

## Court – DUI Sentencing Grid

(RCW 46.61.5055 as amended by statute effective September 26, 2015)

<b>BAC Result &lt; .15 or No Test Result</b>	<b>No Prior Offense<sup>1</sup></b>	<b>One Prior Offense<sup>1</sup></b>	<b>Two or Three Prior Offenses<sup>1</sup></b>
Mandatory Minimum /Maximum Jail Time <sup>2</sup>	24 Consecutive Hours/364 Days	30/364 Days	90/364 Days
If Passenger Under 16 Mandatory Jail	Additional 24 hours	Additional 5 days	Additional 10 days
EHM/Jail Alternative <sup>2</sup>	15 Days in Lieu of Jail	60 Days Mandatory/ 4 Days Jail Min.	120 Days Mandatory/ 8 Days Jail Min.
Mandatory Minimum /Maximum Fine <sup>3***</sup>	\$940.50/\$5,000	\$1,195.50/\$5,000	\$2,045.50/\$5,000
If Passenger Under 16 Minimum/Range <sup>4***</sup>	\$1,000/\$1,000-\$5,000 + assessments	\$1,000/\$2,000-\$5,000 + assessments	\$1,000/\$3,000-\$10,000 + assessments
Driver's License**	90-Day Suspension	2-Year Revocation	3-Year Revocation
II Driver's License* II Device	DOL imposed	DOL imposed	DOL imposed
If Passenger Under 16 II Device	Additional 6 Months	Additional 6 Months	Additional 6 Months
24/7 Sobriety Program <sup>2</sup>	N/A	As Ordered	As Ordered
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered
Expanded alcohol assessment/treatment	N/A	As Ordered	Mandatory/treatment if appropriate

<b>BAC Result ≥ .15 or Test Refusal</b>	<b>No Prior Offense<sup>1</sup></b>	<b>One Prior Offense<sup>1</sup></b>	<b>Two or Three Prior Offenses<sup>1</sup></b>
Mandatory Minimum /Maximum Jail Time <sup>2</sup>	48 Consecutive hours- /364 Days	45/364 Days	120/364 Days
If passenger under 16 Mandatory Jail	Additional 24 hours	Additional 5 days	Additional 10 days
EHM/Jail Alternative <sup>2</sup>	30 Days in Lieu of Jail	90 Days Mandatory/ 6 Days Jail Min.	150 Days Mandatory/ 10 Days Jail Min.
Mandatory Minimum/ Maximum Fine <sup>3***</sup>	\$1,195.50/\$5,000	\$1,620.50/\$5,000	\$2,895.50/\$5,000
If Passenger Under 16 Minimum/Range <sup>4***</sup>	\$1,000/\$1,000-\$5,000 + assessments	\$1,000/\$2,000-\$5,000 + assessments	\$1,000/\$3,000-\$10,000 + assessments
Driver's License**	1-Year Revocation 2 Years if BAC refused	900-Days Revocation 3 Years if BAC refused	4-Year Revocation
II Driver's License* II Device	DOL imposed	DOL imposed	DOL imposed
If Passenger Under 16 II Device	Additional 6 Months	Additional 6 Months	Additional 6 Months
24/7 Sobriety Program <sup>2</sup>	N/A	As ordered	As Ordered
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered
Expanded alcohol assessment/treatment	N/A	As Ordered	Mandatory/treatment if appropriate

\* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 5.

\*\* Driver's license minimum suspension/revocation. DOL may impose more.

\*\*\* Mandatory Minimum fines may be reduced, waived, or suspended if defendant is indigent, as provided by law.

<b>Department of Licensing Required Ignition Interlock Device Requirements, RCW 46.20.720(3), (4) as amended with statutes effective through September 26, 2015.*</b>			
Requirement	No Previous Restriction – no less than:	Previous 1-Year Restriction – no less than:	Previous 5-Year Restriction – no less than:
IID Device	1 Year	5 Years	10 Years
Restriction effective, until IID vendor certifies to DOL that none of the following occurred within four months prior to date of release: any attempt to start the vehicle with a BAC of .04 or more unless another test performed within 10 minutes registers a breath alcohol concentration lower than 0.04 and the digital image confirms the same person provided both samples; failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test; failure to pass any random retest with a breath alcohol concentration of 0.025 or lower unless another test performed within 10 minutes registers a breath alcohol concentration lower than 0.025, and the digital image confirms the same person provided both samples; failure of the person to appear at the IID vendor when required.			

\* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 5.

