WASHINGTON COURTS

Court – DUI Sentencing Grid

(RCW 46.61.5055 as amended by statute effective July 23, 2017, rev. 8/21/2017)

BAC Result < .15 or No Test Result	***No Prior Offense[1]***	***One Prior Offense[1]***	***Two Prior Offenses[1]***
Mandatory Minimum/ Maximum Jail Time[2]	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 or Jail Alternative[2]	15 Days in Lieu of Jail	60 Days Mandatory	120 Days Mandatory/8 Days Jail Min.
Alternative to Mandatory Jail + EHM	N/A	At least 4 Days Jail+180 Days EHM[2]	N/A
Mandatory Minimum/ Maximum Fine[3]***	$990.50/$5,000	$1,245.50/$5,000	$2,095.50/$5,000
If Passenger Under 16 Minimum/Range[4]***	$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[5]	2-Year Revocation[5]	3-Year Revocation
If Passenger Under 16 II Device	Additional 6 Months	Additional 6 Months	Additional 6 Months
24/7 Sobriety Program[2]	If available	If available	If available
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered
Expanded alcohol assessment/treatment	N/A	Mandatory/treatment if appropriate	Mandatory/treatment if appropriate
II Device	DOL imposed in all cases.		
BAC Result ≥ .15 or Test Refusal	***No Prior Offense[1]***	***One Prior Offense[1]***	***Two Prior Offenses[1]***
Mandatory Minimum/ Maximum Jail Time[2]	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/ or Jail Alternative[2]	30 Days in Lieu of Jail	90 Days Mandatory	150 Days Mandatory/ 10 Days Jail Min.
Alternative to Mandatory Jail + EHM	N/A	At least 6 Days Jail + 6 Months EHM[2]	N/A
Mandatory Minimum/ Maximum Fine[3]***	$1,245.50/$5,000	$1,670.50/$5,000	$2,945.50/$5,000
If Passenger Under 16 Minimum/Range[4]***	$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[5] 2 Years if BAC refused	900-Days Revocation 3 Years if BAC refused	4-Year Revocation
If Passenger Under 16 II Device	Additional 6 Months	Additional 6 Months	Additional 6 Months
24/7 Sobriety Program[2]	If available	If available	If available
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered
Expanded alcohol assessment/treatment	N/A	Mandatory/treatment if appropriate	Mandatory/treatment if appropriate

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

** Driver's license minimum suspension/revocation. See note 5 for exceptions. DOL may impose more.

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

[1]**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.

[2]**Mandatory Jail, Electronic Home Monitoring (EHM), and 24/7 Sobriety Program**:

No prior offenses: Where there are no prior offenses with an arrest date within seven years before or after the arrest date of the current offense, the mandatory imprisonment 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 court may grant EHM instead of mandatory minimum jail. Instead of jail time or EHM in lieu of jail time, and when the alcohol concentration is (1) less than 0.15, the court may order a 90-day period of 24/7 sobriety program monitoring or (2) at least 0.15, the court may order a 120-day period of 24/7 sobriety program monitoring.

One prior offense: Where there is one prior offense with an arrest date within seven years before or after the arrest date of the current offense, the mandatory imprisonment and 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. In lieu of the mandatory term of imprisonment and EHM, when alcohol concentration is (1) less than 0.15, the court may order a minimum of 4 days in jail, and either 180 days of EHM or a 120-day period of 24/7 sobriety program monitoring or (2) at least 0.15, the court may order a minimum of 6 days in jail and either 6 months of EHM or a 120 day-period of 24/7 sobriety program monitoring, or a 120-day ignition interlock device requirement, or both.

Two prior offenses: If there are two 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. If the 24/7 sobriety program is available, the

court shall order six-month 24/7 sobriety program monitoring, or a six-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. For each violation of the above mandatory conditions, the court shall order a minimum of 30 days confinement, which may not be suspended or deferred. For each incident involving a violation, the court shall suspend the license for 30 days. 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.

[3]**Mandatory 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.)

[4]**If 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.

[5]**Driver's License and 24/7 Sobriety Program**: *If there are no prior offenses*, and the person's alcohol concentration is:
1) less than 0.15, the person's driving privilege is suspended for 90 days or until the person is evaluated by an alcoholism agency or probation department and completes or is enrolled in a 90-day period of 24/7 sobriety program monitoring. The license suspension must not be fewer than 2 days.
2) at least 0.15, the person's driving privilege is revoked for one year or until the person is evaluated by an alcoholism agency or probation department and completes or is enrolled in a 120-day period of 24/7 sobriety program monitoring. The license revocation must not be fewer than 4 days.
If there is one prior offense and the person's alcohol concentration is less than 0.15, the person's driving privilege is **revoked** for two years or until the person is evaluated by an alcoholism agency or probation department **and** the person completes or is enrolled in a six-month period of 24/7 sobriety program monitoring. In no circumstances shall the license **suspension** be for less than one year.

