

2SSB 6284 - S AMD 96

By Senators Pflug, Kline

ADOPTED 02/11/2012

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 46.63.110 and 2010 c 252 s 5 are each amended to read
4 as follows:

5 (1) A person found to have committed a traffic infraction shall be
6 assessed a monetary penalty. No penalty may exceed two hundred and
7 fifty dollars for each offense unless authorized by this chapter or
8 title.

9 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is
10 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is
11 five hundred dollars for each offense. No penalty assessed under this
12 subsection (2) may be reduced.

13 (3) The supreme court shall prescribe by rule a schedule of
14 monetary penalties for designated traffic infractions. This rule shall
15 also specify the conditions under which local courts may exercise
16 discretion in assessing fines and penalties for traffic infractions.
17 The legislature respectfully requests the supreme court to adjust this
18 schedule every two years for inflation.

19 (4) There shall be a penalty of twenty-five dollars for failure to
20 respond to a notice of traffic infraction except where the infraction
21 relates to parking as defined by local law, ordinance, regulation, or
22 resolution or failure to pay a monetary penalty imposed pursuant to
23 this chapter. A local legislative body may set a monetary penalty not
24 to exceed twenty-five dollars for failure to respond to a notice of
25 traffic infraction relating to parking as defined by local law,
26 ordinance, regulation, or resolution. The local court, whether a
27 municipal, police, or district court, shall impose the monetary penalty
28 set by the local legislative body.

29 (5) Monetary penalties provided for in chapter 46.70 RCW which are
30 civil in nature and penalties which may be assessed for violations of

1 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
2 are not subject to the limitation on the amount of monetary penalties
3 which may be imposed pursuant to this chapter.

4 (6) Whenever a monetary penalty, fee, cost, assessment, or other
5 monetary obligation is imposed by a court under this chapter, it is
6 immediately payable and is enforceable as a civil judgment under Title
7 6 RCW. If the court determines, in its discretion, that a person is
8 not able to pay a monetary obligation in full, and not more than one
9 year has passed since the later of July 1, 2005, or the date the
10 monetary obligation initially became due and payable, the court shall
11 enter into a payment plan with the person, unless the person has
12 previously been granted a payment plan with respect to the same
13 monetary obligation, or unless the person is in noncompliance of any
14 existing or prior payment plan, in which case the court may, at its
15 discretion, implement a payment plan. If the court has notified the
16 department that the person has failed to pay or comply and the person
17 has subsequently entered into a payment plan and made an initial
18 payment, the court shall notify the department that the infraction has
19 been adjudicated, and the department shall rescind any suspension of
20 the person's driver's license or driver's privilege based on failure to
21 respond to that infraction. "Payment plan," as used in this section,
22 means a plan that requires reasonable payments based on the financial
23 ability of the person to pay. The person may voluntarily pay an amount
24 at any time in addition to the payments required under the payment
25 plan.

26 (a) If a payment required to be made under the payment plan is
27 delinquent or the person fails to complete a community restitution
28 program on or before the time established under the payment plan,
29 unless the court determines good cause therefor and adjusts the payment
30 plan or the community restitution plan accordingly, the court (~~shall~~
31 ~~notify the department of the person's failure to meet the conditions of~~
32 ~~the plan, and the department shall suspend the person's driver's~~
33 ~~license or driving privilege)) may refer the unpaid monetary penalty,
34 fee, cost, assessment, or other monetary obligation for civil
35 enforcement until all monetary obligations, including those imposed
36 under subsections (3) and (4) of this section, have been paid, and
37 court authorized community restitution has been completed, or until the
38 (~~department has been notified that the~~) court has entered into a new~~

1 time payment or community restitution agreement with the person. For
2 those infractions subject to suspension under RCW 46.20.289, the court
3 shall notify the department of the person's failure to meet the
4 conditions of the plan, and the department shall suspend the person's
5 driver's license or driving privileges.

