

## FOURTEENTH DAY

House Chamber, Olympia, Thursday, June 11, 2015

The House was called to order at 11:00 a.m. by the Speaker (Representative Moeller presiding). The Clerk called the roll and a quorum was present.

The Speaker (Representative Moeller presiding) called upon Representative Ormsby to preside.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Mitchell Larsson and Philip Harralson. The Speaker (Representative Ormsby presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Representative June Robinson, 38th District, Washington.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

The Speaker (Representative Ormsby presiding) called upon Representative Orwall to preside.

There being no objection, the House advanced to the sixth order of business.

### SECOND READING

**HOUSE BILL NO. 2122, by Representatives McBride, Nealey, Peterson, Fey, Muri, Ryu, Walsh and Springer**

**Concerning real estate as it concerns the local government authority in the use of real estate excise tax revenues and regulating real estate transactions.**

The bill was read the second time.

Representative McBride moved the adoption of amendment (506):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 82.46.010 and 2014 c 44 s 1 are each amended to read as follows:

(1) The legislative authority of any county or city must identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and must indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2)(a) The legislative authority of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. The revenues from this tax must be used by any city or county with a population of five thousand or less and any city or county that does not plan under RCW 36.70A.040 for any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040.

(b) After April 30, 1992, revenues generated from the tax imposed under this subsection (2) in counties over five thousand population and cities over five thousand population that are required or choose to plan under RCW 36.70A.040 must be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (i) pledged by such counties and cities to debt retirement prior to April 30, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (ii) committed prior to April 30, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the legislative authority of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(4) Taxes imposed under this section must be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(5) Taxes imposed under this section must comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

(6) ~~((As used in this section,))~~ The definitions in this subsection (6) apply throughout this section unless the context clearly requires otherwise.

(a) "City" means any city or town ~~((and))~~.

(b) "Capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways; sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative ~~((and/or))~~ facilities; judicial facilities; river ~~((and/or))~~ flood control projects; waterway flood control projects by those jurisdictions that, prior to June 11, 1992, have expended funds derived from the tax authorized by this section for such purposes; ~~((and,))~~ until December 31, 1995, housing projects for those jurisdictions that, prior to June 11, 1992, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes; and technology infrastructure that is integral to the capital project.

(7) From July 22, 2011, until December 31, 2016, a city or county may use the greater of one hundred thousand dollars or thirty-five percent of available funds under this section, but not to exceed one million dollars per year, for the operations and maintenance of existing capital projects as defined in subsection (6) of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 82.46 RCW to read as follows:

(1) A city or county that meets the requirements of subsection (2) of this section may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars per year, from revenues collected under RCW 82.46.010 for the maintenance of capital projects, as defined in RCW 82.46.010(6)(b).

(2) A city or county may use revenues pursuant to subsection (1) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.010, identified in its capital facilities plan for the succeeding two-year period. Cities or counties not required to prepare a capital facilities plan may satisfy this provision by using a document that, at a minimum, identifies capital project needs and available public funding sources for the succeeding two-year period; and

(b) The city or county has not enacted, after the effective date of this section, any requirement on the listing, leasing, or sale of real property, unless the requirement is either specifically authorized by state or federal law or is a seller or landlord disclosure requirement pursuant to section 4 of this act.

(3) The report prepared under subsection (2)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection (2)(a) of this section; (b) identify how revenues collected under RCW 82.46.010 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection (1) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.010 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

(4) The authority to use funds as authorized in this section is in addition to the authority to use funds pursuant to RCW 82.46.010(7), which remains in effect through December 31, 2016.

(5) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

**NEW SECTION. Sec. 3.** A new section is added to chapter 82.46 RCW to read as follows:

(1) A city or county that meets the requirements of subsection (2) of this section may use the greater of one hundred thousand dollars or twenty-five percent of available funds, but not to exceed one million dollars per year, from revenues collected under RCW 82.46.035 for:

(a) The maintenance of capital projects, as defined in RCW 82.46.035(5); or

(b) The planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, improvement, or maintenance of capital projects as defined in RCW 82.46.010(6)(b) that are not also included within the definition of capital projects in RCW 82.46.035(5).

(2) A city or county may use revenues pursuant to subsection (1) of this section if:

(a) The city or county prepares a written report demonstrating that it has or will have adequate funding from all sources of public funding to pay for all capital projects, as defined in RCW 82.46.035(5), identified in its capital facilities plan for the succeeding two-year period; and

(b) The city or county has not enacted, after the effective date of this section, any requirement on the listing, leasing, or sale of real property, unless the requirement is either specifically

authorized by state or federal law or is a seller or landlord disclosure requirement pursuant to section 4 of this act.

(3) The report prepared under subsection (2)(a) of this section must: (a) Include information necessary to determine compliance with the requirements of subsection (2)(a) of this section; (b) identify how revenues collected under RCW 82.46.035 were used by the city or county during the prior two-year period; (c) identify how funds authorized under subsection (1) of this section will be used during the succeeding two-year period; and (d) identify what percentage of funding for capital projects within the city or county is attributable to revenues under RCW 82.46.035 compared to all other sources of capital project funding. The city or county must prepare and adopt the report as part of its regular, public budget process.

(4) The authority to use funds as authorized in this section is in addition to the authority to use funds pursuant to RCW 82.46.035(7), which remains in effect through December 31, 2016.

(5) For purposes of this section, "maintenance" means the use of funds for labor and materials that will preserve, prevent the decline of, or extend the useful life of a capital project. "Maintenance" does not include labor or material costs for routine operations of a capital project.

**NEW SECTION. Sec. 4.** A new section is added to chapter 64.06 RCW to read as follows:

(1) Any ordinance, resolution, or policy adopted by a city or county that imposes a requirement on landlords or sellers of real property, or their agents, to provide information to a buyer or tenant pertaining to the subject property or the surrounding area is effective only after the ordinance, resolution, or policy is posted electronically in accordance with RCW 43.110.030(2)(e).

(2) If, prior to the effective date of this section, a city or county adopted an ordinance, resolution, or policy that imposes a requirement on landlords or sellers of real property, or their agents, to provide information to a buyer or tenant pertaining to the subject property or the surrounding area, the city or county must cause the ordinance, resolution, or policy to be posted electronically in accordance with RCW 43.110.030(2)(e) within ninety days of the effective date of this section, or the requirement shall thereafter cease to be in effect.

**Sec. 5.** RCW 43.110.030 and 2012 2nd sp.s. c 5 s 5 are each amended to read as follows:

(1) The department of commerce must contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services must be made with state agencies, educational institutions, or private consulting firms, that in the judgment of the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the department are qualified to provide such support.

(2) Municipal research and services consists of:

(a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

(b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

(c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; ~~(and)~~

(d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government; and

(e) Providing a list of all requirements imposed by all cities, towns, and counties on landlords or sellers of real property to

provide information to a buyer or tenant pertaining to the subject property or the surrounding area. The list must be posted in a specific section on a web site maintained by the entity with which the department of commerce contracts for the provision of municipal research and services under this section, and must list by jurisdiction all applicable requirements. Cities, towns, and counties must provide information for posting on the web site in accordance with section 4 of this act.

(3) Requests for legal services by county officials must be sent to the office of the county prosecuting attorney. Responses by the department of commerce to county requests for legal services must be provided to the requesting official and the county prosecuting attorney.

(4) The department of commerce must coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section."

Correct the title.

Representatives McBride, Nealey and Takko spoke in favor of the adoption of the striking amendment.

Amendment (506) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative McBride spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2122.

### MOTIONS

On motion of Representative Van De Wege, Representatives Clibborn, Fey, Gregerson and Jinkins were excused. On motion of Representative Harris, Representatives Hargrove, Kretz, Manweller, Shea and Walsh were excused.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2122, and the bill passed the House by the following vote: Yeas, 86; Nays, 3; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Voting nay: Representatives Orcutt, Scott and Taylor.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

ENGROSSED HOUSE BILL NO. 2122, having received the necessary constitutional majority, was declared passed.

### ENGROSSED HOUSE BILL NO. 2253, by Representatives Hudgins and Taylor

**Amending statutory timelines governing the administration and organization of the joint administrative rules review committee that prescribe when member, alternate, chair, and vice chair appointments and final decisions regarding petitions for review must be made.**

The bill was read the second time.

Representative Hudgins moved the adoption of amendment (505).

On page 2, line 15, after "(3)" strike "On or about January 1, 1999, the" and insert "~~(On or about January 1, 1999, the)~~ The"

On page 2, line 17, after "membership" insert "as soon as possible after the legislature convenes in regular session in January 2016"

On page 2, line 19, after "in the year" strike "2000" and insert "~~(2000)~~ 2018"

On page 2, line 22, after "year" strike "2002" and insert "~~(2002)~~ 2020"

Representatives Hudgins and Taylor spoke in favor of the adoption of the amendment.

Amendment (505) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Hudgins and Taylor spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 2253.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed House Bill No. 2253, and the bill passed the House by the following vote: Yeas, 89; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

ENGROSSED HOUSE BILL NO. 2253, having received the necessary constitutional majority, was declared passed.

There being no objection, the House advanced to the seventh order of business.

### THIRD READING

**SUBSTITUTE HOUSE BILL NO. 1037, by House Committee on Judiciary (originally sponsored by Representatives Moeller, Ormsby and Kilduff).**

**Implementing changes to child support based on the child support schedule work group report.**

The bill was read the third time.

Representative Moeller spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1037.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1037, and the bill passed the House by the following vote: Yeas, 88; Nays, 1; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Voting nay: Representative Klippert.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SUBSTITUTE HOUSE BILL NO. 1037, having received the necessary constitutional majority, was declared passed.

**SECOND SUBSTITUTE HOUSE BILL NO. 1469, by House Committee on Appropriations (originally sponsored by Representatives Hudgins, Magendanz, Stanford, Ormsby and Tarleton).**

**Addressing removal of payment credentials and other sensitive data from state data networks.**

The bill was read the third time.

Representative Hudgins spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Substitute House Bill No. 1469.

### ROLL CALL

The Clerk called the roll on the final passage of Second Substitute House Bill No. 1469, and the bill passed the House by the following vote: Yeas, 89; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SECOND SUBSTITUTE HOUSE BILL NO. 1469, having received the necessary constitutional majority, was declared passed.

**HOUSE BILL NO. 1561, by Representatives Hudgins, Scott, Stanford, Magendanz, Ormsby, Smith, S. Hunt and Wylie.**

**Concerning the consideration of information technology security matters.**

The bill was read the third time.

Representatives Hudgins and Holy spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1561.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1561, and the bill passed the House by the following vote: Yeas, 89; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

HOUSE BILL NO. 1561, having received the necessary constitutional majority, was declared passed.

**SUBSTITUTE HOUSE BILL NO. 1738, by House Committee on Transportation (originally sponsored by Representatives Orcutt, Clibborn, Hayes, Fey, Hargrove, Farrell, Zeiger, Moscoso, Muri, Condotta, Buys and Harmsworth).**

**Concerning marine, off-road recreational vehicle, and snowmobile fuel tax refunds based on actual fuel taxes paid.**

The bill was read the third time.

Representatives Orcutt and Moscoso spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1738.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1738, and the bill passed the House by the following vote: Yeas, 89; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SUBSTITUTE HOUSE BILL NO. 1738, having received the necessary constitutional majority, was declared passed.

There being no objection, the rules were suspended, and ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1825 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

### SECOND READING

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1825, by House Committee on Appropriations (originally sponsored by Representatives Kilduff, Muri, Gregory, Haler, Riccelli, Walkinshaw, Zeiger and McBride)**

**Modifying the definition of resident student to comply with federal requirements established by the veterans access, choice, and accountability act of 2014.**

The bill was read the second time.

