

SSB 5362 - H AMD 923

By Representative Pellicciotti

ADOPTED 04/27/2019

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that counties
4 that border other states and Canada experience a significant problem
5 of residents of Washington state who evade taxes and fees by failing
6 to register their vehicles, aircraft, and vessels in Washington
7 state. According to a 2007 Washington State University study, the
8 department of revenue lost eighty million dollars over the previous
9 five years to persons avoiding taxes and fees in this manner. It was
10 also estimated in the study that twenty thousand vehicles were
11 illegally registered in Oregon to residents of Clark county,
12 Washington. The problem has undoubtedly grown worse in the decade
13 since the study was completed resulting in hundreds of millions of
14 dollars in lost revenue to state and local coffers as these new
15 residents fail to pay their fair share for public services. Moreover,
16 a public safety risk is created when inaccurate information is
17 provided to law enforcement or insurance companies in the event of an
18 accident or infraction.

19 (2) Current statutes contain monetarily significant penalties
20 that are appropriate given the scope of the harm. It is the intent of
21 the legislature that law enforcement and prosecutors proceed against
22 violators to the fullest extent of the law. In order to give them
23 more tools and ensure compliance with the law, it is the intent of
24 the legislature to set up a deferral program consistent with other
25 programs in the state that allows defendants to obtain dismissal of
26 charges if they take certain remedial steps. It is the intent of the
27 legislature that the punishment for those who do not comply with the
28 deferral program remain subject to current penalties.

29 NEW SECTION. **Sec. 2.** (1) Any county may set up a deferral
30 program for persons who receive a citation for failing to register a

1 vehicle, aircraft, or vessel under RCW 46.16A.030, 47.68.255, or
2 88.02.400. Under the deferral program:

3 (a) If the person has received a criminal citation for failure to
4 register a vehicle under RCW 46.16A.030, an aircraft under RCW
5 47.68.255, or a vessel under RCW 88.02.400, the defendant may
6 petition the court for a deferred prosecution conditioned upon the
7 defendant completing the criteria in (b) of this subsection within
8 ninety days of the court granting the deferral.

9 (b) To be eligible for a deferred prosecution under (a) of this
10 subsection, the court shall dismiss the charge if the court receives
11 satisfactory proof within ninety days that the person:

12 (i) Has paid a five hundred dollar fine;

13 (ii) Has a valid Washington state driver's license; and

14 (iii) Has registered the vehicle, aircraft, or vessel that was
15 the subject of the citation.

16 (c) Before entering an order deferring prosecution, the court
17 shall make specific findings that: (i) The petitioner has stipulated
18 to the admissibility and sufficiency of the facts as contained in the
19 written police report; (ii) the petitioner has acknowledged the
20 admissibility of the stipulated facts in any criminal hearing on the
21 underlying offense or offenses held subsequent to revocation of the
22 order granting deferred prosecution; (iii) the petitioner has
23 acknowledged and waived the right to testify, the right to a speedy
24 trial, the right to call witnesses to testify, the right to present
25 evidence in his or her defense, and the right to a jury trial; and
26 (iv) the petitioner's statements were made knowingly and voluntarily.
27 Such findings shall be included in the order granting deferred
28 prosecution.

29 (d) If the defendant successfully completes the conditions
30 required under the deferred prosecution, the court shall dismiss the
31 charges pending against the defendant.

32 (e) If the court finds that the defendant has not successfully
33 completed the conditions required under the deferred prosecution, the
34 court shall remove the defendant from deferred prosecution and enter
35 a judgment.

36 (2) The deferral program described in this section does not apply
37 to persons who have received a previous conviction or deferral for
38 failing to register a vehicle under RCW 46.16A.030, an aircraft under
39 RCW 47.68.255, or a vessel under RCW 88.02.400.

1 (3) Fines generated pursuant to the deferral program established
2 in subsection (1) of this section shall be used by the county for the
3 purpose of enforcement and prosecution of registration requirements
4 under RCW 46.16A.030, 47.68.250, or 88.02.550.

5 **Sec. 3.** RCW 46.16A.030 and 2011 c 171 s 43 and 2011 c 96 s 31
6 are each reenacted and amended to read as follows:

7 (1) Vehicles must be registered as required by this chapter and
8 must display license plates or decals assigned by the department.

9 (2) It is unlawful for a person to operate any vehicle on a
10 public highway of this state without having in full force and effect
11 a current and proper vehicle registration and displaying license
12 plates on the vehicle.

13 (3) Vehicle license plates or registration certificates, whether
14 original issues or duplicates, may not be issued or furnished by the
15 department until the applicant makes satisfactory application for a
16 certificate of title or presents satisfactory evidence that a
17 certificate of title covering the vehicle has been previously issued.

