

Multiple Agency Fiscal Note Summary

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving
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Estimated Cash Receipts

Agency Name	2015-17		2017-19		2019-21	
	GF- State	Total	GF- State	Total	GF- State	Total
Administrative Office of the Courts	0	951,054	0	951,054	0	951,054
Department of Licensing	0	676,265	0	479,620	0	488,250
Total \$	0	1,627,319	0	1,430,674	0	1,439,304

Estimated Expenditures

Agency Name	2015-17			2017-19			2019-21		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Administrative Office of the Courts	.1	66,480	66,480	.1	66,480	66,480	.1	66,480	66,480
Caseload Forecast Council	.0	0	0	.0	0	0	.0	0	0
Washington State Patrol	.0	0	22,610	.0	0	0	.0	0	0
Criminal Justice Training Commission	.0	0	0	.0	0	0	.0	0	0
Traffic Safety Commission	.5	0	99,148	.5	0	99,148	.5	0	99,148
Department of Licensing	.0	0	316,038	.0	0	43,983	.0	0	44,758
Department of Corrections	10.0	3,241,421	3,241,421	28.7	8,553,386	8,553,386	32.3	9,481,215	9,481,215
Total	10.6	\$3,307,901	\$3,745,697	29.3	\$8,619,866	\$8,762,997	32.9	\$9,547,695	\$9,691,601

Local Gov. Courts *	1.5		309,866	1.5		309,866	1.5		309,866
Loc School dist-SPI	1.5			1.5			1.5		
Local Gov. Other **			(1,220,560)			(2,023,560)			(2,055,680)
Local Gov. Total	3.0		(1,220,560)	3.0		(2,023,560)	3.0		(2,055,680)

Estimated Capital Budget Impact

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). A fiscal analysis was prepared to show the projected ten-year cost to tax or fee payers of the proposed taxes or fees. The ten-year projection can be viewed at

<http://www.ofm.wa.gov/tax/default.asp>

* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

ENPID: 42219

FNS029 Multi Agency rollout

Prepared by: Cheri Keller, OFM	Phone: 360-902-0563	Date Published: Final 5/ 5/2015
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* See Office of the Administrator for the Courts judicial fiscal note

** See local government fiscal note

FNPID: 42219

FNS029 Multi Agency rollup

Judicial Impact Fiscal Note

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving	Agency: 055-Admin Office of the Courts
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

Account	FY 2016	FY 2017	2015-17	2017-19	2019-21
State Patrol Highway Account-State 081-1	475,527	475,527	951,054	951,054	951,054
Counties					
Cities					
Total \$	475,527	475,527	951,054	951,054	951,054

Estimated Expenditures from:

STATE	FY 2016	FY 2017	2015-17	2017-19	2019-21
State FTE Staff Years	.1	.1	.1	.1	.1
Account					
General Fund-State 001-1	33,240	33,240	66,480	66,480	66,480
State Subtotal \$	33,240	33,240	66,480	66,480	66,480
COUNTY	FY 2016	FY 2017	2015-17	2017-19	2019-21
County FTE Staff Years	1.5	1.5	1.5	1.5	1.5
Account					
Local - Counties	155,668	155,668	311,336	311,336	311,336
Counties Subtotal \$	155,668	155,668	311,336	311,336	311,336
CITY	FY 2016	FY 2017	2015-17	2017-19	2019-21
City FTE Staff Years					
Account					
Local - Cities	(735)	(735)	(1,470)	(1,470)	(1,470)
Cities Subtotal \$	(735)	(735)	(1,470)	(1,470)	(1,470)
Local Subtotal \$	154,933	154,933	309,866	309,866	309,866
Total Estimated Expenditures \$	188,173	188,173	376,346	376,346	376,346

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.

Contact	Phone:	Date: 04/01/2015
Agency Preparation: Susan Arb	Phone: 509-453-8135	Date: 04/07/2015
Agency Approval: Ramsey Radwan	Phone: 360-357-2406	Date: 04/07/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/07/2015

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Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

E2SHB 1276 (S2.E AMS Law S2775.2) would amend pretrial and post-conviction provisions for crimes involving alcohol and drug impairment, similar to the previous version of the bill. In addition, this version would also change a fourth DUI or Physical Control While Impaired conviction from a gross misdemeanor to a felony, and lower the sentences for the felony.

Sections with potential court impact:

Unless otherwise mentioned, the provisions of E2SHB 1276 (S2.E AMS Law S2775.2) are the same as E2SHB 1276.

Section 2 (formerly section 1) would amend RCW 10.21.055 to require a court to require an ignition interlock device (IID) at (not before) arraignment of a person charged with DUI, Physical Control While Impaired, Vehicular Homicide, and Vehicular Assault. The court would be required to notify the Department of Licensing (DOL), which would add the requirement to the person's driving record. When the requirement is removed upon acquittal or dismissal of the charges, the court must provide the person with a written order and notify the DOL.

Section 4 (formerly section 3) would amend RCW 46.20.740 to clarify that the crime of driving without an IID when required does not apply if the person's driving record does not reflect the prior release of the condition by the court. The sentence for conviction of this crime must be served consecutively to any sentence under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

Section 5 (formerly section 4) would amend RCW 46.20.308 (the implied consent statute) to remove authority for a breath test for any substance other than alcohol. The statement that an officer is not precluded from obtaining a search warrant would be deleted. References to THC would be removed from the breath test warning. Refusal of the breath test would preclude further testing, except as otherwise authorized by law (the reference to search warrants is moved to a new subsection).

Section 6 (formerly section 5) would amend RCW 46.20.750 to expand the crime of tampering with or circumventing an IID to allow a restricted driver to drive the vehicle. The sentence for conviction of this crime must be served consecutively to any sentence under RCW 46.20.740, 46.61.502, 46.61.504, or 46.61.5055, 46.61.520, or 46.61.522.

Section 7 (formerly section 6) would amend RCW 46.25.120 (the implied consent statute for commercial vehicle drivers) to remove authority for a breath test for any substance other than alcohol, and acknowledges the authority of the officer to obtain a blood test pursuant to law.

Section 8 (formerly section 7) would create a new section in Chapter 46.61 RCW, which would create a new traffic infraction for the registered owner if present, the driver, or passengers in a vehicle to keep marijuana in the vehicle unless in the trunk, an area not normally accessible, or in a sealed container, or to consume marijuana while the vehicle is upon the public highway.

Section 9 would amend RCW 46.61.5055, making these changes:

- The 4th offense of DUI or Physical Control While Impaired would be a felony. This is new to this version of the bill.
- Conditions of probation for all sentences for DUI or Physical Control While Impaired would be clarified to require 30 days confinement for each violation of probation: (i) driving with no valid license, (ii) driving with no insurance, (iii) driving or control while impaired, (iv) refusing a breath or blood test, and (v) driving with no IID.
- Prior offenses would include boating in a reckless manner if originally filed as boating while impaired; and flying an aircraft while impaired, or flying in a reckless manner if originally filed as flying while impaired.
- A provision which would allow courts to include 24/7 monitoring where available in a first-offense sentence for DUI or Physical Control While Impaired has been removed from this version of the bill.

Section 12 would amend RCW 46.52.130 to allow a court to provide a person's driving record to the attorney for that person. The person's attorney may give the person's driving record to treatment agencies.

Section 13 would amend RCW 9.94A.589 to provide that all sentences imposed under RCW 46.61.502(6), 46.61.504(6), 46.61.5055(4) be served consecutively to any sentences imposed under RCW 46.20.740 and 46.20.750.

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Section 14 (formerly section 15) would amend RCW 46.61.503 to create an affirmative defense that the person had moved the vehicle safely off the roadway prior to pursuit by the law enforcement officer.

Section 19 (formerly section 21) would amend RCW 36.28A.390 would authorize a general authority peace officer who has probable cause to believe that a participant has violated the terms of participation in the 24/7 sobriety program to immediately take the participant into custody and cause him or her to be held until an appearance before a judge on the next judicial day. Violations would carry minimum imprisonment of 2, 5, or 10 days for the second through fourth violations, or the entire remaining sentence, whichever is lesser. [Note: these punishments apply to pretrial or post-trial participation in the program, and do not mention post-plea participation.] Pretrial participants who have 5 violations would have to “abide by the order of the court.”

Section 21 (new to this version of the bill) would amend RCW 46.61.502 (DUI) to make the fourth offense a felony (currently, the fifth offense is a felony).

Section 22 (new to this version of the bill) would amend RCW 46.61.504 (Physical Control While Impaired) to make the fourth offense a felony (currently, the fifth offense is a felony).

Section 23 (new to this version of the bill) would amend RCW 9.94A.515 to reduce the seriousness level of the felony versions of DUI and Physical Control While Impaired from Level V to Level IV.

Section 24 (new to this version of the bill) would amend RCW 46.61.5054 to increase the mandatory assessment on applicable convictions and deferred prosecutions from \$200 to \$250 for the Washington State Toxicology Laboratory and the Washington State Patrol. The additional \$50 would be used for funding programs to reduce driving while under the influence of alcohol or drugs.

Sections 26 and 27 (new to this version of the bill) would create new sections to create a new category of persons, called Forensic Phlebotomists, authorized to collect a blood sample.

Section 28 (new to this version of the bill) would amend RCW 46.61.506 to acknowledge blood tests administered pursuant to search warrants, exigent circumstances, or a waiver of the warrant requirement may be used in a trial for DUI and Physical Control While Impaired. [Note: The list of persons in this section who may withdraw the blood is not amended to specifically include Forensic Phlebotomists.]

One section was removed from this version of the bill. Section 8 of the previous version would have amended RCW 46.61.140 to provide an affirmative defense that a driver drove outside a clearly marked lane of travel where the violation was minimal and caused by the something or someone other than the driver.

II. B - Cash Receipts Impact

Under previous versions of this bill, no revenue changes were expected. Under this version, two changes will impact revenue. The first increases the DUI fee from \$200 to \$250 on every conviction and deferred prosecution for DUI. For the purposes of this judicial impact note, over the last three years, an average of 12,193 cases would have been eligible for the additional \$50 charge. The maximum potential revenue would be \$609,650. However, not all DUI fees are paid. For purposes of this judicial impact note a 78% collection rate (based on traffic infraction data) is used. Therefore, the potential additional revenue that would be collected is \$475,527 (\$609,650 x 78%).

