

**ESSB 6150 - H AMD 1286**

By Representative Clibborn

ADOPTED AS AMENDED 03/03/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 46.20.037 and 2006 c 292 s 1 are each amended to read  
4 as follows:

5 (1) ~~((No later than two years after full implementation of the  
6 provisions of Title II of P.L. 109-13, improved security for driver's  
7 licenses and personal identification cards (Real ID), as passed by  
8 Congress May 10, 2005,))~~ The department ~~((shall))~~ may implement a  
9 ~~((voluntary biometric))~~ facial recognition matching system for  
10 ~~((driver's))~~ drivers' licenses, permits, and identicards. ~~((A  
11 biometric))~~ Any facial recognition matching system ~~((shall))~~ selected  
12 by the department must be used only to verify the identity of an  
13 applicant for or holder of a ~~((renewal or duplicate))~~ driver's license,  
14 permit, or identicard ~~((by matching a biometric identifier submitted by  
15 the applicant against the biometric identifier submitted when the  
16 license was last issued. This project requires a full review by the  
17 information services board using the criteria for projects of the  
18 highest visibility and risk))~~ to determine whether the person has been  
19 issued a driver's license, permit, or identicard under a different name  
20 or names.

21 (2) Any ~~((biometric))~~ facial recognition matching system selected  
22 by the department ~~((shall))~~ must be capable of highly accurate  
23 matching, and ~~((shall))~~ must be compliant with ~~((biometric))~~  
24 appropriate standards established by the American association of motor  
25 vehicle administrators that exist on the effective date of this  
26 section, or such subsequent date as may be provided by the department  
27 by rule, consistent with the purposes of this section.

28 (3) ~~((The biometric matching system selected by the department must  
29 incorporate a process that allows the owner of a driver's license or~~

1 ~~identocard to present a personal identification number or other code~~  
2 ~~along with the driver's license or identocard before the information~~  
3 ~~may be verified by a third party, including a governmental entity.~~

4 ~~(4) Upon the establishment of a biometric driver's license and~~  
5 ~~identocard system as described in this section, the department shall~~  
6 ~~allow every person applying for an original, renewal, or duplicate~~  
7 ~~driver's license or identocard to voluntarily submit a biometric~~  
8 ~~identifier. Each applicant shall be informed of all ways in which the~~  
9 ~~biometric identifier may be used, all parties to whom the identifier~~  
10 ~~may be disclosed and the conditions of disclosure, the expected error~~  
11 ~~rates for the biometric matching system which shall be regularly~~  
12 ~~updated as the technology changes or empirical data is collected, and~~  
13 ~~the potential consequences of those errors. The department shall adopt~~  
14 ~~rules to allow applicants to verify the accuracy of the system at the~~  
15 ~~time that biometric information is submitted, including the use of at~~  
16 ~~least two separate devices.~~

17 ~~(5) The department may not disclose biometric information to the~~  
18 ~~public or any governmental entity except when authorized by court~~  
19 ~~order.~~

20 ~~(6))~~ The department shall post notices in conspicuous locations at  
21 all department driver licensing offices, make written information  
22 available to all applicants at department driver licensing offices, and  
23 provide information on the department's web site regarding the facial  
24 recognition matching system. The notices, written information, and  
25 information on the web site must address how the facial recognition  
26 matching system works, all ways in which the department may use results  
27 from the facial recognition matching system, how an investigation based  
28 on results from the facial recognition matching system would be  
29 conducted, and a person's right to appeal any determinations made under  
30 this chapter.

31 (4) Results from the facial recognition matching system:

32 (a) Are not available for public inspection and copying under  
33 chapter 42.56 RCW;

34 (b) May only be disclosed pursuant to a valid subpoena, warrant, or  
35 court order;

36 (c) May only be disclosed to a federal government agency if  
37 specifically required under federal law; and

1 (d) May be disclosed by the department to a government agency,  
2 including a court or law enforcement agency, for use in carrying out  
3 its functions if the department has determined that person has  
4 committed one of the prohibited practices listed in RCW 46.20.0921 and  
5 this determination has been confirmed by a hearings examiner under this  
6 chapter or the person declined a hearing or did not attend a scheduled  
7 hearing.

8 (5) All ((biometric)) personally identifying information ((shall))  
9 derived from the facial recognition matching system must be stored with  
10 appropriate security safeguards((, including but not limited to  
11 encryption)). The office of the chief information officer shall  
12 develop the appropriate security standards for the department's use of  
13 the facial recognition matching system, subject to approval and  
14 oversight by the technology services board.

