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**SUBSTITUTE HOUSE BILL 2085**

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

**By** House Public Safety (originally sponsored by Representatives Goodman and Ryu)

READ FIRST TIME 02/20/15.

1            AN ACT Relating to providing alternatives for penalties stemming  
2 from traffic infractions; amending RCW 46.63.060, 46.63.110, and  
3 46.63.120; adding a new section to chapter 46.04 RCW; and creating a  
4 new section.

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

6            NEW SECTION.    **Sec. 1.**    The legislature finds that many people  
7 have difficulty satisfying civil penalties stemming from traffic  
8 infractions. Therefore, it is the intent of the legislature to  
9 encourage satisfaction of such penalties by providing alternatives.  
10 It is the intent of the legislature to increase the number of people  
11 who pay their traffic tickets through payment in full, through a  
12 payment plan, or through a community restitution plan. Furthermore,  
13 the legislature finds that expanding the ability of all persons to  
14 satisfy the penalties stemming from traffic infractions will increase  
15 the likelihood that a person facing a traffic infraction will appear  
16 for court, thus encouraging greater respect for judicial  
17 institutions, as well as decreasing cases of failure to appear and  
18 failure to pay.

19            NEW SECTION.    **Sec. 2.**    A new section is added to chapter 46.04  
20 RCW to read as follows:

1 "Community restitution" means the performance of a number of  
2 hours of community service in lieu of all or part of a monetary  
3 penalty, at the rate of the then state minimum wage per hour, that  
4 has been approved by the court.

5 **Sec. 3.** RCW 46.63.060 and 2013 c 170 s 1 are each amended to  
6 read as follows:

7 (1) A notice of traffic infraction represents a determination  
8 that an infraction has been committed. The determination will be  
9 final unless contested as provided in this chapter.

10 (2) The form for the notice of traffic infraction shall be  
11 prescribed by rule of the supreme court and shall include the  
12 following:

13 (a) A statement that the notice represents a determination that a  
14 traffic infraction has been committed by the person named in the  
15 notice and that the determination shall be final unless contested as  
16 provided in this chapter;

17 (b) A statement that a traffic infraction is a noncriminal  
18 offense for which imprisonment may not be imposed as a sanction; that  
19 the penalty for a traffic infraction may include sanctions against  
20 the person's driver's license including suspension, revocation, or  
21 denial; that the penalty for a traffic infraction related to  
22 standing, stopping, or parking may include nonrenewal of the vehicle  
23 registration;

24 (c) A statement of the specific traffic infraction for which the  
25 notice was issued;

26 (d) A statement of the monetary penalty established for the  
27 traffic infraction;

28 (e) A statement of the options provided in this chapter for  
29 responding to the notice and the procedures necessary to exercise  
30 these options;

31 (f) A statement that at any hearing to contest the determination  
32 the state has the burden of proving, by a preponderance of the  
33 evidence, that the infraction was committed; and that the person may  
34 subpoena witnesses including the officer who issued the notice of  
35 infraction;

36 (g) A statement that at any hearing requested for the purpose of  
37 explaining mitigating circumstances surrounding the commission of the  
38 infraction the person will be deemed to have committed the infraction  
39 and may not subpoena witnesses;

1 (h) A statement that the person must respond to the notice as  
2 provided in this chapter within fifteen days or the person's driver's  
3 license or driving privilege may be suspended by the department until  
4 any penalties imposed pursuant to this chapter have been satisfied;  
5 and

6 (i) A statement that failure to appear at a hearing requested for  
7 the purpose of contesting the determination or for the purpose of  
8 explaining mitigating circumstances may result in the suspension of  
9 the person's driver's license or driving privilege, or in the case of  
10 a standing, stopping, or parking violation, refusal of the department  
11 to renew the vehicle registration, until any penalties imposed  
12 pursuant to this chapter have been satisfied.

13 (3)(a) A form for a notice of traffic infraction printed after  
14 (~~July 22, 2011~~) July 1, 2015, must include a statement that the  
15 person (~~may~~) shall be able to (~~enter~~) request entry into a  
16 payment plan or community restitution plan with the court under RCW  
17 7.80.130 or 46.63.110. Law enforcement agencies are not required to  
18 issue notices of infraction on forms printed after July 1, 2015,  
19 until the agencies have exhausted their current inventories of forms  
20 printed prior to July 1, 2015.

21 (b) The forms for a notice of traffic infraction must include the  
22 changes in section 1, chapter 170, Laws of 2013 by July 1, 2015.

