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HOUSE BILL 1002

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Fromhold, Moeller, Murray, Hunter and Jarrett

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Committee on Transportation.

1            AN ACT Relating to motor vehicle compression brakes; amending RCW  
2 46.63.110; adding a new section to chapter 46.37 RCW; providing an  
3 effective date; and declaring an emergency.

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

5            NEW SECTION.    **Sec. 1.** A new section is added to chapter 46.37 RCW  
6 to read as follows:

7            (1) This section applies to all motor vehicles with a declared  
8 gross weight in excess of 10,000 pounds operated on public roads and  
9 equipped with engine compression brake devices. An engine compression  
10 brake device is any device that uses the engine and transmission to  
11 impede the forward motion of the motor vehicle by compression of the  
12 engine.

13            (2) The driver of a motor vehicle equipped with a device that uses  
14 the compression of the motor vehicle engine shall not use the device  
15 unless:

16            (a) The motor vehicle is equipped with an operational muffler and  
17 exhaust system to prevent excess noise. The muffler and exhaust system  
18 must maintain the noise level at eighty-three decibels or less for

1 motor vehicles manufactured after January 1, 1979, and eighty decibels  
2 or less for motor vehicles manufactured after January 1, 1988; or

3 (b) The driver reasonably believes that an emergency exists which  
4 requires the use of the device to: (i) Protect against an immediate  
5 threat to the physical safety of the driver or others; (ii) protect  
6 against immediate threat of damage to property; or (iii) effectively  
7 reduce the speed of the motor vehicle using the manufacturer's motor  
8 vehicle braking system when declining from an elevated roadway.

9 (3) The monetary penalty for violating subsection (2) of this  
10 section is: (a) Two hundred fifty dollars for the first violation; (b)  
11 five hundred dollars for the second violation; and (c) seven hundred  
12 fifty dollars for each violation thereafter.

13 (4) The Washington state patrol must establish rules for Washington  
14 state law enforcement agencies to enforce subsection (2) of this  
15 section.

16 (5) All medium and heavy trucks must comply with federal code 205 -  
17 transportation equipment noise emission controls, subpart B.

18 (6) Nothing in this section prohibits a local jurisdiction from  
19 implementing an ordinance that is more restrictive than the state law  
20 and Washington state patrol rules regarding the use of compression  
21 brakes.

22 **Sec. 2.** RCW 46.63.110 and 2003 c 380 s 2 are each amended to read  
23 as follows:

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

28 (2) The monetary penalty for a violation of RCW 46.55.105(2) is two  
29 hundred fifty dollars for each offense. No penalty assessed under this  
30 subsection (2) may be reduced.

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

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

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

16 (6) Whenever a monetary penalty is imposed by a court under this  
17 chapter it is immediately payable. If the person is unable to pay at  
18 that time the court may, in its discretion, grant an extension of the  
19 period in which the penalty may be paid. If the penalty is not paid on  
20 or before the time established for payment the court shall notify the  
21 department of the failure to pay the penalty, and the department shall  
22 suspend the person's driver's license or driving privilege until the  
23 penalty has been paid and the penalty provided in subsection (4) of  
24 this section has been paid.

25 (7) In addition to any other penalties imposed under this section  
26 and not subject to the limitation of subsection (1) of this section, a  
27 person found to have committed a traffic infraction shall be assessed  
28 a fee of five dollars per infraction. Under no circumstances shall  
29 this fee be reduced or waived. Revenue from this fee shall be  
30 forwarded to the state treasurer for deposit in the emergency medical  
31 services and trauma care system trust account under RCW 70.168.040.

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

1 jurisdiction, the court shall allow offenders to offset all or a part  
2 of the penalty due under this subsection (8) by participation in the  
3 community 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 as  
9 provided in RCW 43.08.250. The balance of the revenue received by the  
10 county or city treasurer under this subsection must be deposited into  
11 the county or city current expense fund. Moneys retained by the city  
12 or county under this subsection shall constitute reimbursement for any  
13 liabilities under RCW 43.135.060.

14 (9) The monetary penalty for violating section 1 of this act is:  
15 (a) Two hundred fifty dollars for the first violation; (b) five hundred  
16 dollars for the second violation; and (c) seven hundred fifty dollars  
17 for each violation thereafter.

18 NEW SECTION. **Sec. 3.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and takes effect  
21 July 1, 2005.

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