

FILED
AUG 01 2012
KCDC - East Division
Bellevue

**King County District Court
State of Washington
East Division - Bellevue Courthouse**

City of Bellevue

Plaintiff,

vs.

Derek Linke

Defendant.

No. 220154856

**Statement of Defendant on Plea of
Guilty (Gross Misdemeanor)**

1. My true name is Derek Linke.
2. My age is 33.
3. I went through the 19th grade.
4. **I Have Been Informed and Fully Understand that:**
 - (a) I have the right to representation by a lawyer and that if I cannot afford to pay for a lawyer, one will be provided at no expense to me.
 - (b) I am charged with:

Count	Crime	RCW or Ordinance (with subsection)
1.	DRIVING UNDER THE INFLUENCE	RCW 46.61.502
2.	(No - Test)	
3.		
4.		

[] In count(s) _____, the defendant committed the offense against another family or household member as defined in RCW 10.99.020.

The elements are:

[X] as set out in the charging document.

[] as follows: _____

5. ***I Understand That I Have the Following Important Rights, and I Give Them All Up by Pleading Guilty:***

- (a) The right to a speedy and public trial by an impartial jury in the county where the crime is alleged to have been committed;
- (b) The right to remain silent before and during trial, and the right to refuse to testify against myself;
- (c) The right at trial to hear and question the witnesses who testify against me;
- (d) The right at trial to testify and to have witnesses testify for me. These witnesses can be made to appear at no expense to me;
- (e) I am presumed innocent unless the charge is proven beyond a reasonable doubt or I enter a plea of guilty;
- (f) The right to appeal a finding of guilt after a trial.

6. ***In Considering the Consequences of my Guilty Plea, I Understand That:***

- (a) The crime with which I am charged carries a maximum sentence of 364 days in jail and a \$ 5000 fine.
- (b) The prosecuting authority will make the following recommendation to the judge:
364 / 363 ; \$ 5000 / 4650 imp ; Mch Eval & comply w / TX ; DUE Victim's Panel ;
No further criminal law violations ; Don't drive unless validly licensed / insured ;
No Refusals of reasonable request of breath / blood ; No Alcohol - Related infractions ;
Don't drive after consuming alcohol
- (c) The judge does not have to follow anyone's recommendation as to sentence. The judge can give me any sentence up to the maximum authorized by law no matter what the prosecuting authority or anyone else recommends.
- (d) The judge may place me on probation for up to five (5) years if I am sentenced for a domestic violence offense or under RCW 46.61.5055, or up to two (2) years for all other offenses and impose conditions of probation. If the court orders me to appear at a hearing regarding my compliance with probation and I fail to attend the hearing, the term of probation will be tolled until I appear before the court on the record.
- (e) The judge may require me to pay costs, fees and assessments authorized by law. The judge may also order me to make restitution to any victims who lost money or property as a result of crimes I committed. The maximum amount of restitution is double the amount of the loss of all victims or double the amount of my gain.
- (f) If I am not a citizen of the United States, a plea of guilty to an offense punishable as a crime under state law may be grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

Notification Relating to Specific Crimes: If any of the Following Paragraphs Apply, the Box Should Be Checked and the Paragraph Initialed by the Defendant.

- [X] (g) The crime of **DRIVING UNDER THE INFLUENCE** has a mandatory minimum sentence of 1 days in jail and \$ ~~7500~~ fine plus costs and assessments. The law does not allow any reduction of this sentence. \$350+