Representative Kilduff moved the adoption of amendment (509):

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 28B.15.012 and 2015 c 55 s 207 are each reenacted and amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is on active military duty or a member of the national guard who entered service as a Washington resident

and who has maintained Washington as his or her domicile but is not stationed in the state;

(i) A student who is the spouse or a dependent of a person who is on active military duty or a member of the national guard who entered service as a Washington resident and who has maintained Washington as his or her domicile but is not stationed in the state. If the person on active military duty is reassigned out-of-state, the student maintains the status as a resident student so long as the student is continuously enrolled in a degree program;

(j) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(k) A student who has separated from the ~~((military under honorable conditions after at least two years of service, and who enters an institution of higher education in Washington within one year of the date of separation who:~~

~~(i) At the time of separation designated Washington as his or her intended domicile; or~~

~~(ii) Has Washington as his or her official home of record; or~~

~~(iii) Moves to Washington and establishes a domicile as determined in RCW 28B.15.013;~~

~~(l) A student who is the spouse or a dependent of an individual who has separated from the military under honorable conditions after at least two years of service who:~~

~~(i) At the time of discharge designates Washington as his or her intended domicile; and~~

~~(ii) Has Washington as his or her primary domicile as determined in RCW 28B.15.013; and~~

~~(iii) Enters an institution of higher education in Washington within one year of the date of discharge)) uniformed services with any period of honorable service after at least ninety days of active duty service; is eligible for benefits under the federal all-volunteer force educational assistance program (38 U.S.C. Sec. 3001 et seq.), the federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.), or any other federal law authorizing educational assistance benefits for veterans; and enters an institution of higher education in Washington within three years of the date of separation;~~

(l) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship as a spouse, former spouse, or child to an individual who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;

(m) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship with a deceased member of the uniformed services who completed at least ninety days of active duty service and died in the line of duty, and the student enters an institution of higher education in Washington within three years of the service member's death;

~~((n)) (n) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;~~

~~((o)) (o) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;~~

~~((p)) (p) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia,~~

Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

~~((q)) (q) A student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington. If the person on active military duty moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is continuously enrolled in a degree program.~~

~~(3)(a) A student who qualifies under subsection (2)(k), (l), or (m) of this section and who remains continuously enrolled at an institution of higher education shall retain resident student status.~~

~~(b) Nothing in subsection (2)(k), (l), or (m) of this section applies to students who have a dishonorable discharge from the uniformed services, or to students who are the spouse or child of an individual who has had a dishonorable discharge from the uniformed services, unless the student is receiving veterans administration educational assistance benefits.~~

~~(4) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or ~~((n))~~ (n) of this section, a nonresident student shall include:~~

~~(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW ~~((28B.80.806, 28B.80.807))~~ 28B.76.685, 28B.76.690, and 28B.15.0139.~~

~~(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States citizenship immigration services or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in this section and RCW 28B.15.013.~~

~~((4)) (5) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.~~

~~((5)) (6) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.~~

~~((6)) (7) The term "active military duty" means the person is serving on active duty in:~~

~~(a) The armed forces of the United States government; or~~

~~(b) The Washington national guard; or~~

~~(c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.~~

(8) The term "active duty service" means full-time duty, other than active duty for training, as a member of the uniformed services of the United States. Active duty service as a national guard member under Title 32 U.S.C. for the purpose of organizing, administering, recruiting, instructing, or training and active service under 32 U.S.C. Sec. 502(f) for the purpose of responding to a national emergency is recognized as active duty service.

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps.

**NEW SECTION. Sec. 2.** Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 24, 2015."

Correct the title.

Representatives Kilduff and Zeiger spoke in favor of the adoption of the striking amendment.

Amendment (509) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Kilduff and Zeiger spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Engrossed Second Substitute House Bill No. 1825.

### ROLL CALL

The Clerk called the roll on the final passage of Second Engrossed Second Substitute House Bill No. 1825, and the bill passed the House by the following vote: Yeas, 89; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1825, having received the necessary constitutional majority, was declared passed.

There being no objection, the House advanced to the seventh order of business.

### THIRD READING

**SUBSTITUTE HOUSE BILL NO. 1855, by House Committee on Education (originally sponsored by Representatives Caldier, Santos, Parker, Reykdal, Magendanz, Hayes, Young, Pollet and Tharinger).**

**Waiving local graduation requirements for certain students.**

The bill was read the third time.

Representatives Caldier and Santos spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1855.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1855, and the bill passed the House by the following vote: Yeas, 89; Nays, 0; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SUBSTITUTE HOUSE BILL NO. 1855, having received the necessary constitutional majority, was declared passed.

**HOUSE BILL NO. 1918, by Representatives Shea, Orcutt, Hayes and Scott.**

**Modifying provisions applicable to off-road, nonhighway, and wheeled all-terrain vehicles and their drivers.**

The bill was read the third time.

Representatives Orcutt and Moscoso spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of House Bill No. 1918.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1918, and the bill passed the House by the following vote: Yeas, 86; Nays, 3; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Blake, Buys, Calder, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stokesbary, Sullivan, Takko, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Voting nay: Representatives Bergquist, Stanford and Tarleton.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

HOUSE BILL NO. 1918, having received the necessary constitutional majority, was declared passed.

There being no objection, the rules were suspended, and ENGROSSED HOUSE BILL NO. 2214 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

## SECOND READING

**ENGROSSED HOUSE BILL NO. 2214, by Representatives Reykdal, Taylor, Pettigrew, Shea, Gregory, G. Hunt, Pollet, Holy, Ryu, Haler, Sells, Santos, Farrell, Tarleton, Bergquist, Appleton, Moscoso, Takko, Peterson, Dunshee, Riccelli, Sawyer, Tharinger, Condotta, Gregerson, Stanford, Robinson, Fitzgibbon, Kilduff, Orwall, Ortiz-Self, Van De Wege, Goodman, Kirby, Blake, Wylie, Moeller, Fey, McBride, Hurst, Schmick, S. Hunt, Griffey and Young**

### **Increasing academic rigor and streamlining assessment requirements for high school students.**

The bill was read the second time.

Representative Magendanz moved the adoption of amendment (508):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that high school students in Washington have been required to meet a standard on high school assessments since 2008 to earn a certificate of academic achievement and graduate. The majority of high school students have taken these assessments for the first time by the conclusion of tenth grade. Over time, the state has adopted several alternative methods to allow students who do not meet the standard on the tenth grade assessment to demonstrate their competency to graduate. These alternatives include the opportunity to retake the assessment, a comparison of grades earned, collections of evidence, and college entrance or dual credit course exams.

(2) The legislature recognizes that, in today's competitive global economy, it is not enough for Washington's students to meet a minimum level of competency. Success in postsecondary

education, gainful employment, and citizenship requires increased rigor and achievement. To that end, the state has recently adopted new, academically rigorous policies to better prepare students for future success. Starting in spring 2015, Washington students will be tested using a comprehensive assessment system developed with a multistate consortium. This system, the smarter balanced assessment, will evaluate students in grades three through eight and grade eleven on their college and career readiness based on the Washington state learning standards in English language arts and mathematics, and will be used for state and federal accountability purposes. In addition, students beginning with the graduating class of 2019 will also have the requirement to earn twenty-four credits for high school graduation to obtain a more meaningful diploma. Schools also have put a great deal of time and effort into ensuring quality instruction through the teacher and principal evaluation program, a four-tiered system that establishes eight new criteria for teachers' and principals' evaluations. Finally, Washington adopted new, academically rigorous next generation science standards (NGSS) in 2013. A comprehensive science assessment of the next generation science standards is being developed and is expected to become operational statewide in spring 2017 or 2018.

(3) The legislature further finds that the transition to the smarter balanced assessment system has markedly complicated the development and administration of the statewide assessment graduation requirement and the state's confusing array of alternative assessments. The classes of 2016 through 2018 are required to take end-of-course exams or comprehensive assessments in the tenth grade to fulfill graduation requirements for English language arts, mathematics, and biology. In addition, they are required to take the smarter balanced assessments in the eleventh grade to determine if they are college and career ready and for school and district accountability.

(4) The legislature finds that requiring schools to administer six high school assessments—the smarter balanced English language arts assessment, smarter balanced mathematics, the end-of-course assessment for biology, two mathematics end-of-course assessments, and the English language arts exit exam—creates a costly system in which too much classroom time and too many state resources are devoted to taking and retaking tests for graduation purposes. The time and funding that are now invested in Washington's current state graduation assessments do not result in students meeting a college or career ready measure accepted by postsecondary institutions and organizations.

(5) The legislature further finds that locally directed remediation and intervention strategies, including twelfth grade transition courses, opportunities to retake courses, and more sustained focus on providing college and career guidance through students' high school and beyond plans, would better prepare students for postsecondary college and career opportunities. State and local resources that are now directed to develop and administer alternative graduation assessments should be redirected to courses and programs better suited for student needs during high school.

(6) The legislature further finds that taxpayers and tuition payers can save substantial money by avoiding remedial courses taught at public institutions of higher education. An unprecedented agreement among Washington's public institutions of higher education now ensures that high school graduates who meet the standard on the smarter balanced assessment or who successfully complete twelfth grade high school transition courses in English language arts and mathematics will move directly to college-level English and mathematics courses at participating institutions without remediation or additional placement testing.

(7)(a) The legislature therefore intends to eliminate the tenth grade assessments in reading, writing, and mathematics and the myriad of alternative assessments that students may use to obtain a certificate of academic achievement. In their place, students will be



required to either meet the standard on the smarter balanced English language arts and mathematics assessments administered in high school, or demonstrate by the beginning of their senior year that they have met state standards using the SAT or ACT. The legislature further intends for students who fail to meet the standard to take and pass locally determined courses in their senior year that align with their college or career goals, including, when available, high school transition courses.

(b) The legislature recognizes that many students in the graduating class of 2016 have already satisfied current requirements for obtaining a certificate of academic achievement and does not intend that these efforts go for naught. The legislature intends to allow students in the graduating class of 2016 who have, by the beginning of the 2015-16 school year, already met the standard on the tenth grade assessments in reading, writing, and mathematics, or satisfied the alternative assessments, to earn a certificate of academic achievement by these means, by the means identified in section 101(3) of this act, or by a combination of the two in the event that a student has, by the beginning of the 2015-16 school year, already met the standard or satisfied an alternative in one, but not both, of the content areas.

(8) It is the intent of the legislature for Washington to administer only three statewide assessments for high school graduation: The smarter balanced assessment in English language arts; the smarter balanced assessment in mathematics; and the statewide assessment in science, including, when operational, the comprehensive next generation science standards assessment.

**PART I  
STUDENT ASSESSMENTS, GRADUATION, AND  
ASSOCIATED REQUIREMENTS—GENERAL  
PROVISIONS**

**NEW SECTION. Sec. 101.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) The high school assessment system shall include the statewide student assessment and opportunities for a student to retake the content areas of the assessment in which the student was not successful.

(2) Subject to the conditions in this section, students shall obtain a certificate of academic achievement as evidence that they have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045, acquisition of the certificate is required for graduation from a public high school but is not the sole requirement for graduation.

(3) Beginning with the graduating class of 2016, a student shall earn a certificate of academic achievement if the student:

(a) Earns a score of level 3 or level 4 on the high school English language arts and mathematics assessments identified in RCW 28A.655.070;

(b) Before the beginning of the student's senior year, earns a score on the mathematics, reading or English, or writing portion of the SAT or the ACT that is identified by the state board of education as meeting the state standard in the relevant content area on the high school English language arts and mathematics assessments; or

(c) Takes and passes a locally determined course in English language arts or mathematics under RCW 28A.230.090(1)(e).

(d) A student may use the means identified in (b) and (c) of this subsection for purposes of earning a certificate of academic achievement if the student has taken, at least once, the high school English language arts and mathematics assessments identified in RCW 28A.655.070.

(4)(a) The state board of education shall identify the scores on the mathematics, reading or English, or writing portions of the SAT or ACT that are equivalent to a level 3 on both the high

school English language arts and mathematics assessments identified in RCW 28A.655.070.

(b) The state board of education shall promptly notify school districts of the scores identified under (a) of this subsection.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6)(a) If a student does not earn a score of level 3 or level 4 in one or more content areas required for the certificate of academic achievement, the student may retake the assessment in the content area at least once a year and at no charge to the student. If the student earns a score of level 3 or level 4 on a retake of the assessment, the student shall earn a certificate of academic achievement.