**<sup>1</sup>Prior Offenses:** Count all prior offenses where the arrest date of the prior offense occurred within seven years before or after the arrest date on the current offense. RCW 46.61.5055(14)(b). “Prior offense” is defined by RCW 46.61.5055(14)(a) to include –

- **Original Convictions for the following** (including equivalent local ordinances): (1) DUI (RCW 46.61.502); (2) Phys. Cont. (RCW 46.61.504); (3) Commercial Vehicle DUI/Phys. Control, RCW 46.25.110; (4) Watercraft DUI, RCW 79A.60.040(2) ; (5) Aircraft DUI, RCW 47.68.220, committed under the influence of intoxicating liquor or any drug; (6) Nonhighway vehicle DUI, RCW 46.09.470(2); (7) Snowmobile DUI, RCW 46.10.490(2); (8) Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) if either committed while under the influence; (9) Equiv. out-of-state statute for any of the above offenses.
- **Deferred Prosecution Granted for the following:** 1) DUI (RCW 46.61.502) (or equivalent local ordinance); (2) Phys. Cont. (RCW 46.61.504) (or equiv. local ordinance); (3) Neg. Driving 1st (RCW 46.61.5249, or equiv. local ord.), *if the person was originally charged with DUI or Phys. Cont. (or an equiv. local ord.), or Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522).* An equivalent out-of-state deferred prosecution for DUI or Phys. Contr., including a chemical dependency treatment program. If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in RCW 46.61.5055(14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing.
- **Amended Convictions for the following:** *If originally charged with DUI or Phys. Cont. or an equivalent local ordinance, or Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522); but convicted of (1) Neg. Driving 1st (RCW 46.61.5249), (2) Reckless Driving (RCW 46.61.500), (3) Reckless Endangerment (RCW 9A.36.050), (4) Equiv. out-of-state or local ordinance for the above offenses. If originally charged with Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug; but convicted of Veh. Hom. or Veh. Assault committed in a reckless manner or with the disregard for the safety of others. If originally charged with Watercraft DUI (RCW 79A.60.040(2)); but convicted of Operating a Watercraft in a reckless manner, RCW 79A.60.040(1), or an equivalent local ordinance. If originally charged with Aircraft DUI (RCW 47.68.220); but convicted of Operating an Aircraft in a careless or reckless manner, RCW 47.68.220, or an equivalent local ordinance.*
- **Deferred Sentences for the following:** *If originally charged with DUI or Phys. Cont. or an equivalent local ordinance, or Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522); but deferred sentence was imposed for (1) Neg. Driving 1st (RCW 46.61.5249), (2) Reckless Driving (RCW 46.61.500), (3) Reckless Endangerment (RCW 9A.36.050), (4) Equiv. out-of-state or local ordinance for the above offenses.*

**<sup>2</sup>Mandatory Jail, Electronic Home Monitoring (EHM), and 24/7 Sobriety Program:** If there are prior offenses with an arrest date within seven years before or after the arrest date of the current offense, the mandatory jail shall be served by imprisonment for the minimum statutory term and may not be suspended unless the court finds that imposition of this mandatory minimum sentence would impose a

substantial risk to the offender's physical or mental well-being. The mandatory statutory term may not be converted to EHM. Where there are no prior offenses within seven years, the court may grant EHM instead of mandatory minimum jail. If there are prior offenses, the mandatory EHM may not be suspended unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Instead of mandatory EHM, the court may order additional jail time.

If the 24/7 sobriety program is available: Where there is one prior offense, instead of mandatory EHM or additional jail time, the court may order 6-month 24/7 sobriety program monitoring, or a 6-month ignition interlock device requirement, or both. Where there are two or three prior offenses, the court shall order 6-month 24/7 sobriety program monitoring, or a 6-month ignition interlock device requirement, or both. The 24/7 sobriety program is a program which requires tests of the defendant's blood, breath, urine, or other bodily substances to find out if there is alcohol, marijuana, or any controlled substance in his/her body. Testing must take place at designated location/s. The defendant may be required to pay the fees and costs for the program. RCW 46.61.5055(1), (2), (3), (5). RCW 36.28A.330.

**Mandatory Conditions of Probation for any Suspended Jail Time:** The individual is not to: (i) drive a motor vehicle without a valid license to drive; (ii) drive a motor vehicle without proof of liability insurance or other financial responsibility (SR 22), (iii) drive or be in physical control of a vehicle while having an alcohol concentration of .08 or more or a THC concentration of 5.00 nanograms per milliliter of whole blood or higher within two hours after driving, (iv) refuse 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 while under the influence of intoxicating liquor or drug, (v) drive a motor vehicle without a functioning ignition interlock device as required by DOL. Except for ignition interlock driver's license and device or alcohol monitoring requirements under RCW 46.61.5055(5), violation of **any** mandatory condition, requires a minimum penalty of 30 days' confinement, which may not be suspended or deferred, and an additional 30-day license suspension. RCW 46.61.5055(11). Courts are required to report violations of mandatory conditions requiring confinement or license suspension to DOL. RCW 46.61.5055.