15 ((+7)) (6) The department shall develop procedures to handle  
16 instances in which the ((biometric)) facial recognition matching system  
17 fails to verify the identity of an applicant for a renewal or duplicate  
18 driver's license, permit, or identicard. These procedures ((shall))  
19 must allow an applicant to prove identity without using ((a biometric  
20 identifier.

21 (8) Any person who has voluntarily submitted a biometric identifier  
22 may choose to discontinue participation in the biometric matching  
23 program at any time, provided that the department utilizes a secure  
24 procedure to prevent fraudulent requests for a renewal or duplicate  
25 driver's license or identicard. When the person discontinues  
26 participation, any previously collected biometric information shall be  
27 destroyed.

28 (9) This section does not apply when an applicant renews his or her  
29 driver's license or identicard by mail or electronic commerce)) the  
30 facial recognition matching system.

31 (7) The department shall report to the governor and the legislature  
32 by October 1st of each year, beginning October 1, 2012, on the  
33 following numbers during the previous fiscal year: The number of  
34 investigations initiated by the department based on results from the  
35 facial recognition matching system; the number of determinations made  
36 that a person has committed one of the prohibited practices in RCW  
37 46.20.0921 after the completion of an investigation; the number of  
38 determinations that were confirmed by a hearings examiner and the

1 number that were overturned by a hearings examiner; the number of cases  
2 where a person declined a hearing or did not attend a scheduled  
3 hearing; and the number of determinations that were referred to law  
4 enforcement.

5 NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW  
6 to read as follows:

7 "Facial recognition matching system" means a system that compares  
8 the biometric template derived from an image of an applicant or holder  
9 of a driver's license, permit, or identicard with the biometric  
10 templates derived from the images in the department's negative file.

11 NEW SECTION. Sec. 3. RCW 46.20.038 (Biometric matching system--  
12 Funding) and 2004 c 273 s 4 are each repealed.

13 **Sec. 4.** RCW 46.20.055 and 2010 c 223 s 1 are each amended to read  
14 as follows:

15 (1) **Driver's instruction permit.** The department may issue a  
16 driver's instruction permit with or without a photograph to an  
17 applicant who has successfully passed all parts of the examination  
18 other than the driving test, provided the information required by RCW  
19 46.20.091, paid ((a)) an application fee of twenty-five dollars, and  
20 meets the following requirements:

- 21 (a) Is at least fifteen and one-half years of age; or
- 22 (b) Is at least fifteen years of age and:
  - 23 (i) Has submitted a proper application; and
  - 24 (ii) Is enrolled in a traffic safety education program offered,  
25 approved, and accredited by the superintendent of public instruction or  
26 offered by a driver training school licensed and inspected by the  
27 department of licensing under chapter 46.82 RCW, that includes practice  
28 driving.

29 (2) **Waiver of written examination for instruction permit.** The  
30 department may waive the written examination, if, at the time of  
31 application, an applicant is enrolled in:

- 32 (a) A traffic safety education course as defined by RCW  
33 28A.220.020(2); or
- 34 (b) A course of instruction offered by a licensed driver training  
35 school as defined by RCW 46.82.280.

1 The department may require proof of registration in such a course  
2 as it deems necessary.

3 (3) **Effect of instruction permit.** A person holding a driver's  
4 instruction permit may drive a motor vehicle, other than a motorcycle,  
5 upon the public highways if:

6 (a) The person has immediate possession of the permit;

7 (b) The person is not using a wireless communications device,  
8 unless the person is using the device to report illegal activity,  
9 summon medical or other emergency help, or prevent injury to a person  
10 or property; and

11 (c) An approved instructor, or a licensed driver with at least five  
12 years of driving experience, occupies the seat beside the driver.

13 (4) **Term of instruction permit.** A driver's instruction permit is  
14 valid for one year from the date of issue.

15 (a) The department may issue one additional one-year permit.

16 (b) The department may issue a third driver's permit if it finds  
17 after an investigation that the permittee is diligently seeking to  
18 improve driving proficiency.

19 (c) A person applying (~~to renew~~) for an additional instruction  
20 permit must submit the application to the department in person and pay  
21 an application fee of twenty-five dollars for each issuance.

22 **Sec. 5.** RCW 46.20.117 and 2005 c 314 s 305 are each amended to  
23 read as follows:

24 (1) **Issuance.** The department shall issue an identicard, containing  
25 a picture, if the applicant:

26 (a) Does not hold a valid Washington driver's license;

27 (b) Proves his or her identity as required by RCW 46.20.035; and

28 (c) Pays the required fee. Except as provided in subsection (5) of  
29 this section, the fee is (~~twenty~~) forty-five dollars from October 1,  
30 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013,  
31 unless an applicant is a recipient of continuing public assistance  
32 grants under Title 74 RCW, who is referred in writing by the secretary  
33 of social and health services. For those persons the fee must be the  
34 actual cost of production of the identicard.

