

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5695

66th Legislature
2019 Regular Session

Passed by the Senate April 28, 2019
Yeas 35 Nays 14

President of the Senate

Passed by the House April 27, 2019
Yeas 59 Nays 39

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Brad Hendrickson, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5695** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5695

AS AMENDED BY THE HOUSE

Passed Legislature - 2019 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Senate Transportation (originally sponsored by Senators Lias, King, Zeiger, Saldaña, and Kuderer; by request of Department of Transportation)

READ FIRST TIME 03/01/19.

1 AN ACT Relating to high occupancy vehicle lane penalties;
2 amending RCW 46.20.289, 46.61.165, 46.63.110, 3.62.090, and 2.68.040;
3 adding a new section to chapter 46.68 RCW; creating a new section;
4 and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that individuals who
7 engage in contrived or repeated violations of the state's high
8 occupancy vehicle lane restrictions frustrate the state's congestion
9 management, and justifiably incite indignation and anger among fellow
10 transportation system users. The legislature intends the escalating
11 penalties prescribed in this act to rebuke and discourage such
12 conduct within Washington's transportation system.

13 **Sec. 2.** RCW 46.20.289 and 2016 c 203 s 6 are each amended to
14 read as follows:

15 Except for traffic violations committed under RCW 46.61.165, the
16 department shall suspend all driving privileges of a person when the
17 department receives notice from a court under RCW 46.63.070(6),
18 46.63.110(6), or 46.64.025 that the person has failed to respond to a
19 notice of traffic infraction for a moving violation, failed to appear
20 at a requested hearing for a moving violation, violated a written

1 promise to appear in court for a notice of infraction for a moving
2 violation, or has failed to comply with the terms of a notice of
3 traffic infraction, criminal complaint, or citation for a moving
4 violation, or when the department receives notice from another state
5 under Article IV of the nonresident violator compact under RCW
6 46.23.010 or from a jurisdiction that has entered into an agreement
7 with the department under RCW 46.23.020, other than for a standing,
8 stopping, or parking violation, provided that the traffic infraction
9 or traffic offense is committed on or after July 1, 2005. A
10 suspension under this section takes effect pursuant to the provisions
11 of RCW 46.20.245, and remains in effect until the department has
12 received a certificate from the court showing that the case has been
13 adjudicated, and until the person meets the requirements of RCW
14 46.20.311. In the case of failure to respond to a traffic infraction
15 issued under RCW 46.55.105, the department shall suspend all driving
16 privileges until the person provides evidence from the court that all
17 penalties and restitution have been paid. A suspension under this
18 section does not take effect if, prior to the effective date of the
19 suspension, the department receives a certificate from the court
20 showing that the case has been adjudicated.

21 **Sec. 3.** RCW 46.61.165 and 2013 c 26 s 2 are each amended to read
22 as follows:

23 (1) The state department of transportation and the local
24 authorities are authorized to reserve all or any portion of any
25 highway under their respective jurisdictions, including any
26 designated lane or ramp, for the exclusive or preferential use of one
27 or more of the following: (a) Public transportation vehicles; (b)
28 motorcycles; (c) private motor vehicles carrying no fewer than a
29 specified number of passengers; or (d) the following private
30 transportation provider vehicles if the vehicle has the capacity to
31 carry eight or more passengers, regardless of the number of
32 passengers in the vehicle, and if such use does not interfere with
33 the efficiency, reliability, and safety of public transportation
34 operations: (i) Auto transportation company vehicles regulated under
35 chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated
36 under chapter 81.70 RCW, except marked or unmarked stretch limousines
37 and stretch sport utility vehicles as defined under department of
38 licensing rules; (iii) private nonprofit transportation provider
39 vehicles regulated under chapter 81.66 RCW; and (iv) private employer

1 transportation service vehicles, when such limitation will increase
2 the efficient utilization of the highway or will aid in the
3 conservation of energy resources.