(b) School districts must make available to students at no charge, the following options:

(i) If the student is enrolled in a public school, retaking the high school English language arts and mathematics assessments identified in RCW 28A.655.070 at least once a year in the content areas in which the student did not earn a score of level 3 or level 4; or

(ii) If the student is enrolled in a high school completion program at a community or technical college, retaking the high school English language arts and mathematics assessments identified in RCW 28A.655.070 at least once a year in the content areas in which the student did not earn a score of level 3 or level 4. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(c) Students who achieve the standard in a content area of the high school English language arts or mathematics assessments identified in RCW 28A.655.070, but who wish to improve their results, must be assessed a charge for retaking the assessment according to a uniform cost determined by the superintendent of public instruction.

(7) A student may retain and use the highest result from each successfully completed content area of the high school English language arts and mathematics assessments identified in RCW 28A.655.070.

**Sec. 102.** RCW 28A.230.090 and 2014 c 217 s 202 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except as provided in RCW 28A.230.122 and except those equivalencies established by local high schools or school districts under RCW 28A.230.097. The purpose of a high school diploma is to declare that a student is ready for success in postsecondary education, gainful employment, and citizenship, and is equipped with the skills to be a lifelong learner.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) The certificate of academic achievement requirements under (~~RCW 28A.655.061~~) section 101 of this act or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation.

(c)(i) Each student must have a high school and beyond plan to guide the student's high school experience and prepare the student for postsecondary education or training and career.

(ii) A high school and beyond plan must be initiated for each student during the eighth grade. In preparation for initiating that

plan, each student must first be administered a career interest and skills inventory.

(iii) The plan must be updated annually during the high school grades to review transcripts, assess progress toward identified goals, and revise as necessary for changing interests, goals, and needs. School districts are encouraged to involve parents and guardians in the process of developing and updating the high school and beyond plan.

(iv) All high school and beyond plans must, at a minimum, include the following elements:

(A) Identification of career goals, aided by a skills and interest assessment;

(B) Identification of educational goals;

(C) A four-year plan for course-taking that fulfills state and local graduation requirements and aligns with the student's career and educational goals;

(D) Identification of assessments needed to graduate from high school and achieve postsecondary goals identified in the high school and beyond plan; and

(E) By the end of the twelfth grade, a current resume or activity log that provides a written compilation of the student's education, any work experience, and any community service and how the school district has recognized the community service pursuant to RCW 28A.320.193.

(d) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level. A district may establish additional, local requirements for a high school and beyond plan to serve the needs and interests of its students and the purposes of this section.

(e)(i)(A) Beginning in the 2015-16 school year, students who have not earned a certificate of academic achievement under section 101 or 201 of this act before the beginning of grade twelve must take and pass a locally determined course in the content area in which the student was not successful. The course shall be rigorous and consistent with the student's educational and career goals identified in his or her high school and beyond plan, and may include career and technical education equivalencies in English language arts or mathematics adopted pursuant to RCW 28A.230.097.

(B) A course shall be deemed rigorous if it is at a higher course level than the student's most recent coursework in the content area in which the student received a passing grade of C or higher, or its equivalent.

(C) School districts should prioritize enrolling students who must take and pass locally determined courses under this subsection (1)(e)(i) in available high school transition courses.

(ii) School districts shall record students' participation in locally determined courses under this section in the statewide individual data system. Separate data codes must be provided for high school transition courses and other locally determined courses.

(iii) As used in this subsection (1)(e), "high school transition course" means an English language arts, mathematics, or science course offered in high school whose successful completion by a high school student will ensure the student college-level placement at participating institutions of higher education as defined in RCW 28B.10.016. High school transition courses must, in accordance with this section, satisfy core or elective credit graduation requirements established by the state board of education. A student's successful completion of a high school transition course does not entitle the student to be admitted to any institution of higher education as defined in RCW 28B.10.016.

(iv) This subsection (1)(e) does not apply to students satisfying the provisions of RCW 28A.155.045.

(f) Effective with the graduating class of 2015, the state board of education may not establish a requirement for students to complete a culminating project for graduation.

~~((d))~~ (g)(i) The state board of education shall adopt rules to implement the career and college ready graduation requirement proposal adopted under board resolution on November 10, 2010, and revised on January 9, 2014, to take effect beginning with the graduating class of 2019 or as otherwise provided in this subsection (1)~~((d))~~ (g). The rules must include authorization for a school district to waive up to two credits for individual students based on unusual circumstances and in accordance with written policies that must be adopted by each board of directors of a school district that grants diplomas. The rules must also provide that the content of the third credit of mathematics and the content of the third credit of science may be chosen by the student based on the student's interests and high school and beyond plan with agreement of the student's parent or guardian or agreement of the school counselor or principal.

(ii) School districts may apply to the state board of education for a waiver to implement the career and college ready graduation requirement proposal beginning with the graduating class of 2020 or 2021 instead of the graduating class of 2019. In the application, a school district must describe why the waiver is being requested, the specific impediments preventing timely implementation, and efforts that will be taken to achieve implementation with the graduating class proposed under the waiver. The state board of education shall grant a waiver under this subsection (1)~~((d))~~ (g) to an applying school district at the next subsequent meeting of the board after receiving an application.

(iii) A school district that has implemented the career and college ready graduation requirements must update the high school and beyond plans for each student in grade nine who failed to earn a score of level 3 or level 4 on the middle school mathematics assessment identified in RCW 28A.655.070 for the purpose of ensuring that the student takes one or more credits of mathematics coursework in each of grades nine, ten, and eleven. These courses may include career and technical education equivalencies in mathematics adopted pursuant to RCW 28A.230.097.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements.

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review and to the quality education council established under RCW 28A.290.010. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a

local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

**Sec. 103.** RCW 28A.305.130 and 2013 2nd sp.s. c 22 s 7 are each amended to read as follows:

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability framework that creates a unified system of increasing levels of support for schools in order to improve student academic achievement; provide leadership in the creation of a system that personalizes education for each student and respects diverse cultures, abilities, and learning styles; and promote achievement of the goals of RCW 28A.150.210. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Hold regularly scheduled meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) For purposes of statewide accountability:

(a) Adopt and revise performance improvement goals in reading, writing, science, and mathematics, by subject and grade level, once assessments in these subjects are required statewide; academic and technical skills, as appropriate, in secondary career and technical education programs; and student attendance, as the board deems appropriate to improve student learning. The goals shall be consistent with student privacy protection provisions of RCW 28A.655.090(7) and shall not conflict with requirements contained in Title I of the federal elementary and secondary education act of 1965, or the requirements of the Carl D. Perkins vocational education act of 1998, each as amended. The goals may be established for all students, economically disadvantaged students, limited English proficient students, students with disabilities, and students from disproportionately academically underachieving racial and ethnic backgrounds. The board may establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through twelve. The board shall adopt the goals by rule.

However, before each goal is implemented, the board shall present the goal to the education committees of the house of representatives and the senate for the committees' review and comment in a time frame that will permit the legislature to take statutory action on the goal if such action is deemed warranted by the legislature;

(b)(i) Identify the scores students must achieve in order to meet the standard on the statewide student assessment (~~and, for high school students, to obtain a certificate of academic achievement~~). The board shall also determine student scores that identify levels of student performance below and beyond the standard. (~~The board shall consider the incorporation of the standard error of measurement into the decision regarding the award of the certificates.~~) The board shall set such performance standards and levels in consultation with the superintendent of public instruction and after consideration of any recommendations that may be developed by any advisory committees that may be established for this purpose.

(ii) (~~By the end of the 2014-15 school year, establish the scores students must achieve to meet the standard and earn a certificate of academic achievement on the tenth grade English language arts assessment and the end of course mathematics assessments developed in accordance with RCW 28A.655.070 to be used as the state transitions to high school assessments developed with a multistate consortium.~~

(iii) (~~By the end of the 2014-15 school year, establish the scores students must achieve to meet the standard and earn a certificate of academic achievement on the high school English language arts assessment and the comprehensive mathematics assessment developed with a multistate consortium in accordance with RCW 28A.655.070. To determine the appropriate score, the state board shall review the transition experience of Washington students to the consortium developed assessments, examine the student scores used in other states that are administering the consortium developed assessments, and review the scores in other states that require passage of an eleventh grade assessment as a high school graduation requirement. The scores established by the state board of education for the purposes of earning a certificate of academic achievement and graduation from high school may be different from the scores used for the purpose of determining a student's career and college readiness.~~

(iv) ~~The legislature shall be advised of the initial performance standards for the high school statewide student assessment. Any changes recommended by the board in the performance standards for the high school assessment shall be presented to the education committees of the house of representatives and the senate by November 30th of the school year in which the changes will take place to permit the legislature to take statutory action before the changes are implemented if such action is deemed warranted by the legislature.~~ The legislature shall be advised of the initial performance standards and any changes made to the elementary (~~level performance standards and the~~), middle, and high school level performance standards. The board must provide an explanation of and rationale for all initial performance standards and any changes, for all grade levels of the statewide student assessment. If the board changes the performance standards for any grade level or subject, the superintendent of public instruction must recalculate the results from the previous ten years of administering that assessment regarding students below, meeting, and beyond the state standard, to the extent that this data is available, and post a comparison of the original and recalculated results on the superintendent's web site;

(c) Annually review the assessment reporting system to ensure fairness, accuracy, timeliness, and equity of opportunity, especially with regard to schools with special circumstances and unique populations of students, and a recommendation to the

superintendent of public instruction of any improvements needed to the system; and

(d) Include in the biennial report required under RCW 28A.305.035, information on the progress that has been made in achieving goals adopted by the board;

(5) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all private schools that apply for accreditation, and approve, subject to the provisions of RCW 28A.195.010, private schools carrying out a program for any or all of the grades kindergarten through twelve. However, no private school may be approved that operates a kindergarten program only and no private school shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials;

(6) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(7) Hire an executive director and an administrative assistant to reside in the office of the superintendent of public instruction for administrative purposes. Any other personnel of the board shall be appointed as provided by RCW 28A.300.020. The board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. The executive director, administrative assistant, and all but one of the other personnel of the board are exempt from civil service, together with other staff as now or hereafter designated as exempt in accordance with chapter 41.06 RCW; and

(8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

**Sec. 104.** RCW 28A.655.068 and 2013 2nd sp.s. c 22 s 4 are each amended to read as follows:

(1) Beginning in the 2011-12 school year, the statewide high school assessment in science shall be an end-of-course assessment for biology that measures the state standards for life sciences, in addition to systems, inquiry, and application as they pertain to life sciences.

(2)(a) The superintendent of public instruction may develop or adopt science end-of-course assessments or a comprehensive science assessment ~~((that includes subjects in addition to biology for purposes of RCW 28A.655.061,))~~ when so directed by the legislature. The legislature intends to transition from a biology end-of-course assessment to a more comprehensive science assessment in a manner consistent with the way in which the state transitioned to an English language arts assessment and a comprehensive mathematics assessment. ~~((The legislature further intends that the transition will include at least two years of using the student assessment results from either the biology end-of-course assessment or the more comprehensive assessment in order to provide students with reasonable opportunities to demonstrate high school competencies while being mindful of the increasing rigor of the new assessment.))~~

(b) The superintendent of public instruction shall develop or adopt a science assessment in accordance with RCW 28A.655.070(10) that is not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

~~((c) Before the next subsequent school year after the legislature directs the superintendent to develop or adopt a new science assessment, the superintendent of public instruction shall review the objective alternative assessments for the science~~

~~assessment and make recommendations to the legislature regarding additional objective alternatives, if any.))~~

(3) The superintendent of public instruction may participate with consortia of multiple states as common student learning standards and assessments in science are developed. The superintendent of public instruction, in consultation with the state board of education, may modify the essential academic learning requirements and statewide student assessments in science, including the high school assessment, according to the multistate common student learning standards and assessments as long as the education committees of the legislature have opportunities for review before the modifications are adopted, as provided under RCW 28A.655.070.

~~(4) ((The statewide high school assessment under this section shall be used to demonstrate that a student meets the state standards in the science content area of the statewide student assessment for purposes of RCW 28A.655.061.))~~ After the superintendent of public instruction adopts a comprehensive science assessment under this section and RCW 28A.655.070, there shall be a two-year transition period, including one year to pilot the comprehensive science assessment and a second year to administer the assessment statewide, before students are required to meet the standard on the comprehensive assessment to earn a certificate of academic achievement.