35 (2) **Design and term.** The identicard must:

36 (a) Be distinctly designed so that it will not be confused with the  
37 official driver's license; and

1 (b) Except as provided in subsection (5) of this section, expire on  
2 the ~~((fifth))~~ sixth anniversary of the applicant's birthdate after  
3 issuance.

4 (3) **Renewal.** An application for identicard renewal may be  
5 submitted by means of:

6 (a) Personal appearance before the department; or

7 (b) Mail or electronic commerce, if permitted by rule of the  
8 department and if the applicant did not renew his or her identicard by  
9 mail or by electronic commerce when it last expired. ~~((However, the  
10 department may accept an application for renewal of an identicard  
11 submitted by means of mail or electronic commerce only if specific  
12 authority and funding is provided for this purpose by June 30, 2004, in  
13 the omnibus transportation appropriations act.))~~

14 An identicard may not be renewed by mail or by electronic commerce  
15 unless the renewal issued by the department includes a photograph of  
16 the identicard holder.

17 (4) **Cancellation.** The department may cancel an identicard if the  
18 holder of the identicard used the card or allowed others to use the  
19 card in violation of RCW 46.20.0921.

20 (5) **Alternative issuance/renewal/extension.** The department may  
21 issue or renew an identicard for a period other than five years from  
22 October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or  
23 may extend by mail or electronic commerce an identicard that has  
24 already been issued, in order to evenly distribute, as nearly as  
25 possible, the yearly renewal rate of identicard holders. The fee for  
26 an identicard issued or renewed for a period other than five years from  
27 October 1, 2012, to June 30, 2013, or six years after June 30, 2013, or  
28 that has been extended by mail or electronic commerce, is nine dollars  
29 for each year that the identicard is issued, renewed, or extended. The  
30 department may adopt any rules as are necessary to carry out this  
31 subsection.

32 **Sec. 6.** RCW 46.20.120 and 2011 c 370 s 4 are each amended to read  
33 as follows:

34 An applicant for a new or renewed driver's license must  
35 successfully pass a driver licensing examination to qualify for a  
36 driver's license. The department must ensure that examinations are  
37 given at places and times reasonably available to the people of this

1 state. If the department does not administer driver licensing  
2 examinations as a routine part of its licensing services within a  
3 department region because adequate testing sites are provided by driver  
4 training schools or school districts within that region, the department  
5 shall, at a minimum, administer driver licensing examinations by  
6 appointment to applicants eighteen years of age and older in at least  
7 one licensing office within that region.

8 (1) **Waiver.** The department may waive:

9 (a) All or any part of the examination of any person applying for  
10 the renewal of a driver's license unless the department determines that  
11 the applicant is not qualified to hold a driver's license under this  
12 title; or

13 (b) All or any part of the examination involving operating a motor  
14 vehicle if the applicant:

15 (i) Surrenders a valid driver's license issued by the person's  
16 previous home state; or

17 (ii) Provides for verification a valid driver's license issued by  
18 a foreign driver licensing jurisdiction with which the department has  
19 an informal agreement under RCW 46.20.125; and

20 (iii) Is otherwise qualified to be licensed.

21 (2) **Fee.** Each applicant for a new license must pay an examination  
22 fee of (~~twenty~~) thirty-five dollars.

23 (a) The examination fee is in addition to the fee charged for  
24 issuance of the license.

25 (b) "New license" means a license issued to a driver:

26 (i) Who has not been previously licensed in this state; or

27 (ii) Whose last previous Washington license has been expired for  
28 more than (~~five~~) six years.

29 (3) An application for driver's license renewal may be submitted by  
30 means of:

31 (a) Personal appearance before the department; or

32 (b) Mail or electronic commerce, if permitted by rule of the  
33 department and if the applicant did not renew his or her license by  
34 mail or by electronic commerce when it last expired.

35 (4) A person whose license expired or will expire while he or she  
36 is living outside the state, may:

37 (a) Apply to the department to extend the validity of his or her  
38 license for no more than twelve months. If the person establishes to

1 the department's satisfaction that he or she is unable to return to  
2 Washington before the date his or her license expires, the department  
3 shall extend the person's license. The department may grant  
4 consecutive extensions, but in no event may the cumulative total of  
5 extensions exceed twelve months. An extension granted under this  
6 section does not change the expiration date of the license for purposes  
7 of RCW 46.20.181. The department shall charge a fee of five dollars  
8 for each license extension;

9 (b) Apply to the department to renew his or her license by mail or,  
10 if permitted by rule of the department, by electronic commerce even if  
11 subsection (3)(b) of this section would not otherwise allow renewal by  
12 that means. If the person establishes to the department's satisfaction  
13 that he or she is unable to return to Washington within twelve months  
14 of the date that his or her license expires, the department shall renew  
15 the person's license by mail or, if permitted by rule of the  
16 department, by electronic commerce.