6 (b) If a person has not entered into a payment plan with the court
7 and has not paid the monetary obligation in full on or before the time
8 established for payment, the court (~~shall notify the department of the~~
9 ~~delinquency. The department shall suspend the person's driver's~~
10 ~~license or driving privilege)) may refer the unpaid monetary penalty,
11 fee, cost, assessment, or other monetary obligation to a collections
12 agency until all monetary obligations have been paid, including those
13 imposed under subsections (3) and (4) of this section, or until the
14 person has entered into a payment plan under this section. For those
15 infractions subject to suspension under RCW 46.20.289, the court shall
16 notify the department of the person's delinquency, and the department
17 shall suspend the person's driver's license or driving privileges.~~

18 (c) If the payment plan is to be administered by the court, the
19 court may assess the person a reasonable administrative fee to be
20 wholly retained by the city or county with jurisdiction. The
21 administrative fee shall not exceed ten dollars per infraction or
22 twenty-five dollars per payment plan, whichever is less.

23 (d) Nothing in this section precludes a court from contracting with
24 outside entities to administer its payment plan system. When outside
25 entities are used for the administration of a payment plan, the court
26 may assess the person a reasonable fee for such administrative
27 services, which fee may be calculated on a periodic, percentage, or
28 other basis.

29 (e) If a court authorized community restitution program for
30 offenders is available in the jurisdiction, the court may allow
31 conversion of all or part of the monetary obligations due under this
32 section to court authorized community restitution in lieu of time
33 payments if the person is unable to make reasonable time payments.

34 (7) In addition to any other penalties imposed under this section
35 and not subject to the limitation of subsection (1) of this section, a
36 person found to have committed a traffic infraction shall be assessed:

37 (a) A fee of five dollars per infraction. Under no circumstances

1 shall this fee be reduced or waived. Revenue from this fee shall be
2 forwarded to the state treasurer for deposit in the emergency medical
3 services and trauma care system trust account under RCW 70.168.040;

4 (b) A fee of ten dollars per infraction. Under no circumstances
5 shall this fee be reduced or waived. Revenue from this fee shall be
6 forwarded to the state treasurer for deposit in the Washington auto
7 theft prevention authority account; and

8 (c) A fee of two dollars per infraction. Revenue from this fee
9 shall be forwarded to the state treasurer for deposit in the traumatic
10 brain injury account established in RCW 74.31.060.

11 (8)(a) In addition to any other penalties imposed under this
12 section and not subject to the limitation of subsection (1) of this
13 section, a person found to have committed a traffic infraction other
14 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
15 penalty of twenty dollars. The court may not reduce, waive, or suspend
16 the additional penalty unless the court finds the offender to be
17 indigent. If a court authorized community restitution program for
18 offenders is available in the jurisdiction, the court shall allow
19 offenders to offset all or a part of the penalty due under this
20 subsection (8) by participation in the court authorized community
21 restitution program.

22 (b) Eight dollars and fifty cents of the additional penalty under
23 (a) of this subsection shall be remitted to the state treasurer. The
24 remaining revenue from the additional penalty must be remitted under
25 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
26 under this subsection to the state treasurer must be deposited in the
27 state general fund. The balance of the revenue received by the county
28 or city treasurer under this subsection must be deposited into the
29 county or city current expense fund. Moneys retained by the city or
30 county under this subsection shall constitute reimbursement for any
31 liabilities under RCW 43.135.060.

32 (9) If a legal proceeding, such as garnishment, has commenced to
33 collect any delinquent amount owed by the person for any penalty
34 imposed by the court under this section, the court may, at its
35 discretion, enter into a payment plan.

36 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
37 hundred fifty dollars for the first violation; (b) five hundred dollars

1 for the second violation; and (c) seven hundred fifty dollars for each
2 violation thereafter.

3 **Sec. 2.** RCW 46.20.391 and 2010 c 269 s 2 are each amended to read
4 as follows:

5 (1) Any person licensed under this chapter who is convicted of an
6 offense relating to motor vehicles for which suspension or revocation
7 of the driver's license is mandatory, other than vehicular homicide,
8 vehicular assault, driving while under the influence of intoxicating
9 liquor or any drug, or being in actual physical control of a motor
10 vehicle while under the influence of intoxicating liquor or any drug,
11 may submit to the department an application for a temporary restricted
12 driver's license. The department, upon receipt of the prescribed fee
13 and upon determining that the petitioner is eligible to receive the
14 license, may issue a temporary restricted driver's license and may set
15 definite restrictions as provided in RCW 46.20.394.