- ☐ (h) If this crime involves a sexual offense, prostitution, or a drug offense associated with hypodermic needles, I will be required to undergo testing for the human immunodeficiency (HIV/AIDS) virus.
- ☒ (i) This plea of guilty will result in suspension or revocation of my driving license or privilege by the Department of Licensing. ~~for a period of 90 days~~. This period may not include suspension or revocation based on other matters.
- ☐ (j) I may not possess, own, or have under my control any firearm, and under federal law any firearm or ammunition, unless my right to do so is restored by the court of record that ordered the prohibition on possession of a firearm or the superior court in Washington State where I live, and by a federal court if required. I must immediately surrender any concealed pistol license.
- ☐ (k) If this crime involves a violation of Title 77 RCW, the Department of Fish and Wildlife may, and in some cases shall, suspend or revoke my privileges.
- ☐ (l) If this crime involves a drug offense, my eligibility for state and federal education benefits will be affected. 20 U.S.C. § 1091(r).
- ☒ (m) This plea of guilty is considered a conviction under RCW 46.25.010 and I will be disqualified from driving a commercial motor vehicle. RCW 46.25.090. I am required to notify the Department of Licensing and my employer of this guilty plea within 30 days after the judge signs this document. RCW 46.25.030.
- ☒ (n) If this case involves driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs, I have been informed and understand that I will be subject to:
☒ the penalties described in the "DUI" Attachment.
OR
☐ these penalties: The mandatory minimum sentence of _____ days in jail, _____ days of electronic home monitoring and \$ _____ monetary penalty. The court shall require me to apply for an ignition interlock driver's license and to drive only with a functioning ignition interlock device or, if the court waives those requirements, to submit to alcohol monitoring, for ____ year(s). I may also be required to drive only motor vehicles equipped with an ignition interlock device as imposed by the Department of Licensing and/or the court. My driving privilege will be suspended or revoked by the Department of Licensing for the period of time stated in paragraph 6(i). In lieu of the minimum jail term, the judge may order me to serve _____ days in electronic home monitoring. If I do not have a dwelling, telephone service, or any other necessity to operate electronic home monitoring, if I live out of state, or if the judge determines I would violate the terms of electronic home monitoring, the judge may waive electronic home monitoring and impose an alternative sentence which may include additional jail time, work crew or work camp.
- ☐ (o) If this case involves reckless driving and the original charge was driving while under the influence of alcohol and/or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs and I have one or more prior offenses, as defined in RCW 46.61.5055(14), within 7 years; or if the original charge was vehicular homicide (RCW 46.61.520) or vehicular assault (RCW 46.61.522) committed while under the

influence of intoxicating liquor or any drug, I have been informed and understand that I will be subject to the penalties for Reckless Driving described in the "DUI" Attachment.

- ☐ (p) If this case involves negligent driving in the first degree, and I have one or more prior offenses, as defined in RCW 46.61.5055(14), within 7 years, I have been informed and understand that I will be subject to the penalties for Negligent Driving - 1st Degree described in the "DUI" Attachment.
- ☐ (q) If this crime involves sexual misconduct with a minor in the second degree, communication with a minor for immoral purposes, or attempt, solicitation or conspiracy to commit a sex offense, or a kidnapping offense involving a minor, as defined in RCW 9A.44.128, I will be required to register with the county sheriff as described in the "Offender Registration" Attachment.
- ☐ (r) Pursuant to RCW 43.43.754, if this crime is an offense which requires sex or kidnapping offender registration, or is one of the following offenses: assault in the fourth degree with sexual motivation, communication with a minor for immoral purposes, custodial sexual misconduct in the second degree, failure to register, harassment, patronizing a prostitute, sexual misconduct with a minor in the second degree, stalking, or violation of a sexual assault protection order granted under chapter 7.90 RCW, I will be required to have a biological sample collected for purposes of DNA identification analysis, unless it is established that the Washington State Patrol crime laboratory already has a sample from me for a qualifying offense.
- ☒ (s) **Travel Restrictions:** I will be required to contact my probation officer, the probation director or designee, or the court if there is no probation department, to request permission to travel or transfer to another state if I am placed on probation for one (1) year or more and this crime involves: (i) an offense in which a person has incurred direct or threatened physical or psychological harm; (ii) an offense that involves the use or possession of a firearm; (iii) a second or subsequent misdemeanor offense of driving while impaired by drugs or alcohol; (iv) a sexual offense that requires the offender to register as a sex offender in the sending state. I understand that I will be required to pay an application fee with my travel or transfer request.

7. I plead guilty to the crime(s) of **DRIVING UNDER THE INFLUENCE** as charged in the complaint(s) or citation(s) and notice. I have received a copy of that complaint or citation and notice.
8. I make this plea freely and voluntarily.
9. No one has threatened harm of any kind to me or to any other person to cause me to make this plea.
10. No person has made promises of any kind to cause me to enter this plea except as set forth in this statement.
11. **Statement of Facts:** The judge has asked me to state in my own words what I did that makes me guilty of the crime(s). This is my statement (state the specific facts that support each element of the crime(s)):

In Bellevue, on 1/5/12, I drove a motor vehicle while under the influence of alcohol ~~and/or drugs, and/or with a BAC level of~~ _____.

[] Instead of making a statement, I agree that the court may review the police reports and/or a statement of probable cause supplied by the prosecution to establish a factual basis for the plea.