4 (2) Any transit-only lanes that allow other vehicles to access
5 abutting businesses that are authorized pursuant to subsection (1) of
6 this section may not be authorized for the use of private
7 transportation provider vehicles as described under subsection (1) of
8 this section.

9 (3) The state department of transportation and the local
10 authorities authorized to reserve all or any portion of any highway
11 under their respective jurisdictions, for exclusive or preferential
12 use, may prohibit the use of a high occupancy vehicle lane by the
13 following private transportation provider vehicles: (a) Auto
14 transportation company vehicles regulated under chapter 81.68 RCW;
15 (b) passenger charter carrier vehicles regulated under chapter 81.70
16 RCW, and marked or unmarked limousines and stretch sport utility
17 vehicles as defined under department of licensing rules; (c) private
18 nonprofit transportation provider vehicles regulated under chapter
19 81.66 RCW; and (d) private employer transportation service vehicles,
20 when the average transit speed in the high occupancy vehicle lane
21 fails to meet department of transportation standards and falls below
22 forty-five miles per hour at least ninety percent of the time during
23 the peak hours, as determined by the department of transportation or
24 the local authority, whichever operates the facility.

25 (4) Regulations authorizing such exclusive or preferential use of
26 a highway facility may be declared to be effective at all times or at
27 specified times of day or on specified days. Violation of a
28 restriction of highway usage prescribed by the appropriate authority
29 under this section is a traffic infraction. A person who commits a
30 traffic infraction under this section is also subject to additional
31 monetary penalties as defined in this subsection. The additional
32 monetary penalties are separate from the base penalty, fees, and
33 assessments issued for the traffic infraction and are intended to
34 raise awareness, and improve the efficiency, of the high occupancy
35 vehicle lane system.

36 (a) Whenever a person commits a traffic infraction under this
37 section, an additional monetary penalty of fifty dollars must be
38 collected, and, in the case that a person has already committed a
39 violation under this section within two years of committing this

1 violation, then an additional one hundred fifty dollars must be
2 collected.

3 (b) Any time a person commits a traffic infraction under this
4 section and is using a dummy, doll, or other human facsimile to make
5 it appear that an additional person is in the vehicle, the person
6 must be assessed a two hundred dollar penalty, which is in addition
7 to the penalties in (a) of this subsection.

8 (c) The monetary penalties under (a) and (b) of this subsection
9 are additional, separate, and distinct penalties from the base
10 penalty and are not subject to fees or assessments specified in RCW
11 46.63.110, 3.62.090, and 2.68.040.

12 (d) (i) The additional penalties collected under (a) of this
13 subsection must be distributed as follows:

14 (A) Twenty-five percent must be deposited into the congestion
15 relief and traffic safety account created under section 7 of this
16 act; and

17 (B) Seventy-five percent must be deposited into the motor vehicle
18 fund created under RCW 46.68.070.

19 (ii) The additional penalty collected under (b) of this
20 subsection must be deposited into the congestion relief and traffic
21 safety account created under section 7 of this act.

22 (e) Violations committed under this section are excluded from
23 eligibility as a moving violation for driver's license suspension
24 under RCW 46.20.289 when a person subsequently fails to respond to a
25 notice of traffic infraction for this moving violation, fails to
26 appear at a requested hearing for this moving violation, violates a
27 written promise to appear in court for a notice of infraction for
28 this moving violation, or fails to comply with the terms of a notice
29 of traffic infraction for this moving violation.

30 (5) Local authorities are encouraged to establish a process for
31 private transportation providers, as described under subsections (1)
32 and (3) of this section, to apply for the use of public
33 transportation facilities reserved for the exclusive or preferential
34 use of public transportation vehicles. The application and review
35 processes should be uniform and should provide for an expeditious
36 response by the local authority. Whenever practicable, local
37 authorities should enter into agreements with such private
38 transportation providers to allow for the reasonable use of these
39 facilities.