17 (5) If a qualified person submits an application for renewal under  
18 subsection (3)(b) or (4)(b) of this section, he or she is not required  
19 to pass an examination nor provide an updated photograph. A license  
20 renewed by mail or by electronic commerce that does not include a  
21 photograph of the licensee must be labeled "not valid for  
22 identification purposes."

23 (6) Driver training schools licensed by the department under  
24 chapter 46.82 RCW may administer the portions of the driver licensing  
25 examination that test the applicant's knowledge of traffic laws and  
26 ability to safely operate a motor vehicle.

27 (7) School districts that offer a traffic safety education program  
28 under chapter 28A.220 RCW may administer the portions of the driver  
29 licensing examination that test the applicant's knowledge of traffic  
30 laws and ability to safely operate a motor vehicle.

31 **Sec. 7.** RCW 46.20.161 and 2000 c 115 s 6 are each amended to read  
32 as follows:

33 The department, upon receipt of a fee of (~~twenty-five~~) forty-five  
34 dollars from October 1, 2012, to June 30, 2013, and fifty-four dollars  
35 after June 30, 2013, unless the driver's license is issued for a period  
36 other than five years from October 1, 2012, to June 30, 2013, or six  
37 years after June 30, 2013, in which case the fee shall be (~~five~~) nine



1 dollars for each year that the license is issued, which includes the  
2 fee for the required photograph, shall issue to every qualifying  
3 applicant a driver's license. A driver's license issued to a person  
4 under the age of eighteen is an intermediate license, subject to the  
5 restrictions imposed under RCW 46.20.075, until the person reaches the  
6 age of eighteen. The license must include a distinguishing number  
7 assigned to the licensee, the name of record, date of birth, Washington  
8 residence address, photograph, a brief description of the licensee, and  
9 either a facsimile of the signature of the licensee or a space upon  
10 which the licensee shall write his or her usual signature with pen and  
11 ink immediately upon receipt of the license. No license is valid until  
12 it has been so signed by the licensee.

13 **Sec. 8.** RCW 46.20.181 and 1999 c 308 s 3 are each amended to read  
14 as follows:

15 (1) Except as provided in subsection (4) or (5) of this section or  
16 RCW 46.20.105, every driver's license expires on the (~~(fifth)~~) sixth  
17 anniversary of the licensee's birthdate following the issuance of the  
18 license.

19 (2) A person may renew his or her license on or before the  
20 expiration date by submitting an application as prescribed by the  
21 department and paying a fee of (~~(twenty-five)~~) forty-five dollars from  
22 October 1, 2012, to June 30, 2013, and fifty-four dollars after June  
23 30, 2013. This fee includes the fee for the required photograph.

24 (3) A person renewing his or her driver's license more than sixty  
25 days after the license has expired shall pay a penalty fee of ten  
26 dollars in addition to the renewal fee, unless his or her license  
27 expired when:

28 (a) The person was outside the state and he or she renews the  
29 license within sixty days after returning to this state; or

30 (b) The person was incapacitated and he or she renews the license  
31 within sixty days after the termination of the incapacity.

32 (4) (~~(During the period from July 1, 2000, to July 1, 2006,)~~) The  
33 department may issue or renew a driver's license for a period other  
34 than five years from October 1, 2012, to June 30, 2013, or six years  
35 after June 30, 2013, or may extend by mail or electronic commerce a  
36 license that has already been issued, in order to evenly distribute, as  
37 nearly as possible, the yearly renewal rate of licensed drivers. The

1 fee for a driver's license issued or renewed for a period other than  
2 five years from October 1, 2012, to June 30, 2013, or six years after  
3 June 30, 2013, or that has been extended by mail or electronic  
4 commerce, is (~~five~~) nine dollars for each year that the license is  
5 issued, renewed, or extended. The department may adopt any rules as  
6 are necessary to carry out this subsection.

7 (5) A driver's license that includes a hazardous materials  
8 endorsement under chapter 46.25 RCW may expire on an anniversary of the  
9 licensee's birthdate other than the sixth year following issuance or  
10 renewal of the license in order to match, as nearly as possible, the  
11 validity of certification from the federal transportation security  
12 administration that the licensee has been determined not to pose a  
13 security risk. The fee for a driver's license issued or renewed for a  
14 period other than five years from October 1, 2012, to June 30, 2013, or  
15 six years after June 30, 2013, is nine dollars for each year that the  
16 license is issued or renewed, not including any endorsement fees. The  
17 department may adjust the expiration date of a driver's license that  
18 has previously been issued to conform to the provisions of this  
19 subsection if a hazardous materials endorsement is added to the license  
20 subsequent to its issuance. If the validity of the driver's license is  
21 extended, the licensee must pay a fee of nine dollars for each year  
22 that the license is extended.