12. My lawyer has explained to me, and we have fully discussed, all of the above paragraphs. I understand them all. I have been given a copy of this "Statement of Defendant on Plea of Guilty." I have no further questions to ask the judge.

Date: 8-1-12

[Signature]
Defendant

I have read and discussed this statement with the defendant and believe that the defendant is competent and fully understands the statement.

[Signature] 9298
Prosecuting Authority

RA 14
Defendant's Lawyer

Susan Irwin
Type or Print Name WSBA No.

Robert AULT 31749
Type or Print Name WSBA No.

The foregoing statement was signed by the defendant in open court in the presence of the defendant's lawyer and the undersigned judge. The defendant asserted that (check the appropriate box):

- [] (a) The defendant had previously read; or
[x] (b) The defendant's lawyer had previously read to him or her; or
[] (c) An interpreter had previously read to the defendant the entire statement above and that the defendant understood it in full.

Interpreter Declaration: I am a certified or registered interpreter, or have been found otherwise qualified by the court to interpret in the _____ language, which the defendant understands. I have translated this document for the defendant from English into that language. I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____.

Interpreter

Print Name

I find the defendant's plea of guilty to be knowingly, intelligently and voluntarily made. Defendant understands the charges and the consequences of the plea. There is a factual basis for the plea. The defendant is guilty as charged.

Dated: 8-1-12

[Signature]
Judge

Case Name: _____ **Cause No.:** _____

"DUI" Attachment: Driving under the influence of alcohol and/or actual physical control of a vehicle while under the influence of alcohol and/or drugs. (If required, attach to Statement of Defendant on Plea of Guilty.)

Court – DUI Sentencing Grid (RCW 46.61.5055 as amended through September 1, 2011)

BAC Result < .15 or No Test Result	No Prior Offense ¹	One Prior Offense ¹	Two or Three Prior Offenses ¹
Mandatory Minimum/Maximum Jail Time ²	24 Consecutive Hours/364 Days	30/364 Days	90/364 Days
EHM ²	15 Days in Lieu of Jail	60 Days Mandatory	120 Days Mandatory
Mandatory Minimum/Maximum Fine ³	\$940.50/\$5,000	\$1,195.50/\$5,000	\$2,045.50/\$5,000
Driver's License	90-Day Suspension	2-Year Revocation	3-Year Revocation
II Driver's License* II Device	Required	Required	Required
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered

* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

BAC Result ≥ .15 or Test Refusal	No Prior Offense ¹	One Prior Offense ¹	Two or Three Prior Offenses ¹
Mandatory Minimum/Maximum Jail Time ²	2 Consecutive/364 Days	45/364 Days	120/364 Days
EHM ²	30 Days in Lieu of Jail	90 Days Mandatory	150 Days Mandatory
Mandatory Minimum/Maximum Fine ³	\$1,195.50/\$5,000	\$1,620.50/\$5,000	\$2,895.50/\$5,000
Driver's License	1-Year Revocation 2 Years if BAC refused	900-Days Revocation 3 Years if BAC refused	4-Year Revocation
II Driver's License* II Device	Required	Required	Required
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered

* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

Court Ordered Ignition Interlock Driver's License and Device Requirements, RCW 46.20.720(2), 46.61.5055(5), 46.20.385, effective January 1, 2009*			
Requirement	No Previous Restriction+	Previous 1-Year Restriction+	Previous 5-Year Restriction+
II Driver's License II Device	1 Year	5 Years	10 Years

+ Period of time for ignition interlock restriction is pursuant to RCW 46.61.5055(5)(g).

* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

Department of Licensing Required Ignition Interlock Device Requirements, RCW 46.20.720(3)(4) January 1, 2011*			
Requirement	No Previous Restriction no less than:	Previous 1-Year Restriction no less than:	Previous 5-Year Restriction no less than:
II Device	1 Year	5 Years	10 Years
Restriction remains in effect, until IID vendor certifies to DOL that none of the following incidents occurred within four months before date of release: an attempt to start the vehicle with a BAC of .04 or more; failure to take or pass any required retest; failure of the person to appear at the IID vendor when required.			

* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

Case Name: _____ **Cause No.:** _____

1Prior Offenses: Count all prior offenses where the arrest date of the prior offense occurred within seven years before or after the arrest date on the current offense. RCW 46.61.5055(14)(b); "Prior offense" is defined by RCW 46.61.5055(14)(a) to include—

- **Original Convictions for the following:** (1) DUI (RCW 46.61.502) (or an equivalent local ordinance); (2) Phys. Cont. (RCW 46.61.504) (or an equivalent local ordinance); (3) Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) if either committed while under the influence; (4) Equiv. out-of-state statute for any of the above offenses
- **Deferred Prosecution Granted for the following:** (1) DUI (RCW 46.61.502) (or equivalent local ordinance); (2) Phys. Cont. (RCW 46.61.504) (or equiv. local ordinance); (3) Neg. Driving 1st (RCW 46.61.5249, or equiv. local ord.), *if the person was originally charged with DUI or Phys. Cont. (or an equiv. local ord.), or Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522).* If a deferred prosecution is revoked based on a subsequent conviction for an offense listed in RCW 46.61.5055(14)(a), the subsequent conviction shall not be treated as a prior offense of the revoked deferred prosecution for the purposes of sentencing.
- **Amended Convictions for the following:** *If originally charged with DUI or Phys. Cont. or an equivalent local ordinance, or Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522); but convicted of (1) Neg. Driving 1st (RCW 46.61.5249), (2) Reckless Driving (RCW 46.61.500), (3) Reckless Endangerment (RCW 9A.36.050), (4) Equiv. out-of-state or local ordinance for the above offenses. If originally charged with Veh. Hom. (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug; but convicted of Veh. Hom. or Veh. Assault committed in a reckless manner or with the disregard for the safety of others.*

2Mandatory Jail and Electronic Home Monitoring (EHM): If there are prior offenses within seven years before or after the arrest date of the current offense, the mandatory jail shall be served by imprisonment for the minimum statutory term and may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. The mandatory statutory term may not be converted to EHM. *Bremerton v. Bradshaw*, 121 Wn.App. 410, 88 P.3d 438 (Div. Two 2004). Where there are no prior offenses within seven years, the court may grant EHM instead of mandatory minimum jail. If there are prior offenses, the mandatory EHM may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. RCW 46.61.5055(1)(a)(i), (2)(a)(i), (3)(a)(i).

Mandatory Conditions of Probation for any Suspended Jail Time: The individual is not to: (i) drive a motor vehicle without a valid license to drive and proof of financial responsibility (SR 22), (ii) drive while having an alcohol concentration of .08 or more within two hours after driving, (iii) refuse to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. Except for ignition interlock driver's license and device or alcohol monitoring requirements under RCW 46.61.5055(5), violation of any mandatory condition requires a minimum penalty of 30 days' confinement, which may not be suspended or deferred, and an additional 30-day license suspension. RCW 46.61.5055(11). Courts are required to report violations of mandatory conditions requiring confinement or license suspension to DOL. RCW 46.61.5055.

3Mandatory Monetary Penalty: PSEA 1, RCW 3.62.090(1); Alcohol Violators Fee, RCW 46.61.5054; Criminal Justice Funding (CJF) Penalty, RCW 46.64.055 (Note: RCW 3.62.090(1) and (2) apply to CJF penalty); Criminal Conviction Fee, RCW 3.62.085.

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

Jurisdiction: Court has five years jurisdiction.

Case Name: _____ Cause No.: _____
 Department of Licensing - DUI Administrative Sanctions and Reinstatement Provisions
 (As amended through September 1, 2011)

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

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

Ignition Interlock Driver's License, RCW 46.20.385 (effective January 1, 2009)
May apply for an Ignition Interlock Driver's License upon receiving RCW 46.20.308 notice or upon suspension or revocation. See "Court and Department of Licensing Ignition Interlock Requirements, page 4."

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

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

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

Case Name: _____ Cause No.: _____

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

Ignition Interlock Driver's License, RCW 46.20.380, 46.20.385	
Eligible to Apply	<ul style="list-style-type: none">• Conviction of violation of RCW 46.61.502, 46.61.504, or an equivalent local or out-of-state statute or ordinance, 46.61.520(1)(a), or 46.61.522(1)(b) involving alcohol• License suspended, revoked, or denied under RCW 46.20.3101• Proof of installed functioning ignition interlock device
Requirements	<ul style="list-style-type: none">• Proof of financial responsibility (SR 22)
Financial Obligations	<ul style="list-style-type: none">• \$100 mandatory fee to DOL• Costs to install, remove, and lease the ignition interlock device, and \$20 fee per month, unless waived
Duration	Extends through the remaining portion of any concurrent or consecutive suspension or revocation imposed as the result of administrative action and criminal conviction arising from the same incident
Operation with Other Requirements	The time period during which the person is licensed under RCW 46.20.385 shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720 and 46.61.5055

