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HOUSE BILL 1601

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State of Washington

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2013 Regular Session

By Representatives Goodman, Pettigrew, Moscoso, Habib, Pedersen, Jinkins, Roberts, Orwall, Appleton, Upthegrove, Pollet, Freeman, and Ryu

Read first time 02/01/13. Referred to Committee on Public Safety.

1 AN ACT Relating to providing alternatives for penalties stemming  
2 from traffic infractions; amending RCW 46.63.060, 46.63.110, 46.63.120,  
3 and 46.64.055; adding a new section to chapter 46.04 RCW; creating a  
4 new section; providing an effective date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that many people have  
7 difficulty satisfying civil penalties stemming from traffic  
8 infractions. Therefore, it is the intent of the legislature to  
9 encourage satisfaction of such penalties by providing alternatives. It  
10 is the intent of the legislature to increase the number of people who  
11 pay their traffic tickets through payment in full, through a payment  
12 plan, or through a community restitution plan. Furthermore, the  
13 legislature finds that expanding the ability of all persons to satisfy  
14 the penalties stemming from traffic infractions will increase the  
15 likelihood that a person facing a traffic infraction will appear for  
16 court, thus encouraging greater respect for judicial institutions, as  
17 well as decreasing cases of failure to appear and failure to pay.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 46.04 RCW  
2 to read as follows:

3        "Community restitution" means the performance of a number of hours  
4 of community service in lieu of all or part of a monetary penalty, at  
5 the rate of the then state minimum wage per hour.

6        **Sec. 3.**    RCW 46.63.060 and 2011 c 233 s 1 are each amended to read  
7 as follows:

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

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

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

18        (b) A statement that a traffic infraction is a noncriminal offense  
19 for which imprisonment may not be imposed as a sanction; that the  
20 penalty for a traffic infraction may include sanctions against the  
21 person's driver's license including suspension, revocation, or denial;  
22 that the penalty for a traffic infraction related to standing,  
23 stopping, or parking may include nonrenewal of the vehicle (~~license~~)  
24 registration;

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

27        (d) A statement of the monetary penalty established for the traffic  
28 infraction;

29        (e) A statement of the options provided in this chapter for  
30 responding to the notice and the procedures necessary to exercise these  
31 options;

32        (f) A statement that at any hearing to contest the determination  
33 the state has the burden of proving, by a preponderance of the  
34 evidence, that the infraction was committed; and that the person may  
35 subpoena witnesses including the officer who issued the notice of  
36 infraction;

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

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

9 (i) A statement that failure to appear at a hearing requested for  
10 the purpose of contesting the determination or for the purpose of  
11 explaining mitigating circumstances will result in the suspension of  
12 the person's driver's license or driving privilege, or in the case of  
13 a standing, stopping, or parking violation, refusal of the department  
14 to renew the vehicle ((license)) registration, until any penalties  
15 imposed pursuant to this chapter have been satisfied.

16 (3) A form for a notice of traffic infraction printed after ((July  
17 22, 2011)) June 1, 2013, must include a statement that the person  
18 ((may)) shall be able to ((enter)) request entry into a payment plan or  
19 community restitution plan with the court under RCW 7.80.130 or  
20 46.63.110.

21 **Sec. 4.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read  
22 as follows:

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

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

31 (3) The supreme court shall prescribe by rule a schedule of  
32 monetary penalties for designated traffic infractions. This rule shall  
33 also specify the conditions under which local courts may exercise  
34 discretion in assessing fines and penalties for traffic infractions.  
35 The legislature respectfully requests the supreme court to adjust this  
36 schedule every two years for inflation.

1 (4) There shall be a penalty of twenty-five dollars for failure to  
2 respond to a notice of traffic infraction except where the infraction  
3 relates to parking as defined by local law, ordinance, regulation, or  
4 resolution or failure to pay a monetary penalty imposed pursuant to  
5 this chapter. A local legislative body may set a monetary penalty not  
6 to exceed twenty-five dollars for failure to respond to a notice of  
7 traffic infraction relating to parking as defined by local law,  
8 ordinance, regulation, or resolution. The local court, whether a  
9 municipal, police, or district court, shall impose the monetary penalty  
10 set by the local legislative body.

