

**RCW 46.61.165 High occupancy vehicle lanes—Monetary penalties for traffic infractions—Definition.** (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; (d) organ transport vehicles transporting a time urgent organ or a time sensitive organ or tissue donor as defined in RCW 68.64.010; or (e) 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 45 miles per hour at least 90 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. A person who commits a traffic infraction under this section is also subject to additional monetary penalties as defined in this subsection. The additional monetary penalties are separate from the base penalty, fees, and assessments issued for the traffic infraction and are intended to raise awareness, and improve the efficiency, of the high occupancy vehicle lane system.

(a) Whenever a person commits a traffic infraction under this section, an additional monetary penalty of \$50 must be collected, and, in the case that a person has already committed a violation under this section within two years of committing this violation, then an additional \$150 must be collected.

(b) Any time a person commits a traffic infraction under this section and is using a dummy, doll, or other human facsimile to make it appear that an additional person is in the vehicle, the person must be assessed a \$200 penalty, which is in addition to the penalties in (a) of this subsection.

(c) The monetary penalties under (a) and (b) of this subsection are additional, separate, and distinct penalties from the base penalty and are not subject to fees or assessments specified in RCW 46.63.110, 3.62.090, and 2.68.040.

(d) (i) The additional penalties collected under (a) of this subsection must be distributed as follows:

(A) Twenty-five percent must be deposited into the congestion relief and traffic safety account created under RCW 46.68.398; and

(B) Seventy-five percent must be deposited into the motor vehicle fund created under RCW 46.68.070.

(ii) The additional penalty collected under (b) of this subsection must be deposited into the congestion relief and traffic safety account created under RCW 46.68.398.

(e) Violations committed under this section are excluded from eligibility as a moving violation for driver's license suspension under RCW 46.20.289 when a person subsequently fails to respond to a notice of traffic infraction for this moving violation, fails to appear at a requested hearing for this moving violation, violates a written promise to appear in court for a notice of infraction for this moving violation, or fails to comply with the terms of a notice of traffic infraction for this moving violation.

(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. [2023 c 290 § 7; 2019 c 467 § 3; 2013 c 26 § 2; 2011 c 379 § 1; 1999 c 206 § 1; 1998 c 245 § 90; 1991 sp.s. c 15 § 67; 1984 c 7 § 65; 1974 ex.s. c 133 § 2.]

**Finding—Intent—2019 c 467:** See note following RCW 46.20.289.

**Conflict with state and federal environmental mitigation requirements—2011 c 379:** "If any part of this act is found to be in conflict with mitigation requirements under the state environmental policy act (chapter 43.21C RCW) or the national environmental policy

act (42 U.S.C. Secs. 4321 through 4347) or in any other way conflicts with federal requirements that are a condition or part of the allocation of federal funds to the state or local facilities, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or local authorities." [2011 c 379 § 5.]

**Construction—Severability—1991 sp.s. c 15:** See note following RCW 46.68.110.

*Limited access facilities: RCW 47.52.025.*