Court Ordered Ignition Interlock (II) Driver's License and Device: (A) If the court orders the person to refrain from consuming any alcohol and requires the person to apply for an II driver's license, and the person states he or she does not operate a motor vehicle, or the person is ineligible to obtain an II driver's license, then the court shall order the person to submit to alcohol monitoring for the period of mandatory license suspension or revocation, and to pay for the monitoring, RCW 46.61.5055(5). (B) The court may waive requirements to apply for an II driver's license upon written findings of fact when: (i) the person lives out-of-state and the devices are not reasonably available in the local area, (ii) the person does not operate a motor vehicle, (iii) the person is not eligible to receive the driver's license under RCW 46.20.385 because the person is not a resident of Washington, is a habitual traffic offender, has already applied for or is already in possession of an II driver's license, has never had a driver's license, has been certified under Ch. 74.20A RCW as noncompliant with a child support order, or is subject to any other condition or circumstance that makes the person ineligible to obtain an II driver's license. (C) II device is not required on vehicles owned, leased, or rented by a person's employer or on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of a person's employer as a requirement of employment during business hours upon proof to DOL of employment affidavit. The court sets the calibration level.

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

Passenger Under Age 16: The Court shall order the installation and use of an II device for not less than 60 days if an IID is not mandatory under RCW 46.20.720 or 46.61.5055(5) and for an additional 60 days if an IID is otherwise mandatory.

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

DOL Imposed Ignition Interlock (II) Device - RCW 46.20.720: For all offenses occurring June 10, 2004 or later, DOL shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning II device if the person is convicted of "an alcohol-related" violation of DUI or Physical Control. The DOL required II device is not required on vehicles owned, leased, or rented by a person's employer or on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of a person's employer as a requirement of employment during business hours upon proof to DOL of employment affidavit. DOL may waive requirement if the device is not reasonably available in the local area. DOL will give day-for-day credit as allowed by law.

Case Name: _____ Cause No.: _____

**Court – Reckless Driving/Negligent Driving – 1st Degree
Sentencing Grid**

(RCW 46.61.500, RCW 64.61.5249, RCW 46.20.720 as amended through
September 1, 2011)

Conviction	Qualifications
Reckless Driving (RCW 46.61.500(3)(a))	<ul style="list-style-type: none">• Original charge: Violation of DUI (RCW 46.61.502) or Phys. Control (RCW 46.61.504) or equivalent local ordinance.• One or More Prior Offenses within 7 years as defined above.
Reckless Driving (RCW 46.61.500(3)(b))	<ul style="list-style-type: none">• Original charge: Violation of Veh. Homicide (RCW 46.61.520) or Veh. Assault (RCW 46.61.522) committed while under the influence of intoxicating liquor or any drug.
Negligent Driving - 1 st Degree (RCW 46.61.5249)	<ul style="list-style-type: none">• One or More Prior Offenses within 7 years as defined above.
Consequences	
IID Device	<ul style="list-style-type: none">• 6 Months.• Restriction remains in effect, until IID vendor certifies to DOL that none of the following incidents occurred within four months before date of release: an attempt to start the vehicle with a BAC of .04 or more; failure to take or pass any required retest; failure of the person to appear at the IID vendor when required.
Maximum Jail Time	<ul style="list-style-type: none">• 364 Days if convicted of reckless driving/90 days if convicted of negligent driving in the 1st degree.
Maximum Fine	<ul style="list-style-type: none">• \$5,000 if convicted of reckless driving/\$1,000 if convicted of negligent driving in the 1st degree.
EHM	<ul style="list-style-type: none">• As ordered.
Driver's License	<ul style="list-style-type: none">• As imposed by DOL.
Alcohol/Drug Ed./Victim Impact or Treatment	<ul style="list-style-type: none">• As ordered.

Case Name: DEREK LINKE Cause No.: 220154856

"DUI" Attachment: Driving under the influence of alcohol and/or actual physical control of a vehicle while under the influence of alcohol and/or drugs. (If required, attach to Statement of Defendant on Plea of Guilty.)