23 (6) The department may adopt any rules as are necessary to carry  
24 out this section.

25 **Sec. 9.** RCW 46.20.200 and 2002 c 352 s 14 are each amended to read  
26 as follows:

27 (1) If an instruction permit, identicard, or a driver's license is  
28 lost or destroyed, the person to whom it was issued may obtain a  
29 duplicate of it upon furnishing proof of such fact satisfactory to the  
30 department and payment of a fee of (~~fifteen~~) twenty dollars to the  
31 department.

32 (2) A replacement permit, identicard, or driver's license may be  
33 obtained to change or correct material information upon payment of a  
34 fee of ten dollars and surrender of the permit, identicard, or driver's  
35 license being replaced.

1       **Sec. 10.** RCW 46.20.049 and 2011 c 227 s 6 are each amended to read  
2 as follows:

3       There shall be an additional fee for issuing any class of  
4 commercial driver's license in addition to the prescribed fee required  
5 for the issuance of the original driver's license. The additional fee  
6 for each class shall be (~~sixty-one~~) eighty-five dollars from October  
7 1, 2012, to June 30, 2013, and one hundred two dollars after June 30,  
8 2013, for the original commercial driver's license or subsequent  
9 renewals. If the commercial driver's license is issued, renewed, or  
10 extended for a period other than five years from October 1, 2012, to  
11 June 30, 2013, or six years after June 30, 2013, the fee for each class  
12 shall be (~~twelve~~) seventeen dollars (~~and twenty cents~~) for each  
13 year that the commercial driver's license is issued, renewed, or  
14 extended. The fee shall be deposited in the highway safety fund.

15       **Sec. 11.** RCW 46.20.308 and 2008 c 282 s 2 are each amended to read  
16 as follows:

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

28       (2) The test or tests of breath shall be administered at the  
29 direction of a law enforcement officer having reasonable grounds to  
30 believe the person to have been driving or in actual physical control  
31 of a motor vehicle within this state while under the influence of  
32 intoxicating liquor or any drug or the person to have been driving or  
33 in actual physical control of a motor vehicle while having alcohol in  
34 a concentration in violation of RCW 46.61.503 in his or her system and  
35 being under the age of twenty-one. However, in those instances where  
36 the person is incapable due to physical injury, physical incapacity, or  
37 other physical limitation, of providing a breath sample or where the

1 person is being treated in a hospital, clinic, doctor's office,  
2 emergency medical vehicle, ambulance, or other similar facility or  
3 where the officer has reasonable grounds to believe that the person is  
4 under the influence of a drug, a blood test shall be administered by a  
5 qualified person as provided in RCW 46.61.506(5). The officer shall  
6 inform the person of his or her right to refuse the breath or blood  
7 test, and of his or her right to have additional tests administered by  
8 any qualified person of his or her choosing as provided in RCW  
9 46.61.506. The officer shall warn the driver, in substantially the  
10 following language, that:

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

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

16 (c) If the driver submits to the test and the test is administered,  
17 the driver's license, permit, or privilege to drive will be suspended,  
18 revoked, or denied for at least ninety days if the driver is age  
19 twenty-one or over and the test indicates the alcohol concentration of  
20 the driver's breath or blood is 0.08 or more, or if the driver is under  
21 age twenty-one and the test indicates the alcohol concentration of the  
22 driver's breath or blood is 0.02 or more, or if the driver is under age  
23 twenty-one and the driver is in violation of RCW 46.61.502 or  
24 46.61.504; and

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

28 (3) Except as provided in this section, the test administered shall  
29 be of the breath only. If an individual is unconscious or is under  
30 arrest for the crime of vehicular homicide as provided in RCW 46.61.520  
31 or vehicular assault as provided in RCW 46.61.522, or if an individual  
32 is under arrest for the crime of driving while under the influence of  
33 intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest  
34 results from an accident in which there has been serious bodily injury  
35 to another person, a breath or blood test may be administered without  
36 the consent of the individual so arrested.

37 (4) Any person who is dead, unconscious, or who is otherwise in a  
38 condition rendering him or her incapable of refusal, shall be deemed

1 not to have withdrawn the consent provided by subsection (1) of this  
2 section and the test or tests may be administered, subject to the  
3 provisions of RCW 46.61.506, and the person shall be deemed to have  
4 received the warnings required under subsection (2) of this section.

