grounds to believe the person had been driving or was  
25 in actual physical control of a motor vehicle within this state while  
26 under the influence of intoxicating liquor or drugs, or both, or the  
27 person had been driving or was in actual physical control of a motor  
28 vehicle within this state while having alcohol in his or her system  
29 in a concentration of 0.02 or more, or THC in his or her system in a  
30 concentration above 0.00, and was under the age of (~~(twenty-one)~~) 21  
31 and that the officer complied with the requirements of this section.

32 A hearing officer shall conduct the hearing, may issue subpoenas  
33 for the attendance of witnesses and the production of documents, and  
34 shall administer oaths to witnesses. The hearing officer shall not  
35 issue a subpoena for the attendance of a witness at the request of  
36 the person unless the request is accompanied by the fee required by  
37 RCW 5.56.010 for a witness in district court. No witness fee is  
38 required if the witness was a law enforcement officer who wrote a  
39 report submitted under this section. The sworn report or report under  
40 a declaration authorized by chapter 5.50 RCW of the law enforcement

1 officer and any other evidence accompanying the report shall be  
2 admissible without further evidentiary foundation and the  
3 certifications authorized by the criminal rules for courts of limited  
4 jurisdiction shall be admissible without further evidentiary  
5 foundation. The person may be represented by counsel, may question  
6 witnesses, may present evidence, and may testify. The department  
7 shall order that the suspension, revocation, or denial either be  
8 rescinded or sustained.

9 (8) If the suspension, revocation, or denial is sustained after  
10 such a hearing, the person whose license, privilege, or permit is  
11 suspended, revoked, or denied has the right to file a petition in the  
12 superior court of the county of arrest to review the final order of  
13 revocation by the department in the same manner as an appeal from a  
14 decision of a court of limited jurisdiction. Notice of appeal must be  
15 filed within (~~thirty~~) 30 days after the date the final order is  
16 served or the right to appeal is waived. Notwithstanding RCW  
17 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo  
18 review, the appeal shall be limited to a review of the record of the  
19 administrative hearing. The appellant must pay the costs associated  
20 with obtaining the record of the hearing before the hearing officer.  
21 The filing of the appeal does not stay the effective date of the  
22 suspension, revocation, or denial. A petition filed under this  
23 subsection must include the petitioner's grounds for requesting  
24 review. Upon granting petitioner's request for review, the court  
25 shall review the department's final order of suspension, revocation,  
26 or denial as expeditiously as possible. The review must be limited to  
27 a determination of whether the department has committed any errors of  
28 law. The superior court shall accept those factual determinations  
29 supported by substantial evidence in the record: (a) That were  
30 expressly made by the department; or (b) that may reasonably be  
31 inferred from the final order of the department. The superior court  
32 may reverse, affirm, or modify the decision of the department or  
33 remand the case back to the department for further proceedings. The  
34 decision of the superior court must be in writing and filed in the  
35 clerk's office with the other papers in the case. The court shall  
36 state the reasons for the decision. If judicial relief is sought for  
37 a stay or other temporary remedy from the department's action, the  
38 court shall not grant such relief unless the court finds that the  
39 appellant is likely to prevail in the appeal and that without a stay  
40 the appellant will suffer irreparable injury. If the court stays the

1 suspension, revocation, or denial it may impose conditions on such  
2 stay.

3 (9) (a) If a person whose driver's license, permit, or privilege  
4 to drive has been or will be suspended, revoked, or denied under  
5 subsection (6) of this section, other than as a result of a breath  
6 test refusal, and who has not committed an offense for which he or  
7 she was granted a deferred prosecution under chapter 10.05 RCW,  
8 petitions a court for a deferred prosecution on criminal charges  
9 arising out of the arrest for which action has been or will be taken  
10 under subsection (6) of this section, or notifies the department of  
11 licensing of the intent to seek such a deferred prosecution, then the  
12 license suspension or revocation shall be stayed pending entry of the  
13 deferred prosecution. The stay shall not be longer than (~~one hundred~~  
14 ~~fifty~~) 150 days after the date charges are filed, or two years after  
15 the date of the arrest, whichever time period is shorter. If the  
16 court stays the suspension, revocation, or denial, it may impose  
17 conditions on such stay. If the person is otherwise eligible for  
18 licensing, the department shall issue a temporary license, or extend  
19 any valid temporary license under subsection (5) of this section, for  
20 the period of the stay. If a deferred prosecution treatment plan is  
21 not recommended in the report made under RCW 10.05.050, or if  
22 treatment is rejected by the court, or if the person declines to  
23 accept an offered treatment plan, or if the person violates any  
24 condition imposed by the court, then the court shall immediately  
25 direct the department to cancel the stay and any temporary license or  
26 extension of a temporary license issued under this subsection.