The second new change in this version of the bill would change a fourth DUI from a gross misdemeanor to a felony, which would change judicial revenues. However, there is no judicial data available to estimate the change to revenue which would result if this change were made. And because felony penalties have a lower rate of collection, it is possible that revenue will be reduced if these gross misdemeanor DUIs become felony DUIs.

There is no judicial data available that gives the actual fines imposed for any particular crime. Fine amounts for felony crimes are higher than gross misdemeanor crimes, and therefore there is a potential for an increase in revenue. The bill would raise the possible fines from a maximum of \$5,000 to a maximum of \$10,000. Judicial Information System data indicates that, for RCW 46.61.502 and 46.61.504, the number of DUIs with three prior violations was 276 in 2014. These were charged as gross misdemeanors but would be class C felonies under the changes in the bill. For the purposes of this judicial impact note, we will assume that 275 will be the number of DUIs which will switch from a gross misdemeanor to a felony. The potential increase in fines could be calculated as the number of violations that would qualify for class C felonies multiplied by the difference in the maximum penalties (\$5,000). This would be a

potential revenue increase of \$1,375,000. However, the maximum fine is not always ordered and fines are not always paid in full and can take several years to pay. Judicial information system data for felony fine payment shows that in the first year less than two percent of fines are paid, and in the second year this increases to 5.5 percent. If the total amount was ordered and paid using a payment rate of 2%, the potential maximum revenue increase would be \$27,500.

However, experience shows that revenues may actually decrease if the fourth DUI moves from a gross misdemeanor to a felony. Currently, RCW 46.61.5055(3)(a) requires the sentencing court impose a minimum fine of \$1,000 for a low alcohol content and RCW 46.61.5055(3)(b) requires the court to impose a minimum fine of \$1,500 for a high alcohol content upon conviction for a gross misdemeanor DUI with three prior offenses. Currently, RCW 9.94A.550, which sets forth the penalties for felony DUI, requires no minimum fine. Because felony DUI usually (not always) results in more incarceration time than a gross misdemeanor DUI, courts often impose no fine at all for a felony DUI. While revenue for these DUIs has the potential for increasing because of the maximum fine allowed, the fines actually imposed and collected for these DUIs may actually decrease to \$0.

II. C - Expenditures

Summary of Expenditures Where Forecast Is Possible:

Some of the provisions of E2SHB 1267, described in more detail below, would require more time for hearings, trials, and appeals in the superior, district, municipal, and appellate courts of the state, but there is no data available which would allow for estimate of those costs. Therefore, while estimates for some of the changes are possible, it must be remembered that these are minimum expenditure forecasts for just some of the changes required by this bill, and the actual expenditures may be much larger.

This is a summary of the financial expenditures which may be incurred:

- Superior courts – county: \$145,362
- Superior courts – state: \$33,240
- District courts: \$10,306
- Municipal courts: (\$735)
- Total: \$188,173

The sections for which no estimate is possible would greatly increase the costs from E2SHB 1276 S2775.2 to the courts.

About the Details Below:

E2SHB 1267 would require substantial changes to the proceedings in many traffic cases, involving both infractions and crimes, in all levels of the state's trial courts. Where estimates are possible, the calculations are based on data from the state Judicial Information System.

The \$50,000 expenditure level represents approximately 84 hours (0.07 FTE) of superior court judicial officer time, approximately 80 hours (0.08 FTE) of district court judicial officer time, and approximately 47 hours (0.046 FTE) of municipal court judicial officer time annually cumulative for all courts in the state with associated support staff and operational costs. It is assumed, therefore, that this bill would require more than 47-84 hours of judicial officer time statewide on an annual basis.

Section 2: Ignition Interlock Device Requirement

Section 2 of this version of the bill would require courts to require an ignition interlock device (IID) at arraignment of a person charged with DUI, Physical Control While Impaired, Vehicular Homicide, and Vehicular Assault, where there is a prior offense. This would lengthen arraignment hearings for these charges by 1-30 minutes for the imposition of the requirement plus potential challenges by the defense. For the purposes of this note, we will assume an additional 2 minutes per hearing.

In the last five years, there have been an average of 35,415 cases filed involving these four crimes. We do not have data on how many of those were second or subsequent offenses committed by the person. For the purposes of this note, we will assume at least 5% of the offenses were not first offenses, or 1,771 cases. The increased costs to each court each year would be at least (and could be substantially more):

- Superior courts – county: \$883
- Superior courts – state: \$202
- District courts: \$17,884

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-- Municipal courts: \$3,630
-- Total: \$22,599

Sections 4 and 6: More Ignition Interlock Device Violation Trials

Section 4 would amend RCW 46.20.740 and section 6 would amend RCW 46.20.750 to require that the sentence for conviction of an IID violation must be served consecutively to any DUI sentence. We expect that this change would increase the number of trials for this crime. We do not have data on how often those crimes are filed together. There has been an average of 3,677 cases filed and 2,268 convictions for IID violations in each of the last 5 years. It is unknown how many cases which would have been resolved with a guilty plea would result in a trial.

Section 5: Breath Test Warning Changes

Section 5 would amend RCW 46.20.308 to clarify the implied consent warning used before breath tests are administered in DUI cases. There is an average of 35,030 DUIs filed each year, with breath tests being requested in approximately 93% of the cases, or 29,139 per year. While the changes in this section are expected to clarify the warning based on current case law, experience with similar prior changes to the breath test warning lead to an expectation of increased challenges in court to the new warning. It is unknown how many challenges there will be, but each could take additional hours of court time.

Section 8: New Infraction – Possession of Marijuana in a Vehicle

Section 8 would create a new section in Chapter 46.61 RCW, which would create a new traffic infraction for improper possession of marijuana in a vehicle. We have no data to estimate how many new infractions might be filed. In 2014, a total of 32,375 non-traffic infractions and 824,729 traffic infractions were filed in the district and municipal courts of the state. If 1,000 new infractions were filed in the district and municipal courts, plus 100 new infractions in superior and juvenile courts, the additional costs would be:

-- Superior courts – county: \$655
-- Superior courts – state: \$150
-- District courts: \$5,708
-- Municipal courts: \$1,092
-- Total: \$7,605

The true cost may be higher or lower than this estimate.

Section 9: DUI Sentences (Other than changes to the Class of Crime)

Section 9 would amend RCW 46.61.5055 to modify provisions of sentences for DUI and Physical Control. Some of the changes are expected to result in lengthier sentencing hearings and additional probation violation hearings. We do not have data which would allow an estimate of the number of hearings affected, nor their cost to the courts.

Section 9: Fourth DUI Changing from Gross Misdemeanor to Class C Felony

This section is new to the expenditures analysis for E2SHB 1276 S2775.2. Expenditures will change for fourth DUI cases. The first increase is for new codes which must be added to the Judicial Information System. It is estimated to take 83 hours for a total cost of \$4,399. These numbers are not added to the grid because it is assumed the workload will be absorbed.

Court expenditures will be impacted in two ways, an increase in trial rate and associated costs and a transfer of cases from district and municipal courts to superior courts.

Superior courts hear all felony cases while gross misdemeanor cases are heard both in superior courts and in courts of limited jurisdiction (district and municipal courts). Most fourth DUIs will transfer from district and municipal courts to superior courts (some

would have been heard by the superior courts already). Caseload data for 2014 shows that approximately 30 percent of gross misdemeanor DUI cases were heard in municipal courts and the remainder in district court.

Judicial Information System data shows an expected change in 276 cases from gross misdemeanor to felony per year. If none of those cases were previously in the superior courts, municipal courts would experience a reduction of 81 cases per year, district courts would see a reduction of 195 cases per year, and superior courts would see an increased caseload of 276 cases.

Reduced expenditure for municipal courts statewide is estimated at \$1,564 per year for reduced judicial officer time and support staff time. This equates to a reduction of 0.002 judicial officer and .02 municipal staff FTE spread through all of the cities.

Reduced district court expenditure is estimated at \$17,161 per year for reduced judicial officer time and support staff time. This equates to a reduction of 0.024 judicial officer and 0.20 district court staff FTE spread through all of the counties.

The 275 new felony cases heard at superior courts is expected to increase expenditure for judicial officers, and support staff by \$175,777 (\$32,714 for the state and \$143,063 for counties) per year. This equates to 0.28 of judicial officer, 0.68 superior court staff and 0.89 clerk staff FTE spread through all the counties.

The increased and decreased costs to each court each year would be:

- Superior courts – county: \$143,063
- Superior courts – state: \$32,714
- District courts: (\$16,823)
- Municipal courts: (\$6,221)
- Total: \$152,733

Section 12: Provide Driving Record to Attorney

Section 12, formerly section 14 in PS HB 1276, would amend RCW 46.52.130 to allow a court to provide a person's driving record to the attorney for that person. Current law allows the court to provide the driving record directly to the person. This is a change that would only take a minute or two per case, but well over one million traffic cases were filed in the district and municipal courts of the state on average per year. This may be done in court or in clerk's offices, and would take both time and paper. We do not have data regarding how often judges or clerks currently give the driving record to the defendants, nor how much more often the attorneys would be requesting it. Assuming the courts spend one additional minute per case in half of the traffic cases filed each year would require additional hours of court and clerk time. Not including the cost of the paper provided, this would result in expenditures of:

- Superior courts – county: \$761
- Superior courts – state: \$174
- District courts: \$3,537
- Municipal courts: \$764
- Total: \$5,236

Section 19: Violations of 24/7 Sobriety Programs

Section 19 would amend RCW 36.28A.390 mandate jail sentences for those who violate 24/7 sobriety program pretrial or post-conviction requirements. Currently, few persons are placed in 24/7 sobriety programs – JIS shows only 21 persons over the each of the last 3 years have been ordered to participate in a 24/7 sobriety program. However, as the programs become available in more areas of the state, and with the laws requiring participation in more situations, that number will only climb. Every person in one of these programs increases the number of probation violation hearings held throughout the state. With mandatory jail time if the person is found in violation, the hearings take more court time. We have no data which would provide an estimate of the number of additional hearings resulting from this change.