Court – DUI Sentencing Grid (RCW 46.61.5055 as amended through August 1, 2012)

BAC Result < .15 or No Test Result	No Prior Offense ¹	One Prior Offense ¹	Two or Three Prior Offenses ¹
Mandatory Minimum/Maximum Jail Time ²	24 Consecutive Hours/364 Days	30/364 Days	90/364 Days
EHM/Jail Alternative ²	15 Days in Lieu of Jail	60 Days Mandatory/4 Days Jail Min.	120 Days Mandatory/8 Days Jail Min.
Mandatory Minimum/Maximum Fine ³	\$940.50/\$5,000	\$1,195.50/\$5,000	\$2,045.50/\$5,000
If Passenger Under 16 Minimum/Maximum ⁴	\$1,000/\$1,000-\$5,000 + assessments	\$1,000/\$2,000-\$5,000 + assessments	\$1,000/\$3,000-\$10,000 + assessments
Driver's License	90-Day Suspension	2-Year Revocation	3-Year Revocation
II Driver's License* II Device	DOL imposed	DOL imposed	DOL imposed.
If Passenger Under 16 II Device	6 Months	6 Months	6 Months
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered

BAC Result ≥ .15 or Test Refusal	No Prior Offense ¹	One Prior Offense ¹	Two or Three Prior Offenses ¹
Mandatory Minimum/Maximum Jail Time ²	2 Consecutive/364 Days	45/364 Days	120/364 Days
EHM/Jail Alternative ²	30 Days in Lieu of Jail	90 Days Mandatory/6 Days Jail Min.	150 Days Mandatory/10 Days Jail Min.
Mandatory Minimum/Maximum Fine ³	\$1,195.50/\$5,000	\$1,620.50/\$5,000	\$2,895.50/\$5,000
If Passenger Under 16 Minimum/Maximum ⁴	\$1,000/\$1,000-\$5,000 + assessments	\$1,000/\$2,000-\$5,000 + assessments	\$1,000/\$3,000-\$10,000 + assessments
Driver's License	1-Year Revocation 2 Years if BAC refused	900-Days Revocation 3 Years if BAC refused	4-Year Revocation
II Driver's License* II Device	DOL imposed	DOL imposed	DOL imposed
If Passenger Under 16 II Device	6 Months	6 Months	6 Months
Alcohol/Drug Ed./Victim Impact or Treatment	As Ordered	As Ordered	As Ordered

Department of Licensing Required Ignition Interlock Device Requirements, RCW 46.20.720(3)(4) January 1, 2011*			
Requirement	No Previous Restriction no less than:	Previous 1-Year Restriction no less than:	Previous 5-Year Restriction no less than:
II Device	1 Year	5 Years	10 Years
Restriction effective, until IID vendor certifies to DOL that none of the following occurred within four months prior to date of release: an attempt to start the vehicle with a BAC of .04 or more; failure to take or pass any required retest; failure of the person to appear at the IID vendor when required.			

* See Court and Department of Licensing (DOL) Ignition Interlock Requirements, page 4.

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KCDC - East Division

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

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

²**Mandatory Jail and Electronic Home Monitoring (EHM):** If there are prior offenses within seven years before or after the arrest date of the current offense, the mandatory jail shall be served by imprisonment for the minimum statutory term and may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. The mandatory statutory term may not be converted to EHM. *Bremerton v. Bradshaw*, 121 Wn.App. 410, 88 P.3d 438 (Div. Two 2004). Where there are no prior offenses within seven years, the court may grant EHM instead of mandatory minimum jail. If there are prior offenses, the mandatory EHM may not be suspended or deferred unless the court finds that imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Instead of mandatory EHM, the court may order additional jail time. RCW 46.61.5055(1), (2), (3).

Mandatory Conditions of Probation for any Suspended Jail Time: The individual is not to: (i) drive a motor vehicle without a valid license to drive and proof of financial responsibility (SR 22), (ii) drive while having an alcohol concentration of .08 or more within two hours after driving, (iii) refuse to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. Except for ignition interlock driver's license and device or alcohol monitoring requirements under RCW 46.61.5055(5), violation of any mandatory condition requires a minimum penalty of 30 days' confinement, which may not be suspended or deferred, and an additional 30-day license suspension. RCW 46.61.5055(11). Courts are required to report violations of mandatory conditions requiring confinement or license suspension to DOL. RCW 46.61.5055.