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

16 (6) Whenever a monetary penalty, fee, cost, assessment, or other  
17 monetary obligation is imposed by a court under this chapter, it is  
18 immediately payable and is enforceable as a civil judgment under Title  
19 6 RCW. If the court determines, in its discretion, that a person is  
20 not able to pay a monetary obligation in full without undue hardship,  
21 and not more than one year has passed since the later of July 1, 2005,  
22 or the date the monetary obligation initially became due and payable,  
23 the court shall, upon request of the person, enter into a payment plan  
24 or a community restitution plan with the person, unless the person has  
25 previously been granted a payment plan or a community restitution plan  
26 with respect to the same monetary obligation, or unless the person is  
27 in noncompliance of any existing or prior payment plan or a community  
28 restitution plan, in which case the court may, at its discretion,  
29 implement a payment plan or a community restitution plan. If the court  
30 has notified the department that the person has failed to pay or comply  
31 and the person has subsequently entered into a payment plan and made an  
32 initial payment or entered into a community restitution plan and begun  
33 performance of the community restitution plan, the court shall timely  
34 notify the department that the infraction has been adjudicated, and the  
35 department shall immediately rescind any suspension of the person's  
36 driver's license or driver's privilege based on failure to respond to  
37 that infraction. "Payment plan," as used in this section, means a plan

1 that requires reasonable payments based on the financial ability of the  
2 person to pay. The person may voluntarily pay an amount at any time in  
3 addition to the payments required under the payment plan.

4 (a) If a payment required to be made under the payment plan is  
5 delinquent or the person fails to complete a community restitution  
6 program on or before the time established under the payment plan,  
7 unless the court determines good cause therefor and adjusts the payment  
8 plan or the community restitution plan accordingly, the court may refer  
9 the unpaid monetary penalty, fee, cost, assessment, or other monetary  
10 obligation for civil enforcement until all monetary obligations,  
11 including those imposed under subsections (3) and (4) of this section,  
12 have been paid, and court authorized community restitution has been  
13 completed, or until the court has entered into a new time payment or  
14 community restitution agreement with the person. For those infractions  
15 subject to suspension under RCW 46.20.289, the court shall notify the  
16 department of the person's failure to meet the conditions of the plan,  
17 and the department shall suspend the person's driver's license or  
18 driving privileges.

19 (b) If a person has not entered into a payment plan or a community  
20 restitution plan with the court and has not paid or satisfied the  
21 (~~monetary~~) obligation in full on or before the time established for  
22 payment or satisfaction under a community restitution plan, the court  
23 may refer the unpaid monetary penalty, fee, cost, assessment, or other  
24 monetary obligation to a collections agency until all monetary  
25 obligations have been paid, including those imposed under subsections  
26 (3) and (4) of this section, or until the person has entered into a  
27 payment plan or a community restitution plan under this section. For  
28 those infractions subject to suspension under RCW 46.20.289, the court  
29 shall notify the department of the person's delinquency, and the  
30 department shall suspend the person's driver's license or driving  
31 privileges.

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

37 (d) Nothing in this section precludes a court from contracting with  
38 outside entities to administer its payment plan system. When outside

1 entities are used for the administration of a payment plan, the court  
2 may assess the person a reasonable fee for such administrative  
3 services, which fee may be calculated on a periodic, percentage, or  
4 other basis.

5 (e) ~~((If))~~ A court authorized community restitution program for  
6 offenders ~~((is))~~ shall be made available ~~((in the jurisdiction,))~~ and  
7 the court ~~((may))~~ shall allow conversion of all or part of the monetary  
8 obligations due under this section to court authorized community  
9 restitution in lieu of all or part of time payments if the person is  
10 unable to make reasonable time payments without undue hardship.