16 (2)(a) A person licensed under this chapter whose driver's license
17 is suspended administratively due to failure to appear or pay a traffic
18 ticket under RCW 46.20.289; a violation of the financial responsibility
19 laws under chapter 46.29 RCW; or for multiple violations within a
20 specified period of time under RCW 46.20.291, may apply to the
21 department for an occupational driver's license.

22 ~~(b) ((If the suspension is for failure to respond, pay, or comply~~
23 ~~with a notice of traffic infraction or conviction, the applicant must~~
24 ~~enter into a payment plan with the court.~~

25 ~~(c))~~ An occupational driver's license issued to an applicant
26 described in (a) of this subsection shall be valid for the period of
27 the suspension or revocation.

28 (3) An applicant for an occupational or temporary restricted
29 driver's license who qualifies under subsection (1) or (2) of this
30 section is eligible to receive such license only if:

31 (a) Within seven years immediately preceding the date of the
32 offense that gave rise to the present conviction or incident, the
33 applicant has not committed vehicular homicide under RCW 46.61.520 or
34 vehicular assault under RCW 46.61.522; and

35 (b) The applicant demonstrates that it is necessary for him or her
36 to operate a motor vehicle because he or she:

1 (i) Is engaged in an occupation or trade that makes it essential
2 that he or she operate a motor vehicle;

3 (ii) Is undergoing continuing health care or providing continuing
4 care to another who is dependent upon the applicant;

5 (iii) Is enrolled in an educational institution and pursuing a
6 course of study leading to a diploma, degree, or other certification of
7 successful educational completion;

8 (iv) Is undergoing substance abuse treatment or is participating in
9 meetings of a twelve-step group such as Alcoholics Anonymous that
10 requires the petitioner to drive to or from the treatment or meetings;

11 (v) Is fulfilling court-ordered community service responsibilities;

12 (vi) Is in a program that assists persons who are enrolled in a
13 WorkFirst program pursuant to chapter 74.08A RCW to become gainfully
14 employed and the program requires a driver's license;

15 (vii) Is in an apprenticeship, on-the-job training, or welfare-to-
16 work program; or

17 (viii) Presents evidence that he or she has applied for a position
18 in an apprenticeship or on-the-job training program for which a
19 driver's license is required to begin the program, provided that a
20 license granted under this provision shall be in effect for no longer
21 than fourteen days; and

22 (c) The applicant files satisfactory proof of financial
23 responsibility under chapter 46.29 RCW; and

24 (d) Upon receipt of evidence that a holder of an occupational
25 driver's license granted under this subsection is no longer enrolled in
26 an apprenticeship or on-the-job training program, the director shall
27 give written notice by first-class mail to the driver that the
28 occupational driver's license shall be canceled. If at any time
29 before the cancellation goes into effect the driver submits evidence of
30 continued enrollment in the program, the cancellation shall be stayed.
31 If the cancellation becomes effective, the driver may obtain, at no
32 additional charge, a new occupational driver's license upon submittal
33 of evidence of enrollment in another program that meets the criteria
34 set forth in this subsection; and

35 (e) The department shall not issue an occupational driver's license
36 under (b)(iv) of this subsection if the applicant is able to receive
37 transit services sufficient to allow for the applicant's participation
38 in the programs referenced under (b)(iv) of this subsection.

1 (4) A person aggrieved by the decision of the department on the
2 application for an occupational or temporary restricted driver's
3 license may request a hearing as provided by rule of the department.