5 (5) If, following his or her arrest and receipt of warnings under  
6 subsection (2) of this section, the person arrested refuses upon the  
7 request of a law enforcement officer to submit to a test or tests of  
8 his or her breath or blood, no test shall be given except as authorized  
9 under subsection (3) or (4) of this section.

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

20 (a) Serve notice in writing on the person on behalf of the  
21 department of its intention to suspend, revoke, or deny the person's  
22 license, permit, or privilege to drive as required by subsection (7) of  
23 this section;

24 (b) Serve notice in writing on the person on behalf of the  
25 department of his or her right to a hearing, specifying the steps he or  
26 she must take to obtain a hearing as provided by subsection (8) of this  
27 section and that the person waives the right to a hearing if he or she  
28 receives an ignition interlock driver's license;

29 (c) Mark the person's Washington state driver's license or permit  
30 to drive, if any, in a manner authorized by the department;

31 (d) Serve notice in writing that the marked license or permit, if  
32 any, is a temporary license that is valid for sixty days from the date  
33 of arrest or from the date notice has been given in the event notice is  
34 given by the department following a blood test, or until the  
35 suspension, revocation, or denial of the person's license, permit, or  
36 privilege to drive is sustained at a hearing pursuant to subsection (8)  
37 of this section, whichever occurs first. No temporary license is valid  
38 to any greater degree than the license or permit that it replaces; and

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

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

11 (ii) That after receipt of the warnings required by subsection (2)  
12 of this section the person refused to submit to a test of his or her  
13 blood or breath, or a test was administered and the results indicated  
14 that the alcohol concentration of the person's breath or blood was 0.08  
15 or more if the person is age twenty-one or over, or was 0.02 or more if  
16 the person is under the age of twenty-one; and

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

18 (7) The department of licensing, upon the receipt of a sworn report  
19 or report under a declaration authorized by RCW 9A.72.085 under  
20 subsection (6)(e) of this section, shall suspend, revoke, or deny the  
21 person's license, permit, or privilege to drive or any nonresident  
22 operating privilege, as provided in RCW 46.20.3101, such suspension,  
23 revocation, or denial to be effective beginning sixty days from the  
24 date of arrest or from the date notice has been given in the event  
25 notice is given by the department following a blood test, or when  
26 sustained at a hearing pursuant to subsection (8) of this section,  
27 whichever occurs first.

28 (8) A person receiving notification under subsection (6)(b) of this  
29 section may, within twenty days after the notice has been given,  
30 request in writing a formal hearing before the department. The person  
31 shall pay a fee of (~~two~~) three hundred seventy-five dollars as part  
32 of the request. If the request is mailed, it must be postmarked within  
33 twenty days after receipt of the notification. Upon timely receipt of  
34 such a request for a formal hearing, including receipt of the required  
35 (~~two~~) three hundred seventy-five dollar fee, the department shall  
36 afford the person an opportunity for a hearing. The department may  
37 waive the required (~~two~~) three hundred seventy-five dollar fee if the  
38 person is an indigent as defined in RCW 10.101.010. Except as

1 otherwise provided in this section, the hearing is subject to and shall  
2 be scheduled and conducted in accordance with RCW 46.20.329 and  
3 46.20.332. The hearing shall be conducted in the county of the arrest,  
4 except that all or part of the hearing may, at the discretion of the  
5 department, be conducted by telephone or other electronic means. The  
6 hearing shall be held within sixty days following the arrest or  
7 following the date notice has been given in the event notice is given  
8 by the department following a blood test, unless otherwise agreed to by  
9 the department and the person, in which case the action by the  
10 department shall be stayed, and any valid temporary license marked  
11 under subsection (6)(c) of this section extended, if the person is  
12 otherwise eligible for licensing. For the purposes of this section,  
13 the scope of the hearing shall cover the issues of whether a law  
14 enforcement officer had reasonable grounds to believe the person had  
15 been driving or was in actual physical control of a motor vehicle  
16 within this state while under the influence of intoxicating liquor or  
17 any drug or had been driving or was in actual physical control of a  
18 motor vehicle within this state while having alcohol in his or her  
19 system in a concentration of 0.02 or more if the person was under the  
20 age of twenty-one, whether the person was placed under arrest, and (a)  
21 whether the person refused to submit to the test or tests upon request  
22 of the officer after having been informed that such refusal would  
23 result in the revocation of the person's license, permit, or privilege  
24 to drive, or (b) if a test or tests were administered, whether the  
25 applicable requirements of this section were satisfied before the  
26 administration of the test or tests, whether the person submitted to  
27 the test or tests, or whether a test was administered without express  
28 consent as permitted under this section, and whether the test or tests  
29 indicated that the alcohol concentration of the person's breath or  
30 blood was 0.08 or more if the person was age twenty-one or over at the  
31 time of the arrest, or 0.02 or more if the person was under the age of  
32 twenty-one at the time of the arrest. The sworn report or report under  
33 a declaration authorized by RCW 9A.72.085 submitted by a law  
34 enforcement officer is prima facie evidence that the officer had  
35 reasonable grounds to believe the person had been driving or was in  
36 actual physical control of a motor vehicle within this state while  
37 under the influence of intoxicating liquor or drugs, or both, or the  
38 person had been driving or was in actual physical control of a motor

