**5362-S AMH PELL H3219.2 - NOT FOR FLOOR USE**

**SSB 5362** - H AMD **923**

By Representative Pellicciotti

**ADOPTED 04/27/2019**

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec.**  (1) The legislature finds that counties that border other states and Canada experience a significant problem of residents of Washington state who evade taxes and fees by failing to register their vehicles, aircraft, and vessels in Washington state. According to a 2007 Washington State University study, the department of revenue lost eighty million dollars over the previous five years to persons avoiding taxes and fees in this manner. It was also estimated in the study that twenty thousand vehicles were illegally registered in Oregon to residents of Clark county, Washington. The problem has undoubtedly grown worse in the decade since the study was completed resulting in hundreds of millions of dollars in lost revenue to state and local coffers as these new residents fail to pay their fair share for public services. Moreover, a public safety risk is created when inaccurate information is provided to law enforcement or insurance companies in the event of an accident or infraction.

(2) Current statutes contain monetarily significant penalties that are appropriate given the scope of the harm. It is the intent of the legislature that law enforcement and prosecutors proceed against violators to the fullest extent of the law. In order to give them more tools and ensure compliance with the law, it is the intent of the legislature to set up a deferral program consistent with other programs in the state that allows defendants to obtain dismissal of charges if they take certain remedial steps. It is the intent of the legislature that the punishment for those who do not comply with the deferral program remain subject to current penalties.

NEW SECTION. **Sec.**  (1) Any county may set up a deferral program for persons who receive a citation for failing to register a vehicle, aircraft, or vessel under RCW 46.16A.030, 47.68.255, or 88.02.400. Under the deferral program:

(a) If the person has received a criminal citation for failure to register a vehicle under RCW 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW 88.02.400, the defendant may petition the court for a deferred prosecution conditioned upon the defendant completing the criteria in (b) of this subsection within ninety days of the court granting the deferral.

(b) To be eligible for a deferred prosecution under (a) of this subsection, the court shall dismiss the charge if the court receives satisfactory proof within ninety days that the person:

(i) Has paid a five hundred dollar fine;

(ii) Has a valid Washington state driver's license; and

(iii) Has registered the vehicle, aircraft, or vessel that was the subject of the citation.

(c) Before entering an order deferring prosecution, the court shall make specific findings that: (i) The petitioner has stipulated to the admissibility and sufficiency of the facts as contained in the written police report; (ii) the petitioner has acknowledged the admissibility of the stipulated facts in any criminal hearing on the underlying offense or offenses held subsequent to revocation of the order granting deferred prosecution; (iii) the petitioner has acknowledged and waived the right to testify, the right to a speedy trial, the right to call witnesses to testify, the right to present evidence in his or her defense, and the right to a jury trial; and (iv) the petitioner's statements were made knowingly and voluntarily. Such findings shall be included in the order granting deferred prosecution.

(d) If the defendant successfully completes the conditions required under the deferred prosecution, the court shall dismiss the charges pending against the defendant.

(e) If the court finds that the defendant has not successfully completed the conditions required under the deferred prosecution, the court shall remove the defendant from deferred prosecution and enter a judgment.

(2) The deferral program described in this section does not apply to persons who have received a previous conviction or deferral for failing to register a vehicle under RCW 46.16A.030, an aircraft under RCW 47.68.255, or a vessel under RCW 88.02.400.

(3) Fines generated pursuant to the deferral program established in subsection (1) of this section shall be used by the county for the purpose of enforcement and prosecution of registration requirements under RCW 46.16A.030, 47.68.250, or 88.02.550.

**Sec.**  RCW 46.16A.030 and 2011 c 171 s 43 and 2011 c 96 s 31 are each reenacted and amended to read as follows:

(1) Vehicles must be registered as required by this chapter and must display license plates or decals assigned by the department.

(2) It is unlawful for a person to operate any vehicle on a public highway of this state without having in full force and effect a current and proper vehicle registration and displaying license plates on the vehicle.

(3) Vehicle license plates or registration certificates, whether original issues or duplicates, may not be issued or furnished by the department until the applicant makes satisfactory application for a certificate of title or presents satisfactory evidence that a certificate of title covering the vehicle has been previously issued.

(4) Failure to make initial registration before operating a vehicle on the public highways of this state is a traffic infraction. A person committing this infraction must pay a fine of five hundred twenty-nine dollars, which may not be suspended((~~, deferred,~~)) or reduced. This fine is in addition to any delinquent taxes and fees that must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion. The five hundred twenty-nine dollar fine must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250.

(5) Failure to renew an expired registration before operating a vehicle on the public highways of this state is a traffic infraction.

(6) It is a gross misdemeanor for a resident, as identified in RCW 46.16A.140, to register a vehicle in another state, evading the payment of any tax or vehicle license fee imposed in connection with registration. It is punishable, in lieu of the fine in subsection (4) of this section, as follows:

(a) For a first offense:

(i) Up to three hundred sixty-four days in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, which may not be suspended((~~, deferred,~~)) or reduced. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of one thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, which may not be suspended((~~, deferred,~~)) or reduced; and

(iv) The delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, and which may not be suspended((~~, deferred,~~)) or reduced;

(b) For a second or subsequent offense:

(i) Up to three hundred sixty-four days in the county jail;

(ii) Payment of a fine of five hundred twenty-nine dollars plus any applicable assessments, which may not be suspended, deferred, or reduced, except as provided in section 2 of this act. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;

(iii) A fine of five thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, which may not be suspended((~~, deferred,~~)) or reduced; and

(iv) The amount of delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, and which may not be suspended((~~, deferred,~~)) or reduced.

(7) A vehicle with an expired registration of more than forty‑five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

**Sec.**  RCW 47.68.255 and 2010 c 161 s 1147 are each amended to read as follows:

A person who is required to register an aircraft under this chapter and who registers an aircraft in another state or foreign country evading the Washington aircraft excise tax is guilty of a gross misdemeanor. For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, no part of which may be suspended or deferred, except as provided in section 2 of this act. Excise taxes owed and fines assessed ((~~will~~)) must be deposited in the manner provided under RCW 46.16A.030(6).

**Sec.**  RCW 88.02.400 and 2010 c 161 s 1007 are each amended to read as follows:

(1) It is a gross misdemeanor punishable as provided under chapter 9A.20 RCW for any person owning a vessel subject to taxation under chapter 82.49 RCW to:

(a) Register a vessel in another state to avoid Washington state vessel excise tax required under chapter 82.49 RCW; or

(b) Obtain a vessel dealer's license for the purpose of evading excise tax on vessels under chapter 82.49 RCW.

(2) For a second or subsequent offense, the person convicted is also subject to a fine equal to four times the amount of avoided taxes and fees, which may not be suspended or deferred, except as provided in section 2 of this act.

(3) Excise taxes owed and fines assessed must be deposited in the manner provided under RCW 46.16A.030(6).

NEW SECTION. **Sec.**  Section 2 of this act constitutes a new chapter in Title 10 RCW."

Correct the title.

EFFECT: Replaces authorization for counties to establish deferred finding programs administered by prosecutor attorney's offices for persons who receive a citation for failure to register a vehicle, aircraft, or vessel, with authorization for counties to establish a deferral program administered by courts for persons who receive a criminal citation for failure to register a vehicle, aircraft, or vessel; and removes the mandatory requirement that prosecutors seek the full penalty for this criminal offense by individuals who do not satisfactorily complete the program requirements.