**Sec. 105.** RCW 28A.655.070 and 2015 c 211 s 3 are each amended to read as follows:

(1) The superintendent of public instruction shall develop essential academic learning requirements that identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, develop student assessments, and implement the accountability recommendations and requests regarding assistance, rewards, and recognition of the state board of education.

(2) The superintendent of public instruction shall:

(a) Periodically revise the essential academic learning requirements, as needed, based on the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. To the maximum extent possible, the superintendent shall integrate goal four and the knowledge and skill areas in the other goals in the essential academic learning requirements; and

(b) Review and prioritize the essential academic learning requirements and identify, with clear and concise descriptions, the grade level content expectations to be assessed on the statewide student assessment and used for state or federal accountability purposes. The review, prioritization, and identification shall result in more focus and targeting with an emphasis on depth over breadth in the number of grade level content expectations assessed at each grade level. Grade level content expectations shall be articulated over the grades as a sequence of expectations and performances that are logical, build with increasing depth after foundational knowledge and skills are acquired, and reflect, where appropriate, the sequential nature of the discipline. The office of the superintendent of public instruction, within seven working days, shall post on its web site any grade level content expectations provided to an assessment vendor for use in constructing the statewide student assessment.

(3)(a) In consultation with the state board of education, the superintendent of public instruction shall maintain and continue to develop and revise a statewide academic assessment system in the content areas of ~~((reading, writing))~~ English language arts, mathematics, and science for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in subsection (1) of this section. School districts shall administer the assessments under guidelines adopted by the superintendent of public instruction. The academic assessment system may include a

variety of assessment methods, including criterion-referenced and performance-based measures.

~~(b) ((Effective with the 2009 administration of the Washington assessment of student learning and continuing with the statewide student assessment, the superintendent shall redesign the assessment in the content areas of reading, mathematics, and science in all grades except high school by shortening test administration and reducing the number of short answer and extended response questions.~~

~~(c) By the 2014-15 school year,)) (i) The superintendent of public instruction, in consultation with the state board of education, shall modify the statewide student assessment system to transition to assessments developed with a multistate consortium((as provided in this subsection:~~

~~((i)).~~

~~(ii) The assessments developed with a multistate consortium to assess student proficiency in English language arts and mathematics shall be administered beginning in the 2014-15 school year. The reading and writing assessments shall not be administered by the superintendent of public instruction or schools after the 2013-14 school year.~~

~~((ii)) (iii) The high school ((assessments in)) English language arts and mathematics ((in (c)(i) of this subsection)) assessments developed with the multistate consortium shall be used for the purposes of earning a certificate of academic achievement for high school graduation under the timeline established in ((RCW 28A.655.061)) section 101 of this act and for assessing student career and college readiness.~~

~~((iii) During the transition period specified in RCW 28A.655.061, the superintendent of public instruction shall use test items and other resources from the consortium assessment to develop and administer a tenth grade high school English language arts assessment, an end of course mathematics assessment to assess the standards common to algebra I and integrated mathematics I, and an end of course mathematics assessment to assess the standards common to geometry and integrated mathematics II.)~~

(4) If the superintendent proposes any modification to the essential academic learning requirements or the statewide assessments, then the superintendent shall, upon request, provide opportunities for the education committees of the house of representatives and the senate to review the assessments and proposed modifications to the essential academic learning requirements before the modifications are adopted.

(5) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(6) By September 2007, the results for reading and mathematics shall be reported in a format that will allow parents and teachers to determine the academic gain a student has acquired in those content areas from one school year to the next.

(7) To assist parents and teachers in their efforts to provide educational support to individual students, the superintendent of public instruction shall provide as much individual student performance information as possible within the constraints of the assessment system's item bank. The superintendent shall also provide to school districts:

(a) Information on classroom-based and other assessments that may provide additional achievement information for individual students; and

(b) A collection of diagnostic tools that educators may use to evaluate the academic status of individual students. The tools shall be designed to be inexpensive, easily administered, and quickly

and easily scored, with results provided in a format that may be easily shared with parents and students.

(8) To the maximum extent possible, the superintendent shall integrate knowledge and skill areas in development of the assessments.

(9) Assessments for goals three and four of RCW 28A.150.210 shall be integrated in the essential academic learning requirements and assessments for goals one and two.

(10) The superintendent shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender.

(11) The superintendent shall consider methods to address the unique needs of special education students when developing the assessments under this section.

(12) The superintendent shall consider methods to address the unique needs of highly capable students when developing the assessments under this section.

(13) The superintendent shall post on the superintendent's web site lists of resources and model assessments in social studies, the arts, and health and fitness.

(14) The superintendent shall integrate financial education skills and content knowledge into the state learning standards pursuant to RCW 28A.300.460(2)(d).

**NEW SECTION. Sec. 106.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the graduating class of 2015, and until the first graduating class following the transition period identified in RCW 28A.655.068(4), a student is not required to meet the state standard in science in order to earn a certificate of academic achievement.

(2)(a) Beginning with the first graduating class following the transition period identified in RCW 28A.655.068(4), a student must meet the state standard on the comprehensive science assessment, in addition to the other content areas required under section 101 of this act, to earn a certificate of academic achievement.

(b)(i) Students in grade twelve who have not met the state standard on the comprehensive science assessment must take and pass a locally determined course in science to earn a certificate of academic achievement. The course shall be rigorous and consistent with the student's educational and career goals identified in his or her high school and beyond plan, and may include career and technical education equivalencies in science pursuant to RCW 28A.230.097.

(ii) For purposes of this subsection (2)(b), a course shall be deemed rigorous if it is at a higher course level than the student's most recent coursework in the content area in which the student received a passing grade of C or higher, or its equivalent.

(c) When available, school districts should prioritize enrolling students who must take and pass a locally determined course in science in a high school transition course.

(d) For the purpose of this section, "high school transition course" has the definition in RCW 28A.230.090(1)(c)(iii).

**Sec. 107.** RCW 28A.230.125 and 2014 c 102 s 3 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the four-year institutions as defined in RCW 28B.76.020, the state board for community and technical colleges, and the workforce training and education coordinating board, shall develop for use by all public school districts a standardized high school transcript. The superintendent shall establish clear definitions for the terms "credits" and "hours" so that school programs operating on the quarter, semester, or trimester system can be compared.

(2) The standardized high school transcript shall include a notation of whether the student has earned a certificate of individual achievement or a certificate of academic achievement.

(3) The standardized high school transcript may include a notation of whether the student has earned the Washington state seal of biliteracy established under RCW 28A.300.575.

(4) If a student has earned a level 3 or level 4 score on the high school English language arts and mathematics assessments identified in RCW 28A.655.070, the student's standardized high school transcript must include a notation of "career and college ready high honors." School districts are encouraged to also include a notation of "career and college ready high honors" on the student's diploma.

**NEW SECTION. Sec. 108.** A new section is added to chapter 28A.300 RCW to read as follows:

(1) The superintendent of public instruction shall conduct a study of the locally determined courses in English language arts or mathematics under RCW 28A.230.090(1)(e) offered by school districts in the 2015-16 and 2016-17 school years to students in grade twelve who are participating in locally determined courses. The study shall analyze how the transition courses and other locally determined courses are aligned with the Washington state learning standards in English language arts and mathematics. The study shall also determine whether the state has an adequate number of certificated teachers qualified to teach transition courses and other locally determined courses aligned with the Washington state learning standards in English language arts and mathematics. The superintendent of public instruction shall submit a report on the results of this study to the legislature, in accordance with RCW 43.01.036, before January 1, 2018.

(2) Beginning in 2018, the superintendent of public instruction, in consultation with the education data center in RCW 43.41.400, shall annually produce a summary report of the outcomes of Washington state high school graduates who earned a certificate of academic achievement under section 101 of this act. The report must include data identifying students' employment, participation in higher education, and workforce training after a period of one year following graduation from high school. The report must also include data identifying remedial precollege coursework that students take in postsecondary institutions following graduation from high school. The data must be disaggregated into the following categories: (a) Students who earned a certificate of academic achievement by earning a level 3 or level 4 on the high school English language arts and mathematics assessments identified in RCW 28A.655.070; (b) students who earned a certificate of academic achievement by earning equivalent scores on the SAT or ACT; (c) students who earned a certificate of academic achievement by taking and passing transition courses in English language arts or mathematics in grade twelve; and (d) students who earned a certificate of academic achievement by taking and passing other locally determined courses in English language arts or mathematics in grade twelve.

**Sec. 109.** RCW 28A.320.195 and 2013 c 184 s 2 are each amended to read as follows:

(1) Each school district board of directors is encouraged to adopt an academic acceleration policy for high school students as provided under this section.

(2) Under an academic acceleration policy:

(a) The district automatically enrolls any student who meets the state standard on the high school statewide student assessment in the next most rigorous level of advanced courses offered by the high school. Students who successfully complete such an advanced course are then enrolled in the next most rigorous level of advanced course, with the objective that students will eventually be automatically enrolled in courses that offer the opportunity to earn dual credit for high school and college.

(b) The subject matter of the advanced courses in which the student is automatically enrolled depends on the content area or areas of the statewide student assessment where the student has met the state standard. Students who meet the state standard on (i) both end-of-course mathematics assessments or (ii) the high school mathematics assessment identified in RCW 28A.655.070 are considered to have met the state standard for high school mathematics. Students who meet the state standard ((in both reading and writing)) on the high school English language arts assessment identified in RCW 28A.655.070 are eligible for enrollment in advanced courses in English, social studies, humanities, and other related subjects.

(c) The district must notify students and parents or guardians regarding the academic acceleration policy and the advanced courses available to students.

(d) The district must provide a parent or guardian with an opportunity to opt out of the academic acceleration policy and enroll a student in an alternative course.

**Sec. 110.** RCW 28A.700.080 and 2008 c 170 s 301 are each amended to read as follows:

(1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall develop and conduct an ongoing campaign for career and technical education to increase awareness among teachers, counselors, students, parents, principals, school administrators, and the general public about the opportunities offered by rigorous career and technical education programs. Messages in the campaign shall emphasize career and technical education as a high quality educational pathway for students, including for students who seek advanced education that includes a bachelor's degree or beyond. In particular, the office shall provide information about the following:

(a) The model career and technical education programs of study developed under RCW 28A.700.060;

(b) Career and technical education course equivalencies and dual credit for high school and college;

(c) ~~((The career and technical education alternative assessment guidelines under RCW 28A.655.065;~~

~~((d)))~~ The availability of scholarships for postsecondary workforce education, including the Washington award for vocational excellence, and apprenticeships through the opportunity grant program under RCW 28B.50.271, grants under RCW 28A.700.090, and other programs; and

~~((e)))~~ (d) Education, apprenticeship, and career opportunities in emerging and high-demand programs.

(2) The office shall use multiple strategies in the campaign depending on available funds, including developing an interactive web site to encourage and facilitate career exploration; conducting training and orientation for guidance counselors and teachers; and developing and disseminating printed materials.

(3) The office shall seek advice, participation, and financial assistance from the workforce training and education coordinating board, higher education institutions, foundations, employers, apprenticeship and training councils, workforce development councils, and business and labor organizations for the campaign.

## **PART II PROVISIONS PERTAINING TO THE GRADUATING CLASS OF 2016 AND PRIOR GRADUATING CLASSES**

**NEW SECTION. Sec. 201.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) In addition to the means identified in section 101(3) of this act for earning a certificate of academic achievement, a student in the graduating class of 2016 may earn a certificate of academic achievement if, before the beginning of the 2015-16 school year, the student:

(a) Met the standard pursuant to RCW 28A.655.061(3)(b)(i) as it existed on September 1, 2014; or

(b) Satisfied the alternative assessment options available to students of the graduating class of 2016 under RCW 28A.655.061(10) and 28A.655.065, each as they existed on September 1, 2014.

(2) A student in the class of 2015 or a prior graduating class may use the means identified in section 101(3) of this act for earning a certificate of academic achievement if the student has not, before the beginning of the 2015-16 school year:

(a) Met the standard pursuant to RCW 28A.655.061(3)(a) as it existed on September 1, 2014; or

(b) Satisfied the alternative assessment options available to the graduating class of which the student is a part under RCW 28A.655.061(10) and 28A.655.065, each as they existed on September 1, 2014.

(3) This section expires June 30, 2017.

