Resolution 10 08 2017 eliminate supplemental fees from Traffic Tickets.pdf

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RESOLUTION 10-08-2017

DIGEST
Repealing Supplemental Fees for Vehicle Code Infractions
Amends Penal Code section 1464 to limit the amount of supplemental fees for Vehicle Code infractions.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend California Penal Code section 1464 to read as follows:

§1464
(a) (1) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and except as otherwise provided in this section, there shall be levied a state penalty in the amount of ten dollars ($10) for every ten dollars ($10), or part of ten dollars ($10), upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses, except:
(i) parking offenses as defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, and
(ii) Vehicle Code infractions.
(2) Any bail schedule adopted pursuant to Section 1269b or bail schedule adopted by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay the penalties established by this section and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code, and the surcharge authorized by Section 1465.7, for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.
(3) The penalty imposed by this section does not apply to the following:
(A) Any restitution fine.
(B) Any penalty authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code.
(C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.
(D) The state surcharge authorized by Section 1465.7.
(b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be reduced in proportion to the suspension.
(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned, the state penalty paid thereon pursuant to this section shall also be returned.
(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.
(e) After a determination by the court of the amount due, the clerk of the court shall
collect the penalty and transmit it to the county treasury. The portion thereof attributable to
Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code shall be
deposited in the appropriate county fund and 70 percent of the balance shall then be transmitted
to the State Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30
percent to remain on deposit in the county general fund. The transmission to the State Treasury
shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited in the State Penalty Fund shall be distributed as follows:
(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an
amount equal to 0.33 percent of the state penalty funds deposited in the State Penalty Fund
during the preceding month, except that the total amount shall not be less than the state penalty
levied on fines or forfeitures for violation of state laws relating to the protection or propagation
of fish and game. These moneys shall be used for the education or training of department
employees which fulfills a need consistent with the objectives of the Department of Fish and
Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to
32.02 percent of the state penalty funds deposited in the State Penalty Fund during the preceding
month. Those funds shall be made available in accordance with Section 13967 of the
Government Code.

(3) Once a month there shall be transferred into the Peace Officers’ Training Fund an
amount equal to 23.99 percent of the state penalty funds deposited in the State Penalty Fund
during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment
Fund an amount equal to 25.70 percent of the state penalty funds deposited in the State Penalty
Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount
equal to 7.88 percent of the state penalty funds deposited in the State Penalty Fund during the
preceding month. Money in the Corrections Training Fund is not continuously appropriated and
shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public
Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.78 percent
of the state penalty funds deposited in the State Penalty Fund during the preceding month. The
amount so transferred shall not exceed the sum of eight hundred fifty thousand dollars
($850,000) in any fiscal year. The remainder in excess of eight hundred fifty thousand dollars
($850,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an
amount equal to 8.64 percent of the state penalty funds deposited in the State Penalty Fund
during the preceding month.

(8) (A) Once a month there shall be transferred into the Traumatic Brain Injury Fund,
created pursuant to Section 4358 of the Welfare and Institutions Code, an amount equal to 0.66
percent of the state penalty funds deposited into the State Penalty Fund during the preceding
month. However, the amount of funds transferred into the Traumatic Brain Injury Fund for the
1996–97 fiscal year shall not exceed the amount of five hundred thousand dollars ($500,000).
Thereafter, funds shall be transferred pursuant to the requirements of this section.

Notwithstanding any other provision of law, the funds transferred into the Traumatic Brain
Injury Fund for the 1997–98, 1998–99, and 1999–2000 fiscal years, may be expended by the
State Department of Mental Health, in the current fiscal year or a subsequent fiscal year, to
provide additional funding to the existing projects funded by the Traumatic Brain Injury Fund, to
support new projects, or to do both.

(B) Any moneys deposited in the State Penalty Fund attributable to the assessments made
pursuant to subdivision (i) of Section 27315 of the Vehicle Code on or after the date that Chapter
6.6 (commencing with Section 5564) of Part 1 of Division 5 of the Welfare and Institutions Code
is repealed shall be utilized in accordance with paragraphs (1) to (8), inclusive, of this
subdivision.

(Proposed new language underlined; language to be deleted stricken)

PROONENTS: Bar Association of San Francisco

STATEMENT OF REASONS

The Problem: Tickets for all Vehicle Code violations include supplemental fees for various state
and local programs, with one exception for “parking offenses.” For example, Penal Code § 1464
doubles the base fine to fund these programs:

Restitution
Peace Officer’s Training
Driver Training Penalty Assessment
Corrections Training, and
Local Public Prosecutors and Public Defenders Training

And Government Code §§ 70372 and 76000 add fees for:

Courthouse Construction
Criminal Justice Facilities Construction
Automated Fingerprint Identification
Emergency Medical Service, and
DNA Identification

Due to these ten supplemental fees, a Vehicle Code violation with a $100 base fine results in a
problem-how-traffic-courts-drive-inequality-in-california/. If a person cannot afford to pay,
then a $300 late fee will apply. And then the court will order the DMV to suspend the person’s
driver’s license. Vehicle Code § 13365. According to the US Department of Justice, these
governmental supplemental fees and driver’s license suspensions are harmful because they force
individuals into escalating debt and unnecessary incarceration, leading to job loss and becoming
trapped in a cycle of poverty. See https://www.justice.gov/opa/pr/justice-department-announces-

The Solution: A Vehicle Code infraction with a base fine of $100 should have a total cost of a
little over $100. If this were the case, then many people would pay what they owe, and the $100
would go to the local court. However, when a $100 ticket ends up costing $500, then many
people decide to pay nothing. As a result, the court does not collect its $100 and the ten
supplemental fees are not collected either.

Instead of addressing the supplemental fees, California’s “solution” has been to create a Traffic Ticket Amnesty Program. See Vehicle Code § 42008.8. During the first seven months of the 2015-2017 Amnesty Program, the Senate shared that “more than 132,000 delinquent debt cases” had been resolved. SB 881 (Hertzberg, 2016) Senate Floor Analysis (Aug. 24, 2016). However, according to “Not Just a Ferguson Problem: How Traffic Court Drive Inequality in California (Report),” our courts have 10 billion dollars in outstanding debt for traffic tickets. (Report, at 6.) Thus, the amnesty approach has been an epic failure.

SB 185’s goal is to improve California’s amnesty program. For example, the bill would require the courts to offer an “indigency” determination for each person with a traffic ticket. If the person is found to be indigent, then the court shall reduce the traffic ticket fee by 80%. As a result, SB 185’s will create an overly-burdensome administrative program to allow courts to take a $100 ticket that was inflated to $500 back down to $100 – for people who can file paperwork to prove that they are poor.

Charging $500 for a $100 traffic ticket is not reasonable – no matter what a person’s economic status is. Because Penal Code § 1464 has caused 10 billion in uncollected debt, it must be repealed.

IMPACT STATEMENT
The resolution does not affect any other law, statute or rule other than those expressly identified.

CURRENT OR PRIOR RELATED LEGISLATION
SB 185 (Hertzberg, 2017): People with traffic tickets for Vehicle Code infractions will have the right to request an “indigency” determination. If the court finds the person to be indigent, then the court will reduce the fine and fees by 80%. In addition, if the person does not pay the fees within a 4-year period, then the debt will be vacated, in the interest of justice.


SB 881 (Hertzberg, 2016): clarified procedures for the courts to administer the 2015-2017 Amnesty Program.

AB 1657 (Wieckowski, 2012): proposed adding another supplemental fee for spinal cord injury research, and was vetoed by the Governor.

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