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

<i>State</i>	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	.1	.1	.1	.1	.1
Salaries and Wages	22,037	22,037	44,074	44,074	44,074
Employee Benefits	11,203	11,203	22,406	22,406	22,406
Professional Service Contracts					
Goods and Other Services					
Travel					
Capital Outlays					
Inter Agency/Fund Transfers					
Grants, Benefits & Client Services					
Debt Service					
Interagency Reimbursements					
Intra-Agency Reimbursements					
Total \$	33,240	33,240	66,480	66,480	66,480

III. B - Expenditure By Object or Purpose (County)

<i>County</i>	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	1.5	1.5	1.5	1.5	1.5
Salaries and Benefits	155,668	155,668	311,336	311,336	311,336
Capital					
Other					
Total \$	155,668	155,668	311,336	311,336	311,336

III. C - Expenditure By Object or Purpose (City)

<i>City</i>	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years					
Salaries and Benefits	(753)	(753)	(1,506)	(1,506)	(1,506)
Capital					
Other					
Total \$	(753)	(753)	(1,506)	(1,506)	(1,506)

III. D - FTE Detail

<i>Job Classification</i>	Salary	FY 2016	FY 2017	2015-17	2017-19	2019-21
Clerk staff		0.9	0.9	0.9	0.9	0.9
District court judge		0.0	0.0	0.0	0.0	0.0
District court staff		(0.2)	(0.2)	(0.2)	(0.2)	(0.2)
Municipal court judge						
Municipal court staff		0.0	0.0	0.0	0.0	0.0
Superior court judge		0.3	0.3	0.3	0.3	0.3
Superior court staff		0.7	0.7	0.7	0.7	0.7
Total FTE's		1.6	1.6	1.6	1.6	1.6

Part IV: Capital Budget Impact

No capital budget impact to the courts is expected.

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Form FN (Rev 1/00)

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Bill # 1276 E 2S HB AMS LAW S2775.2

Individual State Agency Fiscal Note

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving	Agency: 101-Caseload Forecast Council
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Part I: Estimates

☒ **No Fiscal Impact**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 04/01/2015
Agency Preparation: Ed Vukich	Phone: 360-664-9374	Date: 04/05/2015
Agency Approval: John Steiger	Phone: 360-664-9370	Date: 04/05/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 04/16/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

See the attachment.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

See the attachment.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

None.

E2SHB 1276 AMS LAW S2775.2

IMPAIRED DRIVING

101 – Caseload Forecast Council

April 5, 2015

SUMMARY

A brief description of what the measure does that has fiscal impact.

- Section 4 mandates that a sentence for operating a motor vehicle without a functioning ignition interlock device shall be served consecutively with any sentence for circumventing an ignition interlock device, DUI or APC.
- Section 6 amends the definition of an existing gross misdemeanor: circumventing an ignition interlock device.
- Section 6 additionally mandates that a sentence for circumventing an ignition interlock device shall be served consecutively with any sentence for operating a motor vehicle without a functioning ignition interlock device, DUI, APC, vehicular homicide – DUI or vehicular assault – under the influence.
- Section 8 establishes a traffic infraction for having an open container of marijuana in the main compartment of the vehicle.
- Section 9 amends non-felony DUI/APC sentencing provisions by removing three prior offenses in seven years from non-felony sentencing provisions.
- Section 9 additionally lowers the felony DUI/APC threshold from four or more prior offenses in 10 years to three or more prior offenses in 10 years.
- Section 9 additionally amends provisions regarding conditions of probation by adding not driving a motor vehicle without a functioning ignition interlock device if it is required.
- Section 9 additionally amends the definition of prior offense by specifying operation of a vessel – UI.
- Section 9 additionally amends the definition of prior offenses by adding the following offenses:
- Operation of a vessel – reckless, when originally charged as operation of a vessel – UI;
 - Operating an aircraft – careless/reckless, when originally charged as operating an aircraft – UI;
- Section 9 additionally amends the definition of prior offense by specifying Operating an aircraft – UI.
- Section 10 adds driver under 21 consuming alcohol or marijuana to the list of convictions for which the Department of Licensing may not destroy records.
- Section 13 amends consecutive or concurrent sentence provisions by mandating that all sentences imposed for felony DUI or felony APC shall be served consecutively to any sentences for operating a motor vehicle without a functioning ignition interlock device and circumventing an ignition interlock device.
- Section 14 amends provisions regarding driver under 21 consuming alcohol or marijuana by adding an affirmative defense with regard to denial of driving privileges.

A brief description of what the measure does that has fiscal impact. (Continued.)

Section 21 lowers the felony DUI threshold from four or more prior offenses in 10 years to three or more prior offenses in 10 years.

Section 22 amends provisions regarding APC by adding an affirmative defense with regard to denial of driving privileges.

Section 22 additionally lowers the felony APC threshold from four or more prior offenses in 10 years to three or more prior offenses in 10 years.

Section 23 amends the list of offenses ranked on the adult felony sentencing grid by removing felony DUI from Seriousness Level V and reranking it at Seriousness Level IV.

Section 23 additionally amends the list of offenses ranked on the adult felony sentencing grid by removing felony APC from Seriousness Level V and reranking it at Seriousness Level IV.

Section 23 additionally makes a technical correction.

Section 24 increases the fee – imposed for a conviction, sentence to a lesser charge or deferred prosecution resulting from an arrest for DUI, APC, vehicular homicide or vehicular assault – from \$200 to \$250.

Section 24 additionally makes a technical correction.

Section 24 additionally directs that \$50 of the imposed fee shall be distributed to the Highway Safety Fund to be used solely for funding Washington Traffic Safety Commission grants for programs to reduce driving under the influence.

Given the above provisions:

- Some offenders will receive longer sentences;
- Some sentences will shift from jail to prison;
- The threshold for felony DUI/APC is lowered from four or more prior offenses in 10 years to three or more prior offenses in 10 years;
- The number of offenders that the Department of Corrections will have to supervise is expanded; and
- The Seriousness Level for felony DUI/APC is reduced from V to IV.

EXPENDITURES

Assumptions.

The bed impacts for this bill were calculated under the following assumptions.

- Sentences that shift from jail to prison are based Administrative Office of the Courts data for the number of sentences (Calendar Year 2014) and days actually served in jail (Calendar Year 2011 through Calendar Year 2013) for DUI/APC with three prior offenses in 10 years, and assume no changes in crime rates, filings, plea agreement practices or sentencing volumes, *etc.* (*i.e.*, there will be an identical number of sentences each year).
- Current policy felony DUI sentences that receive shorter sentences under the proposed policy are based on Caseload Forecast Council Fiscal Year 2014 adult felony sentencing data, and assume no changes in crime rates, filings, plea agreement practices or sentencing volumes, *etc.* (*i.e.*, there will be an identical number of sentences each year).
- Caseload Forecast Council Fiscal Year 2014 felony DUI/APC data used for several of the calculations listed below exclude exceptional sentences and factor in statutory maximums.
- Sentences are distributed evenly by month.
- Current policy felony DUI sentences are resentenced to the same relative point in the proposed policy standard range that they were in the current policy standard range.
- Proposed policy sentencing scores for the proposed policy sentences are calculated from an offender score distribution, which is based on Caseload Forecast Council Fiscal Year 2014 felony DUI/APC data, and is calculated by the Caseload Forecast Council. The distribution is adjusted downward to reflect the fewer number of prior offenses in 10 years between the current policy of four or more prior offense and the proposed policy of three prior offenses.
- Proposed policy sentences are set at average standard range sentence lengths, for each different cell, for current policy felony DUI/APC offenders, and is based on Caseload Forecast Council Fiscal Year 2014 data for felony DUI/APC sentences, calculated by the Caseload Forecast Council.
- For jail sentences, length of stay in jail is calculated using a figure for average earned release, based on a 2001 survey of local jails by the Sentencing Guidelines Commission, the Office of Community Development and the Washington State Association of Counties.
- For prison sentences, average time spent in jail prior to transfer to the Department of Corrections is based on Caseload Forecast Council Fiscal Year 2014 data for felony DUI/APC sentences, and is calculated by the Caseload Forecast Council.
- For prison sentences, length of stay in prison is calculated using a figure for average percentage of sentence served in prison, which is based on Department of Corrections Fiscal Year 2012 data for felony DUI/APC offenders, and is calculated and provided by the Department of Corrections.
- Prison bed impacts are calculated with a discount factor (prison sentences versus actual offenders), which is based on Caseload Forecast Council Fiscal Year 2014 felony DUI/APC data, and is calculated by the Caseload Forecast Council.
- Prison bed impacts are calculated with a phase-in factor, which is based on Caseload Forecast Council Fiscal Year 2012 through Fiscal Year 2014 felony DUI/APC data, and is calculated by the Caseload Forecast Council.
- Community custody supervision impacts take into account a number of factors, based both on Caseload Forecast Council and Department of Corrections data, and include appropriate discount and phase-in factors.

Impact on the Caseload Forecast Council.

This bill would require modification of the Council's adult and juvenile databases and data entry programs. These recurring costs are included in the agency's budget.

Impact on prison and jail beds.

This bill:

- Lengthens sentences for some offenders;
- Some sentences will shift from jail to prison;
- Increases the number of felony DUIs and felony APCs;
- Increases the number of offenders under the Department of Corrections supervision; and
- Decreases sentence lengths for felony DUIs and felony APCs.

The Caseload Forecast Council has no information regarding how many sentences may run consecutive to other sentences under the bill, nor how many sentences will have more severe punishments due to the expanded definition of prior offense for DUI/APC. As such, the Caseload Forecast Council cannot reliably predict bed impacts resulting from these provisions of the bill. However, since these provisions of the bill could potentially impact both non-felony and felony offenses, any impact could be on both jail beds and prison beds.