Felony DUI and Felony Physical Control: A current offense is a Class B felony punished under Ch. 9.94A RCW if the defendant has (a) three prior convictions within ten years, or (b) one prior conviction of Veh. Homicide or Veh. Assault, or (c) a prior 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.

WASHINGTON COURTS

Court and Department of Licensing (DOL) Ignition Interlock Requirements, RCW 46.20.720

(as amended by statute effective July 23, 2017)

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).

DOL Ignition Interlock Device (IID) Requirements RCW 46.20.720:

Restriction and duration:

Post Conviction: After any applicable period of suspension, revocation, or denial of driving privilege due to conviction for DUI, Phys. Control, or an equivalent local or out-of-state statute or ordinance.

No Previous Restriction:	Previous 1-Year Restriction:	Previous 5-Year Restriction:
1 Year	5 Years	10 Years

Passenger Under Age 16: DOL shall extend the ignition interlock restriction an additional six months as required by RCW 46.61.5055(6)(a).

Tolling: For incidents occurring on or after June 9, 2016, the restriction is tolled for any period in which the person does not have an IID installed on a vehicle owned or operated by the person unless DOL determines the person is unable to operate an IID due to a physical disability.

Court Order: If the court orders that a person may drive only a motor vehicle equipped with a functioning IID, the court sets the duration of the restriction, up to the five years' jurisdictional limit of the court, and the calibration level. RCW 46.20.720(1)(e).

Calibration: Unless otherwise ordered, the calibration level for any IID shall be .025%.

IID Costs: $20 fee per month and any other costs associated with the use of an IID. DOL may waive the monthly fee if the person is indigent under RCW 10.101.010.

Requirements for removal: Restriction effective until IID vendor certifies to DOL that none of the following occurred within 180 days 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 .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.

Day-for-Day credit: All time during which a required IID is installed, applies on a day-for-day basis toward a post-conviction IID requirement for the same incident. If day-for-day credit exceeds the post-conviction requirement, DOL may waive requirements.

Employer Exemption: The installation of an IID is not necessary on vehicles owned, leased, or rented by a person's employer and on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of a person's employer as a requirement of employment during business hours upon providing an Employer Exemption declaration to DOL. However, the employer exemption does not apply when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment.

WASHINGTON COURTS

Court – Reckless Driving/Negligent Driving – 1st Degree Sentencing Grid
(RCW 46.61.500, RCW 46.61.5249, RCW 46.20.720 as amended through July 23, 2017)

Reckless Driving	
Conviction	**Qualifications**
Reckless Driving (RCW 46.61.500(3)(a)	• Original charge: Violation of DUI (RCW 46.61.502) or Phys. Control (RCW 46.61.504) or equivalent local ordinance. • One or More Prior Offenses within 7 years as defined above.
Reckless Driving (RCW 46.61.500(3)(b)	• 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.
Consequences	
II Device	• 6 Months. • 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. • For incidents occurring on or after June 9, 2016, the restriction is tolled for any period in which the person does not have an IID installed on a vehicle owned or operated by the person. • DOL will give day-for-day credit as allowed by law. • Costs associated with the use of the ignition interlock device, and $20 fee per month.
Maximum Jail Time	• 364 days if convicted of reckless driving.
Maximum Fine	• $5,000 if convicted of reckless driving.
EHM	• As ordered.
Driver's License	• 30-day suspension. • DOL will give day-for-day credit as allowed by law.
II Driver's License	• 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. • 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.
Alcohol/Drug Ed./Victim Impact or Treatment	• As ordered.
24/7 Sobriety Program	• As ordered by the court, if use of alcohol or drugs was a contributing factor in the commission of the crime.

Negligent Driving – 1st Degree	
Conviction	**Qualifications**
Negligent Driving - 1st Degree (RCW 46.61.5249)	• One or More Prior Offenses within 7 years as defined above.
Consequences	
II Device	• 6 Months. • 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 .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. • For incidents occurring on or after June 9, 2016, the restriction is tolled for any period in which the person does not have an IID installed on a vehicle owned or operated by the person.
Maximum Jail Time	• 90 days if convicted of negligent driving in the 1st degree.
Maximum Fine	• $1,000 if convicted of negligent driving in the 1st degree.
EHM	• As ordered.
Driver's License	• As imposed by DOL.
Alcohol/Drug Ed./Victim Impact or Treatment	• As ordered.
24/7 Sobriety Program	• As ordered by the court, if use of alcohol or drugs was a contributing factor in the commission of the crime.