**3Mandatory Monetary Penalty:** Criminal Conviction Fee, RCW 3.62.085. Fine, RCW 46.61.5055(1) – (3), mandatory minimum may not be suspended unless defendant is indigent. PSEA 1, RCW 3.62.090(1) if applicable, shall not be suspended or waived; Alcohol Violators Fee, RCW 46.61.5054, may suspend all or part of fee if defendant does not have ability to pay; Criminal Justice Funding (CJF) Penalty, RCW 46.64.055, may not be reduced, waived, or suspended unless the defendant is indigent (Note: RCW 3.62.090(1) and (2) apply to CJF penalty. If applicable, shall not be suspended or waived.)

**4If Passenger Under 16:** The interpretation of RCW 46.61.5055(6), regarding the fines, is unsettled. Some interpret it as setting a new mandatory minimum and maximum fine, replacing a fine in RCW 46.61.5055(1) – (3). Some interpret it as setting a fine that is in addition to one of those fines. Apply applicable assessments. The court may not suspend the minimum fine unless defendant is indigent.

**Felony DUI and Felony Physical Control:** A current offense is a Class C felony punished under Ch. 9.94A RCW if the defendant has (a) four prior convictions within ten years, or (b) one prior conviction of Veh. Homicide or Veh. Assault, or (c) a prior Class C felony resulting from a or b. "Within ten years" means that the arrest for the prior offense occurred within ten years before or after the arrest for the current offense. RCW 46.61.5055(14)(c).

**Jurisdiction:** Court has five years jurisdiction.

## Department of Licensing - DUI Administrative Sanctions and Reinstatement Provisions

(As amended through September 26, 2015)

<b>ADMINISTRATIVE SANCTIONS – RCW 46.20.3101</b>		
<b>REFUSED TEST</b>	<i>First Refusal Within 7 Years <u>And</u> No Prior Administrative Action Within Past 7 Years*</i>	<i>Second or Subsequent Refusal Within Past 7 Years OR First Refusal <u>And</u> At Least One Prior Administrative Action Within Past 7 Years*</i>
Adult	1-Year License Revocation	2-Year License Revocation
Minor	1-Year License Revocation	2-Year License Revocation Or Until Age 21 Whichever Is Longer
<b>BAC RESULT</b>	<i>First Administrative Action</i>	<i>Second or Subsequent Administrative Action</i>
Adults ≥ 0.08	90-Day License Suspension	2-Year License Revocation
Minors ≥ 0.02	90-Day License Suspension	1-Year License Revocation Or Until Age 21 Whichever Is Longer

\*Day for day credit for revocation period already served under suspension, revocation, or denial imposed under RCW 46.61.5055 and arising out of the same incident.--RCW 46.20.3101(4).

<b>Ignition Interlock Driver's License, RCW 46.20.385 (amended through September 26, 2015)</b>
May apply for an Ignition Interlock Driver's License upon receiving RCW 46.20.308 notice or upon suspension or revocation. See "Court and Department of Licensing Ignition Interlock Requirements, page 4."

Note: An individual convicted of DUI or physical control will have his/her driving privilege placed in probationary status for five years from the date he/she is eligible to reinstate his/her driver's license (see RCW 46.61.5055 and 46.20.355). An individual granted a deferred prosecution under RCW 10.05.060 will have his/her driving privilege placed on probationary status for five years from the date of the incident, which was the basis for the deferred prosecution (see RCW 46.20.355 and 10.05.060).

<b>REQUIREMENTS FOR REINSTATEMENT OF DRIVING PRIVILEGE</b>	
<i>Suspended License* (RCW 46.20.311)</i>	<i>Revoked License* (RCW 46.20.311)</i>
<ul style="list-style-type: none"> <li>• File and maintain proof of financial responsibility for the future with the Department of Licensing as provided in chapter 46.29 RCW (SR 22)</li> <li>• Present written verification by a company that it has installed the required ignition interlock device on a vehicle owned and/or operated by the person seeking reinstatement</li> <li>• Pay \$150 driver's license reissue fee</li> <li>• Driver's ability test NOT required</li> </ul>	<ul style="list-style-type: none"> <li>• File and maintain proof of financial responsibility for the future with the Department of Licensing as provided in chapter 46.29 RCW (SR22)</li> <li>• Present written verification by a company that it has installed the required ignition interlock device on a vehicle owned and/or operated by the person seeking reinstatement</li> <li>• Pay \$150 driver's license reissue fee</li> <li>• Satisfactorily complete a driver's ability test</li> </ul>

\*If suspension or revocation is the result of a criminal conviction, the driver must also show proof of either (1) enrollment and satisfactory participation in an approved alcohol treatment program or (2) completion of an alcohol information school, as determined by the court and/or treatment agency.