1 vehicle within this state while having alcohol in his or her system in  
2 a concentration of 0.02 or more and was under the age of twenty-one and  
3 that the officer complied with the requirements of this section.

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

19 (9) If the suspension, revocation, or denial is sustained after  
20 such a hearing, the person whose license, privilege, or permit is  
21 suspended, revoked, or denied has the right to file a petition in the  
22 superior court of the county of arrest to review the final order of  
23 revocation by the department in the same manner as an appeal from a  
24 decision of a court of limited jurisdiction. Notice of appeal must be  
25 filed within thirty days after the date the final order is served or  
26 the right to appeal is waived. Notwithstanding RCW 46.20.334, RALJ  
27 1.1, or other statutes or rules referencing de novo review, the appeal  
28 shall be limited to a review of the record of the administrative  
29 hearing. The appellant must pay the costs associated with obtaining  
30 the record of the hearing before the hearing officer. The filing of  
31 the appeal does not stay the effective date of the suspension,  
32 revocation, or denial. A petition filed under this subsection must  
33 include the petitioner's grounds for requesting review. Upon granting  
34 petitioner's request for review, the court shall review the  
35 department's final order of suspension, revocation, or denial as  
36 expeditiously as possible. The review must be limited to a  
37 determination of whether the department has committed any errors of  
38 law. The superior court shall accept those factual determinations



1 supported by substantial evidence in the record: (a) That were  
2 expressly made by the department; or (b) that may reasonably be  
3 inferred from the final order of the department. The superior court  
4 may reverse, affirm, or modify the decision of the department or remand  
5 the case back to the department for further proceedings. The decision  
6 of the superior court must be in writing and filed in the clerk's  
7 office with the other papers in the case. The court shall state the  
8 reasons for the decision. If judicial relief is sought for a stay or  
9 other temporary remedy from the department's action, the court shall  
10 not grant such relief unless the court finds that the appellant is  
11 likely to prevail in the appeal and that without a stay the appellant  
12 will suffer irreparable injury. If the court stays the suspension,  
13 revocation, or denial it may impose conditions on such stay.

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

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

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

14 (11) When it has been finally determined under the procedures of  
15 this section that a nonresident's privilege to operate a motor vehicle  
16 in this state has been suspended, revoked, or denied, the department  
17 shall give information in writing of the action taken to the motor  
18 vehicle administrator of the state of the person's residence and of any  
19 state in which he or she has a license.

20 **Sec. 12.** RCW 46.20.505 and 2007 c 97 s 1 are each amended to read  
21 as follows:

22 Every person applying for a special endorsement of a driver's  
23 license authorizing such person to drive a two or three-wheeled  
24 motorcycle or a motor-driven cycle shall pay a fee of five dollars,  
25 which is not refundable. In addition, the endorsement fee for the  
26 initial motorcycle endorsement shall not exceed ~~((ten))~~ twelve  
27 dollars~~((, and))~~, unless the endorsement is issued for a period other  
28 than six years, in which case the endorsement fee shall not exceed two  
29 dollars for each year the initial motorcycle endorsement is issued.  
30 The subsequent renewal endorsement fee shall not exceed ~~((twenty-five))~~  
31 thirty dollars, unless the endorsement is renewed or extended for a  
32 period other than ~~((five))~~ six years, in which case the subsequent  
33 renewal endorsement fee shall not exceed five dollars for each year  
34 that the endorsement is renewed or extended. Fees collected under this  
35 section shall be deposited in the motorcycle safety education account  
36 of the highway safety fund.

1           **Sec. 13.** RCW 46.20.105 and 2000 c 115 s 5 are each amended to read  
2 as follows:

3           (1)(a) The department may provide a method to distinguish the  
4 driver's license of a person who is under the age of twenty-one from  
5 the driver's license of a person who is twenty-one years of age or  
6 older.