The provisions of the bill lowering the felony DUI/APC threshold and lowering the Seriousness Level for felony DUI/APC will result in a maximum jail bed impact of -32 beds, first reached at 37 months after implementation. Additionally, the bill will result in no prison (DOSA) bed impact, and a maximum prison (non-DOSA) bed impact of 225 beds (approximately 16.7% female and 83.3% male), first reached at 79 months after implementation.

The bill will also result in a maximum Department of Corrections community custody supervision impact of 265 offenders, first reached at 70 months after implementation.

Average Monthly Population Jail and Prison Impacts
E2SHB 1276 AMS LAW S2775.2 - Impaired Driving
Caseload Forecast Council
April 5, 2015

	Fiscal Year									
	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Jail AMP	-11	-27	-31	-32	-32	-32	-32	-32	-32	-32
Prison AMP (DOSA)	0	0	0	0	0	0	0	0	0	0
Prison AMP (Non-DOSA)	42	145	198	218	223	224	224	225	225	225
Prison AMP (Total)	42	145	198	218	223	224	224	225	225	225

Average Monthly Population Supervision Impacts
E2SHB 1276 AMS LAW S2775.2 - Impaired Driving
Caseload Forecast Council
April 5, 2015

	Fiscal Year									
	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25
Supervision AMP	5	85	188	238	259	264	265	265	265	265

Individual State Agency Fiscal Note

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving	Agency: 225-Washington State Patrol
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
Account					
State Patrol Highway Account-State 081-1	22,610	0	22,610	0	0
Total \$	22,610	0	22,610	0	0

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 04/01/2015
Agency Preparation: Yvonne Stevens	Phone: 360-596-4042	Date: 04/07/2015
Agency Approval: Bob Maki	Phone: (360) 596-4045	Date: 04/07/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/07/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

The previous versions of House Bill 1276 make multiple changes to existing impaired driving laws. The amended version of this bill differs from the previous versions in the following:

- includes “or presence of any drug” in implied consent language for breath testing under RCW 46.20.308 (Implied consent – Test refusal – Procedures), and RCW 46.25.120 (Test for alcohol or drugs – Disqualification for refusal of test or positive test – Procedures), and a THC concentration level of 5.00 or more in RCW 46.20.308.
- removes the changes that were made in earlier versions of the proposed legislation to RCW 46.61.140 (Driving on roadways laned for traffic).
- removes 24/7 sobriety program monitoring from the penalty schedule of RCW 46.61.5055 (Alcohol and drug violators – Penalty schedule) for individuals with no prior offenses in seven years.
- makes additional changes to RCW 46.61.5055 that reduce the number of previous offenses required for different penalty levels.
- reduces the number of prior offenses in ten years from four or more to three or more for felony DUI.
- makes changes to the 24/7 sobriety program.
- makes changes to RCW 9A.04.015 (Table 2 – Crimes included within each seriousness level).
- adds fifty dollars to the fee assessed under RCW 46.61.5054 (Alcohol violators – Additional fee – Distribution) and makes changes to its distribution.
- adds a new section to Chapter 18.130 RCW Regulation of Health Professions – Uniform Disciplinary Act, stating that it is not professional misconduct for a physician, registered nurse, licensed practical nurse, nursing assistant, physician assistant, first responder, emergency medical technician, health care assistant, or any technician trained in withdrawing blood, to collect a blood sample without a person’s consent when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances.
- adds a new section to Chapter 43.70 RCW requiring the secretary of the Department of Health (DOH) to consult with health profession boards and commissions, the Washington State Criminal Justice Training Commission, and the Washington State Patrol (WSP), to establish by rule the administrative procedures and administrative requirements for initial issue, renewal, and reissue of a credential for forensic phlebotomists.
- adds a new section to Chapter 46.04 RCW that defines a forensic phlebotomist as a police officer, law enforcement officer, or employee of a correctional facility or detention facility who completes a venipuncture training program and who is collecting a blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or exigent circumstances.

-expands the personnel exempt from civil or criminal liability under 46.61.501 RCW as a result of withdrawing blood to include a physician, registered nurse, licensed practical nurse, nursing assistant, physician assistant, first responder, emergency medical technician, health care assistant, or any technician trained in withdrawing blood.

-expands the exemption of civil or criminal liability under 46.1.501 RCW to include the refusal to withdraw blood to also include the same. This change could potentially result in a delay in the collection of a blood sample in isolated situations, but is not expected to have a significant fiscal impact on the WSP unless refusals become common.

-forensic phlebotomists are not specifically named in the list of personnel exempt from professional misconduct and liability, but are included in the language that limits these exemptions in cases involving the use of improper procedures or from failing to exercise the required standard of care. For this reason, we assume the exemptions also apply to forensic phlebotomists.

These changes, including the changes identified in the previous versions of the bill, require all current DUI Arrest Reports to be replaced with new forms updated to reflect the applicable changes

If enacted, we assume this legislation would become effective July 1, 2015.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

There are no cash receipts associated with this bill.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The Washington State Patrol will need to replace all Driving Under the Influence (DUI) Arrest Reports to reflect the changes made to existing DUI laws. Based on previous costs to reprint these forms, we estimate they will cost about \$18,000 to print. This includes \$12,000 for 80,000 forms in English and \$6,000 for 25,000 of the Spanish version with translation.

The State Patrol's indirect cost rate is based on the agency's negotiated federal rate of 25.63%. This rate is calculated on all categories of expenditures except capitalized equipment and is for the agency's administrative support costs associated with this bill. Support costs include items such as computer and telecommunications support, payroll processing and vendor payments, contract administration, ordering, accounting for and distribution of supplies, and human resource services.

There is a potential for increased overtime costs as a result of WSP personnel being required to testify more frequently in Department of Licensing Administrative hearings as a result of this legislation. There is also the potential for increased overtime due to an increase in felony DUI arrests that may result from prior offenses being reduced to three. The potential fiscal impact of this is not known at this time, but if it proves to be significant, additional funding will be sought through the legislative process.

We assume that the participation of the WSP in the DOH's development of rules for forensic phlebotomists as

specified in Section 25 of the proposed legislation would have minimal fiscal impact to the agency, and would be absorbed. If this assumption is incorrect and the costs are significant, we would seek additional funding through the legislative process.

If refusals to withdraw blood become common as a result of the expanded exemption of civil or criminal liability included in the substitute version of this legislation it could become necessary for the WSP to employ individuals who are trained to withdraw blood in the locations where this has become an issue. It is not known at this time if, or to what degree this would be necessary. Should we find that it is, and the costs are significant, we would seek additional funding through the legislative process.

Additional rulemaking will be required as a result of this proposed legislation. These costs will be absorbed by the agency.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years					
A-Salaries and Wages					
B-Employee Benefits					
C-Professional Service Contracts					
E-Goods and Other Services	18,000		18,000		
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-Agency Indirect Costs	4,610		4,610		
Total:	\$22,610	\$0	\$22,610	\$0	\$0

Part IV: Capital Budget Impact

NONE

There is no impact to the Capital Budget as a result of this bill.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Rulemaking will be required to add the GPS technology on interlock devices requirement to 204-50-110 WAC.

Individual State Agency Fiscal Note

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving	Agency: 227-Wa St Criminal Justice Train Comm
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Part I: Estimates

☒ **No Fiscal Impact**

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☐ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 04/01/2015
Agency Preparation: Brian Elliott	Phone: 360-486-2436	Date: 05/05/2015
Agency Approval: Brian Elliott	Phone: 360-486-2436	Date: 05/05/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 05/05/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 17 states testing must take place at a location or locations designated by the participating agency, or, with the concurrence of the Washington Association of Sheriffs and Police Chiefs, by an alternate method.

Section 26(1) states the secretary, in consultation with health profession boards and commission, the Washington State Criminal Justice Training Commission, and the Washington State Patrol, shall establish by rule the administrative procedures and administrative requirements for initial issue, renewal, and reissue of a credential for forensic phlebotomists as defined in section 27 of this act.

This bill has no fiscal impact on the Washington State Criminal Justice Training Commission or The Washington Association of Sheriffs and Police Chiefs .

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving	Agency: 228-Wash Traffic Safety Commission
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	0.5	0.5	0.5	0.5	0.5
Account					
Highway Safety Account-State 106-1	49,574	49,574	99,148	99,148	99,148
Total \$	49,574	49,574	99,148	99,148	99,148

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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- ☒ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 04/01/2015
Agency Preparation: Shelly Baldwin	Phone: 360-725-9889	Date: 04/06/2015
Agency Approval: Shelly Baldwin	Phone: 360-725-9889	Date: 04/06/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/06/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 24 of 1276 E2S HB AMS LAW increases the BAC test fee (RCW 46.61.5054) by \$50 and distributes the funding to Washington Traffic Safety Commission for grants to organizations within counties targeted to programs to reduce driving under the influence of alcohol or drugs.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

No Cash Receipts for Agency 228 - Traffic Safety Commission

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The Administrative Office of the Court estimates that the \$50 increase in the BAC test fee could generate \$475,527 annually. A Traffic Safety Commission Program Manager oversees approximately \$950,000 in grant funds each. This equates to an increase of a .5 program manager to work with the Washington Impaired Driving Advisory Council and the WTSC Commissioners to develop a system for organizations within counties to apply for this funding and to administer and ensure compliance with the funded projects.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	0.5	0.5	0.5	0.5	0.5
A-Salaries and Wages	38,904	38,904	77,808	77,808	77,808
B-Employee Benefits	10,670	10,670	21,340	21,340	21,340
C-Professional Service Contracts					
E-Goods and Other Services					
G-Travel					
J-Capital Outlays					
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$49,574	\$49,574	\$99,148	\$99,148	\$99,148

III. B - Detail: List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA

Job Classification	Salary	FY 2016	FY 2017	2015-17	2017-19	2019-21
Program Manager	49,574	0.5	0.5	0.5	0.5	0.5
Total FTE's	49,574	0.5	0.5	0.5	0.5	0.5

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Individual State Agency Fiscal Note

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving	Agency: 240-Department of Licensing
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