## Court and Department of Licensing (DOL) Ignition Interlock Requirements, RCW 46.20.380, 46.20.385

<b>Ignition Interlock Driver's License, RCW 46.20.380, 46.20.385</b>	
<b>Eligible to Apply</b>	<ul style="list-style-type: none"> <li>• Conviction of violation of RCW 46.61.502, 46.61.504, or an equivalent local or out-of-state statute or ordinance; or RCW 46.61.520(1)(a), or an equivalent local or out-of-state statute or ordinance; or 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 RCW 46.61.522(1)(b) or an equivalent local or out-of-state statute or ordinance; or RCW 64.61.522(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.</li> <li>• License suspended, revoked, or denied under RCW 46.20.3101.</li> <li>• Proof of installed functioning ignition interlock device.</li> </ul>
<b>Requirements</b>	<ul style="list-style-type: none"> <li>• Proof financial responsibility (SR 22).</li> </ul>
<b>Financial Obligations</b>	<ul style="list-style-type: none"> <li>• \$100 mandatory fee to DOL.</li> <li>• Costs to install, remove, and lease the ignition interlock device, and \$20 fee per month, unless waived.</li> </ul>
<b>Duration</b>	Extends through the remaining portion of any concurrent or consecutive suspension or revocation imposed as the result of administrative action and criminal conviction arising from the same incident.
<b>Operation with Other Requirements</b>	The time period during which the person is licensed under RCW 46.20.385, 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, 46.61.5055, 10.05.140, 46.61.500(3), and 46.61.5249(4).

**Court Order to Comply with Rules and Requirements of DOL:** The court orders the person to comply with the rules and requirements of DOL regarding the installation and use of a functioning ignition interlock (II) device on all motor vehicles operated by the person. If the court orders a person to refrain from consuming any alcohol, the court may order the person to submit to alcohol monitoring and to pay for the monitoring unless the court specifies the cost will be paid with funds available from an alternative source identified by the court. RCW 46.61.5055(5).

**Court Ordered Discretionary Ignition Interlock (II) Device:** The court may order discretionary II device requirements that last up to the five years jurisdictional limit of the court. The court sets the duration and calibration level. Discretionary II device restrictions begin after any applicable period of suspension, revocation, or denial of driving privileges and after any DOL mandated II device restriction. The court sets the calibration level. RCW 46.20.720(1).

**Passenger Under Age 16:** The Court shall order the installation and use of an II device for an additional six months.

**Deferred Prosecution:** For application in DUI Deferred Prosecution, see RCW 46.20.720 and RCW 10.05.140, which require II device in a deferred prosecution of any alcohol-dependency based case.

**DOL Imposed Ignition Interlock (II) Device - RCW 46.20.720:** For all offenses occurring June 10, 2004 or later, DOL shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning II device if the person is convicted of "an alcohol-related" violation of DUI or Physical Control. The DOL required II device is not required on vehicles owned, leased, or rented by a person's employer or 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 business hours upon proof to DOL of employment affidavit. However, the employer exemption does not apply:

- A. (First conviction): for the first 30 days after the ignition interlock device has been installed.
- B. (Second or subsequent conviction): for the first 365 days after the ignition interlock device has been installed.
- C. When the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment.

The person must pay a \$20 fee per month in addition to costs to install, remove, and lease the ignition interlock device. DOL may waive requirement if the device is not reasonably available in the local area. DOL will give day-for-day credit as allowed by law.

