
HOUSE BILL 2086

State of Washington 63rd Legislature 2013 2nd Special Session

By Representatives Bergquist, Hawkins, Hunt, Walsh, Freeman, Manweller, Stonier, Riccelli, Kagi, Pollet, Zeiger, Tarleton, Orwall, Habib, Green, Cody, Morrell, Fey, Roberts, and Smith

1 AN ACT Relating to smoking in motor vehicles carrying minors;
2 amending RCW 46.63.110; adding a new section to chapter 46.61 RCW; and
3 prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61 RCW
6 to read as follows:

7 (1) A person who smokes a lighted pipe, cigar, or cigarette in a
8 moving or parked motor vehicle carrying any persons under the age of
9 eighteen years old is guilty of a traffic infraction.

10 (2) Infractions under this section may not become part of the
11 driver's record under RCW 46.52.101 and 46.52.120. A finding that a
12 person committed a traffic infraction under this section may not be
13 made available to insurance companies or employers.

14 **Sec. 2.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read
15 as follows:

16 (1) A person found to have committed a traffic infraction shall be
17 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) is
4 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is
5 five hundred dollars for each offense. No penalty assessed under this
6 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 shall
9 also specify the conditions under which local courts may exercise
10 discretion in assessing fines and penalties for traffic infractions.
11 The legislature respectfully requests the supreme court to adjust this
12 schedule every two years for inflation.

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

23 (5) Monetary penalties provided for in chapter 46.70 RCW which are
24 civil in nature and penalties which may be assessed for violations of
25 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
26 are not subject to the limitation on the amount of monetary penalties
27 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 Title
31 6 RCW. If the court determines, in its discretion, that a person is
32 not able to pay a monetary obligation in full, and not more than one
33 year has passed since the later of July 1, 2005, or the date the
34 monetary obligation initially became due and payable, the court shall
35 enter into a payment plan with the person, unless the person has
36 previously been granted a payment plan with respect to the same
37 monetary obligation, or unless the person is in noncompliance of any
38 existing or prior payment plan, in which case the court may, at its

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

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

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

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

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

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

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

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

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

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

31 (8)(a) In addition to any other penalties imposed under this
32 section and not subject to the limitation of subsection (1) of this
33 section, a person found to have committed a traffic infraction other
34 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
35 penalty of twenty dollars. The court may not reduce, waive, or suspend
36 the additional penalty unless the court finds the offender to be
37 indigent. If a court authorized community restitution program for
38 offenders is available in the jurisdiction, the court shall allow

1 offenders to offset all or a part of the penalty due under this
2 subsection (8) by participation in the court authorized community
3 restitution program.

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

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

18 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
19 hundred fifty dollars for the first violation; (b) five hundred dollars
20 for the second violation; and (c) seven hundred fifty dollars for each
21 violation thereafter.

22 (11) The monetary penalty for violating section 1 of this act is:
23 (a) One hundred twenty-five dollars for the first violation; and (b)
24 two hundred fifty dollars for each violation thereafter.

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