27 (b) A suspension, revocation, or denial imposed under this  
28 section, other than as a result of a breath test refusal, shall be  
29 stayed if the person is accepted for deferred prosecution as provided  
30 in chapter 10.05 RCW for the incident upon which the suspension,  
31 revocation, or denial is based. If the deferred prosecution is  
32 terminated, the stay shall be lifted and the suspension, revocation,  
33 or denial reinstated. If the deferred prosecution is completed, the  
34 stay shall be lifted and the suspension, revocation, or denial  
35 canceled.

36 (c) The provisions of (b) of this subsection relating to a stay  
37 of a suspension, revocation, or denial and the cancellation of any  
38 suspension, revocation, or denial do not apply to the suspension,  
39 revocation, denial, or disqualification of a person's commercial  
40 driver's license or privilege to operate a commercial motor vehicle.

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

7 **Sec. 7.** RCW 46.20.3101 and 2020 c 330 s 6 are each amended to  
8 read as follows:

9 Pursuant to RCW 46.20.308, the department shall suspend, revoke,  
10 or deny the arrested person's license, permit, or privilege to drive  
11 as follows:

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

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

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

22 (2) In the case of an incident where a person has submitted to or  
23 been administered a test or tests indicating that the alcohol  
24 concentration of the person's breath or blood was (~~(0.08)~~) 0.05 or  
25 more, or that the THC concentration of the person's blood was 5.00 or  
26 more:

27 (a) For a first incident within seven years, where there has not  
28 been a previous incident within seven years that resulted in  
29 administrative action under this section, suspension for (~~(ninety)~~)  
30 90 days, unless the person successfully completes or is enrolled in a  
31 pretrial 24/7 sobriety program;

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

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

1 (a) For a first incident within seven years, suspension or denial  
2 for (~~ninety~~) 90 days;

3 (b) For a second or subsequent incident within seven years,  
4 revocation or denial for one year or until the person reaches age  
5 (~~twenty-one~~) 21, whichever is longer.

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

16 **Sec. 8.** RCW 46.61.500 and 2020 c 330 s 14 are each amended to  
17 read as follows:

18 (1) Any person who drives any vehicle in willful or wanton  
19 disregard for the safety of persons or property is guilty of reckless  
20 driving. Violation of the provisions of this section is a gross  
21 misdemeanor punishable by imprisonment for up to (~~three hundred~~  
22 ~~sixty-four~~) 364 days and by a fine of not more than (~~five thousand~~  
23 ~~dollars~~) \$5,000.

24 (2)(a) Subject to (b) of this subsection, the license or permit  
25 to drive or any nonresident privilege of any person convicted of  
26 reckless driving shall be suspended by the department for not less  
27 than (~~thirty~~) 30 days.

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

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

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

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

21 (4) When a reckless driving conviction is a result of a charge  
22 that was originally filed as a violation of RCW 46.61.502 or  
23 46.61.504, or an equivalent local ordinance, the court shall order an  
24 expanded substance use disorder assessment and treatment, if deemed  
25 appropriate by the assessment.

26 **Sec. 9.** RCW 46.61.5249 and 2022 c 16 s 44 are each amended to  
27 read as follows:

28 (1) (a) A person is guilty of negligent driving in the first  
29 degree if he or she operates a motor vehicle in a manner that is both  
30 negligent and endangers or is likely to endanger any person or  
31 property, and exhibits the effects of having consumed liquor or  
32 cannabis or any drug or exhibits the effects of having inhaled or  
33 ingested any chemical, whether or not a legal substance, for its  
34 intoxicating or hallucinatory effects.