### **PART III**

#### **MISCELLANEOUS PROVISIONS**

**NEW SECTION. Sec. 301.** The following acts or parts of acts are each repealed:

(1) RCW 28A.655.061 (High school assessment system—Certificate of academic achievement—Exemptions—Options to retake high school assessment—Objective alternative assessment—Student learning plans) and 2013 2nd sp.s. c 22 s 2, 2011 1st sp.s. c 22 s 2, 2010 c 244 s 1, 2009 c 524 s 5, & 2008 c 321 s 2;

(2) RCW 28A.655.063 (Objective alternative assessments—Reimbursement of costs—Testing fee waivers) and 2007 c 354 s 7 & 2006 c 115 s 5;

(3) RCW 28A.655.065 (Objective alternative assessment methods—Appeals from assessment scores—Waivers and appeals from assessment requirements—Rules) and 2009 c 556 s 19, 2008 c 170 s 205, 2007 c 354 s 6, & 2006 c 115 s 1; and

(4) RCW 28A.655.066 (Statewide end-of-course assessments for high school mathematics) and 2013 2nd sp.s. c 22 s 3, 2011 c 25 s 2, 2009 c 310 s 3, & 2008 c 163 s 3.

**NEW SECTION. Sec. 302.** Section 106 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

Representatives Magendanz and Reykdal spoke in favor of the adoption of the striking amendment.

Amendment (508) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Reykdal, Magendanz and Johnson spoke in favor of the passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Second Engrossed House Bill No. 2214.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Second Engrossed House Bill No. 2214, and the bill passed the House by the following vote: Yeas, 83; Nays, 6; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Voting nay: Representatives Chandler, Hunter, Kristiansen, Orcutt, Stokesbary and Wilcox.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SECOND ENGROSSED HOUSE BILL NO. 2214, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Orwall presiding) called upon Representative Moeller to preside.

There being no objection, the House advanced to the seventh order of business.

#### **THIRD READING**

**SUBSTITUTE HOUSE BILL NO. 1157, by House Committee on Transportation (originally sponsored by Representatives Pike, Wylie, Wilson and Moeller).**

**Modifying the apportionment of quick title service fees collected by appointed subagents.**

The bill was read the third time.

Representatives Pike and Moscoso spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1157.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1157, and the bill passed the House by the following vote: Yeas, 88; Nays, 1; Absent, 0; Excused, 9.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Tharinger, Van De Wege, Van Werven, Vick,

Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Voting nay: Representative Taylor.

Excused: Representatives Clibborn, Fey, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SUBSTITUTE HOUSE BILL NO. 1157, having received the necessary constitutional majority, was declared passed.

There being no objection, the rules were suspended, and ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1272 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

## SECOND READING

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1272, by House Committee on General Government & Information Technology (originally sponsored by Representatives Buys, Orwall and Pollet)**

**Creating the crime of wrongfully distributing intimate images. Revised for 2nd Substitute: Concerning the crime of disclosing intimate images.**

The bill was read the second time.

Representative Orwall moved the adoption of amendment (510):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) A person commits the crime of disclosing intimate images when the person knowingly discloses an intimate image of another person and the person disclosing the image:

(a) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private;

(b) Knows or should have known that the depicted person has not consented to the disclosure; and

(c) Knows or reasonably should know that disclosure would cause harm to the depicted person.

(2) A person who is under the age of eighteen is not guilty of the crime of disclosing intimate images unless the person:

(a) Intentionally and maliciously disclosed an intimate image of another person;

(b) Obtained it under circumstances in which a reasonable person would know or understand that the image was to remain private; and

(c) Knows or should have known that the depicted person has not consented to the disclosure.

(3) This section does not apply to:

(a) Images involving voluntary exposure in public or commercial settings; or

(b) Disclosures made in the public interest including, but not limited to, the reporting of unlawful conduct, or the lawful and common practices of law enforcement, criminal reporting, legal proceedings, or medical treatment.

(4) This section does not impose liability upon the following entities solely as a result of content provided by another person:

(a) An interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2);

(b) A provider of public or private mobile service, as defined in section 13-214 of the public utilities act; or

(c) A telecommunications network or broadband provider.

(5) It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW 9.68A.011.

(6) For purposes of this section:

(a) "Disclosing" includes transferring, publishing, or disseminating, as well as making a digital depiction available for distribution or downloading through the facilities of a telecommunications network or through any other means of transferring computer programs or data to a computer;

(b) "Intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

(i) Sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation; or

(ii) A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or post-pubescent female nipple.

(7) The crime of disclosing intimate images:

(a) Is a gross misdemeanor on the first offense; or

(b) Is a class C felony if the defendant has one or more prior convictions for disclosing intimate images.

(8) Nothing in this section is construed to:

(a) Alter or negate any rights, obligations, or immunities of an interactive service provider under 47 U.S.C. Sec. 230; or

(b) Limit or preclude a plaintiff from securing or recovering any other available remedy.

**NEW SECTION. Sec. 2.** Section 1 of this act constitutes a new chapter in Title 9A RCW."

Correct the title.

Representatives Orwall and Buys spoke in favor of the adoption of the striking amendment.

Amendment (510) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Buys and Goodman spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Engrossed Second Substitute House Bill No. 1272.

## ROLL CALL

The Clerk called the roll on the final passage of Second Engrossed Second Substitute House Bill No. 1272, and the bill passed the House by the following vote: Yeas, 90; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fey, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins,



Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1272, having received the necessary constitutional majority, was declared passed.

There being no objection, the rules were suspended, and ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1276 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

## SECOND READING

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1276, by House Committee on General Government & Information Technology (originally sponsored by Representatives Klippert, Goodman, Hayes, Orwall, Moscoso, Pettigrew, Zeiger, Kilduff and Fey)**

### Concerning impaired driving.

The bill was read the second time.

Representative Klippert moved the adoption of amendment (511):

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that impaired driving continues to be a significant cause of motor vehicle crashes and that additional measures need to be taken to identify people who are driving under the influence, provide appropriate sanctions, and ensure compliance with court-ordered restrictions. The legislature intends to increase the availability of forensic phlebotomists so that offenders can be appropriately and efficiently identified. The legislature further intends to require consecutive sentencing in certain cases to increase punishment and supervision of offenders. The legislature intends to clarify ignition interlock processes and requirements to ensure that those offenders ordered to have ignition interlock devices do not drive vehicles without the required devices.

#### **Conditions of release—Requirements—Ignition interlock device—24/7 sobriety program monitoring**

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

(1)(a) When any person charged with ~~((or arrested for))~~ a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, in which the person has a prior offense as defined in RCW 46.61.5055 and the current offense involves alcohol, is released from custody ~~((before))~~ at arraignment or trial on bail or personal recognizance, the court authorizing the release shall require, as a condition of release ~~((;))~~ that person ~~((to ~~(\*)~~))~~ comply with one of the following four requirements:

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

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

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

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

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

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

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

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

#### **Ignition interlock driver's license—Application—Eligibility—Cancellation—Costs—Rules**

**Sec. 3.** RCW 46.20.385 and 2013 2nd sp.s. c 35 s 20 are each amended to read as follows:

(1)(a) ~~((Beginning January 1, 2009,))~~ Any person licensed under this chapter or who has a valid driver's license from another state, who is convicted of: (i) A violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or (ii) a violation of RCW 46.61.520(1)(a) or an equivalent local or out-of-state statute or ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1) (b) or (c) if the conviction is the result of a charge that was originally filed as a

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

(b) A person may apply for an ignition interlock driver's license anytime, including immediately after receiving the notices under RCW 46.20.308 or after his or her license is suspended, revoked, or denied. ~~((A person receiving an ignition interlock driver's license waives his or her right to a hearing or appeal under RCW 46.20.308.))~~

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

(i) The department shall require the person to maintain the device on all vehicles operated by the person and shall restrict the person to operating only vehicles equipped with the device, for the remainder of the period of suspension, revocation, or denial. Subject to the provisions of RCW 46.20.720(3)(b)(ii), the installation of an ignition interlock device is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer, and driven at the direction of a person's employer as a requirement of employment during working hours. The person must provide the department with a declaration pursuant to RCW 9A.72.085 from his or her employer stating that the person's employment requires the person to operate a vehicle owned by the employer or other persons during working hours.

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

(iii) The time period during which the person is licensed under this section shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 ~~((and))~~, 46.61.5055, 10.05.140, 46.61.500(3), and 46.61.5249(4). Beginning with incidents occurring on or after September 1, 2011, when calculating the period of time for the restriction under RCW 46.20.720 (2) or (3), the department must also give the person a day-for-day credit for the time period, beginning from the date of the incident, during which the person kept an ignition interlock device installed on all vehicles the person operates. For the purposes of this subsection (1)(c)(iii), the term "all vehicles" does not include vehicles that would be subject to the employer exception under RCW 46.20.720(3).

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

(3) Upon receipt of evidence that a holder of an ignition interlock driver's license granted under this subsection no longer has a functioning ignition interlock device installed on all vehicles operated by the driver, the director shall give written notice by

first-class mail to the driver that the ignition interlock driver's license shall be canceled. If at any time before the cancellation goes into effect the driver submits evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver, the cancellation shall be stayed. If the cancellation becomes effective, the driver may obtain, at no additional charge, a new ignition interlock driver's license upon submittal of evidence that a functioning ignition interlock device has been installed on all vehicles operated by the driver.

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

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

(6)(a) Unless costs are waived by the ignition interlock company or the person is indigent under RCW 10.101.010, the applicant shall pay the cost of installing, removing, and leasing the ignition interlock device and shall pay an additional fee of twenty dollars per month. Payments shall be made directly to the ignition interlock company. The company shall remit the additional twenty dollar fee to the department.

(b) The department shall deposit the proceeds of the twenty dollar fee into the ignition interlock device revolving account. Expenditures from the account may be used only to administer and operate the ignition interlock device revolving account program. The department shall adopt rules to provide monetary assistance according to greatest need and when funds are available.

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

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

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

**Notation on driving record—Verification of interlock—Penalty**

**Sec. 4.** RCW 46.20.740 and 2010 c 269 s 8 are each amended to read as follows:

(1) The department shall attach or imprint a notation on the driving record of any person restricted under RCW 46.20.720, 46.61.5055, or 10.05.140 stating that the person may operate only a motor vehicle equipped with a functioning ignition interlock device. The department shall determine the person's eligibility for

licensing based upon written verification by a company doing business in the state that it has installed the required device on a vehicle owned or operated by the person seeking reinstatement. If, based upon notification from the interlock provider or otherwise, the department determines that an ignition interlock required under this section is no longer installed or functioning as required, the department shall suspend the person's license or privilege to drive. Whenever the license or driving privilege of any person is suspended or revoked as a result of noncompliance with an ignition interlock requirement, the suspension shall remain in effect until the person provides notice issued by a company doing business in the state that a vehicle owned or operated by the person is equipped with a functioning ignition interlock device.

(2) It is a gross misdemeanor for a person with such a notation on his or her driving record to operate a motor vehicle that is not so equipped, unless the notation resulted from a restriction imposed as a condition of release and the restriction has been released by the court prior to driving.

