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**SUBSTITUTE SENATE BILL 5695**

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**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 46.61.165, 46.63.110, 3.62.090, and 2.68.040; adding a  
3 new section to chapter 46.68 RCW; creating a new section; and  
4 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 46.61.165 and 2013 c 26 s 2 are each amended to read  
14 as follows:

15 (1) The state department of transportation and the local  
16 authorities are authorized to reserve all or any portion of any  
17 highway under their respective jurisdictions, including any  
18 designated lane or ramp, for the exclusive or preferential use of one  
19 or more of the following: (a) Public transportation vehicles; (b)  
20 motorcycles; (c) private motor vehicles carrying no fewer than a

1 specified number of passengers; or (d) the following private  
2 transportation provider vehicles if the vehicle has the capacity to  
3 carry eight or more passengers, regardless of the number of  
4 passengers in the vehicle, and if such use does not interfere with  
5 the efficiency, reliability, and safety of public transportation  
6 operations: (i) Auto transportation company vehicles regulated under  
7 chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated  
8 under chapter 81.70 RCW, except marked or unmarked stretch limousines  
9 and stretch sport utility vehicles as defined under department of  
10 licensing rules; (iii) private nonprofit transportation provider  
11 vehicles regulated under chapter 81.66 RCW; and (iv) private employer  
12 transportation service vehicles, when such limitation will increase  
13 the efficient utilization of the highway or will aid in the  
14 conservation of energy resources.

15 (2) Any transit-only lanes that allow other vehicles to access  
16 abutting businesses that are authorized pursuant to subsection (1) of  
17 this section may not be authorized for the use of private  
18 transportation provider vehicles as described under subsection (1) of  
19 this section.

20 (3) The state department of transportation and the local  
21 authorities authorized to reserve all or any portion of any highway  
22 under their respective jurisdictions, for exclusive or preferential  
23 use, may prohibit the use of a high occupancy vehicle lane by the  
24 following private transportation provider vehicles: (a) Auto  
25 transportation company vehicles regulated under chapter 81.68 RCW;  
26 (b) passenger charter carrier vehicles regulated under chapter 81.70  
27 RCW, and marked or unmarked limousines and stretch sport utility  
28 vehicles as defined under department of licensing rules; (c) private  
29 nonprofit transportation provider vehicles regulated under chapter  
30 81.66 RCW; and (d) private employer transportation service vehicles,  
31 when the average transit speed in the high occupancy vehicle lane  
32 fails to meet department of transportation standards and falls below  
33 forty-five miles per hour at least ninety percent of the time during  
34 the peak hours, as determined by the department of transportation or  
35 the local authority, whichever operates the facility.

36 (4) Regulations authorizing such exclusive or preferential use of  
37 a highway facility may be declared to be effective at all times or at  
38 specified times of day or on specified days. Violation of a  
39 restriction of highway usage prescribed by the appropriate authority  
40 under this section is a traffic infraction. A person who commits a

1 traffic infraction under this section is also subject to an  
2 additional monetary penalty as defined in RCW 46.63.110. The  
3 additional monetary penalty is separate from the base penalty and  
4 assessments issued for the traffic infraction and is intended to  
5 raise awareness, and improve the efficiency, of the high occupancy  
6 vehicle lane system.

7 (5) Local authorities are encouraged to establish a process for  
8 private transportation providers, as described under subsections (1)  
9 and (3) of this section, to apply for the use of public  
10 transportation facilities reserved for the exclusive or preferential  
11 use of public transportation vehicles. The application and review  
12 processes should be uniform and should provide for an expeditious  
13 response by the local authority. Whenever practicable, local  
14 authorities should enter into agreements with such private  
15 transportation providers to allow for the reasonable use of these  
16 facilities.

17 (6) For the purposes of this section, "private employer  
18 transportation service" means regularly scheduled, fixed-route  
19 transportation service that is similarly marked or identified to  
20 display the business name or logo on the driver and passenger sides  
21 of the vehicle, meets the annual certification requirements of the  
22 department of transportation, and is offered by an employer for the  
23 benefit of its employees.

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

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

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

34 (3) The supreme court shall prescribe by rule a schedule of  
35 monetary penalties for designated traffic infractions. This rule  
36 shall also specify the conditions under which local courts may  
37 exercise discretion in assessing fines and penalties for traffic  
38 infractions. The legislature respectfully requests the supreme court  
39 to adjust this schedule every two years for inflation.

1 (4) There shall be a penalty of twenty-five dollars for failure  
2 to respond to a notice of traffic infraction except where the  
3 infraction relates to parking as defined by local law, ordinance,  
4 regulation, or resolution or failure to pay a monetary penalty  
5 imposed pursuant to this chapter. A local legislative body may set a  
6 monetary penalty not to exceed twenty-five dollars for failure to  
7 respond to a notice of traffic infraction relating to parking as  
8 defined by local law, ordinance, regulation, or resolution. The local  
9 court, whether a municipal, police, or district court, shall impose  
10 the monetary penalty set by the local legislative body.

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

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

38 (a) If a payment required to be made under the payment plan is  
39 delinquent or the person fails to complete a community restitution  
40 program on or before the time established under the payment plan,

1 unless the court determines good cause therefor and adjusts the  
2 payment plan or the community restitution plan accordingly, the court  
3 may refer the unpaid monetary penalty, fee, cost, assessment, or  
4 other monetary obligation for civil enforcement until all monetary  
5 obligations, including those imposed under subsections (3) and (4) of  
6 this section, have been paid, and court authorized community  
7 restitution has been completed, or until the court has entered into a  
8 new time payment or community restitution agreement with the person.  
9 For those infractions subject to suspension under RCW 46.20.289, the  
10 court shall notify the department of the person's failure to meet the  
11 conditions of the plan, and the department shall suspend the person's  
12 driver's license or driving privileges.