7           **(b) If the department provides a method to distinguish under (a) of**  
8 **this subsection, any driver's license issued to a person who is under**  
9 **the age of twenty-one expires on the person's twenty-first birthdate.**

10           (2) An instruction permit must be identified as an "instruction  
11 permit" and issued in a distinctive form as determined by the  
12 department.

13           (3) An intermediate license must be identified as an "intermediate  
14 license" and issued in a distinctive form as determined by the  
15 department.

16           **NEW SECTION.** **Sec. 14.** A new section is added to chapter 46.68 RCW  
17 to read as follows:

18           (1) The following amounts in aggregate may only be used for the  
19 purposes listed in subsection (2) of this section:

20           (a) Five dollars per year of validity of each fee collected by the  
21 department for an identicard under RCW 46.20.117;

22           (b) Four dollars per year of validity of each fee collected by the  
23 department for a driver's license under RCW 46.20.161;

24           (c) Four dollars and eighty cents per year of validity of each fee  
25 collected by the department for a commercial driver's license under RCW  
26 46.20.049;

27           (d) Five dollars of each fee collected by the department under RCW  
28 46.20.055;

29           (e) Fifteen dollars of each fee collected by the department under  
30 RCW 46.20.120(2);

31           (f) Five dollars of each fee collected by the department under RCW  
32 46.20.200; and

33           (g) One hundred seventy-five dollars of each fee collected by the  
34 department under RCW 46.20.308.

35           (2) The fees in subsection (1) of this section may only be used for  
36 the following purposes at the following percentages:

37           (a) Fourteen and one-half percent for highway maintenance;

- 1 (b) Fourteen and one-half percent for highway preservation;  
2 (c) Fourteen and one-half percent for street construction and  
3 maintenance grants to cities and urban counties;  
4 (d) Fourteen and one-half percent to provide grants for county road  
5 improvements;  
6 (e) Twenty-nine percent for state ferry operations;  
7 (f) Three and seven-tenths percent for freight mobility projects;  
8 and  
9 (g) Nine and three-tenths percent for grants to improve safety and  
10 mobility for children by enabling and encouraging them to walk and  
11 bicycle to school.

12 NEW SECTION. **Sec. 15.** Sections 4 through 14 of this act take  
13 effect October 1, 2012."

14 Correct the title.

EFFECT: (1) Establishes that the facial recognition matching system be used only to verify the identity of an applicant or holder of a driver's license, permit, or identicard to determine whether the person has been issued a driver's license, permit, or identicard under a different name or names.

(2) Requires that the Department of Licensing (DOL) post notices at driver licensing offices, make written information available at offices, and post information on the agency web site on: How the facial recognition matching system works; all ways in which the department may use results from the facial recognition matching system; how an investigation based on results from the facial recognition matching system would be conducted; and a person's right to appeal any determinations made.

(3) Modifies when results from the facial recognition matching system may be disclosed. The results: Are not available for public inspection and copying; may only be disclosed pursuant to a valid subpoena, warrant, or court order; may only be disclosed to a federal government agency if specifically required under federal law; and may be disclosed by DOL to a government agency, including a court or law enforcement agency, for use in carrying out its functions if DOL has determined that the person has committed certain prohibited practices and this determination has been confirmed by a hearings examiner.

(4) Requires the Office of the Chief Information Officer to develop the appropriate security standards for DOL's use of the facial recognition matching system, subject to approval and oversight by the Technology Services Board.

(5) Requires DOL to report to the Governor and the Legislature by October 1st of each year regarding the numbers of: Investigations initiated based on results from the matching system; determinations made that a person has committed a prohibited practice related to license fraud after the completion of an investigation; determinations that were confirmed and those that were overturned by a hearings examiner; cases where a person declined a hearing or did not attend a scheduled hearing; and determinations that were referred to law enforcement.

(6) Increases fees for instruction permits and renewals from \$20 to \$25.

(7) Increases the fee for original driver's license exams from \$20 to \$35.

(8) Increases the duplicate license fee from \$15 to \$20.

(9) Increases the fee for DUI hearings from \$200 to \$375.

(10) Provides that a driver's license issued to a person under the age of twenty-one expires on the person's 21st birthdate.

(11) Limits the purposes for which funds generated through fee increases may be used. The funds may only be used for the following purposes:

(a) 14.5 percent for highway maintenance;

(b) 14.5 percent for highway preservation;

(c) 14.5 percent for street construction and maintenance grants to cities and urban counties;

(d) 14.5 percent to provide grants for county road improvements;

(e) 29 percent for state ferry operations;

(f) 3.7 percent for freight mobility projects; and

(g) 9.3 percent for grants to improve safety and mobility for children by enabling and encouraging them to walk and bicycle to school.

--- END ---