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

#### **Implied consent—Test refusal—Procedures**

**Sec. 5.** RCW 46.20.308 and 2013 2nd sp.s. c 35 s 36 are each amended to read as follows:

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

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

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

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

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

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

(ii) The driver is under age twenty-one and the test indicates either that the alcohol concentration of the driver's breath is 0.02 or

more ~~((or that the THC concentration of the driver's blood is above 0.00))~~; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) A person receiving notification under subsection (5)(b) of this section may, within twenty days after the notice has been given, request in writing a formal hearing before the department. The person shall pay a fee of three hundred seventy-five dollars as part of the request. If the request is mailed, it must be postmarked within twenty days after receipt of the notification. Upon timely receipt of such a request for a formal hearing, including receipt of the required three hundred seventy-five dollar fee, the department shall afford the person an opportunity for a hearing. The department may waive the required three hundred seventy-five dollar fee if the person is an indigent as defined in RCW 10.101.010. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within sixty days following the arrest or following the date notice has been given in the event notice is given by the department following a blood test, unless otherwise agreed to by the department and the person, in which case the action by the department shall be stayed, and any valid temporary license ~~((marked))~~ under subsection (5) of this section extended, if the person is otherwise eligible for licensing. For the purposes of this section, the scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or any drug or had been driving or was in actual physical control of a motor vehicle within this state while having

alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, if the person was under the age of twenty-one, whether the person was placed under arrest, and (a) whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's license, permit, or privilege to drive, or (b) if a test or tests were administered, whether the applicable requirements of this section were satisfied before the administration of the test or tests, whether the person submitted to the test or tests, or whether a test was administered ~~((without express consent))~~ pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law as permitted under this section, and whether the test or tests indicated that the alcohol concentration of the person's breath or blood was 0.08 or more, or the THC concentration of the person's blood was 5.00 or more, if the person was age twenty-one or over at the time of the arrest, or that the alcohol concentration of the person's breath or blood was 0.02 or more, or the THC concentration of the person's blood was above 0.00, if the person was under the age of twenty-one at the time of the arrest. Where a person is found to be in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug or was under the age of twenty-one at the time of the arrest and was in physical control of a motor vehicle while having alcohol in his or her system in a concentration of 0.02 or THC concentration above 0.00, the person may petition the hearing officer to apply the affirmative defense found in RCW 46.61.504(3) and 46.61.503(2). The driver has the burden to prove the affirmative defense by a preponderance of the evidence. The sworn report or report under a declaration authorized by RCW 9A.72.085 submitted by a law enforcement officer is prima facie evidence that the officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drugs, or both, or the person had been driving or was in actual physical control of a motor vehicle within this state while having alcohol in his or her system in a concentration of 0.02 or more, or THC in his or her system in a concentration above 0.00, and was under the age of twenty-one and that the officer complied with the requirements of this section.

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

(8) If the suspension, revocation, or denial is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the same manner as an appeal from a decision of a court of limited jurisdiction. Notice of appeal must be filed within thirty days after the date the final order is served or the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ 1.1, or other statutes or rules referencing de novo review, the appeal shall be limited to a review of the record of the administrative hearing. The appellant must pay the costs associated

with obtaining the record of the hearing before the hearing officer. The filing of the appeal does not stay the effective date of the suspension, revocation, or denial. A petition filed under this subsection must include the petitioner's grounds for requesting review. Upon granting petitioner's request for review, the court shall review the department's final order of suspension, revocation, or denial as expeditiously as possible. The review must be limited to a determination of whether the department has committed any errors of law. The superior court shall accept those factual determinations supported by substantial evidence in the record: (a) That were expressly made by the department; or (b) that may reasonably be inferred from the final order of the department. The superior court may reverse, affirm, or modify the decision of the department or remand the case back to the department for further proceedings. The decision of the superior court must be in writing and filed in the clerk's office with the other papers in the case. The court shall state the reasons for the decision. If judicial relief is sought for a stay or other temporary remedy from the department's action, the court shall not grant such relief unless the court finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial it may impose conditions on such stay.

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

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

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

(10) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken

to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

#### **Circumventing ignition interlock—Penalty**

**Sec. 6.** RCW 46.20.750 and 2005 c 200 s 2 are each amended to read as follows:

(1) A person who is restricted to the use of a vehicle equipped with an ignition interlock device (~~(and who tampers with the device or directs, authorizes, or requests another to tamper with the device, in order to circumvent the device by modifying, detaching, disconnecting, or otherwise disabling it,)~~) is guilty of a gross misdemeanor if the restricted driver:

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

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

(c) Has, directs, authorizes, or requests another person to tamper with the device by modifying, detaching, disconnecting, or otherwise disabling it to allow the restricted driver to operate the vehicle; or

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

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

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

#### **Commercial vehicles—Test for alcohol or drugs—Disqualification for refusal of test or positive test—Procedures**

**Sec. 7.** RCW 46.25.120 and 2013 2nd sp.s. c 35 s 12 are each amended to read as follows:

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

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

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

(4) A law enforcement officer who at the time of stopping or detaining a commercial motor vehicle driver has reasonable grounds to believe that driver was driving a commercial motor vehicle while having alcohol, marijuana, or any drug in his or her system or while under the influence of alcohol, marijuana, or any drug may obtain a blood test pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law.

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

~~((5))~~ ~~(6)~~ Upon receipt of the sworn report of a law enforcement officer under subsection ~~((4))~~ ~~(5)~~ of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system or while under the influence of any drug, whether the person refused to submit to the test or tests upon request of the officer after having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, if applicable, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more or any measurable amount of THC concentration. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

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

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

#### **Open container law for marijuana**

**NEW SECTION. Sec. 8.** A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) It is a traffic infraction:

(i) For the registered owner of a motor vehicle, or the driver if the registered owner is not then present, or passengers in the vehicle, to keep marijuana in a motor vehicle when the vehicle is upon a highway, unless it is (A) in the trunk of the vehicle, (B) in some other area of the vehicle not normally occupied or directly accessible by the driver or passengers if the vehicle does not have a trunk, or (C) in a package, container, or receptacle that has not been opened or the seal broken or contents partially removed. A utility compartment or glove compartment is deemed to be within the area occupied by the driver and passengers;

(ii) To consume marijuana in any manner including, but not limited to, smoking or ingesting in a motor vehicle when the vehicle is upon the public highway; or

(iii) To place marijuana in a container specifically labeled by the manufacturer of the container as containing a nonmarijuana substance and to then violate (a)(i) of this subsection.

(b) There is a rebuttable presumption that it is a traffic infraction if the original container of marijuana is incorrectly labeled and there is a subsequent violation of (a)(i) of this subsection.

(2) As used in this section, "marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

#### **Alcohol and drug violators—Penalty schedule**

**Sec. 9.** RCW 46.61.5055 and 2015 c 265 s 33 are each amended to read as follows:

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

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

(i) By imprisonment for not less than one day nor more than three hundred sixty-four days. Twenty-four consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(a)(i), the court may order not less than fifteen days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device or other separate alcohol monitoring device to include an alcohol detection breathalyzer, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

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

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

(i) By imprisonment for not less than two days nor more than three hundred sixty-four days. Forty-eight consecutive hours of the imprisonment may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension

and the facts upon which the suspension is based. In lieu of the mandatory minimum term of imprisonment required under this subsection (1)(b)(i), the court may order not less than thirty days of electronic home monitoring. The offender shall pay the cost of electronic home monitoring. The county or municipality in which the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device to include an alcohol detection breathalyzer or other separate alcohol monitoring device, and the court may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring; and

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

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

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

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

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

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

(i) By imprisonment for not less than forty-five days nor more than three hundred sixty-four days and ninety days of electronic home monitoring. In lieu of the mandatory minimum term of ninety days electronic home monitoring, the court may order at least an additional six days in jail or, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and the court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The offender shall pay for the cost of the electronic monitoring. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring

device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. Forty-five days of imprisonment and ninety days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

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

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

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

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

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

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

(i) By imprisonment for not less than one hundred twenty days nor more than three hundred sixty-four days, if available in that county or city, a six-month period of 24/7 sobriety program monitoring pursuant to RCW 36.28A.300 through 36.28A.390, and one hundred fifty days of electronic home monitoring. In lieu of the mandatory minimum term of one hundred fifty days of electronic home monitoring, the court may order at least an additional ten days in jail. The offender shall pay for the cost of the

electronic monitoring. The court shall order an expanded alcohol assessment and treatment, if deemed appropriate by the assessment. The county or municipality where the penalty is being imposed shall determine the cost. The court may also require the offender's electronic home monitoring device include an alcohol detection breathalyzer or other separate alcohol monitoring device, and may restrict the amount of alcohol the offender may consume during the time the offender is on electronic home monitoring. One hundred twenty days of imprisonment and one hundred fifty days of electronic home monitoring may not be suspended unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended, the court shall state in writing the reason for granting the suspension and the facts upon which the suspension is based; and

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

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

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

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

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

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

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

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

(5) **Monitoring.**

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

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

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

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

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

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

(6) **Penalty for having a minor passenger in vehicle.** If a person who is convicted of a violation of RCW 46.61.502 or

46.61.504 committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

The department shall grant credit on a day-for-day basis for any portion of a suspension, revocation, or denial already served under this subsection for a suspension, revocation, or denial imposed under RCW 46.20.3101 arising out of the same incident.

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

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

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

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

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

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

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

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

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

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

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

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

(13) **Extraordinary medical placement.** An offender serving a sentence under this section, whether or not a mandatory minimum term has expired, may be granted an extraordinary medical placement by the jail administrator subject to the standards and limitations set forth in RCW 9.94A.728~~((3))~~ (1)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 10.** RCW 46.01.260 and 2010 c 161 s 208 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director may destroy applications for vehicle registrations, copies

of vehicle registrations issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, and records or supporting papers on file in the department that have been microfilmed or photographed or are more than five years old. The director may destroy applications for vehicle registrations that are renewal applications when the computer record of the applications has been updated.

(2)(a) The director shall not destroy records of convictions or adjudications of RCW 46.61.502, ~~46.61.503~~, 46.61.504, 46.61.520, and 46.61.522, or records of deferred prosecutions granted under RCW 10.05.120 and shall maintain such records permanently on file.

(b) The director shall not, within fifteen years from the date of conviction or adjudication, destroy records if the offense was originally charged as one of the offenses designated in (a) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.5249 or any other violation that was originally charged as one of the offenses designated in (a) of this subsection.

(c) For purposes of RCW 46.52.101 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

#### **Ignition interlock devices—Standards—Compliance**

**Sec. 11.** RCW 43.43.395 and 2013 2nd sp.s. c 35 s 9 are each amended to read as follows:

(1) The state patrol shall by rule provide standards for the certification, installation, repair, maintenance, monitoring, inspection, and removal of ignition interlock devices, as defined under RCW 46.04.215, and equipment as outlined under this section, and may inspect the records and equipment of manufacturers and vendors during regular business hours for compliance with statutes and rules and may suspend or revoke certification for any noncompliance.

(2)(a) When a certified service provider or individual installer of ignition interlock devices is found to be out of compliance, the installation privileges of that certified service provider or individual installer may be suspended or revoked until the certified service provider or individual installer comes into compliance. During any suspension or revocation period, the certified service provider or individual installer is responsible for notifying affected customers of any changes in their service agreement.

(b) A certified service provider or individual installer whose certification is suspended or revoked for noncompliance has a right to an administrative hearing under chapter 34.05 RCW to contest the suspension or revocation, or both. For the administrative hearing, the procedure and rules of evidence are as specified in chapter 34.05 RCW, except as otherwise provided in this chapter. Any request for an administrative hearing must be made in writing and must be received by the state patrol within twenty days after the receipt of the notice of suspension or revocation.

(3)(a) An ignition interlock device must employ:

(i) Fuel cell technology. For the purposes of this subsection, "fuel cell technology" consists of the following electrochemical method: An electrolyte designed to oxidize the alcohol and release electrons to be collected by an active electrode; a current flow is generated within the electrode proportional to the amount of alcohol oxidized on the fuel cell surface; and the electrical current is measured and reported as breath alcohol concentration. Fuel cell technology is highly specific for alcohols(-

~~(b) When reasonably available in the area, as determined by the state patrol, an ignition interlock device must employ);~~

(ii) Technology capable of taking a photo identification of the user giving the breath sample and recording on the photo the time the breath sample was given; and

(iii) Technology capable of providing the global positioning coordinates at the time of each test sequence. Such coordinates must be displayed within the data log that is downloaded by the manufacturer and must be made available to the state patrol to be used for circumvention and tampering investigations.

~~((e))~~ (b) To be certified, an ignition interlock device must:

(i) Meet or exceed the minimum test standards according to rules adopted by the state patrol. Only a notarized statement from a laboratory that is accredited and certified ~~((by))~~ under the current edition of ISO (the international organization of standardization) 17025 standard for testing and calibration laboratories and is capable of performing the tests specified will be accepted as proof of meeting or exceeding the standards. The notarized statement must include the name and signature of the person in charge of the tests under the certification statement. The state patrol must adopt by rule the required language of the certification statement that must, at a minimum, outline that the testing meets or exceeds all specifications listed in the federal register adopted in rule by the state patrol; and

(ii) Be maintained in accordance with the rules and standards adopted by the state patrol.

