
HOUSE BILL 1483

State of Washington

62nd Legislature

2011 Regular Session

By Representative Pearson

Read first time 01/24/11. Referred to Committee on Transportation.

1 AN ACT Relating to traffic infractions; amending RCW 46.63.060,
2 46.63.070, and 46.63.110; and providing an effective date.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 46.63.060 and 2006 c 270 s 2 are each amended to read
5 as follows:

6 (1) A notice of traffic infraction represents a determination that
7 an infraction has been committed. The determination will be final
8 unless contested as provided in this chapter.

9 (2) The form for the notice of traffic infraction shall be
10 prescribed by rule of the supreme court and shall include the
11 following:

12 (a) A statement that the notice represents a determination that a
13 traffic infraction has been committed by the person named in the notice
14 and that the determination shall be final unless contested as provided
15 in this chapter;

16 (b) A statement that a traffic infraction is a noncriminal offense
17 for which imprisonment may not be imposed as a sanction; that the
18 penalty for a traffic infraction may include sanctions against the

1 person's driver's license including suspension, revocation, or denial;
2 that the penalty for a traffic infraction related to standing,
3 stopping, or parking may include nonrenewal of the vehicle license;

4 (c) A statement of the specific traffic infraction for which the
5 notice was issued;

6 (d) A statement of the monetary penalty established for the traffic
7 infraction;

8 (e) A statement of the options provided in this chapter for
9 responding to the notice including an option allowing the person to
10 enter into a payment plan, and the procedures necessary to exercise
11 these options;

12 (f) A statement that at any hearing to contest the determination
13 the state has the burden of proving, by a preponderance of the
14 evidence, that the infraction was committed; and that the person may
15 subpoena witnesses including the officer who issued the notice of
16 infraction;

17 (g) A statement that at any hearing requested for the purpose of
18 explaining mitigating circumstances surrounding the commission of the
19 infraction the person will be deemed to have committed the infraction
20 and may not subpoena witnesses;

21 (h) A statement that the person must respond to the notice as
22 provided in this chapter within fifteen days or the person's driver's
23 license or driving privilege will be suspended by the department until
24 any penalties imposed pursuant to this chapter have been satisfied; and

25 (i) A statement that failure to appear at a hearing requested for
26 the purpose of contesting the determination or for the purpose of
27 explaining mitigating circumstances will result in the suspension of
28 the person's driver's license or driving privilege, or in the case of
29 a standing, stopping, or parking violation, refusal of the department
30 to renew the vehicle license, until any penalties imposed pursuant to
31 this chapter have been satisfied.

32 (3)(a) The notice of traffic infraction must also include
33 provisions for a person who does not contest the traffic infraction to
34 automatically enter into a payment plan with the court for the monetary
35 penalty.

36 (b) The portion of the notice of infraction setting forth the
37 option for a payment plan must include: (i) A statement that the court
38 may assess a set-up fee and costs for entering into a payment plan and

1 these fees and costs may be incorporated into the periodic payments;
2 and (ii) a provision requiring the person to sign under penalty of
3 perjury that paying the full monetary penalty would cause financial
4 hardship to the person.

5 **Sec. 2.** RCW 46.63.070 and 2006 c 327 s 7 are each amended to read
6 as follows:

7 (1) Any person who receives a notice of traffic infraction shall
8 respond to such notice as provided in this section within fifteen days
9 of the date of the notice.

10 (2)(a) If the person determined to have committed the infraction
11 does not contest the determination the person shall respond by
12 completing the appropriate portion of the notice of infraction and
13 submitting it, either by mail or in person, to the court specified on
14 the notice. A check or money order in the amount of the penalty
15 prescribed for the infraction must be submitted with the response.
16 When a response which does not contest the determination is received,
17 an appropriate order shall be entered in the court's records, and a
18 record of the response and order shall be furnished to the department
19 in accordance with RCW 46.20.270.