ACCOUNT	FY 2016	FY 2017	2015-17	2017-19	2019-21
Highway Safety Account-State 106-1	323,195	243,918	567,113	473,993	482,838
Ignition Interlock Device Revolving Account-State 14V-1	27,660	4,380	32,040	4,020	3,900
Impaired Driving Safety Account-State 281-1	69,930	7,182	77,112	1,607	1,512
Total \$	420,785	255,480	676,265	479,620	488,250

Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
Account					
Highway Safety Account-State 106-1	278,583	4,198	282,782	8,530	8,688
Ignition Interlock Device Revolving Account-State 14V-1	15,822	17,435	33,256	35,453	36,070
Total \$	294,405	21,633	316,038	43,983	44,758

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

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- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 04/01/2015
Agency Preparation: Don Arlow	Phone: (360) 902-3736	Date: 04/07/2015
Agency Approval: Diamatris Winston	Phone: 360-902-3644	Date: 04/07/2015
OFM Review: Erik Hansen	Phone: 360-902-0423	Date: 04/07/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years					
A-Salaries and Wages	1,472	1,622	3,094	3,300	3,357
B-Employee Benefits	547	603	1,150	1,226	1,246
E-Goods and Other Services	276,564	1,973	278,537	4,005	4,085
M-Inter Agency/Fund Transfers	15,822	17,435	33,257	35,452	36,070
Total:	\$294,405	\$21,633	\$316,038	\$43,983	\$44,758

III. C - Expenditures By Program (optional)

Program	FY 2016	FY 2017	2015-17	2017-19	2019-21
Mgmt & Support Services (100)	1,227	1,352	2,579	2,749	2,797
Information Services (200)	275,651	966	276,617	1,964	1,998
Programs & Services (600)	17,527	19,315	36,842	39,270	39,963
Total \$	294,405	21,633	316,038	43,983	44,758

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

Part II: Explanation

This bill modifies impaired driving statutes, including those related to ignition interlock device restrictions, ignition interlock driver's license eligibility, and driver's license suspension or revocation action based on blood tests.

Difference between E2SHB 1276 AMS LAW S2775.2 and E2SHB 1276: The bill as amended in the Senate Law and Justice Committee includes a provision that makes a fourth driving under the influence (DUI) or Physical Control (PC) conviction a Class C felony, adds a \$50 fee for certain offenses related to DUI or PC, and makes changes to the 24/7 Sobriety Program. These changes will not impact the Department of Licensing (DOL) fiscal note.

NOTE: This bill does not include an effective date and will therefore be effective 90 days sine die. DOL estimates that the needed modifications to our information technology systems will be completed by August 2016, which is later than the effective date of the bill.

II. A – Brief Description of What the Measure Does that Has Fiscal Impact

Section 1 establishes legislative intent.

Section 2 amends RCW 10.21.055.

Section 2 (1)(b) requires the court to notify the Department of Licensing (DOL) when an ignition interlock device (IID) restriction is imposed for pre-trial release, or is imposed in connection with a charge or conviction of DUI, Physical Control, Vehicular Homicide, or Vehicular Assault, including a first offense. DOL is required to note the IID restriction on the driver's record.

Section 1 (1)(c) requires the installer of the IID to provide proof to the court of the installation, as well as, notify DOL of the action.

Section 2 (2)(b) requires the court to notify DOL regarding the lifting of a pre-trial release IID restriction, or a restriction related to a charge or conviction of DUI, Physical Control, Vehicular Homicide, or Vehicular Assault, and requires DOL to remove the restriction from the driver's record.

Section 3 amends RCW 46.20.385 to extend eligibility for an ignition interlock driver's license (IIDL) to drivers with valid out-of-state driver's licenses.

Section 4 amends RCW 46.20.740 to allow release from the court by requiring an IID device for any car the person drives as another reason an IID is required.

Section 5 amends RCW 46.20.308 to permit DOL to take license suspension or revocation action based on the results of a blood test. This section also permits a person charged with physical control to make an affirmative defense at the hearing that the vehicle had been moved off the roadway prior to arrest.

Section 7 amends RCW 46.25.120 to permit DOL to disqualify a commercial driver's license (CDL) holder due to a positive blood test.

Section 8 creates a new traffic infraction for having a container of marijuana within the area of a vehicle occupied by the driver and passengers.

Section 9 amends RCW 46.61.5055 to modify penalty provisions based on prior convictions for DUI or PC.

Section 10 amends RCW 46.01.260 to require that convictions for RCW 46.61.503 (driver under 21 years of age consuming alcohol or marijuana) remain permanently on file.

Section 12 amends RCW 46.52.130 to authorize DOL to furnish an abstract of a person's driving record to that person's attorney of record.

Section 21 amends RCW 46.61.502 (DUI) to make a fourth offense as defined in RCW 46.61.5055 a Class C felony.

Section 22 amends RCW 46.61.504 (PC) to make a fourth offense as defined in RCW 46.61.5055 a Class C felony.

Section 24 amends RCW 46.61.5054 to add \$50 to the fee assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. The additional must be distributed to the Highway Safety Account to be used solely for funding Washington Traffic Safety Commission grants to organizations within counties targeted for programs to reduce driving under the influence of alcohol or drugs.

II. B – Cash Receipt Impact

This bill will have an impact on cash receipts. Section 2 amends RCW 46.20.385 to extend eligibility for an ignition interlock driver's license (IIDL) to drivers with valid out-of-state driver's licenses. DOL's previous experience with issuing Occupational Driver's Licenses to out of state licensed drivers is that the number is insignificant (fewer than 10). No estimate will be made for this population.

The provisions of section 4 are expected to have an impact on administrative hearings conducted by the department. Previous legislation reduced hearing requests on alcohol-related DUIs by 924. The legislation will restore these suspensions. Currently, 39 percent of hearings waive the fee for indigence. DOL's estimate is that 30 percent of DUI arrests request a hearing. The DUI hearings fee is \$375, and is deposited into the Highway Safety Account.

This bill is also expected to increase the number of applications for an IIDL, and increase the number of suspensions and alcohol-related reinstatements. Not all arrests result in an application for an IIDL; DOL estimates that 25 percent of eligible persons will apply for the license. All suspensions are assumed to be for a first offense and last 90 days (3 months). In 2014 DOL had 236 drug-related DUIs. For this analysis, the DOL assumes that half are for THC, or 118. For the analysis, DOL assumes these are all the THC arrests. This will increase the number of IIDLs and payment of the \$20 monthly fee for a first offense, which is a 90 day suspension. These suspensions are a new population for paying Ignition Interlock licenses and fees.

The IIDL application fee is \$100 and is deposited into the Highway Safety Account. The monthly \$20 fee associated with IIDLs is deposited into the Ignition Interlock Device Revolving Account. The DUI reissue fee is \$150 and is distributed to the Highway Safety Account (37 percent) and the Impaired Driving Safety Account (63 percent). The DUI reissue fee will be collected from all of these persons one year sooner than under current law. The following table illustrates the expected workloads by category:

<u>Workload Indicator</u>	<u>FY 16</u>	<u>FY 17</u>	<u>15-17 Total</u>	<u>17-19 Total</u>	<u>19-21 Total</u>
THC Related IIDL	26	28	54	56	56
THC Related IID Monthly Fee	26	28	54	56	56
THC Related Hearings	33	36	69	72	72
BAC Hearings	522	576	1,098	1,170	1,194
BAC IIDL	714	788	1,502	1,602	1,634
BAC IID Monthly Fee	435	480	915	977	995

Cash Receipts	FY 16	FY 17	15-17 Total	17-19 Total	19-21 Total
Highway Safety Account	323,195	243,918	567,113	473,993	482,838
Impaired Driving Safety	69,930	7,182	77,112	1,607	1,512
Ignition Interlock Revolving	27,660	4,380	32,040	4,020	3,900
Total Revenue	420,785	255,480	676,265	479,620	488,250

II. C – Expenditures

This bill will require modifications to DOL's information technology systems, primarily the Drivers Headquarters System. The agency will use appropriated funds to hire contract programmers to accomplish this work or to support current staff implementing this legislation within the required timeline. Appropriated funds may also be used to hire temporary/project staff to support permanent staff assigned to this legislative effort.

Cost Category	Description	FY 16 Months	FY 17 Months	Rate	Cost
Developer/Tester	Modify programming and coding to all major systems; test to verify individual components meet requirements; ensure that other business transactions have not been impacted.	9.4	-	\$18,444	\$173,374
Analyst	Determine business requirements; translate requirements into what changes are needed to various systems including account codes, inventory codes, testing considerations, etc.	1.9	-	\$25,752	\$48,929
Project Manager	Manage schedule and contracts	1.0	-	\$27,492	\$27,492
QA Oversight*	Plan and carry out activities to assure project deliverables; e.g. preventative defect activities, align quality measures and business objectives.	-	-	\$31,668	\$0
Project Contingency	OCIO designated rate of 10%				\$24,980
		12.3	-		\$274,775

* DOL includes QA oversight costs estimates for fiscal note evaluations per the requirement of OCIO Policy 132. DOL has requested an exemption to this requirement for legislative requests and will adjust cost estimates as appropriate following a determination from the OCIO.

Courts notify DOL when Ignition Interlock Device restriction is imposed and cancelled as a condition of release and DOL retains all occurrences for violations on driver records.

1. Set up system to allow for the new violation and departmental action codes to the system so add the information Courts sends to the person's record.
2. Modify system data exchange with courts so they can send IIL restriction imposed and IIL restriction cancelled information to DOL.
3. Make system update person's record with IIL restriction imposed and IIL restriction cancelled when courts sends the data.
4. Change data display systems to show the new violation and departmental action codes to appropriate system users.
 - a. Abstract of Driver Records
 - b. Internal Help Desk tools
 - c. Internal reports
 - d. State Patrol

Out-of-state drivers can get Ignition Interlock Licenses if they have valid out-of-state licenses.

5. Change system so that it no longer stops IIL license with out-of-state licenses.

New conviction for open container – Marijuana

6. Create new letters for marijuana DUI/Physical Control suspensions or revocations.
7. Set up system for new codes associated with marijuana open container.
8. Add new Hearings and associated stay codes.
9. Add rules for new court-ordered IID requirement codes and allow for removal when court order cancels the requirement.