³**Mandatory Monetary Penalty:** PSEA 1, RCW 3.62.090(1); Alcohol Violators Fee, RCW 46.61.5054; Criminal Justice Funding (CJF) Penalty, RCW 46.64.055 (Note: RCW 3.62.090(1) and (2) apply to CJF penalty); Criminal Conviction Fee, RCW 3.62.085.

⁴**If Passenger Under 16:** The interpretation of RCW 46.61.5055(6) is unsettled. Some interpret it as setting a new mandatory minimum and maximum fine, replacing a fine in RCW 46.61.5055(1) – (3). Some interpret it as a fine that is in addition to one of those fines. Apply applicable assessments.

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

Jurisdiction: Court has five years jurisdiction.

**Department of Licensing - DUI Administrative Sanctions and Reinstatement Provisions
(As amended through August 1, 2012)**

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

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

Ignition Interlock Driver's License, RCW 46.20.385 (amended through August 1, 2012)
May apply for an Ignition Interlock Driver's License upon receiving RCW 46.20.308 notice or upon suspension or revocation. See "Court and Department of Licensing Ignition Interlock Requirements, page 4."

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

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

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

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

Ignition Interlock Driver's License, RCW 46.20.380, 46.20.385	
Eligible to Apply	<ul style="list-style-type: none"> • Conviction of violation of RCW 46.61.502, 46.61.504, or an equivalent local or out-of-state statute or ordinance, 46.61.520(1)(a), or 46.61.522(1)(b) involving alcohol. • License suspended, revoked, or denied under RCW 46.20.3101. • Proof of installed functioning ignition interlock device.
Requirements	<ul style="list-style-type: none"> • Proof of financial responsibility (SR 22).
Financial Obligations	<ul style="list-style-type: none"> • \$100 mandatory fee to DOL. • Costs to install, remove, and lease the ignition interlock device, and \$20 fee per month, unless waived.
Duration	Extends through the remaining portion of any concurrent or consecutive suspension or revocation imposed as the result of administrative action and criminal conviction arising from the same incident.
Operation with Other Requirements	The time period during which the person is licensed under RCW 46.20.385 shall apply on a day-for-day basis toward satisfying the period of time the ignition interlock device restriction is required under RCW 46.20.720.

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

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

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

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

DOL Imposed Ignition Interlock (II) Device - RCW 46.20.720: For all offenses occurring June 10, 2004 or later, DOL shall require that, after any applicable period of suspension, revocation, or denial of driving privileges, a person may drive only a motor vehicle equipped with a functioning II device if the person is convicted of "an alcohol-related" violation of DUI or Physical Control. The DOL required II device is not required on vehicles owned, leased, or rented by a person's employer or on those vehicles whose care and/or maintenance is the temporary responsibility of the employer and driven at the direction of a person's employer as a requirement of employment during business hours upon proof to DOL of employment affidavit. However, when the employer's vehicle is assigned exclusively to the restricted driver and used solely for commuting to and from employment, the employer exemption does not apply. The person must pay a \$20 fee per month in addition to costs to install, remove, and lease the ignition interlock device. DOL may waive requirement if the device is not reasonably available in the local area. DOL will give day-for-day credit as allowed by law.

Court – Reckless Driving/Negligent Driving – 1st Degree Sentencing Grid

(RCW 46.61.500, RCW 46.61.5249, RCW 46.20.720 as amended through
August 1, 2012)

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

Negligent Driving – 1st Degree	
Conviction	Qualifications
Negligent Driving - 1st Degree (RCW 46.61.5249)	<ul style="list-style-type: none"> One or More Prior Offenses within 7 years as defined above.
Consequences	
IID Device	<ul style="list-style-type: none"> 6 Months. Restriction remains in effect, until IID vendor certifies to DOL that none of the following incidents occurred within four months before date of release: an attempt to start the vehicle with a BAC of .04 or more; failure to take or pass any required retest; failure of the person to appear at the IID vendor when required.
Maximum Jail Time	<ul style="list-style-type: none"> 90 days if convicted of negligent driving in the 1st degree.
Maximum Fine	<ul style="list-style-type: none"> \$1,000 if convicted of negligent driving in the 1st degree.
EHM	<ul style="list-style-type: none"> As ordered.
Driver's License	<ul style="list-style-type: none"> As imposed by DOL.
Alcohol/Drug Ed./Victim Impact or Treatment	<ul style="list-style-type: none"> As ordered.