

**RCW 46.44.105 Enforcement procedures—Penalties—Exception—**

**Rules.** (1) (a) Except as provided in (c) of this subsection, a violation of any of the provisions of this chapter is a traffic infraction, and upon the first finding thereof shall be assessed a basic penalty of not less than fifty dollars; and upon a second finding thereof shall be assessed a basic penalty of not less than seventy-five dollars; and upon a third or subsequent finding shall be assessed a basic penalty of not less than one hundred dollars.

(b) (i) Except as provided in (c) of this subsection, in addition to the penalties imposed in (a) of this subsection, any person violating RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 shall be assessed a penalty for each pound overweight, as follows:

(A) One pound through four thousand pounds overweight is three cents for each pound;

(B) Four thousand one pounds through ten thousand pounds overweight is one hundred twenty dollars plus twelve cents per pound for each additional pound over four thousand pounds overweight;

(C) Ten thousand one pounds through fifteen thousand pounds overweight is eight hundred forty dollars plus sixteen cents per pound for each additional pound over ten thousand pounds overweight;

(D) Fifteen thousand one pounds through twenty thousand pounds overweight is one thousand six hundred forty dollars plus twenty cents per pound for each additional pound over fifteen thousand pounds overweight;

(E) Twenty thousand one pounds and more is two thousand six hundred forty dollars plus thirty cents per pound for each additional pound over twenty thousand pounds overweight.

(ii) Upon a first violation in any calendar year, the court may suspend the penalty for five hundred pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a two thousand pound suspension. Except as specified in (c) of this subsection, in no case may the basic penalty assessed in (a) of this subsection or the additional penalty assessed in (b) of this subsection, except as provided for the first violation, be suspended.

(c) (i) The penalties in (a) and (b) of this subsection are not applicable and a written warning must be issued when a traffic infraction for a violation of RCW 46.44.041 occurs and the following applies:

(A) A vehicle or combination of vehicles carrying farm products, as defined in RCW 7.48.310, from the field where the farm product was grown or harvested, exceeds the gross vehicle weight limits in RCW 46.44.041 by five percent or less; and

(B) The driver of the vehicle has not been issued a traffic infraction or has received no more than one written warning for a violation of RCW 46.44.041 within the calendar year in which the violation occurs.

(ii) The state patrol must track the issuance of written warnings issued for RCW 46.44.041 for the purposes of determining whether a violation of RCW 46.44.041 is the first in a calendar year.

(2) Any person found to have violated any posted limitations of a highway or section of highway shall be assessed a monetary penalty of not less than one hundred fifty dollars, and the court shall in addition thereto upon second violation within a twelve-month period involving the same power unit, suspend the certificate of license registration for not less than thirty days.

(3) It is unlawful for the driver of a vehicle to fail or refuse to stop and submit the vehicle and load to a weighing, or to fail or refuse, when directed by an officer upon a weighing of the vehicle to stop the vehicle and otherwise comply with the provisions of this section. It is unlawful for a driver of a commercial motor vehicle as defined in RCW 46.32.005, other than the driver of a bus as defined in RCW 46.32.005(3) or a vehicle with a gross vehicle weight rating or gross combination weight rating of 7,257 kilograms or less (16,000 pounds or less) and not transporting hazardous materials in accordance with RCW 46.32.005(4), to fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open. However, unladen tow trucks regardless of weight and farm vehicles carrying farm produce with a gross vehicle weight rating or gross combination weight rating of 11,794 kilograms or less (26,000 pounds or less) may fail or refuse to stop at a weighing station when proper traffic control signs indicate scales are open.

Any police officer is authorized to require the driver of any vehicle or combination of vehicles to stop and submit to a weighing either by means of a portable or stationary scale and may require that the vehicle be driven to the nearest public scale. Whenever a police officer, upon weighing a vehicle and load, determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable location and remain standing until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit permitted by law. If the vehicle is loaded with grain or other perishable commodities, the driver shall be permitted to proceed without removing any of the load, unless the gross weight of the vehicle and load exceeds by more than ten percent the limit permitted by this chapter. The owner or operator of the vehicle shall care for all materials unloaded at the risk of the owner or operator.

