
HOUSE BILL 1557

State of Washington

62nd Legislature

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By Representatives Kirby, Dammeier, Orwall, Miloscia, Stanford, Blake, and Smith

Read first time 01/25/11. Referred to Committee on Judiciary.

1 AN ACT Relating to decreasing the number of prior offenses allowed
2 before a conviction of driving or being in actual physical control of
3 a vehicle while under the influence of intoxicating liquor or any drug
4 becomes a felony; amending RCW 46.61.502, 46.61.504, and 46.61.5055;
5 and prescribing penalties.

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

7 **Sec. 1.** RCW 46.61.502 and 2008 c 282 s 20 are each amended to read
8 as follows:

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

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

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

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

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

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

15 (4) Analyses of blood or breath samples obtained more than two
16 hours after the alleged driving may be used as evidence that within two
17 hours of the alleged driving, a person had an alcohol concentration of
18 0.08 or more in violation of subsection (1)(a) of this section, and in
19 any case in which the analysis shows an alcohol concentration above
20 0.00 may be used as evidence that a person was under the influence of
21 or affected by intoxicating liquor or any drug in violation of
22 subsection (1)(b) or (c) of this section.

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

25 (6) It is a class C felony punishable under chapter 9.94A RCW, or
26 chapter 13.40 RCW if the person is a juvenile, if: (a) The person has
27 (~~four~~) two or more prior offenses within ten years as defined in RCW
28 46.61.5055; or (b) the person has ever previously been convicted of (i)
29 vehicular homicide while under the influence of intoxicating liquor or
30 any drug, RCW 46.61.520(1)(a), (ii) vehicular assault while under the
31 influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or
32 (iii) an out-of-state offense comparable to the offense specified in
33 (b)(i) or (ii) of this subsection.

34 **Sec. 2.** RCW 46.61.504 and 2008 c 282 s 21 are each amended to read
35 as follows:

36 (1) A person is guilty of being in actual physical control of a

1 motor vehicle while under the influence of intoxicating liquor or any
2 drug if the person has actual physical control of a vehicle within this
3 state:

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

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

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

12 (2) The fact that a person charged with a violation of this section
13 is or has been entitled to use a drug under the laws of this state does
14 not constitute a defense against any charge of violating this section.
15 No person may be convicted under this section if, prior to being
16 pursued by a law enforcement officer, the person has moved the vehicle
17 safely off the roadway.

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

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

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

1 (6) It is a class C felony punishable under chapter 9.94A RCW, or
2 chapter 13.40 RCW if the person is a juvenile, if: (a) The person has
3 (~~four~~) two or more prior offenses within ten years as defined in RCW
4 46.61.5055; or (b) the person has ever previously been convicted of (i)
5 vehicular homicide while under the influence of intoxicating liquor or
6 any drug, RCW 46.61.520(1)(a), (ii) vehicular assault while under the
7 influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or
8 (iii) an out-of-state offense comparable to the offense specified in
9 (b)(i) or (ii) of this subsection.

10 **Sec. 3.** RCW 46.61.5055 and 2010 c 269 s 4 are each amended to read
11 as follows:

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

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

20 (i) By imprisonment for not less than one day nor more than one
21 year. Twenty-four consecutive hours of the imprisonment may not be
22 suspended or deferred unless the court finds that the imposition of
23 this mandatory minimum sentence would impose a substantial risk to the
24 offender's physical or mental well-being. Whenever the mandatory
25 minimum sentence is suspended or deferred, the court shall state in
26 writing the reason for granting the suspension or deferral and the
27 facts upon which the suspension or deferral is based. In lieu of the
28 mandatory minimum term of imprisonment required under this subsection
29 (1)(a)(i), the court may order not less than fifteen days of electronic
30 home monitoring. The offender shall pay the cost of electronic home
31 monitoring. The county or municipality in which the penalty is being
32 imposed shall determine the cost. The court may also require the
33 offender's electronic home monitoring device to include an alcohol
34 detection breathalyzer, and the court may restrict the amount of
35 alcohol the offender may consume during the time the offender is on
36 electronic home monitoring; and