10. Allow for new court-ordered IIDs
11. Add new violation and departmental actions for positive blood test to reports: internal reports and reports for federal systems.
12. Change data display systems to show the new suspensions/revocations to appropriate system users.
 - a. Abstract of Driver Records
 - b. Internal Help Desk tools
 - c. Internal reports
 - d. State Patrol

This bill is expected to have an impact on expenditures from the Ignition Interlock Device Revolving Account (14V). Individuals applying for an IIDL are eligible for financial assistance from the account if they are indigent. For the first fiscal year DOL assumed that 13 percent of those making application will be eligible for assistance from the fund for the typical 3 month duration of the IIDL, for an estimated expenditure of \$15,822. The Fiscal Year 2017 estimate is for \$17,435.

This bill may have an impact on DOL's Hearings unit if persons subject to a DUI-related suspension due to a blood test return to DOL for a hearing. Any additional workload is unknown at this time, and will be addressed if necessary in a future budget submittal.

Administrative support funding received covers agency-wide functions such as vendor payments, contract administration, mail processing, equipment management, help desk support, and technical assistance to DOL employees.

Part III: Expenditure Detail

III. A – Expenditures by Object or Purpose

	FY 16	FY 17	15-17 Total	17-19 Total	19-21 Total
FTE Staff Years					
Salaries and Wages	1,472	1,622	3,094	3,300	3,357
Employee Benefits	547	603	1,150	1,226	1,246
Goods and Services	276,564	1,973	278,537	4,005	4,085
Indigent IID	15,822	17,435	33,257	35,452	36,070
TOTAL	294,405	21,633	316,038	43,983	44,758

III. A (1) – Detail of Expenditures by Sub-Object for Goods & Services

Object E Breakdown:	FY 16	FY 17	15-17 Total	17-19 Total	19-21 Total
EB Postage	1,588	1,751	3,339	3,557	3,626
EF Printing	117	129	246	261	267
ER Application Programmers	274,775		274,775		
EZ Other Goods & Svcs	84	93	177	187	192
Total Goods & Svcs	276,564	1,973	278,537	4,005	4,085

III. A (2) – Detail of Expenditures by Fund

Additional information about assumptions and impacts is available directly from the Department of Licensing at 902-3644.

III. B – FTE Detail

None

III. B – Expenditures by Program (optional)

Program	FY 16	FY 17	15-17 Total	17-19 Total	19-21 Total
100 - Mgmt & Support Services	1,227	1,352	2,579	2,749	2,797
200 - Information Services	275,651	966	276,617	1,964	1,998
600 - Programs & Services	17,527	19,315	36,842	39,270	39,963
<i>Total</i>	294,405	21,633	316,038	43,983	44,758

Part IV: Capital Budget Impact

None

Part V: New Rule Making Required

None

Individual State Agency Fiscal Note

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving	Agency: 310-Department of Corrections
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Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	3.6	16.3	10.0	28.7	32.3
Account					
General Fund-State 001-1	630,452	2,610,969	3,241,421	8,553,386	9,481,215
Total \$	630,452	2,610,969	3,241,421	8,553,386	9,481,215

Estimated Capital Budget Impact:

NONE

This bill was identified as a proposal governed by the requirements of RCW 43.135.031 (Initiative 960). Therefore, this fiscal analysis includes a projection showing the ten-year cost to tax or fee payers of the proposed taxes or fees.

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

Legislative Contact:	Phone:	Date: 04/01/2015
Agency Preparation: Alan Haskins	Phone: 360-725-8264	Date: 04/15/2015
Agency Approval: Sarian Scott	Phone: (360) 725-8270	Date: 04/15/2015
OFM Review: Trisha Newport	Phone: (360) 902-0417	Date: 04/16/2015

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1 adds a new section stating the Legislative intent.

Section 2 amends RCW 10.21.055.

Section 2(a)(iii) requires an ignition interlock device pursuant to (a)(i) of this subsection and comply with 24/7 sobriety program monitoring pursuant to (a)(ii) of this subsection; or

Section 2(a)(iv) requires an ignition interlock pursuant to (a)(i) of this subsection, file a sworn statement with the court upon release at arraignment that states the person agrees not to operate any motor vehicle while the ignition interlock restriction is imposed by the court, and submit to alcohol monitoring as outlined in RCW 16 46.61.5055(5)(b).

Section 2(b) is added, requiring the court to notify Department of Licensing (DOL) when an ignition interlock restriction is imposed. The DOL shall attach or imprint a notation on the driving record.

Section 2(c) is added; identifying that the person ordered to have an ignition interlock device (IID) installed agrees not to drive without a fully functioning IID installed. He/she satisfies that requirement by filing a sworn statement with the court stating he/she will not operate a vehicle without a fully functioning IID device installed while the IID restriction is imposed.

Section 2(2)(b) is added to require the court to notify DOL when they authorize the removal of an IID restriction.

Section 2(3) states that when an IID restriction is cancelled, the court order of the IID restriction release will serve as proof of the restriction release until DOL updates the driving record.

Section 3 amends RCW 46.20.385(1)(a), stating any person licensed under this chapter or who has a valid driver's license from another state, who is convicted of: (i) a violation of RCW 46.61.502 or 46.61.504 or an equivalent local or out-of-state statute or ordinance, or (ii) a violation of RCW 46.61.520(1)(a) or an equivalent local or out-of-state statute or ordinance, or (iii) a conviction for a violation of RCW 46.61.520(1) (b) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.520(1)(a), or (iv) RCW 46.61.522(1)(b) or an equivalent local or out-of-state statute or ordinance, or (v) RCW 46.61.522(1) (a) or (c) if the conviction is the result of a charge that was originally filed as a violation of RCW 46.61.522(1)(b) committed while under the influence of intoxicating liquor or any drug, or (vi) who has had or will have his or her license suspended, revoked, or denied under RCW 46.20.3101, or who is otherwise permitted under subsection (8) of this section, may submit to DOL an application for an IID license.

Section 3(1)(c)(iii) adds RCW's 10.05.140, 46.61.500(3), and 46.61.5249(4) under the requirements to allow for the satisfaction of periods that can apply on a day-for-day IID restriction.

Section 4(2) amends RCW 46.20.740, relinquishing the gross misdemeanor for a person who has a notation on their driver's license stating the restriction to operate a motor vehicle without an IID when that person has been released of this notation by the courts prior to driving.

Section 4(3) states any sentence imposed for a violation of subsection (2) of this section shall be served consecutively with any sentence imposed under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

Sections 5(1), 5(2), and 5(2)(c)(ii) amend the provision of RCW 46.20.308, removing THC concentration from the breath test purpose.

Section 5(4) is added to clarify that nothing in this section prevents law enforcement officers from obtaining a person's blood for testing of alcohol, marijuana, or any drug when the officer obtains a search warrant, valid waiver or the warrant requirement, under exigent circumstances, under any other authority of law, or has reasonable grounds to believe the person is in physical control or driving a vehicle.

Section 5(5)(b) is amended, removing the waiver of a DOL hearing if the person receives an IID license. Also requiring the arresting officer or other law enforcement officer to serve notice to the person arrested for the DUI offense on behalf of DOL their right to a hearing.

Section 5(7) is amended, making technical corrections to add that a person who is found to be in actual physical control (APC) of a motor vehicle may petition the hearing officer and will have the burden to prove the affirmative defense by a preponderance of evidence even if the tests that were administered were or were not under applicable requirements to administer the test.

Section 6(1) amends RCW 46.20.750, providing additional circumstances when a person is guilty of a gross misdemeanor for trying to circumvent an IID.

Section 6(1)(a) amends RCW 46.20.750 to state if the restricted driver tampers with the IID by modifying, detaching, disconnecting, or disabling to allow the restricted driver to operate the vehicle; 6(1)(b) uses or requests another person to use a filter or other device to circumvent the IID to start the vehicle to allow the restricted driver to operate the vehicle; 6(1)(c) has, directs, authorizes, or requests another person to tamper with the IID by modifying detaching, disconnecting, or disabling to allow the restricted driver to operate the vehicle; or 6(1)(d) Has, allows, directs, authorizes, or requests another person to blow or otherwise exhale into the IID in order to circumvent the IID to allow the restricted driver to operate the vehicle.

Section 6(3) states any sentence imposed for a violation of subsection (2) of this section shall be served consecutively with any sentence imposed under RCW 46.20.750, 46.61.502, 46.61.504, or 46.61.5055, 46.61.520(1)(a), or 46.61.522(1)(b).

Section 7 amends RCW 46.25.120.

Section 7(1) removes blood tests from the provisions of RCW 46.61.506.

Section 7(2) clarifies when a test may be administered to a commercial motor vehicle driver, replacing "probable cause" with "reasonable grounds".

Section 7(4) is added to allow law enforcement officers the authority to obtain a blood test pursuant to a search warrant, a valid waiver of the warrant requirement, an exigent circumstance, or under any other authority of law and the officer believes the driver was driving a commercial motor vehicle under the influence of alcohol, marijuana, or any drug.

Section 8 is a new section added to chapter 46.61. This new section defines the regulations regarding the open container law for marijuana. Regulating where marijuana can be stored in a moving vehicle, and what the legal regulations are for an open container of marijuana.

Section 9(3) amends RCW 46.61.5055 by lowering the number of prior offenses for the non-felony conviction of either DUI or APC from three (3) or more prior offenses to two (2) offenses within seven (7) years.

Section 9(4)(a) amends RCW 46.61.5055 by lowering the number of prior offenses that result in a felony conviction of either DUI or APC from four (4) or more prior offenses within 10 years, to three (3) or more prior offenses within 10 years.

Section 9(11)(a)(ii) amends RCW 46.61.5055 clarifying that under the probation of the driving privilege includes a condition that driving a motor vehicle within the state without proof of Insurance is prohibited and 9(11)(a)(v) adds to the probation conditions that driving a motor vehicle in this state without a functioning ignition interlock device as required by the DOL under RCW 46.20.720(3) is prohibited.