20 (b) If the person determined to have committed the infraction does
21 not contest the determination but cannot submit the full amount of the
22 penalty without causing financial hardship to the person, he or she
23 shall respond by completing the appropriate portion of the notice of
24 infraction that establishes a payment plan and submit it, either by
25 mail or in person, to the court specified in the notice. A check or
26 money order in the amount of either ten percent of the penalty or ten
27 dollars, whichever is greater, must be submitted with the response.
28 When a response establishing a payment plan is received by the court,
29 the court shall: (i) Set up a payment plan with the person; and (ii)
30 enter into its records that a response has been received and that the
31 person has entered into a payment plan. A record of the response and
32 order shall be furnished to the department.

33 (3) If the person determined to have committed the infraction
34 wishes to contest the determination the person shall respond by
35 completing the portion of the notice of infraction requesting a hearing
36 and submitting it, either by mail or in person, to the court specified

1 on the notice. The court shall notify the person in writing of the
2 time, place, and date of the hearing, and that date shall not be sooner
3 than seven days from the date of the notice, except by agreement.

4 (4) If the person determined to have committed the infraction does
5 not contest the determination but wishes to explain mitigating
6 circumstances surrounding the infraction the person shall respond by
7 completing the portion of the notice of infraction requesting a hearing
8 for that purpose and submitting it, either by mail or in person, to the
9 court specified on the notice. The court shall notify the person in
10 writing of the time, place, and date of the hearing.

11 (5)(a) Except as provided in (b) and (c) of this subsection, in
12 hearings conducted pursuant to subsections (3) and (4) of this section,
13 the court may defer findings, or in a hearing to explain mitigating
14 circumstances may defer entry of its order, for up to one year and
15 impose conditions upon the defendant the court deems appropriate. Upon
16 deferring findings, the court may assess costs as the court deems
17 appropriate for administrative processing. If at the end of the
18 deferral period the defendant has met all conditions and has not been
19 determined to have committed another traffic infraction, the court may
20 dismiss the infraction.

21 (b) A person may not receive more than one deferral within a seven-
22 year period for traffic infractions for moving violations and more than
23 one deferral within a seven-year period for traffic infractions for
24 nonmoving violations.

25 (c) A person who is the holder of a commercial driver's license or
26 who was operating a commercial motor vehicle at the time of the
27 violation may not receive a deferral under this section.

28 (6) If any person issued a notice of traffic infraction:

29 (a) Fails to respond to the notice of traffic infraction as
30 provided in subsection (2) of this section; or

31 (b) Fails to appear at a hearing requested pursuant to subsection
32 (3) or (4) of this section;

33 the court shall enter an appropriate order assessing the monetary
34 penalty prescribed for the traffic infraction and any other penalty
35 authorized by this chapter and (~~shall~~) may notify the department in
36 accordance with RCW 46.20.270, of the failure to respond to the notice
37 of infraction or to appear at a requested hearing.

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

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

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

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

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

27 (5) Monetary penalties provided for in chapter 46.70 RCW which are
28 civil in nature and penalties which may be assessed for violations of
29 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
30 are not subject to the limitation on the amount of monetary penalties
31 which may be imposed pursuant to this chapter.

32 (6)(a) Whenever a monetary penalty, fee, cost, assessment, or other
33 monetary obligation is imposed by a court under this chapter it is
34 immediately payable, unless the person has entered into a payment plan.

35 (b) Except as provided in (c) of this subsection, if the court
36 determines, in its discretion, that a person is not able to pay a
37 monetary obligation in full, and not more than one year has passed
38 since the later of July 1, 2005, or the date the monetary obligation

1 initially became due and payable, the court shall enter into a payment
2 plan with the person, unless the person has previously been granted a
3 payment plan with respect to the same monetary obligation, or unless
4 the person is in noncompliance of any existing or prior payment plan,
5 in which case the court may, at its discretion, implement a payment
6 plan. If the court has notified the department that the person has
7 failed to pay or comply and the person has subsequently entered into a
8 payment plan and made an initial payment, the court shall notify the
9 department that the infraction has been adjudicated, and the department
10 shall rescind any suspension of the person's driver's license or
11 driver's privilege based on failure to respond to that infraction.

12 (c) For traffic infractions issued on or after the effective date
13 of this section, if the person submits the portion of the notice of
14 infraction to establish a payment plan along with a check or money
15 order in the amount of either ten percent of the penalty or ten
16 dollars, whichever is greater, the court shall implement a payment
17 plan.