35 (b) It is an affirmative defense to negligent driving in the  
36 first degree by means of exhibiting the effects of having consumed  
37 any drug that must be proved by the defendant by a preponderance of  
38 the evidence, that the driver has a valid prescription for the drug



1 consumed, and has been consuming it according to the prescription  
2 directions and warnings.

3 (c) Negligent driving in the first degree is a misdemeanor.

4 (2) For the purposes of this section:

5 (a) "Negligent" means the failure to exercise ordinary care, and  
6 is the doing of some act that a reasonably careful person would not  
7 do under the same or similar circumstances or the failure to do  
8 something that a reasonably careful person would do under the same or  
9 similar circumstances.

10 (b) "Exhibiting the effects of having consumed liquor, cannabis,  
11 or any drug" means that a person has the odor of liquor, cannabis, or  
12 any drug on his or her breath, or that by speech, manner, appearance,  
13 behavior, lack of coordination, or otherwise exhibits that he or she  
14 has consumed liquor, cannabis, or any drug, and either:

15 (i) Is in possession of or in close proximity to a container that  
16 has or recently had liquor, cannabis, or any drug in it; or

17 (ii) Is shown by other evidence to have recently consumed liquor,  
18 cannabis, or any drug.

19 (c) "Exhibiting the effects of having inhaled or ingested any  
20 chemical, whether or not a legal substance, for its intoxicating or  
21 hallucinatory effects" means that a person by speech, manner,  
22 appearance, behavior, or lack of coordination or otherwise exhibits  
23 that he or she has inhaled or ingested a chemical and either:

24 (i) Is in possession of the canister or container from which the  
25 chemical came; or

26 (ii) Is shown by other evidence to have recently inhaled or  
27 ingested a chemical for its intoxicating or hallucinatory effects.

28 (3) Any act prohibited by this section that also constitutes a  
29 crime under any other law of this state may be the basis of  
30 prosecution under such other law notwithstanding that it may also be  
31 the basis for prosecution under this section.

32 (4) A person convicted of negligent driving in the first degree  
33 who has one or more prior offenses as defined in RCW 46.61.5055(14)  
34 within seven years shall be required, under RCW 46.20.720, to install  
35 an ignition interlock device on all vehicles operated by the person.

36 (5) When a conviction for negligent driving in the first degree  
37 is a result of a charge that was originally filed as a violation of  
38 RCW 46.61.502 or 46.61.504, or an equivalent local ordinance, the  
39 court shall order an expanded substance use disorder assessment and  
40 treatment, if deemed appropriate by the assessment.

1       **Sec. 10.** RCW 9A.04.080 and 2024 c 298 s 16 and 2024 c 297 s 11  
2 are each reenacted and amended to read as follows:

3       (1) Prosecutions for criminal offenses shall not be commenced  
4 after the periods prescribed in this section.

5       (a) The following offenses may be prosecuted at any time after  
6 their commission:

7       (i) Murder;

8       (ii) Homicide by abuse;

9       (iii) Arson if a death results;

10       (iv) Vehicular homicide;

11       (v) Vehicular assault if a death results;

12       (vi) Hit-and-run injury-accident if a death results (RCW  
13 46.52.020(4));

14       (vii) Rape in the first degree (RCW 9A.44.040) if the victim is  
15 under the age of sixteen;

16       (viii) Rape in the second degree (RCW 9A.44.050) if the victim is  
17 under the age of sixteen;

18       (ix) Rape of a child in the first degree (RCW 9A.44.073);

19       (x) Rape of a child in the second degree (RCW 9A.44.076);

20       (xi) Rape of a child in the third degree (RCW 9A.44.079);

21       (xii) Sexual misconduct with a minor in the first degree (RCW  
22 9A.44.093);

23       (xiii) Custodial sexual misconduct in the first degree (RCW  
24 9A.44.160);

25       (xiv) Child molestation in the first degree (RCW 9A.44.083);

26       (xv) Child molestation in the second degree (RCW 9A.44.086);