18 (4) Failure to make initial registration before operating a
19 vehicle on the public highways of this state is a traffic infraction.
20 A person committing this infraction must pay a fine of five hundred
21 twenty-nine dollars, which may not be suspended(~~(, deferred,)~~) or
22 reduced. This fine is in addition to any delinquent taxes and fees
23 that must be deposited and distributed in the same manner as if the
24 taxes and fees were properly paid in a timely fashion. The five
25 hundred twenty-nine dollar fine must be deposited into the vehicle
26 licensing fraud account created in the state treasury in RCW
27 46.68.250.

28 (5) Failure to renew an expired registration before operating a
29 vehicle on the public highways of this state is a traffic infraction.

30 (6) It is a gross misdemeanor for a resident, as identified in
31 RCW 46.16A.140, to register a vehicle in another state, evading the
32 payment of any tax or vehicle license fee imposed in connection with
33 registration. It is punishable, in lieu of the fine in subsection (4)
34 of this section, as follows:

35 (a) For a first offense:

36 (i) Up to three hundred sixty-four days in the county jail;

37 (ii) Payment of a fine of five hundred twenty-nine dollars plus
38 any applicable assessments, which may not be suspended(~~(, deferred,)~~)
39 or reduced. The fine of five hundred twenty-nine dollars must be

1 deposited into the vehicle licensing fraud account created in the
2 state treasury in RCW 46.68.250;

3 (iii) A fine of one thousand dollars to be deposited into the
4 vehicle licensing fraud account created in the state treasury in RCW
5 46.68.250, which may not be suspended(~~(, deferred,)~~) or reduced; and

6 (iv) The delinquent taxes and fees, which must be deposited and
7 distributed in the same manner as if the taxes and fees were properly
8 paid in a timely fashion, and which may not be suspended(~~(, deferred,)~~)
9 or reduced;

10 (b) For a second or subsequent offense:

11 (i) Up to three hundred sixty-four days in the county jail;

12 (ii) Payment of a fine of five hundred twenty-nine dollars plus
13 any applicable assessments, which may not be suspended, deferred, or
14 reduced, except as provided in section 2 of this act. The fine of
15 five hundred twenty-nine dollars must be deposited into the vehicle
16 licensing fraud account created in the state treasury in RCW
17 46.68.250;

18 (iii) A fine of five thousand dollars to be deposited into the
19 vehicle licensing fraud account created in the state treasury in RCW
20 46.68.250, which may not be suspended(~~(, deferred,)~~) or reduced; and

21 (iv) The amount of delinquent taxes and fees, which must be
22 deposited and distributed in the same manner as if the taxes and fees
23 were properly paid in a timely fashion, and which may not be
24 suspended(~~(, deferred,)~~) or reduced.

25 (7) A vehicle with an expired registration of more than
26 forty-five days parked on a public street may be impounded by a
27 police officer under RCW 46.55.113(2).

28 **Sec. 4.** RCW 47.68.255 and 2010 c 161 s 1147 are each amended to
29 read as follows:

30 A person who is required to register an aircraft under this
31 chapter and who registers an aircraft in another state or foreign
32 country evading the Washington aircraft excise tax is guilty of a
33 gross misdemeanor. For a second or subsequent offense, the person
34 convicted is also subject to a fine equal to four times the amount of
35 avoided taxes and fees, no part of which may be suspended or
36 deferred, except as provided in section 2 of this act. Excise taxes
37 owed and fines assessed (~~(will)~~) must be deposited in the manner
38 provided under RCW 46.16A.030(6).

1 **Sec. 5.** RCW 88.02.400 and 2010 c 161 s 1007 are each amended to
2 read as follows:

3 (1) It is a gross misdemeanor punishable as provided under
4 chapter 9A.20 RCW for any person owning a vessel subject to taxation
5 under chapter 82.49 RCW to:

6 (a) Register a vessel in another state to avoid Washington state
7 vessel excise tax required under chapter 82.49 RCW; or

8 (b) Obtain a vessel dealer's license for the purpose of evading
9 excise tax on vessels under chapter 82.49 RCW.

10 (2) For a second or subsequent offense, the person convicted is
11 also subject to a fine equal to four times the amount of avoided
12 taxes and fees, which may not be suspended or deferred, except as
13 provided in section 2 of this act.

14 (3) Excise taxes owed and fines assessed must be deposited in the
15 manner provided under RCW 46.16A.030(6).

16 NEW SECTION. **Sec. 6.** Section 2 of this act constitutes a new
17 chapter in Title 10 RCW."

18 Correct the title.

EFFECT: Replaces authorization for counties to establish deferred finding programs administered by prosecutor attorney's offices for persons who receive a citation for failure to register a vehicle, aircraft, or vessel, with authorization for counties to establish a deferral program administered by courts for persons who receive a criminal citation for failure to register a vehicle, aircraft, or vessel; and removes the mandatory requirement that prosecutors seek the full penalty for this criminal offense by individuals who do not satisfactorily complete the program requirements.

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