

SHB 2085 - S COMM AMD

By Committee on Law & Justice

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

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

5 "Community restitution" means the performance of a number of
6 hours of community service in lieu of all or part of a monetary
7 penalty, at the rate of the then state minimum wage per hour, that
8 has been approved by the court.

9 **Sec. 2.** RCW 46.63.060 and 2013 c 170 s 1 are each amended to
10 read as follows:

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

14 (2) The form for the notice of traffic infraction shall be
15 prescribed by rule of the supreme court and shall include the
16 following:

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

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

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

30 (d) A statement of the monetary penalty established for the
31 traffic infraction;

1 (e) A statement of the options provided in this chapter for
2 responding to the notice and the procedures necessary to exercise
3 these options;

4 (f) A statement that at any hearing to contest the determination
5 the state has the burden of proving, by a preponderance of the
6 evidence, that the infraction was committed; and that the person may
7 subpoena witnesses including the officer who issued the notice of
8 infraction;

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

13 (h) A statement that the person must respond to the notice as
14 provided in this chapter within fifteen days or the person's driver's
15 license or driving privilege may be suspended by the department until
16 any penalties imposed pursuant to this chapter have been satisfied;
17 and

18 (i) A statement that failure to appear at a hearing requested for
19 the purpose of contesting the determination or for the purpose of
20 explaining mitigating circumstances may result in the suspension of
21 the person's driver's license or driving privilege, or in the case of
22 a standing, stopping, or parking violation, refusal of the department
23 to renew the vehicle registration, until any penalties imposed
24 pursuant to this chapter have been satisfied.

25 (3)(a) A form for a notice of traffic infraction printed after
26 (~~July 22, 2011~~) July 1, 2015, must include a statement that the
27 person may be able to (~~enter~~) request entry into a payment plan or
28 community restitution plan with the court under RCW 7.80.130 or
29 46.63.110. Law enforcement agencies are not required to issue notices
30 of infraction on forms printed after July 1, 2015, until the agencies
31 have exhausted their current inventories of forms printed prior to
32 July 1, 2015.

33 (b) The forms for a notice of traffic infraction must include the
34 changes in section 1, chapter 170, Laws of 2013 by July 1, 2015.

35 **Sec. 3.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read
36 as follows:

37 (1) A person found to have committed a traffic infraction shall
38 be assessed a monetary penalty. No penalty may exceed two hundred and

1 fifty dollars for each offense unless authorized by this chapter or
2 title.

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

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

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

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

28 (6) Whenever a monetary penalty, fee, cost, assessment, or other
29 monetary obligation is imposed by a court under this chapter, it is
30 immediately payable and is enforceable as a civil judgment under
31 Title 6 RCW. If the court determines, in its discretion, that a
32 person is not able to pay a monetary obligation in full because he or
33 she is indigent, as defined in RCW 10.101.010, and not more than one
34 year has passed since the later of July 1, 2005, or the date the
35 monetary obligation initially became due and payable, the court
36 (~~shall~~) may, upon request of the person, enter into a payment plan
37 or, if the person is otherwise eligible, a community restitution plan
38 with the person, unless the person has previously been granted a
39 payment plan or a community restitution plan with respect to the same
40 monetary obligation, or unless the person is in noncompliance of any

1 existing or prior payment plan or a community restitution plan, in
2 which case the court may, at its discretion, implement a payment plan
3 or a community restitution plan. If the court has notified the
4 department that the person has failed to pay or comply and the person
5 has subsequently entered into a payment plan and made an initial
6 payment or entered into a community restitution plan and begun
7 performance of the community restitution plan, the court shall timely
8 notify the department that the infraction has been adjudicated, and
9 the department shall immediately rescind any suspension of the
10 person's driver's license or driver's privilege based on failure to
11 respond to that infraction. "Payment plan," as used in this section,
12 means a plan that requires reasonable payments based on the financial
13 ability of the person to pay. The person may voluntarily pay an
14 amount at any time in addition to the payments required under the
15 payment plan.

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

31 (b) If a person has not entered into a payment plan or a
32 community restitution plan with the court and has not paid or
33 satisfied the ((monetary)) obligation in full on or before the time
34 established for payment or satisfaction under a community restitution
35 plan, the court may refer the unpaid monetary penalty, fee, cost,
36 assessment, or other monetary obligation to a collections agency
37 until all monetary obligations have been paid, including those
38 imposed under subsections (3) and (4) of this section, or until the
39 person has entered into a payment plan or a community restitution
40 plan under this section. For those infractions subject to suspension

1 under RCW 46.20.289, the court shall notify the department of the
2 person's delinquency, and the department shall suspend the person's
3 driver's license or driving privileges.

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

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

15 (e) If a court authorized community restitution program for
16 offenders is available in the jurisdiction, the court (~~may~~) shall
17 allow conversion of all or part of the monetary obligations due under
18 this section to court authorized community restitution in lieu of
19 time payments if the person is (~~unable to make reasonable time~~
20 ~~payments~~) otherwise eligible to participate in community restitution
21 and the person is indigent, as defined in RCW 10.101.010.

22 (7) In addition to any other penalties imposed under this section
23 and not subject to the limitation of subsection (1) of this section,
24 a person found to have committed a traffic infraction shall be
25 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
36 traumatic 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
39 section, a person found to have committed a traffic infraction other
40 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional

1 penalty of twenty dollars. The court may not reduce, waive, or
2 suspend the additional penalty unless the court finds the
3 ((offender)) person to be indigent, as defined in RCW 10.101.010. If
4 a court ((authorized)) authorizes entry into a community restitution
5 program ((for offenders is available in the jurisdiction)), the court
6 shall allow ((offenders to)) persons an offset of all or a part of
7 the penalty due under this subsection (8) ((by)) through
8 participation in the court authorized community restitution program
9 if the person is otherwise eligible to participate in community
10 restitution.

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

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

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

29 **Sec. 4.** RCW 46.63.120 and 2002 c 175 s 37 are each amended to
30 read as follows:

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

35 (2) The court may include in the order the imposition of any
36 penalty authorized by the provisions of this chapter for the
37 commission of an infraction. The court may, in its discretion, waive,
38 reduce, or suspend the monetary penalty prescribed for the
39 infraction. At the person's request the court may order performance

1 of a number of hours of community restitution in lieu of all or part
2 of a monetary penalty, at the rate of the then state minimum wage per
3 hour."

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4 On page 1, line 2 of the title, after "infractions;" strike the
5 remainder of the title and insert "amending RCW 46.63.060, 46.63.110,
6 and 46.63.120; and adding a new section to chapter 46.04 RCW."

EFFECT: (1) Removes intent language.

(2) Traffic infraction forms must include a statement that a person may be able to request community restitution.

(3) The court may, upon request, enter a community restitution plan.

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