27       (xvi) Child molestation in the third degree (RCW 9A.44.089);

28       (xvii) Sexual exploitation of a minor (RCW 9.68A.040);

29       (xviii) Rape in the first degree (RCW 9A.44.040) if the  
30 perpetrator is a first responder as defined in RCW 70.54.430 and if  
31 the first responder used the first responder's position to facilitate  
32 the commission of the offense;

33       (xix) Rape in the second degree (RCW 9A.44.050) if the  
34 perpetrator is a first responder as defined in RCW 70.54.430 and if  
35 the first responder used the first responder's position to facilitate  
36 the commission of the offense;

37       (xx) Rape in the third degree (RCW 9A.44.060) if the perpetrator  
38 is a first responder as defined in RCW 70.54.430 and if the first  
39 responder used the first responder's position to facilitate the  
40 commission of the offense;

1 (xxi) Trafficking (RCW 9A.40.100) if the victim is under the age  
2 of 18;

3 (xxii) Commercial sexual abuse of a minor (RCW 9.68A.100);

4 (xxiii) Promoting commercial sexual abuse of a minor (RCW  
5 9.68A.101);

6 (xxiv) Promoting travel for commercial sexual abuse of a minor  
7 (RCW 9.68A.102); and

8 (xxv) Permitting commercial sexual abuse of a minor (RCW  
9 9.68A.103).

10 (b) Except as provided in (a) of this subsection, the following  
11 offenses may not be prosecuted more than 20 years after its  
12 commission:

13 (i) Rape in the first degree (RCW 9A.44.040);

14 (ii) Rape in the second degree (RCW 9A.44.050); or

15 (iii) Indecent liberties (RCW 9A.44.100).

16 (c) The following offenses may not be prosecuted more than ten  
17 years after its commission:

18 (i) Any felony committed by a public officer if the commission is  
19 in connection with the duties of his or her office or constitutes a  
20 breach of his or her public duty or a violation of the oath of  
21 office;

22 (ii) Arson if no death results;

23 (iii) Rape in the third degree (RCW 9A.44.060);

24 (iv) Attempted murder; or

25 (v) Trafficking under RCW 9A.40.100.

26 (d) A violation of this offense listed in this subsection (1)(d)  
27 may be prosecuted up to 10 years after its commission or, if  
28 committed against a victim under the age of 18, up to the victim's  
29 30th birthday, whichever is later: RCW 9A.64.020 (incest).

30 (e) A violation of RCW 9A.36.170 may be prosecuted up to 10 years  
31 after its commission, or if committed against a victim under the age  
32 of 18, up to the victim's 28th birthday, whichever is later.

33 (f) The following offenses may not be prosecuted more than six  
34 years after its commission or discovery, whichever occurs later:

35 (i) Violations of RCW 9A.82.060 or 9A.82.080;

36 (ii) Any felony violation of chapter 9A.83 RCW;

37 (iii) Any felony violation of chapter 9.35 RCW;

38 (iv) Theft in the first or second degree under chapter 9A.56 RCW  
39 when accomplished by color or aid of deception;

40 (v) Theft from a vulnerable adult under RCW 9A.56.400;

1 (vi) Trafficking in stolen property in the first or second degree  
2 under chapter 9A.82 RCW in which the stolen property is a motor  
3 vehicle or major component part of a motor vehicle as defined in RCW  
4 46.80.010; or

5 (vii) Violations of RCW 82.32.290 (2) (a) (iii) or (4).

6 (g) The following offenses may not be prosecuted more than five  
7 years after its commission: Any class C felony under chapter 74.09,  
8 82.36, or 82.38 RCW.

9 (h) Bigamy may not be prosecuted more than three years after the  
10 time specified in RCW 9A.64.010.

11 (i) A violation of RCW 9A.56.030 may not be prosecuted more than  
12 three years after the discovery of the offense when the victim is a  
13 tax exempt corporation under 26 U.S.C. Sec. 501(c) (3).