**Court – Reckless Driving/Negligent Driving – 1<sup>st</sup> Degree Sentencing Grid  
 (RCW 46.61.500, RCW 46.61.5249, RCW 46.20.720 as amended through  
 September 26, 2015)**

<b>Reckless Driving</b>	
<b>Conviction</b>	<b>Qualifications</b>
Reckless Driving (RCW 46.61.500(3)(a))	<ul style="list-style-type: none"> <li>• Original charge: Violation of DUI (RCW 46.61.502) or Phys. Control (RCW 46.61.504) or equivalent local ordinance.</li> <li>• One or More Prior Offenses within 7 years as defined above.</li> </ul>
Reckless Driving (RCW 46.61.500(3)(b))	<ul style="list-style-type: none"> <li>• Original charge: Violation of Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug.</li> </ul>
<b>Consequences</b>	
IID Device	<ul style="list-style-type: none"> <li>• 6 Months.</li> <li>• Restriction remains in effect, until IID vendor certifies to DOL that none of the following incidents occurred within four months before date of release: any attempt to start the vehicle with a BAC of .04 or more unless another test performed within 10 minutes registers a breath alcohol concentration lower than 0.04 and the digital image confirms the same person provided both samples; failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test; failure to pass any random retest with a breath alcohol concentration of 0.025 or lower unless another test performed within 10 minutes registers a breath alcohol concentration lower than 0.025, and the digital image confirms the same person provided both samples; failure of the person to appear at the IID vendor when required.</li> <li>• DOL will give day-for-day credit as allowed by law.</li> <li>• Costs to install, remove, and lease the ignition interlock device, and \$20 fee per month.</li> </ul>
Maximum Jail Time	<ul style="list-style-type: none"> <li>• 364 days if convicted of reckless driving.</li> </ul>
Maximum Fine	<ul style="list-style-type: none"> <li>• \$5,000 if convicted of reckless driving.</li> </ul>
EHM	<ul style="list-style-type: none"> <li>• As ordered.</li> </ul>
Driver's License	<ul style="list-style-type: none"> <li>• 30-day suspension.</li> <li>• DOL will give day-for-day credit as allowed by law.</li> </ul>
II Driver's License	<ul style="list-style-type: none"> <li>• As imposed by DOL. May apply for II driver's license if original charge was violation of DUI (RCW 46.61.502) or Phys. Control (RCW 46.61.504) or equivalent local ordinance. If the Defendant is eligible to apply, but does not have a Washington driver's license, the defendant may apply for an II license. DOL may require the defendant to take a licensing examination and apply and qualify for a temporary restricted driver's license.</li> <li>• During any period of suspension, revocation or denial, a person who has obtained an II driver' license under RCW 46.20.385 may continue to drive without getting a separate temporary restricted driver's license.</li> </ul>
Alcohol/Drug Ed./Victim Impact or Treatment	<ul style="list-style-type: none"> <li>• As ordered.</li> </ul>
24/7 Sobriety Program	<ul style="list-style-type: none"> <li>• As ordered by the court, if use of alcohol or drugs was a contributing factor in the commission of the crime.</li> </ul>

<b>Negligent Driving – 1<sup>st</sup> Degree</b>	
<b>Conviction</b>	<b>Qualifications</b>
Negligent Driving - 1st Degree (RCW 46.61.5249)	<ul style="list-style-type: none"> <li>• One or More Prior Offenses within 7 years as defined above.</li> </ul>
<b>Consequences</b>	
IID Device	<ul style="list-style-type: none"> <li>• 6 Months.</li> <li>• Restriction remains in effect, until IID vendor certifies to DOL that none of the following incidents occurred within four months before date of release: any attempt to start the vehicle with a BAC of .04 or more unless another test performed within 10 minutes registers a breath alcohol concentration lower than 0.04 and the digital image confirms the same person provided both samples; failure to take any random test unless a review of the digital image confirms that the vehicle was not occupied by the driver at the time of the missed test; failure to pass any random retest with a breath alcohol concentration of 0.025 or lower unless another test performed within 10 minutes registers a breath alcohol concentration lower than 0.025, and the digital image confirms the same person provided both samples; failure of the person to appear at the IID vendor when required.</li> </ul>
Maximum Jail Time	<ul style="list-style-type: none"> <li>• 90 days if convicted of negligent driving in the 1<sup>st</sup> degree.</li> </ul>
Maximum Fine	<ul style="list-style-type: none"> <li>• \$1,000 if convicted of negligent driving in the 1<sup>st</sup> degree.</li> </ul>
EHM	<ul style="list-style-type: none"> <li>• As ordered.</li> </ul>
Driver's License	<ul style="list-style-type: none"> <li>• As imposed by DOL.</li> </ul>
Alcohol/Drug Ed./Victim Impact or Treatment	<ul style="list-style-type: none"> <li>• As ordered.</li> </ul>
24/7 Sobriety Program	<ul style="list-style-type: none"> <li>• As ordered by the court, if use of alcohol or drugs was a contributing factor in the commission of the crime.</li> </ul>