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

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

9 (i) By imprisonment for not less than two days nor more than one
10 year. Two consecutive days of the imprisonment may not be suspended or
11 deferred unless the court finds that the imposition of this mandatory
12 minimum sentence would impose a substantial risk to the offender's
13 physical or mental well-being. Whenever the mandatory minimum sentence
14 is suspended or deferred, the court shall state in writing the reason
15 for granting the suspension or deferral and the facts upon which the
16 suspension or deferral is based. In lieu of the mandatory minimum term
17 of imprisonment required under this subsection (1)(b)(i), the court may
18 order not less than thirty days of electronic home monitoring. The
19 offender shall pay the cost of electronic home monitoring. The county
20 or municipality in which the penalty is being imposed shall determine
21 the cost. The court may also require the offender's electronic home
22 monitoring device to include an alcohol detection breathalyzer, and the
23 court may restrict the amount of alcohol the offender may consume
24 during the time the offender is on electronic home monitoring; and

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

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

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

37 (i) By imprisonment for not less than thirty days nor more than one
38 year and sixty days of electronic home monitoring. The offender shall

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

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

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

22 (i) By imprisonment for not less than forty-five days nor more than
23 one year and ninety days of electronic home monitoring. The offender
24 shall pay for the cost of the electronic monitoring. The county or
25 municipality where the penalty is being imposed shall determine the
26 cost. The court may also require the offender's electronic home
27 monitoring device include an alcohol detection breathalyzer, and may
28 restrict the amount of alcohol the offender may consume during the time
29 the offender is on electronic home monitoring. Forty-five days of
30 imprisonment and ninety days of electronic home monitoring may not be
31 suspended or deferred unless the court finds that the imposition of
32 this mandatory minimum sentence would impose a substantial risk to the
33 offender's physical or mental well-being. Whenever the mandatory
34 minimum sentence is suspended or deferred, the court shall state in
35 writing the reason for granting the suspension or deferral and the
36 facts upon which the suspension or deferral is based; and

37 (ii) By a fine of not less than seven hundred fifty dollars nor

1 more than five thousand dollars. Seven hundred fifty dollars of the
2 fine may not be suspended or deferred unless the court finds the
3 offender to be indigent.

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

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

12 ~~(i) By imprisonment for not less than ninety days nor more than one
13 year and one hundred twenty days of electronic home monitoring. The
14 offender shall pay for the cost of the electronic monitoring. The
15 county or municipality where the penalty is being imposed shall
16 determine the cost. The court may also require the offender's
17 electronic home monitoring device include an alcohol detection
18 breathalyzer, and may restrict the amount of alcohol the offender may
19 consume during the time the offender is on electronic home monitoring.
20 Ninety days of imprisonment and one hundred twenty days of electronic
21 home monitoring may not be suspended or deferred unless the court finds
22 that the imposition of this mandatory minimum sentence would impose a
23 substantial risk to the offender's physical or mental well-being.
24 Whenever the mandatory minimum sentence is suspended or deferred, the
25 court shall state in writing the reason for granting the suspension or
26 deferral and the facts upon which the suspension or deferral is based;
27 and~~

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

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

36 ~~(i) By imprisonment for not less than one hundred twenty days nor
37 more than one year and one hundred fifty days of electronic home
38 monitoring. The offender shall pay for the cost of the electronic~~

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

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

18 (4)) A person who is convicted of a violation of RCW 46.61.502 or
19 46.61.504 shall be punished under chapter 9.94A RCW if: (a) The person
20 has ((four)) two or more prior offenses within ten years; or (b) the
21 person has ever previously been convicted of: (i) A violation of RCW
22 46.61.520 committed while under the influence of intoxicating liquor or
23 any drug; (ii) a violation of RCW 46.61.522 committed while under the
24 influence of intoxicating liquor or any drug; or (iii) an out-of-state
25 offense comparable to the offense specified in (b)(i) or (ii) of this
26 subsection.