14 (j) No other felony may be prosecuted more than three years after  
15 its commission; except that in a prosecution under RCW 9A.44.115, if  
16 the person who was viewed, photographed, or filmed did not realize at  
17 the time that he or she was being viewed, photographed, or filmed,  
18 the prosecution must be commenced within two years of the time the  
19 person who was viewed or in the photograph or film first learns that  
20 he or she was viewed, photographed, or filmed.

21 (k) No gross misdemeanor, except as provided under (e) and (m) of  
22 this subsection, may be prosecuted more than two years after its  
23 commission.

24 (l) No misdemeanor may be prosecuted more than one year after its  
25 commission.

26 (m) A violation of RCW 46.61.502 or 46.61.504 may not be  
27 prosecuted more than three years after its commission.

28 (2) The periods of limitation prescribed in subsection (1) of  
29 this section do not run during any time when the person charged is  
30 not usually and publicly resident within this state.

31 (3) In any prosecution for a sex offense as defined in RCW  
32 9.94A.030, the periods of limitation prescribed in subsection (1) of  
33 this section run from the date of commission or four years from the  
34 date on which the identity of the suspect is conclusively established  
35 by deoxyribonucleic acid testing or by photograph as defined in RCW  
36 9.68A.011, whichever is later.

37 (4) If, before the end of a period of limitation prescribed in  
38 subsection (1) of this section, an indictment has been found or a  
39 complaint or an information has been filed, and the indictment,  
40 complaint, or information is set aside, then the period of limitation

1 is extended by a period equal to the length of time from the finding  
2 or filing to the setting aside.

3 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.59  
4 RCW to read as follows:

5 The Washington traffic safety commission shall develop and  
6 implement a public information campaign related to the adjustments to  
7 the breath or blood alcohol concentration threshold for impaired  
8 driving established under this act. In developing and implementing  
9 the public information campaign, the commission must:

10 (1) Ensure television, radio, and online advertisements are  
11 provided in all areas of the state;

12 (2) Include multiple print advertisements in the largest  
13 newspapers in each county;

14 (3) Provide content of the public information campaign in the top  
15 nine most significant non-English-speaking languages spoken in the  
16 state;

17 (4) Consider equity outcomes on overburdened communities as  
18 defined in RCW 70A.02.010; and

19 (5) Ensure that at least 10 percent of the advertisements are  
20 developed in conjunction with in-state hospitality stakeholders and  
21 educate drivers about safe alternatives to driving while patronizing  
22 hospitality businesses.

23 NEW SECTION. **Sec. 12.** A new section is added to chapter 66.44  
24 RCW to read as follows:

25 The legislature finds that current civil law relating to civil  
26 liability is that a licensed commercial vendor or quasi-commercial  
27 vendor owes a duty to third persons not to sell, serve, or furnish  
28 alcohol to a person who is apparently under the influence of alcohol,  
29 or who is obviously intoxicated. This current civil law is both  
30 statutory and also developed in case law. The legislature further  
31 finds that civil liability to third persons under the civil law does  
32 not depend upon a finding of the blood or breath alcohol  
33 concentration. Therefore, nothing in this act shall be construed to  
34 change current civil law for civil liability of a licensed commercial  
35 vendor or quasi-commercial vendor.

36 NEW SECTION. **Sec. 13.** A new section is added to chapter 66.08  
37 RCW to read as follows:

1 (1) The Washington state institute for public policy must conduct  
2 an evaluation of the impacts of this act during the first two years  
3 of implementation. By October 1, 2027, the institute must submit a  
4 report to the appropriate committees of the legislature detailing the  
5 results of its evaluation. The evaluation must include, but is not  
6 limited to, the impact of this act on:

7 (a) The number of serious and fatal traffic crashes;

8 (b) Driving under the influence arrests and adjudications for  
9 driving under the influence offenses;

10 (c) Equity outcomes on overburdened communities as defined in RCW  
11 70A.02.010;

12 (d) Sales and other business effects on the hospitality industry  
13 in the state; and

14 (e) Sales and other business effects on breweries, wineries, and  
15 distilleries in the state.

16 (2) This section expires November 1, 2028.

17 NEW SECTION. **Sec. 14.** This act takes effect July 1, 2026.

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