**Abstract of driving record—Access—Fee—Violations**

**Sec. 12.** RCW 46.52.130 and 2015 c 265 s 4 are each amended to read as follows:

Upon a proper request, the department may furnish an abstract of a person's driving record as permitted under this section.

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

(i) The total number of vehicles involved;

(ii) Whether the vehicles were legally parked or moving;

(iii) Whether the vehicles were occupied at the time of the accident; and

(iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract or that named individual's attorney, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i)(A) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

(B) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by:

(I) The employee or prospective employee that authorizes the release of the record; and (II) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement. The statement must also note that any information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee may not be used by the employer or prospective employer, or an agent authorized to obtain this information on their behalf, unless required by federal regulation or law. The employer or prospective employer must afford the employee or prospective employee an opportunity to demonstrate that an adjudication contained in the abstract is subject to a court order sealing the juvenile record.

(C) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

(D) No employer or prospective employer, nor any agent of an employer or prospective employer, may use information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee for any purpose unless required by federal regulation or law. The employee or prospective employee must furnish a copy of the court order sealing the juvenile record to the employer or prospective employer, or the agent of the employer or prospective employer, as may be required to ensure the application of this subsection.

(ii) In addition to the methods described in (b)(i) of this subsection, the director may enter into a contractual agreement with an employer or its agent for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agent of a transit authority checking prospective volunteer vanpool drivers for insurance and risk management needs.

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than

the last three years may be furnished to an insurance company or its agent:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agent, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agent, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

(v) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **Attorneys—City attorneys (~~and~~), county prosecuting attorneys, and named individual's attorney of record.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys (~~and~~), county prosecuting attorneys,

or the named individual's attorney of record. City attorneys (~~and~~), county prosecuting attorneys, or the named individual's attorney of record may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031 for employment and risk management purposes.

(i) **Superintendent of public instruction.** An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(3) **Release to third parties prohibited.** Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through (i) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(4) **Fee.** The director shall collect a thirteen dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

(5) **Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

(6) Effective July 1, 2019, the contents of a driving abstract pursuant to this section shall not include any information related to sealed juvenile records unless that information is required by federal law or regulation.

**Sec. 13.** RCW 9.94A.589 and 2002 c 175 s 7 are each amended to read as follows:

(1)(a) Except as provided in (b) (~~and~~), (c), or (d) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.535. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition applies in cases involving vehicular assault or vehicular homicide even if the victims occupied the same vehicle.

(b) Whenever a person is convicted of two or more serious violent offenses arising from separate and distinct criminal conduct, the standard sentence range for the offense with the highest seriousness level under RCW 9.94A.515 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the standard sentence range for other serious violent offenses shall be determined by using an offender score of zero. The standard sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this

subsection. All sentences imposed under ~~((b)–(f))~~ this subsection (1)(b) shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(c) If an offender is convicted under RCW 9.41.040 for unlawful possession of a firearm in the first or second degree and for the felony crimes of theft of a firearm or possession of a stolen firearm, or both, the standard sentence range for each of these current offenses shall be determined by using all other current and prior convictions, except other current convictions for the felony crimes listed in this subsection (1)(c), as if they were prior convictions. The offender shall serve consecutive sentences for each conviction of the felony crimes listed in this subsection (1)(c), and for each firearm unlawfully possessed.

(d) All sentences imposed under RCW 46.61.502(6), 46.61.504(6), or 46.61.5055(4) shall be served consecutively to any sentence imposed under RCW 46.20.740 and 46.20.750.

(2)(a) Except as provided in (b) of this subsection, whenever a person while under sentence for conviction of a felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.

(b) Whenever a second or later felony conviction results in community supervision with conditions not currently in effect, under the prior sentence or sentences of community supervision the court may require that the conditions of community supervision contained in the second or later sentence begin during the immediate term of community supervision and continue throughout the duration of the consecutive term of community supervision.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence for conviction of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) In the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community restitution, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.535, if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months.

**Sec. 14.** RCW 46.61.503 and 2013 c 3 s 34 are each amended to read as follows:

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

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

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

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

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

(2) It is an affirmative defense to a violation of subsection (1) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol or marijuana after the time of driving or being in physical control and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol or THC concentration to be in violation of subsection (1) of this section within two hours after driving or being in physical control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the earlier of: (a) Seven days prior to trial; or (b) the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

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

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

~~((4))~~ (5) A violation of this section is a misdemeanor.

**Sec. 15.** RCW 46.20.755 and 2010 c 269 s 5 are each amended to read as follows:

If a person is required, as part of the person's judgment and sentence or as a condition of release, to install an ignition interlock device on all motor vehicles operated by the person and the person is under the jurisdiction of the municipality or county probation or supervision department, the probation or supervision department must verify the installation of the ignition interlock device or devices. The municipality or county probation or supervision department satisfies the requirement to verify the installation or installations if the municipality or county probation or supervision department receives written verification by one or more companies doing business in the state that it has installed the required device on a vehicle owned or operated by the person. The municipality or county shall have no further obligation to supervise the use of the ignition interlock device or devices by the person and shall not be civilly liable for any injuries or damages caused by the person for failing to use an ignition interlock device or for driving under the influence of intoxicating liquor or any drug or being in actual physical control of a motor vehicle under the influence of intoxicating liquor or any drug.

**Sec. 16.** RCW 36.28A.320 and 2014 c 221 s 913 are each amended to read as follows:

There is hereby established in the state treasury the 24/7 sobriety account. The account shall be maintained and administered by the criminal justice training commission to reimburse the state for costs associated with establishing and operating the 24/7 sobriety program and the Washington association of sheriffs and police chiefs for ongoing 24/7 sobriety program administration costs.

~~((sanjuan\ATLAS\MACROS\DATA\2015 JOURNAL\Journal2015\LegDay014\The.doc))~~ An appropriation is not required for expenditures and the account is not subject to allotment procedures under chapter 43.88 RCW. Funds in the account may not lapse and must carry forward from biennium to biennium. Interest earned by the account must be retained in the account. The criminal justice training commission may accept for deposit in the account money from donations, gifts, grants, participation fees, and user fees or payments. ((Expenditures from the account shall be budgeted through the normal budget process.))

**Sec. 17.** RCW 36.28A.330 and 2013 2nd sp. s. c 35 s 26 are each amended to read as follows:

The definitions in this section apply throughout RCW 36.28A.300 through 36.28A.390 unless the context clearly requires otherwise.

(1) "~~24/7 ((electronic alcohol/drug monitoring)) sobriety program~~" means ~~((the monitoring by the use of any electronic instrument that is capable of determining and monitoring the presence of alcohol or drugs in a person's body and includes any associated equipment a participant needs in order for the device to properly perform. Monitoring may also include mandatory urine analysis tests as ordered by the court))~~ a program in which a participant submits to testing of the participant's blood, breath, urine, or other bodily substance to determine the presence of alcohol or any drug as defined in RCW 46.61.540. Testing must take place at a location or locations designated by the participating agency, or, with the concurrence of the Washington association of sheriffs and police chiefs, by an alternate method.

(2) "Participant" means a person who has ~~((one or more prior convictions for))~~ been charged with or convicted of a violation of RCW 46.61.502 ~~((or))~~ 46.61.504, or those crimes listed in RCW 46.61.5055(14), in which the use of alcohol or drugs as defined in RCW 46.61.540 was a contributing factor in the commission of the crime and who has been ordered by a court to participate in the 24/7 sobriety program.

(3) "Participating agency" means ~~((a sheriff's office or a designated entity named by a sheriff that has agreed to participate in the 24/7 sobriety program by enrolling participants, administering one or more of the tests, and submitting reports to the Washington association of sheriffs and police chiefs))~~ any entity located in the state of Washington that has a written agreement with the Washington association of sheriffs and police chiefs to participate in the 24/7 sobriety program, and includes, but is not limited to, a sheriff, a police chief, any other local, regional, or state corrections or probation entity, and any other entity designated by a sheriff, police chief, or any other local, regional, or state corrections or probation entity to perform testing in the 24/7 sobriety program.

(4) "Participation agreement" means a written document executed by a participant agreeing to participate in the 24/7 sobriety program in a form approved by the Washington association of sheriffs and police chiefs that contains the following information:

- (a) The type, frequency, and time period of testing;
- (b) The location of testing;
- (c) The fees and payment procedures required for testing; and
- (d) The responsibilities and obligations of the participant under the 24/7 sobriety program.

~~((5)) "24/7 sobriety program" means a twenty-four hour and seven-day-a-week sobriety program in which a participant submits to the testing of the participant's blood, breath, urine, or other bodily substances in order to determine the presence of alcohol, marijuana, or any controlled substance in the participant's body.)~~

**Sec. 18.** RCW 36.28A.370 and 2013 2nd sp.s. c 35 s 30 are each amended to read as follows:

(1) ~~((Funds in the 24/7 sobriety account shall be distributed as follows:~~

~~((a))~~) Any daily user fee, installation fee, deactivation fee, enrollment fee, or monitoring fee ~~((collected under the 24/7 sobriety program shall))~~ must be collected by the ~~((sheriff or chief, or an entity designated by the sheriff or chief, and deposited with the county or city treasurer of the proper county or city, the proceeds of which shall be applied))~~ participating agency and used ~~((only))~~ to defray the ~~((recurring))~~ participating agency's costs of the 24/7 sobriety program ~~((including maintaining equipment, funding support services, and ensuring compliance; and))~~.

~~((b))~~) (2) Any participation fee must be collected ~~((in the administration of testing under))~~ by the participating agency and

deposited in the state 24/7 sobriety ~~((program))~~ account to cover 24/7 sobriety program administration costs incurred by the Washington association of sheriffs and police chiefs ~~((shall be collected by the sheriff or chief, or an entity designated by the sheriff or chief, and deposited in the 24/7 sobriety account))~~.

~~((2))~~) (3) All applicable fees shall be paid by the participant contemporaneously or in advance of the time when the fee becomes due; however, cities and counties may subsidize or pay any applicable fees.

(4) A city or county may accept donations, gifts, grants, and other assistance to defray the participating agency's costs of the 24/7 sobriety program.

**Sec. 19.** RCW 36.28A.390 and 2013 2nd sp.s. c 35 s 32 are each amended to read as follows:

(1) A general authority Washington peace officer, as defined in RCW 10.93.020, who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program may immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.

(2) A participant who violates the terms of participation in the 24/7 sobriety program or does not pay the required fees or associated costs ~~pretrial or posttrial~~ shall, at a minimum:

- (a) Receive a written warning notice for a first violation;
- (b) Serve ~~((a term))~~ the lesser of two days imprisonment ~~or if posttrial, the entire remaining sentence imposed by the court~~ for a second violation;

(c) Serve ~~((a term of up to))~~ the lesser of five days imprisonment ~~or if posttrial, the entire remaining sentence imposed by the court~~ for a third violation;

(d) Serve ~~((a term of up to))~~ the lesser of ten days imprisonment ~~or if posttrial, the entire remaining sentence imposed by the court~~ for a fourth violation; and

(e) For a fifth ~~or subsequent~~ violation ~~pretrial~~, the participant shall abide by the order of the court. For posttrial participants, the participant shall serve the entire remaining sentence imposed by the court.

~~((2)) A sheriff or chief, or the designee of a sheriff or chief, who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program or has not paid the required fees or associated costs shall immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day.)~~ (3) The court may remove a participant from the 24/7 sobriety program at any time for noncompliance with the terms of participation.

**Sec. 20.** RCW 10.21.015 and 2014 c 24 s 1 are each amended to read as follows:

(1) Under this chapter, "pretrial release program" is any program, either run directly by a county or city, or by a private or public entity through contract with a county or city, into whose custody an offender is released prior to trial and which agrees to supervise the offender. As used in this section, "supervision" includes, but is not limited to, work release, day monitoring, ~~((or))~~ electronic monitoring, ~~or participation in a 24/7 sobriety program~~.

(2) A pretrial release program may not agree to supervise, or accept into its custody, an offender who is currently awaiting trial for a violent offense or sex offense, as defined in RCW 9.94A.030, who has been convicted of one or more violent offenses or sex offenses in the ten years before the date of the current offense, unless the offender's release before trial was secured with a payment of bail.

