

Date of Hearing: April 22, 2019

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

AB 1134 (Limón) – As Introduced February 21, 2019

SUBJECT: Traffic violator school: fees

SUMMARY: Requires a court to offer an installment payment plan to pay for a traffic fee when the defendant is eligible to take traffic violator school, under specified circumstances.

Specifically, **this bill:**

- 1) Requires a court to offer an installment payment plan to pay for a traffic fee when the defendant is eligible to take traffic violator school if the defendant demonstrates to the court that, due to financial circumstances, the defendant is unable to pay the total fee.
- 2) Removes a requirement that the first payment be a 10% down payment of the total fine.
- 3) Allows a defendant to be eligible for traffic violator school after the first installment payment is made.

EXISTING LAW:

- 1) Authorizes the court, in cases related to traffic violations, to consider the defendant's ability to pay, as specified.
- 2) Authorizes the court, for penalties involving fines, to allow defendants to make payments within a specified time or in specified installments.
- 3) Authorizes the court to impose penalties when a promise to appear in court is violated or an installment payment is missed, including jail time and a civil assessment of up to \$300.
- 4) Requires, when a person is issued a ticket for any non-felony traffic violation, that the arresting officer prepare, in triplicate, a written notice to appear in court and deliver one copy of the notice to the ticketed person and that the ticketed person appear in court on the date specified.
- 5) Prohibits a court from suspending someone's driver's license for failure to pay a fine on a traffic violation.

FISCAL EFFECT: Unknown.

COMMENTS: The cost of fines and fees associated with traffic and parking citations has steadily increased over the last few decades. After adding on fees to base fines, tickets can total in the hundreds of dollars. Add-on fees for minor offenses double or quadruple the original fine, and until recently California suspended driver's licenses for failure to pay traffic fines.

Every year the Judicial Council releases the Uniform Bail and Penalty Schedule, which provides the recommended penalties for vehicle infractions. Most Vehicle Code violations carry a penalty

up to \$100. However, because of additional fees tacked onto the base fine, traffic ticket prices have significantly spiked. For example, a speeding ticket today carries a base fine of \$35. However, with all of the additional assessments, the ticket increases to \$238. Some tickets have even steeper penalties. For example, running a red light has a base fine of \$100, but additional assessments increases the total cost of the ticket to nearly \$500. If someone elects to attend traffic violator school, an additional \$52 fee is assessed by the courts.

Unpaid traffic fine debt has been adding up. According to the Legislative Analyst's Office, the state now has over \$10 billion in unpaid court ordered debt. The Legislature and Governor have made several efforts to collect unpaid debt and to address the negative consequences of unpaid fines. In the 2017 budget, the state removed the court's authority to notify the DMV for the suspension of individuals' driver's licenses for unpaid traffic fines. Last year's budget created a pilot program that would allow a pilot court to issue an ability-to-pay determination prior to a court hearing date. This determination could result in an individual either completing community service in lieu of the total fine amount, or suspend the total amount due in whole or in part. Governor Brown also signed AB 503 (Lackey), Chapter 741, Statutes of 2017, which requires a payment program to be offered to indigent individuals before agencies can use DMV to collect unpaid parking tickets.

Courts have the ability to reduce fines for those who cannot afford them or offer installment payments. Under existing law, if someone receives a ticket that does not require or permit for the ability to go to traffic violator school, there is no time limit set on the court if they opt to grant someone an installment payment. However, if the crime does require or permit an applicant to take traffic violator school, a court is limited to offering installment payment plans for up to 90 days.

This bill requires a court to offer an installment payment if the defendant demonstrates that, due to financial circumstances, they are unable to pay the total fee required. It also only allows a defendant to be eligible for traffic violator school after they have made their first payment and removes a requirement that the first installment payment be 10% of the total fee.

According to the author, "AB 1134 will make sure that all drivers in California regardless of income are able to access a DMV-licensed traffic school course."

Committee Comments: This bill may be premature in light of a pilot program established in last year's budget. That pilot program requires the Judicial Council to select 8 courts to participate in the pilot. The pilot courts will be required to accept an ability to pay determination online, and from that determination, offer a defendant an installment payment plan, a reduction in fees, or community service in lieu of paying the fine.

This bill also lacks specifics that the pilot program includes. For example, unlike the pilot program, this bill does not establish a criteria for courts to base their determination for when a defendant may be unable to pay and thus must be offered an installment payment plan. Existing law currently allows a court to offer an installment payment plan to anyone, regardless of a demonstration of a lack of ability to pay. This bill may remove that authority.

Finally, while this bill requires defendants to be offered an installment payment plan for offenses that result in a negligent operator point, it does not offer the same requirement for offenses that do not. Offenses that require negligent operator points generally are ones that tend to be more dangerous than those that do not.

The Legislature may also wish to reconcile the differences between this bill and AB 1310 (Reyes), which does not require a court to offer an installment payment plan, but extends the payment plan from 90 to 180 days, removes the \$35 administrative fee for using an installment payment plan, and removes a courts ability to issue an arrest warrant for failing to make an installment payment. AB 1310 was heard by this committee on April 1 and pending a hearing in Assembly Appropriations Committee.

Previous legislation: SB 827 (Committee on Budget and Fiscal Review) Chapter 45, Statutes of 2018, among other things, established a pilot program for courts to provide relief to individuals for traffic fines and penalties based on their ability to pay.

AB 103 (Committee on Budget), Chapter 17, Statutes of 2017, among other things, limited the courts to initiating driver's license suspension or hold actions only for failure to appear in court.

SB 881 (Hertzberg), Chapter 779, Statutes of 2016, modified the traffic amnesty program as follows: a) requires a court, when notifying the DMV that an individual with a suspended license has appeared in court, paid the fine, or otherwise satisfied the requirements of the amnesty program, to do so within 90 days; b) required a court, for amnesty applications submitted prior to January 1, 2017, that are still outstanding as of that date, to notify the DMV no later than March 31, 2017, of individuals who have satisfied the requirements of the program; c) provided, for applications submitted on or before March 31, 2017, that all terms and procedures related to the participant's payment plans shall remain in effect after March 31, 2017; and, d) required an individual to file a request with the court by March 31, 2017, in order to be eligible for the amnesty program.

SB 405 (Hertzberg), Chapter 385, Statutes of 2015, required courts to allow individuals to schedule court proceedings, even if bail or civil assessment has been imposed, and clarified the traffic amnesty program.

SB 85 (Committee on Budget and Fiscal Review), Chapter 26, Statutes of 2015 authorized an 18-month traffic amnesty program, by October 1, 2015, for delinquent debt. The program expired on March 31, 2017.

SB 185 (Herzberg, 2017) Would have required courts to determine a defendant's ability to pay; also required courts to make accommodations if the defendant is indigent, and prohibited courts from suspending or holding an individual's driver's license for certain violations. That bill was held on the suspense file in Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

Analysis Prepared by: David Sforza / TRANS. / (916) 319-2093