Section 9(14) amends RCW 46.61.5055 by adding additional offenses to the definition of “prior offenses”.

Section 10(2)(a) adds RCW 46.61.503, permanently keeping records on file with DOL the drivers who are under the age of 21 who have penalties for consuming alcohol or marijuana.

Section 11(3)(a)(iii) is added to RCW 43.43.395 requiring global positioning coordinates to the IID compliance standards.

Section 11(3)(b) requires all IID’s to meet the current international organization standardization in order to be a certified IID device.

Section 12(2) amends RCW 46.52.130 allowing for the court to provide a copy of the persons driving record abstract to the individual named in the abstract or that named individual’s attorney.

Section 13(1)(d) amends RCW 9.94A.589 (Consecutive or concurrent sentences) by adding that all sentences imposed under RCW’s 46.61.502(6) (Driving under the influence), 46.61.504(6) (Physical control of vehicle under the influence), or 46.61.5055(4) (Alcohol and drug violators – Penalty schedule) shall be served consecutively to any sentences imposed under RCW 46.20.740 (Notation on driving record – Verification of interlock – Penalty) and 46.20.750 (Circumventing ignition interlock – Penalty).

Section 14(3) amends RCW 46.61.503 (Driver under twenty-one consuming alcohol or marijuana – Penalties) to include anyone under 21 years of age who has consumed alcohol or marijuana will not be guilty in WA of being in physical control or driving a motor vehicle under the influence if the person has safely moved the vehicle off the roadway prior to being pursued by a law enforcement officer.

Section 15 amends RCW 46.20.755 to include that if the IID installation is a condition of release or a part of the person’s judgment and sentence, the supervising authority is obligated to verify the IID installation. Once the IID is installed, the supervising authority will have no further obligations in regards to the IID.

Section 16 amends RCW 36.28A.320 to clarify the fiscal responsibility or the 24/7 sobriety account with the WA

Treasurer.

Section 17 amends RCW 36.28A.330 to make technical corrections on definitions that apply throughout RCW 36.28A.300 through 36.28A.390 for clarification.

Section 18 amends RCW 36.28A.370 to clarify the fiscal collection requirements of the 24/7 sobriety account.

Section 19 amends RCW 36.28A.390.

Section 19(1) states a general authority WA peace officer, as defined in RCW 10.93.020, who has probable cause participant of the 24/7 sobriety program is in violation of the program to immediately take that participant into custody and require him or her to be held until he or she appears before a judge.

Section 19(2) standardizes the compliance regulations into the 24/7 sobriety program also giving authority for the court and WA peace officer to remove any participant that do not comply out of this program.

Section 20 amends RCW 10.21.015 to include the 24/7 sobriety program as part of the pretrial release or release compliance obligations.

Section 21(6)(a) amends RCW 46.61.502 by lowering the number of prior offenses that result in a felony conviction of either DUI or APC from four (4) or more prior offenses within 10 years, to three (3) or more prior offenses within 10 years as defined in RCW 46.61.5055.

Section 22(2) amends RCW 46.61.504 (Physical control of vehicle under the influence), further clarifying that a person who is entitled to use a drug under WA law under the influence that has moved their vehicle safely off the roadway prior to being pursued by a law enforcement officer will not have their license suspended, revoked, or be denied the privilege to drive.

Section 23 amends RCW 9.94A.515 by changing the adult sentencing grid for DUI and APC from Seriousness Level five (5) to Seriousness Level four (4).

Section 24(1)(a) amends RCW 46.61.5054 by increasing the assessed fee from \$200 to \$250 for a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating 46.61.502 (Driving under the influence), 46.61.504 (Physical control of vehicle under the influence), 46.61.520 (Vehicular homicide – Penalty), or 46.61.522 (Vehicular assault – Penalty).

Section 24(4) amends RCW 46.61.5054 adding fifty dollars of the fee assessed under subsection (1) of this section must be distributed to the highway safety fund to be used solely for funding Washington traffic safety commission grants to organizations within counties targeted for programs to reduce driving under the influence of alcohol or drugs.

Section 25 is a new section added to RCW 18.130 stating it is not professional misconduct for a medical professional as defined in RCW or technician trained to withdraw blood, to collect a blood sample without a person's consent when directed by a law enforcement officer to do so for the purpose of a blood test under the provisions of a search warrant or exigent circumstances.

Section 26 is a new section added to RCW 43.70 provides that the Secretary of the Department of Health, in consultation with other health profession boards and commissions, Washington State Criminal Justice Training

Commission, and Washington State Patrol, must establish rules, administrative procedures, and requirements for the licensing, certification, and registration of forensic phlebotomists.

Section 27 is a new section added to RCW 46.04 providing the definition of a forensic phlebotomist.

Section 28(5) amends RCW 46.61.506 including “or pursuant to a search warrant, exigent circumstances, or a waiver of the warrant requirement,” to when a blood test is administered under the provisions of RCW 46.20.308.

Section 29 amends RCW 46.61.508 replacing qualified technician for withdrawing blood with the specific medical professional classifications. In addition, includes that refusal to withdraw blood shall not constitute a refusal to obey a law enforcement officer, obstruction of a law enforcement investigation, or otherwise subject said person to criminal or civil liability, however does not relieve the liability for the use of improper procedures or failing to exercise the required standard of care.

Effective date is assumed 90 days following adjournment of the 2015 legislative session.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

None. Our impacts are general fund state.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Fiscal impact is estimated at over \$50,000 cost per Fiscal Year (FY).

This bill changes the adult sentencing grid for DUI and APC from Seriousness Level five (5) to Seriousness Level four (4). In addition, the proposed legislation modifies impaired driving provisions. As a result, sentences for certain offenses will now run consecutive to sentences for certain other offenses; offenders convicted of DUI or APC may face longer sentences, or prison sentences instead of jail sentences, due to expanded list of prior offenses.

The specific sections with direct impact to DOC are:

Section 9(3) amends RCW 46.61.5055 by lowering the number of prior offenses for the non-felony conviction of either DUI or APC from three (3) or more prior offenses to two (2) offenses within seven (7) years.

Section 9(4)(a) amends RCW 46.61.5055 by lowering the number of prior offenses that result in a felony conviction of either DUI or APC from four (4) or more prior offenses within 10 years, to three (3) or more prior offenses within 10 years. As a result, an offense that was previously considered a misdemeanor will be sentenced as a felony, resulting in impacts to the prison population and the community supervision population, as RCW 9.94A.501(4)(h) requires supervision for all felony DUI and APC convictions.

Section 9(14) amends RCW 46.61.5055 by adding additional offenses to the definition of “prior offenses”.

PRISON CASELOAD IMPACT

The assumptions used to calculate the prison Average Daily Population (ADP) change were provided by the Caseload Forecast Council (CFC) fiscal note for this bill. CFC estimates that prison bed impacts begin at 42 ADP in Fiscal Year (FY) 2016 and reaches a maximum ADP change of 225 in FY2023.

The following are the estimated annual impacts (rounded):

FY2016: 42 ADP X \$12,387 annual average unit cost (AUC) = \$520,254 and 3.5 Full Time Equivalent (FTE);
FY2017: 145 ADP X \$12,387 AUC = \$1,796,115 and 12.1 FTE's;
FY2018: 198 ADP X \$12,387 AUC = \$2,452,626 and 16.5 FTE's;
FY2019: 218 ADP X \$12,387 AUC = \$2,700,366 and 18.2 FTE's;
FY2020: 223 ADP X \$12,387 AUC = \$2,762,301; and 18.6 FTE's; and
FY2021: 224 ADP X \$12,387 AUC = \$2,774,688; and 18.7 FTE's.

PRISON CHEMICAL DEPENDENCY TREATMENT IMPACT

The assumptions used to calculate Chemical Dependency (CD) Treatment (Tx) in prison uses FY2014 data of actual expenditures per offender participant. The FY2014 rate is \$13.78 per day per participant. DOC assumes 100% of the offenders sent to prison will need CD Tx given their offense. The average length of Tx is nine (9) months. To estimate the number of offenders who will participate from the ADP provided by CFC, DOC calculated the average length of stay in prison for this crime type of 19.9 months and divided this number into the number of months in a year ($12/19.9=60.3\%$). This percentage is applied to the yearly CFC forecasted ADP to arrive at the number of offenders that we assume will be treated.

The following are the estimated annual impacts (rounded):

FY2016: 42 ADP X 60.3% = 25 offenders (rounded) X \$13.78 per day X 270 days of Tx = \$93,015;
FY2017: 145 ADP X 60.3% = 87 offenders (rounded) X \$13.78 per day X 270 days of Tx = \$323,692;
FY2018: 198 ADP X 60.3% = 119 offenders (rounded) X \$13.78 per day X 270 days of Tx = \$442,751;
FY2019: 218 ADP X 60.3% = 131 offenders (rounded) X \$13.78 per day X 270 days of Tx = \$487,399;
FY2020: 223 ADP X 60.3% = 134 offenders (rounded) X \$13.78 per day X 270 days of Tx = \$498,560; and
FY2021: 224 ADP X 60.3% = 135 offenders (rounded) X \$13.78 per day X 270 days of Tx = \$502,281.

COMMUNITY CASELOAD IMPACT

The assumptions used to calculate the community supervision ADP change were provided by the CFC for this bill. CFC estimates that community supervision ADP begin at 5 ADP in FY2016 and reaches a maximum ADP change of 265 in FY2022.

The following are the estimated annual impacts (rounded):

FY2016: 5 ADP, at a cost of \$9,312 and 0.1 FTE;
FY2017: 85 ADP, at a cost of \$357,357 and 4.2 FTE's;
FY2018: 188 ADP, at a cost of \$812,830 and 10.1 FTE's;
FY2019: 238 ADP, at a cost of \$986,813 and 12.6 FTE's;
FY2020: 259 ADP, at a cost of \$1,053,917 and 13.5 FTE's; and
FY2021: 264 ADP, at a cost of \$1,066,172 and 13.7 FTE's.