**NEW SECTION. Sec. 21.** A new section is added to chapter 18.130 RCW to read as follows:

It is not professional misconduct for a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or

advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider, to collect a blood sample without a person's consent when the physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood was directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances: PROVIDED, That nothing in this section shall relieve a physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such licensed or certified health care provider withdrawing blood from professional discipline arising from the use of improper procedures or from failing to exercise the required standard of care.

**Sec. 22.** RCW 46.61.506 and 2013 c 3 s 37 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the person's alcohol concentration is less than 0.08 or the person's THC concentration is less than 5.00, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

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

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

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

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or

methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

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

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

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

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

(iv) Prior to the start of the test, the temperature of any liquid simulator solution utilized as an external standard, as measured by a thermometer approved of by the state toxicologist was thirty-four degrees centigrade plus or minus 0.3 degrees centigrade;

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

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

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

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

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

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

(5) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic or drug content may be performed only by a physician (~~or a registered nurse, a licensed practical nurse, a nursing assistant as defined in chapter 18.88A RCW, a physician assistant as defined in chapter 18.71A RCW, a first responder as defined in chapter 18.73 RCW, an emergency medical technician as defined in chapter 18.73 RCW, a health care assistant as defined in chapter 18.135 RCW, or any technician trained in withdrawing blood~~) licensed under chapter 18.71 RCW; an osteopathic physician licensed under chapter 18.57 RCW; a registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; a physician assistant licensed under chapter 18.71A RCW; an osteopathic physician assistant licensed under chapter 18.57A RCW; an advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, a health care assistant certified under chapter 18.135 RCW; or a medical assistant-certified or medical

assistant-phlebotomist certified under chapter 18.360 RCW. This limitation shall not apply to the taking of breath specimens.

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

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

**Sec. 23.** RCW 46.61.508 and 1977 ex.s. c 143 s 1 are each amended to read as follows:

No ~~physician((~~registered nurse, qualified technician~~))~~ licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; registered nurse, licensed practical nurse, or advanced registered nurse practitioner licensed under chapter 18.79 RCW; physician assistant licensed under chapter 18.71A RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; advanced emergency medical technician or paramedic licensed under chapter 18.73 RCW; until July 1, 2016, health care assistant certified under chapter 18.135 RCW; or medical assistant-certified or medical assistant-phlebotomist certified under chapter 18.360 RCW, or hospital, or duly licensed clinical laboratory employing or utilizing services of such ~~((physician, registered nurse, or qualified technician))~~ licensed or certified health care provider, shall incur any civil or criminal liability as a result of the act of withdrawing blood from any person when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant, a waiver of the search warrant requirement, exigent circumstances, any other authority of law, or RCW 46.20.308, as now or hereafter amended: PROVIDED, That nothing in this section shall relieve ~~((any physician, registered nurse, qualified technician))~~ such licensed or certified health care provider, or hospital or duly licensed clinical laboratory from civil liability arising from the use of improper procedures or failing to exercise the required standard of care.

**Sec. 24.** RCW 46.61.504 and 2013 c 3 s 35 are each amended to read as follows:

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

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

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

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

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

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section and it is an affirmative defense to any action pursuant to RCW 46.20.308

to suspend, revoke, or deny the privilege to drive if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 25.** RCW 18.360.030 and 2012 c 153 s 4 are each amended to read as follows:

(1) The secretary shall adopt rules specifying the minimum qualifications for a medical assistant-certified, medical assistant-hemodialysis technician, and medical assistant-phlebotomist. The qualifications for a medical assistant-hemodialysis technician must be equivalent to the qualifications for hemodialysis technicians regulated pursuant to chapter 18.135 RCW as of January 1, 2012.



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

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

(4)(a) The secretary shall adopt rules specifying requirements for delegation, training, and supervision for a medical assistant-phlebotomist who is also a local, state, federal, or tribal law enforcement employee or correctional employee, and whose practice is limited to collecting venipuncture blood samples for forensic testing under the provisions of RCW 46.20.308 or pursuant to a search warrant, a valid waiver of the warrant requirement, when exigent circumstances exist, or under any other authority of law. The rules shall provide standards for the minimum number of venipuncture collections necessary to maintain endorsement for collecting blood samples for forensic testing. The rules shall provide standards for location, conditions, and supervision of venipuncture collections.

(b) Until July 1, 2020, pursuant to (a) of this subsection, the rules shall include, but are not limited to:

(i) Requiring each medical assistant-phlebotomist to perform fifty venipuncture collections during the first year of certification;

(ii) Requiring mandatory annual ongoing training in order for such person to maintain certification as a medical assistant-phlebotomist; and

(iii) Requiring that any venipuncture blood samples collected for forensic testing take place at a site that provides for antiseptic techniques and that all such sites are inspected annually by the department."

Correct the title.

Representatives Klippert and Goodman spoke in favor of the adoption of the striking amendment.

Amendment (511) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Klippert and Goodman spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Second Engrossed Second Substitute House Bill No. 1276.

### ROLL CALL

The Clerk called the roll on the final passage of Second Engrossed Second Substitute House Bill No. 1276, and the bill passed the House by the following vote: Yeas, 88; Nays, 2; Absent, 0; Excused, 8.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Caldier, Carlyle, Chandler, Cody, DeBolt, Dent, Dunshee, Dye,

Farrell, Fey, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Voting nay: Representatives Condotta and Taylor.

Excused: Representatives Clibborn, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

SECOND ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1276, having received the necessary constitutional majority, was declared passed.

There being no objection, the rules were suspended, and SUBSTITUTE HOUSE BILL NO. 2160 was returned to second reading for the purpose of amendment.

There being no objection, the House reverted to the sixth order of business.

### SECOND READING

**SUBSTITUTE HOUSE BILL NO. 2160, by House Committee on Judiciary (originally sponsored by Representatives Wylie, Orwall, Klippert and Buys)**

**Concerning the distribution of intimate images.**

The bill was read the second time.

Representative McCabe moved the adoption of amendment (512):

Strike everything after the enacting clause and insert the following:

"**NEW SECTION. Sec. 1.** A new section is added to chapter 4.24 RCW to read as follows:

(1) A person distributes an intimate image of another person when that person intentionally and without consent distributes, transmits, or otherwise makes available an intimate image or images of that other person that was:

(a) Obtained under circumstances in which a reasonable person would know or understand that the image was to remain private; or

(b) Knowingly obtained by that person without authorization or by exceeding authorized access from the other person's property, accounts, messages, files, or resources.

(2) Any person who distributes an intimate image of another person as described in subsection (1) of this section and at the time of such distribution knows or reasonably should know that disclosure would cause harm to the depicted person shall be liable to that other person for actual damages including, but not limited to, pain and suffering, emotional distress, economic damages, and lost earnings, reasonable attorneys' fees, and costs. The court may also, in its discretion, award injunctive relief as it deems necessary.

(3) Factors that may be used to determine whether a reasonable person would know or understand that the image was to remain private include:

(a) The nature of the relationship between the parties;

(b) The circumstances under which the intimate image was taken;

(c) The circumstances under which the intimate image was distributed; and

(d) Any other relevant factors.

(4) It shall be an affirmative defense to a violation of this section that the defendant is a family member of a minor and did not intend any harm or harassment in disclosing the images of the minor to other family or friends of the defendant. This affirmative defense shall not apply to matters defined under RCW 9.68A.011.

(5) As used in this section, "intimate image" means any photograph, motion picture film, videotape, digital image, or any other recording or transmission of another person who is identifiable from the image itself or from information displayed with or otherwise connected to the image, and that was taken in a private setting, is not a matter of public concern, and depicts:

(a) Sexual activity, including sexual intercourse as defined in RCW 9A.44.010 and masturbation; or

(b) A person's intimate body parts, whether nude or visible through less than opaque clothing, including the genitals, pubic area, anus, or postpubescent female nipple.

(6) In an action brought under this section, the court shall:

(a) Make it known to the plaintiff as early as possible in the proceedings of the action that the plaintiff may use a confidential identity in relation to the action;

(b) Allow a plaintiff to use a confidential identity in all petitions, filings, and other documents presented to the court;

(c) Use the confidential identity in all of the court's proceedings and records relating to the action, including any appellate proceedings; and

(d) Maintain the records relating to the action in a manner that protects the confidentiality of the plaintiff.

(7) Nothing in this act shall be construed to impose liability on an interactive computer service, as defined in 47 U.S.C. 230(f)(2) as it exists on the effective date of this section, for content provided by another person."

Representative McCabe spoke in favor of the adoption of the striking amendment.

Amendment (512) was adopted.

The bill was ordered engrossed.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representative Wylie spoke in favor of the passage of the bill.

The Speaker (Representative Moeller presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 2160.

## ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 2160, and the bill passed the House by the following vote: Yeas, 90; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Representatives Appleton, Bergquist, Blake, Buys, Calder, Carlyle, Chandler, Cody, Condotta, DeBolt, Dent, Dunshee, Dye, Farrell, Fey, Fitzgibbon, G. Hunt, Goodman, Gregory, Griffey, Haler, Hansen, Harmsworth, Harris, Hawkins, Hayes, Holy, Hudgins, Hunter, Hurst, Johnson, Kagi, Kilduff, Kirby, Klippert, Kochmar, Kristiansen, Lytton, MacEwen, Magendanz, McBride, McCabe, McCaslin, Moeller, Morris, Moscoso, Muri, Nealey, Orcutt, Ormsby, Ortiz-Self, Orwall, Parker, Peterson, Pettigrew, Pike, Pollet, Reykdal, Riccelli, Robinson, Rodne, Ryu, S. Hunt, Santos, Sawyer, Schmick, Scott, Sells, Senn, Short, Smith, Springer, Stambaugh, Stanford, Stokesbary, Sullivan, Takko, Tarleton, Taylor, Tharinger, Van De Wege, Van Werven, Vick, Walkinshaw, Wilcox, Wilson, Wylie, Young, Zeiger and Mr. Speaker.

Excused: Representatives Clibborn, Gregerson, Hargrove, Jinkins, Kretz, Manweller, Shea and Walsh.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2160, having received the necessary constitutional majority, was declared passed.

## STATEMENT FOR THE JOURNAL

A Second Special Session started June 11<sup>th</sup>. My professional duties outside of the legislature prevented my attendance and I was excused. All bills considered had already been voted upon during the regular session. My positions are part of that record. My absence did not affect the passage of any bills. *(Please see appendix for list of votes)*

Representative Shea, 4th District

There being no objection, the House advanced to the eleventh order of business.

There being no objection, the House adjourned until 9:55 a.m., June 12, 2015, the 15th Day of the Second Special Session.

FRANK CHOPP, Speaker

BARBARA BAKER, Chief Clerk

1037-S	Third Reading.....	1
	Third Reading Final Passage.....	1
1157-S	Third Reading.....	1
	Third Reading Final Passage.....	1
1272-S2	Second Reading.....	1
	Amendment Offered.....	1
	Third Reading Final Passage.....	1
	Other Action.....	1
1276-S2	Second Reading.....	1
	Amendment Offered.....	1
	Third Reading Final Passage.....	1
	Other Action.....	1
1469-S2	Third Reading.....	1
	Third Reading Final Passage.....	1
1561	Third Reading.....	1
	Third Reading Final Passage.....	1
1738-S	Third Reading.....	1
	Third Reading Final Passage.....	1
1825-S2	Second Reading.....	1
	Amendment Offered.....	1
	Third Reading Final Passage.....	1
	Other Action.....	1
1855-S	Third Reading.....	1
	Third Reading Final Passage.....	1
1918	Third Reading.....	1
	Third Reading Final Passage.....	1
2122	Second Reading.....	1
	Amendment Offered.....	1
	Third Reading Final Passage.....	1
2160-S	Second Reading.....	1
	Amendment Offered.....	1
	Third Reading Final Passage.....	1
	Other Action.....	1
2214	Second Reading.....	1
	Amendment Offered.....	1
	Third Reading Final Passage.....	1
	Other Action.....	1
2253	Second Reading.....	1
	Amendment Offered.....	1
	Third Reading Final Passage.....	1
HOUSE OF REPRESENTATIVES (Representative Moeller presiding)		
	Statement for the Journal Representative Shea.....	1