13 (b) If a person has not entered into a payment plan with the  
14 court and has not paid the monetary obligation in full on or before  
15 the time established for payment, the court may refer the unpaid  
16 monetary penalty, fee, cost, assessment, or other monetary obligation  
17 to a collections agency until all monetary obligations have been  
18 paid, including those imposed under subsections (3) and (4) of this  
19 section, or until the person has entered into a payment plan under  
20 this section. For those infractions subject to suspension under RCW  
21 46.20.289, the court shall notify the department of the person's  
22 delinquency, and the department shall suspend the person's driver's  
23 license or driving privileges.

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

29 (d) Nothing in this section precludes a court from contracting  
30 with outside entities to administer its payment plan system. When  
31 outside entities are used for the administration of a payment plan,  
32 the court may assess the person a reasonable fee for such  
33 administrative services, which fee may be calculated on a periodic,  
34 percentage, or other basis.

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

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

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

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

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

16 (8)(a) In addition to any other penalties imposed under this  
17 section and not subject to the limitation of subsection (1) of this  
18 section, a person found to have committed a traffic infraction other  
19 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional  
20 penalty of twenty dollars. The court may not reduce, waive, or  
21 suspend the additional penalty unless the court finds the offender to  
22 be indigent. If a court authorized community restitution program for  
23 offenders is available in the jurisdiction, the court shall allow  
24 offenders to offset all or a part of the penalty due under this  
25 subsection (8) by participation in the court authorized community  
26 restitution program.

27 (b) Eight dollars and fifty cents of the additional penalty under  
28 (a) of this subsection shall be remitted to the state treasurer. The  
29 remaining revenue from the additional penalty must be remitted under  
30 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted  
31 under this subsection to the state treasurer must be deposited in the  
32 state general fund. The balance of the revenue received by the county  
33 or city treasurer under this subsection must be deposited into the  
34 county or city current expense fund. Moneys retained by the city or  
35 county under this subsection shall constitute reimbursement for any  
36 liabilities under RCW 43.135.060.

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

1 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two  
2 hundred fifty dollars for the first violation; (b) five hundred  
3 dollars for the second violation; and (c) seven hundred fifty dollars  
4 for each violation thereafter.

5 (11)(a) Whenever a person commits a traffic infraction as  
6 provided in RCW 46.61.165(4), an additional monetary penalty must be  
7 collected as follows:

8 (i) Fifty dollars for the first offense;

9 (ii) Two hundred dollars for the second offense committed within  
10 two years of the first offense; and

11 (iii) Five hundred fifty dollars for the third and subsequent  
12 offenses committed within two years of the first offense.

13 The monetary penalty under this subsection (11)(a) is an  
14 additional, separate, and distinct penalty from the base penalty and  
15 is not subject to assessments provided in this section and RCW  
16 3.62.090 and 2.68.040.

17 (b) If a person commits a traffic infraction as provided in RCW  
18 46.61.165(4) and is using a dummy, doll, or other human facsimile to  
19 make it appear that more than one person is in the vehicle, the  
20 person must be assessed an additional two hundred dollar penalty in  
21 addition to the penalty in (a) of this subsection. The additional two  
22 hundred dollar penalty must be deposited into the account created  
23 under section 6 of this act.

24 (c) The additional monetary penalties collected under (a) of this  
25 subsection must be distributed as follows:

26 (i) Twenty-five percent must be deposited into the congestion  
27 relief and traffic safety account created under section 6 of this  
28 act; and

29 (ii) Seventy-five percent must be deposited into the motor  
30 vehicle fund.

31 **Sec. 4.** RCW 3.62.090 and 2004 c 15 s 5 are each amended to read  
32 as follows:

33 (1) There shall be assessed and collected in addition to any  
34 fines, forfeitures, or penalties assessed, other than for parking  
35 infractions, by all courts organized under Title 3 or 35 RCW a public  
36 safety and education assessment equal to seventy percent of such  
37 fines, forfeitures, or penalties, which shall be remitted as provided  
38 in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required  
39 by this section shall not be suspended or waived by the court.

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

12 (3) This section does not apply to the fee imposed under RCW  
13 46.63.110(7), the penalty imposed under RCW 46.63.110(8), or the  
14 penalty assessment imposed under RCW 10.99.080. This section does not  
15 apply to the additional monetary penalty under RCW 46.63.110(11).

16 **Sec. 5.** RCW 2.68.040 and 1994 c 8 s 2 are each amended to read  
17 as follows:

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

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

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

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

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

35 (3) The supreme court is requested to adjust these assessments  
36 for inflation.

37 (4) This section does not apply to the additional monetary  
38 penalty under RCW 46.63.110(11).



1        NEW SECTION.    **Sec. 6.**    A new section is added to chapter 46.68  
2    RCW to read as follows:

3        The congestion relief and traffic safety account is created in  
4    the state treasury. The receipts from RCW 46.63.110(11)(c)(i) must be  
5    deposited into the account. Moneys in the account may be spent only  
6    after appropriation. Expenditures from the account may only be used  
7    for purposes related to congestion relief and traffic safety.

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