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**HOUSE BILL 1582**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Representatives Fey, Rodne, Moscoso, Zeiger, Sells, Hurst, and Wylie

AN ACT Relating to modifying penalty amounts and fees for certain traffic violations; amending RCW 46.63.110, 46.61.165, and 46.61.502; prescribing penalties; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) A fee of twenty-eight dollars per infraction. Revenue from this fee shall be forwarded to the state treasurer for deposit into the motor vehicle fund; and

(e) For speeding infractions, a sliding scale fee of twenty-five dollars at each existing bail level that is in rule on January 1, 2015. Revenue from this fee shall be forwarded to the state treasurer for deposit into the motor vehicle fund.

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

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

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

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

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

(1) The state department of transportation and the local authorities are authorized to reserve all or any portion of any highway under their respective jurisdictions, including any designated lane or ramp, for the exclusive or preferential use of one or more of the following: (a) Public transportation vehicles; (b) motorcycles; (c) private motor vehicles carrying no fewer than a specified number of passengers; or (d) the following private transportation provider vehicles if the vehicle has the capacity to carry eight or more passengers, regardless of the number of passengers in the vehicle, and if such use does not interfere with the efficiency, reliability, and safety of public transportation operations: (i) Auto transportation company vehicles regulated under chapter 81.68 RCW; (ii) passenger charter carrier vehicles regulated under chapter 81.70 RCW, except marked or unmarked stretch limousines and stretch sport utility vehicles as defined under department of licensing rules; (iii) private nonprofit transportation provider vehicles regulated under chapter 81.66 RCW; and (iv) private employer transportation service vehicles, when such limitation will increase the efficient utilization of the highway or will aid in the conservation of energy resources.

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

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

(4) Regulations authorizing such exclusive or preferential use of a highway facility may be declared to be effective at all times or at specified times of day or on specified days. Violation of a restriction of highway usage prescribed by the appropriate authority under this section is a traffic infraction with a minimum penalty amount of two hundred fifty dollars. One hundred twenty-six dollars of this penalty amount must be deposited into the motor vehicle fund.

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

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

**Sec.**  RCW 46.61.502 and 2013 c 3 s 33 are each amended to read as follows:

(1) A person is guilty of driving while under the influence of intoxicating liquor, marijuana, or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.08 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) The person has, within two hours after driving, a THC concentration of 5.00 or higher as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) While the person is under the influence of or affected by intoxicating liquor, marijuana, or any drug; or

(d) While the person is under the combined influence of or affected by intoxicating liquor, marijuana, and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3)(a) It is an affirmative defense to a violation of subsection (1)(a) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.08 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(b) It is an affirmative defense to a violation of subsection (1)(b) of this section, which the defendant must prove by a preponderance of the evidence, that the defendant consumed a sufficient quantity of marijuana after the time of driving and before the administration of an analysis of the person's blood to cause the defendant's THC concentration to be 5.00 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4)(a) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.08 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1)(c) or (d) of this section.

(b) Analyses of blood samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had a THC concentration of 5.00 or more in violation of subsection (1)(b) of this section, and in any case in which the analysis shows a THC concentration above 0.00 may be used as evidence that a person was under the influence of or affected by marijuana in violation of subsection (1)(c) or (d) of this section.

(5) Except as provided in subsection (6) of this section, a violation of this section is a gross misdemeanor.

(6) It is a class C felony punishable under chapter 9.94A RCW, or chapter 13.40 RCW if the person is a juvenile, if:

(a) The person has four or more prior offenses within ten years as defined in RCW 46.61.5055; or

(b) The person has ever previously been convicted of:

(i) Vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a);

(ii) Vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b);

(iii) An out-of-state offense comparable to the offense specified in (b)(i) or (ii) of this subsection; or

(iv) A violation of this subsection (6) or RCW 46.61.504(6).

(7) There is a fee of five hundred fifty dollars for each alcohol concentration or THC concentration test administered pursuant to this section. The fee must be deposited into the motor vehicle fund.

NEW SECTION. **Sec.**  This act takes effect August 1, 2015.

**--- END ---**