4 (5) The director shall cancel an occupational or temporary
5 restricted driver's license after receiving notice that the holder
6 thereof has been convicted of operating a motor vehicle in violation of
7 its restrictions, no longer meets the eligibility requirements, or has
8 been convicted of or found to have committed a separate offense or any
9 other act or omission that under this chapter would warrant suspension
10 or revocation of a regular driver's license. The department must give
11 notice of the cancellation as provided under RCW 46.20.245. A person
12 whose occupational or temporary restricted driver's license has been
13 canceled under this section may reapply for a new occupational or
14 temporary restricted driver's license if he or she is otherwise
15 qualified under this section and pays the fee required under RCW
16 46.20.380.

17 **Sec. 3.** RCW 46.20.289 and 2005 c 288 s 5 are each amended to read
18 as follows:

19 The department shall suspend all driving privileges of a person
20 when the department receives notice from a court under RCW
21 46.63.070(6), 46.63.110(6), or 46.64.025 that the person has failed to
22 respond to a notice of traffic infraction for a moving violation,
23 failed to appear at a requested hearing for a moving violation,
24 violated a written promise to appear in court for a notice of
25 infraction for a moving violation, or has failed to comply with the
26 terms of a notice of traffic infraction or citation for a moving
27 violation, or when the department receives notice from another state
28 under Article IV of the nonresident violator compact under RCW
29 46.23.010 or from a jurisdiction that has entered into an agreement
30 with the department under RCW 46.23.020, other than for a standing,
31 stopping, or parking violation, provided that the traffic infraction or
32 traffic offense is committed on or after July 1, 2005. A suspension
33 under this section takes effect pursuant to the provisions of RCW
34 46.20.245, and remains in effect until the department has received a
35 certificate from the court showing that the case has been adjudicated,
36 and until the person meets the requirements of RCW 46.20.311. In the
37 case of failure to respond to a traffic infraction issued under RCW

1 46.55.105, the department shall suspend all driving privileges until
2 the person provides evidence from the court that all penalties and
3 restitution have been paid. A suspension under this section does not
4 take effect if, prior to the effective date of the suspension, the
5 department receives a certificate from the court showing that the case
6 has been adjudicated.

7 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.20 RCW
8 to read as follows:

9 The department of licensing in consultation with the administrative
10 office of the courts must adopt and maintain rules, by November 1,
11 2012, in accordance with chapter 34.05 RCW that define a moving
12 violation for the purposes of this act. "Moving violation" shall be
13 defined pursuant to Title 46 RCW. Upon adoption of these rules, the
14 department must provide written notice to affected parties, the chief
15 clerk of the house of representatives, the secretary of the senate, the
16 office of the code reviser, and others as deemed appropriate by the
17 department.

18 **Sec. 5.** RCW 46.64.025 and 2006 c 270 s 4 are each amended to read
19 as follows:

20 Whenever any person served with a traffic citation willfully fails
21 to appear (~~(for a scheduled court hearing)~~) at a requested hearing for
22 a moving violation or fails to comply with the terms of a notice of
23 traffic citation for a moving violation, the court in which the
24 defendant failed to appear shall promptly give notice of such fact to
25 the department of licensing. Whenever thereafter the case in which the
26 defendant failed to appear is adjudicated, the court hearing the case
27 shall promptly file with the department a certificate showing that the
28 case has been adjudicated. For the purposes of this section, "moving
29 violation" is defined by rule pursuant to section 4 of this act.

30 NEW SECTION. **Sec. 6.** Except for section 4 of this act, this act
31 takes effect June 1, 2013. If specific funding for the purposes of
32 this act, referencing this act by bill or chapter number, is not
33 provided by June 30, 2012, in the transportation appropriations act,
34 this act is null and void."

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By Senators Pflug, Kline

ADOPTED 02/11/2012

1 On page 1, line 5 of the title, after "ticket;" strike the
2 remainder of the title and insert "amending RCW 46.63.110, 46.20.391,
3 46.20.289, and 46.64.025; adding a new section to chapter 46.20 RCW;
4 and providing an effective date."

EFFECT: Revises the rule-making process so that: (1) The DOL
consults with the Administrative Office of the Courts, only; and (2)
"moving violation" must be defined pursuant to Title 46 RCW.

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