18 (d) "Payment plan," as used in this section and RCW 46.63.070,
19 means a plan that requires reasonable payments based on the financial
20 ability of the person to pay. The person may voluntarily pay an amount
21 at any time in addition to the payments required under the payment
22 plan.

23 ~~((a))~~ (e) If ~~((a))~~ the minimum payments required to be made under
24 the payment plan ~~((is))~~ are delinquent or the person fails to complete
25 a community restitution program on or before the time established under
26 the payment plan, unless the court determines good cause therefor and
27 adjusts the payment plan or the community restitution plan accordingly,
28 the court ~~((shall))~~ may notify the department of the person's failure
29 to meet the conditions of the plan, and the department shall suspend
30 the person's driver's license or driving privilege until all monetary
31 obligations, including those imposed under subsections (3) and (4) of
32 this section, have been paid, and court authorized community
33 restitution has been completed, or until the department has been
34 notified that the court has entered into a new time payment or
35 community restitution agreement with the person.

36 ~~((b))~~ (f) If a person has not entered into a payment plan with
37 the court and has not paid the monetary obligation in full on or before
38 the time established for payment, the court ~~((shall))~~ may notify the

1 department of the delinquency. The department shall suspend the
2 person's driver's license or driving privilege until all monetary
3 obligations have been paid, including those imposed under subsections
4 (3) and (4) of this section, or until the person has entered into a
5 payment plan under this section.

6 ~~((e))~~ (g) If the payment plan is to be administered by the court,
7 the court may assess the person a reasonable administrative fee to be
8 wholly retained by the city or county with jurisdiction. The
9 administrative fee shall not exceed ten dollars per infraction or
10 twenty-five dollars per payment plan, whichever is less.

11 ~~((d))~~ (h) Nothing in this section precludes a court from
12 contracting with outside entities to administer its payment plan
13 system. When outside entities are used for the administration of a
14 payment plan, the court may assess the person a ~~((reasonable))~~ fee
15 equal to the fees established in (g) of this subsection for such
16 administrative services~~((, which fee may be calculated on a periodic,
17 percentage, or other basis))~~.

18 ~~((e))~~ (i) If a court authorized community restitution program for
19 offenders is available in the jurisdiction, the court may allow
20 conversion of all or part of the monetary obligations due under this
21 section to court authorized community restitution in lieu of time
22 payments if the person is unable to make reasonable time payments.

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

26 (a) A fee of five dollars per infraction. Under no circumstances
27 shall this fee be reduced or waived. Revenue from this fee shall be
28 forwarded to the state treasurer for deposit in the emergency medical
29 services and trauma care system trust account under RCW 70.168.040;

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

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

37 (8)(a) In addition to any other penalties imposed under this
38 section and not subject to the limitation of subsection (1) of this

1 section, a person found to have committed a traffic infraction other
2 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
3 penalty of twenty dollars. The court may not reduce, waive, or suspend
4 the additional penalty unless the court finds the offender to be
5 indigent. If a court authorized community restitution program for
6 offenders is available in the jurisdiction, the court shall allow
7 offenders to offset all or a part of the penalty due under this
8 subsection (8) by participation in the court authorized community
9 restitution program.

10 (b) Eight dollars and fifty cents of the additional penalty under
11 (a) of this subsection shall be remitted to the state treasurer. The
12 remaining revenue from the additional penalty must be remitted under
13 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
14 under this subsection to the state treasurer must be deposited in the
15 state general fund. The balance of the revenue received by the county
16 or city treasurer under this subsection must be deposited into the
17 county or city current expense fund. Moneys retained by the city or
18 county under this subsection shall constitute reimbursement for any
19 liabilities under RCW 43.135.060.

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

24 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
25 hundred fifty dollars for the first violation; (b) five hundred dollars
26 for the second violation; and (c) seven hundred fifty dollars for each
27 violation thereafter.

28 NEW SECTION. **Sec. 4.** (1) Sections 1 through 3 of this act take
29 effect November 1, 2011.

30 (2) Affected agencies shall revise notice of infraction forms to
31 conform to this act by November 1, 2011.

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