27 ((+5)) (4)(a) The court shall require any person convicted of a
28 violation of RCW 46.61.502 or 46.61.504 or an equivalent local
29 ordinance to apply for an ignition interlock driver's license from the
30 department and to have a functioning ignition interlock device
31 installed on all motor vehicles operated by the person.

32 (b) The installation of an ignition interlock device is not
33 necessary on vehicles owned, leased, or rented by a person's employer
34 and on those vehicles whose care and/or maintenance is the temporary
35 responsibility of the employer, and driven at the direction of a
36 person's employer as a requirement of employment during working hours.
37 The person must provide the department with a declaration pursuant to

1 RCW 9A.72.085 from his or her employer stating that the person's
2 employment requires the person to operate a vehicle owned by the
3 employer or other persons during working hours.

4 (c) An ignition interlock device imposed under this section shall
5 be calibrated to prevent a motor vehicle from being started when the
6 breath sample provided has an alcohol concentration of 0.025 or more.

7 (d) The court may waive the requirement that a person apply for an
8 ignition interlock driver's license if the court makes a specific
9 finding in writing that:

10 (i) The person lives out-of-state and the devices are not
11 reasonably available in the person's local area;

12 (ii) The person does not operate a vehicle; or

13 (iii) The person is not eligible to receive an ignition interlock
14 driver's license under RCW 46.20.385 because the person is not a
15 resident of Washington, is a habitual traffic offender, has already
16 applied for or is already in possession of an ignition interlock
17 driver's license, has never had a driver's license, has been certified
18 under chapter 74.20A RCW as noncompliant with a child support order, or
19 is subject to any other condition or circumstance that makes the person
20 ineligible to obtain an ignition interlock driver's license.

21 (e) If a court finds that a person is not eligible to receive an
22 ignition interlock driver's license under this section, the court is
23 not required to make any further subsequent inquiry or determination as
24 to the person's eligibility.

25 (f) If the court orders that a person refrain from consuming any
26 alcohol and requires the person to apply for an ignition interlock
27 driver's license, and the person states that he or she does not operate
28 a motor vehicle or the person is ineligible to obtain an ignition
29 interlock driver's license, the court shall order the person to submit
30 to alcohol monitoring through an alcohol detection breathalyzer device,
31 transdermal sensor device, or other technology designed to detect
32 alcohol in a person's system. The person shall pay for the cost of the
33 monitoring. The county or municipality where the penalty is being
34 imposed shall determine the cost.

35 (g) The period of time for which ignition interlock use or alcohol
36 monitoring is required will be as follows:

37 (i) For a person who has not previously been restricted under this
38 section, a period of one year;

1 (ii) For a person who has previously been restricted under (g)(i)
2 of this subsection, a period of five years;

3 (iii) For a person who has previously been restricted under (g)(ii)
4 of this subsection, a period of ten years.

5 ~~((+6))~~ (5) If a person who is convicted of a violation of RCW
6 46.61.502 or 46.61.504 committed the offense while a passenger under
7 the age of sixteen was in the vehicle, the court shall:

8 (a) In any case in which the installation and use of an interlock
9 or other device is not mandatory under RCW 46.20.720 or other law,
10 order the use of such a device for not less than sixty days following
11 the restoration of the person's license, permit, or nonresident driving
12 privileges; and

13 (b) In any case in which the installation and use of such a device
14 is otherwise mandatory, order the use of such a device for an
15 additional sixty days.

16 ~~((+7))~~ (6) In exercising its discretion in setting penalties
17 within the limits allowed by this section, the court shall particularly
18 consider the following:

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

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

23 ~~((+8))~~ (7) An offender punishable under this section is subject to
24 the alcohol assessment and treatment provisions of RCW 46.61.5056.