Any vehicle whose driver or owner represents that the vehicle is disabled or otherwise unable to proceed to a weighing location shall have its load sealed or otherwise marked by any police officer. The owner or driver shall be directed that upon completion of repairs, the vehicle shall submit to weighing with the load and markings and/or seal intact and undisturbed. Failure to report for weighing, appearing for weighing with the seal broken or the markings disturbed, or removal of any cargo prior to weighing is unlawful. Any person so convicted shall be fined one thousand dollars, and in addition the certificate of license registration shall be suspended for not less than thirty days.

(4) Any other provision of law to the contrary notwithstanding, district courts having venue have concurrent jurisdiction with the superior courts for the imposition of any penalties authorized under this section.

(5) For the purpose of determining additional penalties as provided by subsection (1)(b) of this section, "overweight" means the poundage in excess of the maximum allowable gross weight or axle/axle grouping weight prescribed by RCW 46.44.041, 46.44.042, 46.44.047, 46.44.091, and 46.44.095.

(6) The penalties provided in subsection (1)(a) and (b) of this section shall be remitted as provided in chapter 3.62 RCW or RCW 10.82.070. For the purpose of computing the basic penalties and additional penalties to be imposed under subsection (1)(a) and (b) of this section, the convictions shall be on the same vehicle or combination of vehicles within a twelve-month period under the same ownership.

(7) Any state patrol officer or any weight control officer who finds any person operating a vehicle or a combination of vehicles in violation of the conditions of a permit issued under RCW 46.44.047, 46.44.090, and 46.44.095 may confiscate the permit and forward it to the state department of transportation which may return it to the permittee or revoke, cancel, or suspend it without refund. The department of transportation shall keep a record of all action taken upon permits so confiscated, and if a permit is returned to the permittee the action taken by the department of transportation shall be endorsed thereon. Any permittee whose permit is suspended or revoked may upon request receive a hearing before the department of transportation or person designated by that department. After the hearing the department of transportation may reinstate any permit or revise its previous action.

Every permit issued as provided for in this chapter shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any law enforcement officer or authorized agent of any authority granting such a permit.

Upon the third finding within a calendar year of a violation of the requirements and conditions of a permit issued under RCW 46.44.095, the permit shall be canceled, and the canceled permit shall be immediately transmitted by the court or the arresting officer to the department of transportation. The vehicle covered by the canceled permit is not eligible for a new permit for a period of thirty days.

(8) For the purposes of determining gross weights the actual scale weight taken by the arresting officer is prima facie evidence of the total gross weight.

(9) It is a traffic infraction to direct the loading of a vehicle with knowledge that it violates the requirements in RCW 46.44.041, 46.44.042, 46.44.047, 46.44.090, 46.44.091, or 46.44.095 and that it is to be operated on the public highways of this state.

(10) The chief of the state patrol, with the advice of the department, may adopt reasonable rules to aid in the enforcement of this section. [2019 c 439 § 1; 2007 c 419 § 13. Prior: 2006 c 297 § 1; 2006 c 50 § 4; 2002 c 254 § 1; 1999 c 23 § 1; 1996 c 92 § 2; 1993 c 403 § 4; 1990 c 217 § 1; 1985 c 351 § 6; 1984 c 258 § 327; 1984 c 7 § 58; 1979 ex.s. c 136 § 75; 1975-'76 2nd ex.s. c 64 § 23.]

**Rules of court:** Monetary penalty schedule—IRLJ 6.2.

**Findings—Short title—2007 c 419:** See notes following RCW 46.16A.010.

**Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258:** See notes following RCW 3.30.010.

**Intent—1984 c 258:** See note following RCW 3.34.130.

**Effective date—Severability—1979 ex.s. c 136:** See notes following RCW 46.63.010.

**Effective dates—Severability—1975-'76 2nd ex.s. c 64:** See notes following RCW 46.16A.455.