COMMUNITY SUPERVISION CHEMICAL DEPENDENCY TREATMENT IMPACT

The assumptions used to calculate CD Tx in the community include the FY2014 actual expenditures divided by the unduplicated offender participants in FY2014 providing the average annual Cost per Offender (CPO). DOC assumes 100% of the offenders will require follow-up CD Tx in the community after release from prison given their offense.

The following are the estimated annual impacts (rounded):

FY2016: 5 ADP X \$1,574.18 CPO = \$7,871;
FY2017: 85 ADP X \$1,574.18 CPO = \$133,805;
FY2018: 188 ADP X \$1,574.18 CPO = \$295,946;
FY2019: 238 ADP X \$1,574.18 CPO = \$374,655;
FY2020: 259 ADP X \$1,574.18 CPO = \$407,713; and
FY2021: 264 ADP X \$1,574.18 CPO = \$415,584.

AGENCYWIDE TOTAL IMPACT

Total fiscal impact of this proposed legislation prison and community impacts combined follows (rounded):

Fiscal impact by FY (prison and community combined) follows:

FY2016: \$630,452 and 3.6 FTE's;
FY2017: \$2,610,969 and 16.3 FTE's;
FY2018: \$4,004,153 and 26.6 FTE's;
FY2019: \$4,549,233 and 30.7 FTE's;
FY2020: \$4,722,491 and 32.1 FTE's; and
FY2021: \$4,758,724 and 32.4 FTE's.

Assumptions:

1. We assume impact based on the CFC estimated ADP impacts to DOC prison facilities/institutions and/or community supervision caseload.
2. CFC impacts are based on Calendar Year 2014 data from Administrative Office of the Courts.
3. CFC assumes any impact resulting from this bill could be on both jail beds and prison beds.
4. We assume an AUC of \$12,387 per offender per FY to facilitate cost discussion during legislative session for bills. This cost estimate includes prison custody staffing on living/housing units, prison direct variable costs, health services direct variable costs, and prison non-custody essential staffing on living/housing units. It does not include staffing or dollars necessary for staffing needed at the facility outside of the living/housing units. AUC is calculated by DOC and reviewed and approved by Office of Financial Management, Senate, House and Washington State Institute of Public Policy staffing each legislative session. DOC will need to true up impact to DOC so that full impact can be determined, i.e. opening/closing units or prisons once we better understand impacts down to the custody level, and facility.
5. We assume additional impacts will result other than AUC, and resources will be necessary, i.e. offender programming and administrative operations.
6. DOC cost estimate for community supervision is calculated using the Community Supervision workload model.

7. For purposes of this fiscal note, the risk distribution is assumed to follow the standard caseload risk distribution assumptions.

8. CFC provided DOC with the current sentences by gender for this sentencing type. Males represent 83.3% of total, and females 16.7%.

9. DOC assumes 100% of the offenders sent to prison for this crime type are in need of CD Tx and that the average length of Tx is nine (9) months while in prison.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

	FY 2016	FY 2017	2015-17	2017-19	2019-21
FTE Staff Years	3.6	16.3	10.0	28.7	32.3
A-Salaries and Wages	243,207	1,021,097	1,264,304	3,417,527	3,815,804
B-Employee Benefits	100,271	417,821	518,092	1,390,724	1,551,180
C-Professional Service Contracts					
E-Goods and Other Services	107,206	418,953	526,159	1,250,808	1,319,597
G-Travel	297	10,127	10,424	51,621	63,623
J-Capital Outlays	135	4,474	4,609	8,455	1,473
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services	179,336	738,497	917,833	2,434,251	2,729,538
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
Total:	\$630,452	\$2,610,969	\$3,241,421	\$8,553,386	\$9,481,215

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2016	FY 2017	2015-17	2017-19	2019-21
Community Supervision Staffing	48,164	0.1	4.2	2.2	11.3	13.6
Correctional Operations Staffing	68,112	3.5	12.1	7.8	17.4	18.7
Total FTE's	116,276	3.6	16.3	10.0	28.7	32.3

III. C - Expenditures By Program (optional)

Program	FY 2016	FY 2017	2015-17	2017-19	2019-21
Correctional Operations (200)	520,254	1,796,115	2,316,369	5,152,992	5,536,989
Community Supervision (300)	9,312	357,357	366,669	1,799,643	2,120,089
Offender Programming (700)	100,886	457,497	558,383	1,600,751	1,824,137
Total \$	630,452	2,610,969	3,241,421	8,553,386	9,481,215

Part IV: Capital Budget Impact

NONE

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1276 E 2S HB AMS LAW S2775.2	Title: Impaired driving
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Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

- ☒ Cities: Indeterminate impacts for prosecutors and court-appointed defense attorneys.
- ☒ Counties: Savings for jails; indeterminate impacts for prosecutors and court-appointed defense attorneys, primarily at county district courts.
- ☐ Special Districts:
- ☐ Specific jurisdictions only:
- ☐ Variance occurs due to:

Part II: Estimates

- ☐ No fiscal impacts.
- ☐ Expenditures represent one-time costs:
- ☐ Legislation provides local option:
- ☒ Key variables cannot be estimated with certainty at this time: Increase in number of trials, and increased length for arraignments and sentencing hearings.

Estimated revenue impacts to:

None

Estimated expenditure impacts to:

Jurisdiction	FY 2016	FY 2017	2015-17	2017-19	2019-21
County	(353,320)	(867,240)	(1,220,560)	(2,023,560)	(2,055,680)
TOTAL \$	(353,320)	(867,240)	(1,220,560)	(2,023,560)	(2,055,680)
GRAND TOTAL \$					(5,299,800)

Part III: Preparation and Approval

Fiscal Note Analyst: Alice Zillah	Phone: 360-725-5035	Date: 04/08/2015
Leg. Committee Contact:	Phone:	Date: 04/01/2015
Agency Approval: Steve Salmi	Phone: (360) 725 5034	Date: 04/08/2015
OFM Review: Cheri Keller	Phone: 360-902-0563	Date: 04/08/2015

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

CHANGES BETWEEN THIS AND PREVIOUS VERSION OF THE BILL:

The changes in the amended engrossed second substitute result in savings for county jails, in addition to the indeterminate expenditure impacts discussed below.

SUMMARY OF THE BILL:

Section 4 amends RCW 46.20.740. Any sentence imposed for driving without an interlock device shall be serviced consecutively with sentences imposed under RCWs 46.20.750, 46.61.502, 46.61.504, or 46.61.5055.

Section 6 amends RCW 46.20.750 to modify the definition of an existing gross misdemeanor, circumventing an ignition interlock device. Any sentence imposed for tampering with an interlock device shall be served consecutively with any sentence imposed under RCW 46.20.740, 46.61.502, 46.61.504, 46.61.5055, 46.61.520(1)(a), or 46.61.522(1)(b).

Section 8 adds a new section to RCW 46.61. It is a traffic infraction to keep an open receptacle containing marijuana unless the container is kept in the trunk of the vehicle or in some other area of the vehicle not normally occupied; (b) to smoke or ingest marijuana in a motor vehicle when the vehicle is upon the public highway; (c) to incorrectly label the original container of marijuana and to then violate (a) of this subsection; or (d) to place marijuana in a container specifically labeled by the manufacturer of the container as containing a non-marijuana substance.

Section 9 amends RCW 46.61.5055. It modifies the provisions for the number of offenses an individual can have within seven years and ten years, with various blood alcohol levels, and be subject to the penalties established.

Section 11 amends RCW 43.43.395. An interlock device must be able to take photo identification of the user giving a breath sample, and providing the global positioning coordinates (GPS) at the time of each test.

Section 13 establishes that the sentence enhancement for vehicular homicide, attempting to elude a police vehicle, or having a minor in the vehicle shall be served consecutively to any sentences imposed under RCW 46.20.740 and 46.20.750.

Section 17 amends RCW 36.28A.330 to modify several definitions. A 24/7 sobriety program means a program in which a participant submits to testing of their blood, breath, urine, or other bodily substance to determine the presence of alcohol or any drug. Testing must take place at a location designated by the participating agency, or, with the concurrence of the Washington Association of Sheriffs and Police Chiefs (WASPC), by an alternate method.

Section 19 amends RCW 36.28A.390 to modify the penalties for participants who violate the terms of participation in the 24/7 sobriety program.

Section 21 amends RCW 46.61.502 to establish that it is a class C felony on an offender's fourth offense within ten years for driving under the influence (DUI).

Section 26 creates a credentialing program for a forensic phlebotomist.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

The legislation would result in savings for counties due to a reduction in sentences served in county jails. It would also have an indeterminate cost impact on local government as a result of changes to provisions impacting arraignments, sentencing hearings, and sentence enhancements.

According to the Administrative Office of the Courts (AOC), the changes in the bill would impact superior, district, and municipal courts, resulting in longer hearings, increased appeals, and increased trials. The bulk of the impacts would be experienced by county district courts, which would account for approximately 78 percent of the increased costs.

The same impacts would have cost implications for city and county prosecutors and court-appointed defense attorneys. According to the Local Government Fiscal Note Program (LGFN) prosecution and defense costs tables, the average cost for a DUI case ranges from

between approximately \$800 and \$2,500, depending on whether the case goes to trial. Only about 11 percent of cases go to trial. Indigent defense is required in about two-thirds of cases.

According to the Caseload Forecast Council, the bill will result in savings for county jails due to some sentences shifting from jail to prison. The average daily jail bed cost is \$88, according to the LGFN 2013 survey of city, county, and inter-jurisdictional jails. The savings are listed below.

FY 2016 -- 11 fewer jail bed days (-\$353,320)

FY 2017 -- 27 fewer jail bed days (-\$867,240)

FY 2018 -- 31 fewer jail bed days (-\$995,720)

FY 2019 and subsequent years -- 32 fewer jail bed days (-\$1,027,840)

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

The legislation would have no revenue impact for local government.

SOURCES:

Administrative Office of the Courts

Caseload Forecast Council

Washington Association of Sheriffs and Police Chiefs

Local Government Fiscal Note Program prosecution and defense costs tables

Local Government Fiscal Note Program jail survey