

Traffic infractions and law enforcement education

Number: AGO 75-220

Date: November 10, 1998

Subject:
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TRAFFIC INFRACTIONS--WITHHOLDING COSTS DEDUCTED FROM CIVIL PENALTY--
ADDITIONAL \$1 ASSESSMENT FOR LAW ENFORCEMENT EDUCATION

To: William F. Brewton, Municipal Judge, Dade City

Prepared by: Donald D. Conn, Assistant Attorney General

QUESTIONS:

1. Should the costs referred to in Rule 6.470, Florida Rules of Practice and Procedure for Traffic Courts, be deducted or withheld from the civil penalty provided for in s. 318.18, F. S. (1974 Supp.), when no hearing is required or held for the noncriminal disposition of moving traffic infractions?
2. Can additional \$1 assessments be made for the noncriminal disposition of moving traffic infractions pursuant to s. 8(3) and (5), Ch. 74-386, Laws of Florida [s. 943.25(3) and (5), F. S. (1974 Supp.)]?

SUMMARY:

When no hearing is required or held for the noncriminal disposition of moving traffic infractions, costs imposed by Rule 6.470, Florida Rules of Practice and Procedure for Traffic Courts, may, if authorized by local rule, be deducted or withheld from the civil penalties imposed by s. 318.18, F. S. (1974 Supp.), by the traffic violations bureau or clerk's office. A \$1 assessment is required to be assessed and collected as provided in s. 8(3) of Ch. 74-386, Laws of Florida, and an additional \$1 may be assessed and collected as provided in s. 8(5) of Ch. 74-386, whenever a civil penalty is imposed pursuant to s. 318.18, F. S. (1974 Supp.), but if no hearing is held, such \$1 assessments are required to be deducted from the civil penalties provided for in s. 318.18.

AS TO QUESTION 1:

Section 318.18, F. S. (1974 Supp.), provides in subsection (3) for a \$25 civil penalty for all moving violations which do not require a mandatory appearance. Rule 6.470, Florida Rules of Practice and Procedure for Traffic Courts, promulgated by the Supreme Court and effective as Transition Rule 20 on December 31, 1974, provides in subsection (b) that:

"(b) Where no hearing is required or held and the offender admits the commission of the offense by forfeiting a bond or paying the penalty *the following costs may, if authorized by local rule, be*

deducted from the penalty by the traffic violations bureau or clerk's office:

* * * * *

(3) Five dollars for all moving infractions." (Emphasis supplied.)

Rule 6.470 was amended on January 13, 1975, but such amendment did not change subsection (b) referred to above. *In re* Transition Rule 20, 306 So.2d 489, 505 (Fla. 1973).

It therefore appears that if no hearing is held under the circumstances referred to in subsection (b) of Rule 6.470, *supra*, the \$5 cost referred to in said rule for moving infractions may be deducted from the \$25 civil penalty provided in s. 318.18(3), F. S. (1974 Supp.). The total penalty to be charged in these circumstances would be \$25, with the \$5 charge for costs being deducted or withheld from the \$25 penalty by the traffic violations bureau or clerk's office. However, this discussion presumes that a local traffic rule has been duly adopted which will authorize this procedure as is required by subsection (b) of Rule 6.470, *supra*.

Your question is therefore answered in the affirmative, as hereinabove qualified.

AS TO QUESTION 2:

In its original version adopted on December 31, 1974, subsection (c) of Rule 6.470, *supra*, was as follows:

"(c) Where a civil traffic infraction is committed the Court shall not collect a dollar as provided in Section 943.25(3) or (5) of Florida Statutes."

On January 13, 1975, subsection (c) was amended to read as follows:

"(c) In addition to the costs provided above, one dollar shall be collected as provided in Chapter 74-386, s. 8(3), (Fla. Stat. s. 943.25(3), F.S.A. (1975)), and an additional one dollar may be collected as provided in Chapter 74-386, s. 8(5), (Fla. Stat. s. 943.25(5), F.S.A. (1975)).

It is therefore apparent that while in its original form subsection (c) of Rule 6.470, *supra*, would have precluded the \$1 assessments pursuant to s. 8(3) and (5), Ch. 74-386, Laws of Florida, the amended version of subsection (c) affirmatively requires the assessment of \$1 as provided in s. 8(3) of Ch. 74-386, and authorizes the assessment of an additional \$1 as provided in s. 8(5) of Ch. 74-386, whenever a civil penalty is imposed pursuant to s. 318.18, F. S. (1974 Supp.).

It must be pointed out, however, that where no hearing is held upon disposition of noncriminal traffic infractions as discussed in question 1, then the \$1 assessments to which this question refers are required to be deducted from the \$25 penalty provided by s. 318.18(3), F. S. (1974 Supp.), in the same manner as and in addition to the \$5 cost assessment discussed in question 1. This is due to the following provision found in subsection (c), Rule 6.470, *supra*:

Where no hearing is held and the offender admits the commission of the offense by forfeiting a bond or paying the penalty by mail or in person, the one dollar assessments shall be deducted

from the amount of the penalty in addition to the costs provided in (b) above.

In AGO 075-4, issued January 27, 1975, I have expressed the similar opinion that:

"Under Traffic Court Rules 6.470(c) and 6.560 of the Supreme Court, effective January 20, 1975, the \$1 fee required by s. 8(3) of Ch. 74-386, Laws of Florida (s. 943.25[3], F. S.) to be assessed as a court cost and remitted to the department of revenue should be collected in proceedings designated by Ch. 74-377, Laws of Florida (Ch. 318, F. S. 1975), as "noncriminal infractions" of our traffic laws -- either as an additional cost where a hearing is held, or as a deduction from the civil penalty prescribed by law where paid without a hearing."