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

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

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

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

25 (8)(a) In addition to any other penalties imposed under this  
26 section and not subject to the limitation of subsection (1) of this  
27 section, a person found to have committed a traffic infraction other  
28 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional  
29 penalty of twenty dollars. The court may not reduce, waive, or suspend  
30 the additional penalty unless the court finds the ~~((offender))~~ person  
31 to be indigent. If a court authorized entry into a community  
32 restitution program ~~((for offenders is available in the jurisdiction)),~~  
33 the court shall allow ~~((offenders))~~ persons to offset all or a part of  
34 the penalty due under this subsection (8) by participation in the court  
35 authorized community restitution program.

36 (b) Eight dollars and fifty cents of the additional penalty under  
37 (a) of this subsection shall be remitted to the state treasurer. The  
38 remaining revenue from the additional penalty must be remitted under

1 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted  
2 under this subsection to the state treasurer must be deposited in the  
3 state general fund. The balance of the revenue received by the county  
4 or city treasurer under this subsection must be deposited into the  
5 county or city current expense fund. Moneys retained by the city or  
6 county under this subsection shall constitute reimbursement for any  
7 liabilities under RCW 43.135.060.

8 (9) If a legal proceeding, such as garnishment, has commenced to  
9 collect any delinquent amount owed by the person for any penalty  
10 imposed by the court under this section, the court may, at its  
11 discretion, enter into a payment plan or community restitution plan.

12 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two  
13 hundred fifty dollars for the first violation; (b) five hundred dollars  
14 for the second violation; and (c) seven hundred fifty dollars for each  
15 violation thereafter.

16 **Sec. 5.** RCW 46.63.120 and 2002 c 175 s 37 are each amended to read  
17 as follows:

18 (1) An order entered after the receipt of a response which does not  
19 contest the determination, or after it has been established at a  
20 hearing that the infraction was committed, or after a hearing for the  
21 purpose of explaining mitigating circumstances is civil in nature.

22 (2) The court may include in the order the imposition of any  
23 penalty authorized by the provisions of this chapter for the commission  
24 of an infraction. The court (~~(may, in its discretion,)~~) shall waive,  
25 reduce, or suspend the monetary penalty prescribed for the infraction  
26 if the court finds the person indigent. At the person's request the  
27 court may order performance of a number of hours of community  
28 restitution in lieu of all or part of a monetary penalty, at the rate  
29 of the then state minimum wage per hour.

30 **Sec. 6.** RCW 46.64.055 and 2009 c 479 s 40 are each amended to read  
31 as follows:

32 (1) In addition to any other penalties imposed for conviction of a  
33 violation of this title that is a misdemeanor, gross misdemeanor, or  
34 felony, the court shall impose an additional penalty of fifty dollars.  
35 The court may not reduce, waive, or suspend the additional penalty  
36 unless the court finds the (~~(offender)~~) person to be indigent. (~~(If)~~)

1 A community restitution program (~~(for offenders is)~~) shall be made  
2 available (~~(in the jurisdiction,)~~) and the court shall allow  
3 (~~(offenders)~~) persons to offset all or a part of the penalty due under  
4 this section by participation in the community restitution program.

5 (2) Revenue from the additional penalty must be remitted under  
6 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted  
7 under this section to the state treasurer must be deposited in the  
8 state general fund. The balance of the revenue received by the county  
9 or city treasurer under this section must be deposited into the county  
10 or city current expense fund. Moneys retained by the city or county  
11 under this subsection shall constitute reimbursement for any  
12 liabilities under RCW 43.135.060.

13 NEW SECTION. **Sec. 7.** If any provision of this act or its  
14 application to any person or circumstance is held invalid, the  
15 remainder of the act or the application of the provision to other  
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
18 preservation of the public peace, health, or safety, or support of the  
19 state government and its existing public institutions, and takes effect  
20 June 1, 2013.

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