23 **Sec. 4.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read  
24 as follows:

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

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

33 (3) The supreme court shall prescribe by rule a schedule of  
34 monetary penalties for designated traffic infractions. This rule  
35 shall also specify the conditions under which local courts may  
36 exercise discretion in assessing fines and penalties for traffic  
37 infractions. The legislature respectfully requests the supreme court  
38 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 because he or  
21 she is indigent, as defined in RCW 10.101.010, and not more than one  
22 year has passed since the later of July 1, 2005, or the date the  
23 monetary obligation initially became due and payable, the court  
24 shall, upon request of the person, enter into a payment plan or, if  
25 the person is otherwise eligible, a community restitution plan with  
26 the person, unless the person has previously been granted a payment  
27 plan or a community restitution plan with respect to the same  
28 monetary obligation, or unless the person is in noncompliance of any  
29 existing or prior payment plan or a community restitution plan, in  
30 which case the court may, at its discretion, implement a payment plan  
31 or a community restitution plan. If the court has notified the  
32 department that the person has failed to pay or comply and the person  
33 has subsequently entered into a payment plan and made an initial  
34 payment or entered into a community restitution plan and begun  
35 performance of the community restitution plan, the court shall timely  
36 notify the department that the infraction has been adjudicated, and  
37 the department shall immediately rescind any suspension of the  
38 person's driver's license or driver's privilege based on failure to  
39 respond to that infraction. "Payment plan," as used in this section,  
40 means a plan that requires reasonable payments based on the financial

1 ability of the person to pay. The person may voluntarily pay an  
2 amount at any time in addition to the payments required under the  
3 payment plan.

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

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

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

37 (d) Nothing in this section precludes a court from contracting  
38 with outside entities to administer its payment plan system. When  
39 outside entities are used for the administration of a payment plan,  
40 the court may assess the person a reasonable fee for such

1 administrative services, which fee may be calculated on a periodic,  
2 percentage, or other basis.

3 (e) If a court authorized community restitution program for  
4 offenders is available in the jurisdiction, the court (~~((may))~~) shall  
5 allow conversion of all or part of the monetary obligations due under  
6 this section to court authorized community restitution in lieu of  
7 time payments if the person is (~~((unable to make reasonable time~~  
8 ~~payments))~~) otherwise eligible to participate in community restitution  
9 and the person is indigent, as defined in RCW 10.101.010.

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

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

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

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

25 (8)(a) In addition to any other penalties imposed under this  
26 section and not subject to the limitation of subsection (1) of this  
27 section, a person found to have committed a traffic infraction other  
28 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional  
29 penalty of twenty dollars. The court may not reduce, waive, or  
30 suspend the additional penalty unless the court finds the  
31 (~~((offender))~~) person to be indigent, as defined in RCW 10.101.010. If  
32 a court (~~((authorized))~~) authorizes entry into a community restitution  
33 program (~~((for offenders is available in the jurisdiction))~~), the court  
34 shall allow (~~((offenders to))~~) persons an offset of all or a part of  
35 the penalty due under this subsection (8) (~~((by))~~) through  
36 participation in the court authorized community restitution program  
37 if the person is otherwise eligible to participate in community  
38 restitution.

39 (b) Eight dollars and fifty cents of the additional penalty under  
40 (a) of this subsection shall be remitted to the state treasurer. The

1 remaining revenue from the additional penalty must be remitted under  
2 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted  
3 under this subsection to the state treasurer must be deposited in the  
4 state general fund. The balance of the revenue received by the county  
5 or city treasurer under this subsection must be deposited into the  
6 county or city current expense fund. Moneys retained by the city or  
7 county under this subsection shall constitute reimbursement for any  
8 liabilities under RCW 43.135.060.

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

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

17 **Sec. 5.** RCW 46.63.120 and 2002 c 175 s 37 are each amended to  
18 read as follows:

19 (1) An order entered after the receipt of a response which does  
20 not contest the determination, or after it has been established at a  
21 hearing that the infraction was committed, or after a hearing for the  
22 purpose of explaining mitigating circumstances is civil in nature.

23 (2) The court may include in the order the imposition of any  
24 penalty authorized by the provisions of this chapter for the  
25 commission of an infraction. The court may, in its discretion, waive,  
26 reduce, or suspend the monetary penalty prescribed for the  
27 infraction. At the person's request the court may order performance  
28 of a number of hours of community restitution in lieu of all or part  
29 of a monetary penalty, at the rate of the then state minimum wage per  
30 hour.

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