25 ~~((+9))~~ (8) The license, permit, or nonresident privilege of a
26 person convicted of driving or being in physical control of a motor
27 vehicle while under the influence of intoxicating liquor or drugs must:

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

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

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

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

38 (b) If the person's alcohol concentration was at least 0.15:

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

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

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

7 (c) If by reason of the person's refusal to take a test offered
8 under RCW 46.20.308, there is no test result indicating the person's
9 alcohol concentration:

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

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

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

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

20 For purposes of this subsection (~~((9))~~) (8), the department shall
21 refer to the driver's record maintained under RCW 46.52.120 when
22 determining the existence of prior offenses.

23 (~~((10))~~) (9) After expiration of any period of suspension,
24 revocation, or denial of the offender's license, permit, or privilege
25 to drive required by this section, the department shall place the
26 offender's driving privilege in probationary status pursuant to RCW
27 46.20.355.

28 (~~((11))~~) (10)(a) In addition to any nonsuspendable and
29 nondeferrable jail sentence required by this section, whenever the
30 court imposes less than one year in jail, the court shall also suspend
31 but shall not defer a period of confinement for a period not exceeding
32 five years. The court shall impose conditions of probation that
33 include: (i) Not driving a motor vehicle within this state without a
34 valid license to drive and proof of financial responsibility for the
35 future; (ii) not driving a motor vehicle within this state while having
36 an alcohol concentration of 0.08 or more within two hours after
37 driving; and (iii) not refusing to submit to a test of his or her
38 breath or blood to determine alcohol concentration upon request of a

1 law enforcement officer who has reasonable grounds to believe the
2 person was driving or was in actual physical control of a motor vehicle
3 within this state while under the influence of intoxicating liquor.
4 The court may impose conditions of probation that include
5 nonrepetition, installation of an ignition interlock device on the
6 probationer's motor vehicle, alcohol or drug treatment, supervised
7 probation, or other conditions that may be appropriate. The sentence
8 may be imposed in whole or in part upon violation of a condition of
9 probation during the suspension period.

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

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

24 (~~((+12))~~) (11) A court may waive the electronic home monitoring
25 requirements of this chapter when:

26 (a) The offender does not have a dwelling, telephone service, or
27 any other necessity to operate an electronic home monitoring system;

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

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

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

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

7 (~~(13)~~) (12) An offender serving a sentence under this section,
8 whether or not a mandatory minimum term has expired, may be granted an
9 extraordinary medical placement by the jail administrator subject to
10 the standards and limitations set forth in RCW 9.94A.728(3).

11 (~~(14)~~) (13) For purposes of this section and RCW 46.61.502 and
12 46.61.504:

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

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

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

18 (iii) A conviction for a violation of RCW 46.61.520 committed while
19 under the influence of intoxicating liquor or any drug;

20 (iv) A conviction for a violation of RCW 46.61.522 committed while
21 under the influence of intoxicating liquor or any drug;

22 (v) A conviction for a violation of RCW 46.61.5249, 46.61.500, or
23 9A.36.050 or an equivalent local ordinance, if the conviction is the
24 result of a charge that was originally filed as a violation of RCW
25 46.61.502 or 46.61.504, or an equivalent local ordinance, or of RCW
26 46.61.520 or 46.61.522;

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

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

33 (viii) A deferred prosecution under chapter 10.05 RCW granted in a
34 prosecution for a violation of RCW 46.61.5249, or an equivalent local
35 ordinance, if the charge under which the deferred prosecution was
36 granted was originally filed as a violation of RCW 46.61.502 or
37 46.61.504, or an equivalent local ordinance, or of RCW 46.61.520 or
38 46.61.522;

1 If a deferred prosecution is revoked based on a subsequent
2 conviction for an offense listed in this subsection (~~(+14)~~) (13)(a),
3 the subsequent conviction shall not be treated as a prior offense of
4 the revoked deferred prosecution for the purposes of sentencing;

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

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

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