1 (6) For the purposes of this section, "private employer
2 transportation service" means regularly scheduled, fixed-route
3 transportation service that is similarly marked or identified to
4 display the business name or logo on the driver and passenger sides
5 of the vehicle, meets the annual certification requirements of the
6 department of transportation, and is offered by an employer for the
7 benefit of its employees.

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

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

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

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

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

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

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

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

38 (b) If a person has not entered into a payment plan with the
39 court and has not paid the monetary obligation in full on or before
40 the time established for payment, the court may refer the unpaid

1 monetary penalty, fee, cost, assessment, or other monetary obligation
2 to a collections agency until all monetary obligations have been
3 paid, including those imposed under subsections (3) and (4) of this
4 section, or until the person has entered into a payment plan under
5 this section. For those infractions subject to suspension under RCW
6 46.20.289, the court shall notify the department of the person's
7 delinquency, and the department shall suspend the person's driver's
8 license or driving privileges.

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

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

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

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

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

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

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

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

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

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

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

30 (11) The additional monetary penalties for a violation of RCW
31 46.61.165 are not subject to assessments or fees provided under this
32 section.

33 **Sec. 5.** RCW 3.62.090 and 2004 c 15 s 5 are each amended to read
34 as follows:

35 (1) There shall be assessed and collected in addition to any
36 fines, forfeitures, or penalties assessed, other than for parking
37 infractions, by all courts organized under Title 3 or 35 RCW a public
38 safety and education assessment equal to seventy percent of such
39 fines, forfeitures, or penalties, which shall be remitted as provided

1 in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required
2 by this section shall not be suspended or waived by the court.

3 (2) There shall be assessed and collected in addition to any
4 fines, forfeitures, or penalties assessed, other than for parking
5 infractions and for fines levied under RCW 46.61.5055, and in
6 addition to the public safety and education assessment required under
7 subsection (1) of this section, by all courts organized under Title 3
8 or 35 RCW, an additional public safety and education assessment equal
9 to fifty percent of the public safety and education assessment
10 required under subsection (1) of this section, which shall be
11 remitted to the state treasurer and deposited as provided in RCW
12 43.08.250. The additional assessment required by this subsection
13 shall not be suspended or waived by the court.

14 (3) This section does not apply to the fee imposed under RCW
15 46.63.110(7), the penalty imposed under RCW 46.63.110(8), or the
16 penalty assessment imposed under RCW 10.99.080. This section does not
17 apply to the additional monetary penalties under RCW 46.61.165.

18 **Sec. 6.** RCW 2.68.040 and 1994 c 8 s 2 are each amended to read
19 as follows:

20 (1) To support the judicial information system account provided
21 for in RCW 2.68.020, the supreme court may provide by rule for an
22 increase in fines, penalties, and assessments, and the increased
23 amount shall be forwarded to the state treasurer for deposit in the
24 account:

25 (a) Pursuant to the authority of RCW 46.63.110(~~((2))~~) (3), the
26 sum of ten dollars to any penalty collected by a court pursuant to
27 supreme court infraction rules for courts of limited jurisdiction;

28 (b) Pursuant to RCW 3.62.060, a mandatory appearance cost in the
29 initial sum of ten dollars to be assessed on all defendants; and

30 (c) Pursuant to RCW 46.63.110(~~((5))~~) (6), a ten-dollar assessment
31 for each account for which a person requests a time payment schedule.

32 (2) Notwithstanding a provision of law or rule to the contrary,
33 the assessments provided for in this section may not be waived or
34 suspended and shall be immediately due and payable upon forfeiture,
35 conviction, deferral of prosecution, or request for time payment, as
36 each shall occur.

37 (3) The supreme court is requested to adjust these assessments
38 for inflation.

1 (4) This section does not apply to the additional monetary
2 penalties under RCW 46.61.165.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 46.68
4 RCW to read as follows:

5 The congestion relief and traffic safety account is created in
6 the state treasury. Moneys in the account may be spent only after
7 appropriation. Expenditures from the account may only be used for
8 purposes related to congestion relief and traffic safety.

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