
ENGROSSED SUBSTITUTE HOUSE BILL 1552

State of Washington 52nd Legislature 1991 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Padden, Appelwick, D. Sommers and R. Meyers).

Read first time February 26, 1991.

1 AN ACT Relating to traffic infractions; amending RCW 46.63.060,
2 46.63.070, and 46.63.100; and adding a new section to chapter 46.63
3 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.63 RCW
6 to read as follows:

7 A district or municipal court may provide by rule for a procedure
8 to allow for deferral of a judicial determination that an infraction
9 was committed. The procedure is subject to the following limitations
10 and standards:

11 (1) The procedure shall allow a person receiving a notice of
12 infraction to attend, at the person's own expense, a course in traffic
13 safety approved by the court. Any such course shall include a minimum
14 of eight hours of classroom instruction. Satisfactory completion of
15 the course shall result in dismissal of the notice of infraction.

1 Failure to complete the course satisfactorily shall result in a court
2 determination and order that an infraction was committed, and the court
3 shall furnish its determination and order to the department in
4 accordance with RCW 46.20.270.

5 (2) The deferral procedure is available only to persons who receive
6 a notice of traffic infraction and do not contest the determination
7 represented by the notice. The procedure is available to a person
8 responding to the notice under RCW 46.63.070 (2) or (4).

9 (3) The procedure shall require a signed acknowledgment by the
10 person receiving the notice of infraction that the determination
11 represented by the notice is not contested.

12 (4) No person is eligible for a deferral more than once within the
13 state in a three-year period. A person applying for a deferral shall
14 sign a statement under penalty of perjury that he or she was not
15 granted a deferral under this section within three years of receipt of
16 the notice of infraction that is the basis for the application. If a
17 deferral is granted, the court shall send the department a record of
18 the notice of infraction and the deferral. The department shall
19 maintain the record for at least three years for the purpose of
20 allowing courts to determine whether a person is eligible to receive a
21 deferral. If within three years after receiving a deferral a person is
22 determined to have committed an infraction, or is convicted of a crime,
23 for which notification of the department is required under RCW
24 46.20.270(2), the department upon receipt of that notification shall
25 include the infraction for which the deferral was granted as part of
26 the person's driving record for purposes of RCW 46.52.130.

27 (5) Deferral does not affect imposition of monetary penalties under
28 this chapter.

1 (6) The court may assess a fee to cover the cost to the court of
2 processing an application for a deferral. The fee is subject to the
3 provisions of RCW 3.62.020.

4 (7) Satisfactory completion of a course in traffic safety as part
5 of a deferral granted under this section does not qualify as successful
6 completion of a motor vehicle accident prevention course for purposes
7 of insurance premium reductions required by RCW 48.19.460.

8 (8) No deferral may be granted under this section for an infraction
9 committed while operating a motor vehicle under circumstances that
10 require a commercial driver's license pursuant to chapter 46.25 RCW.

11 (9) No procedure for deferral under this section may be implemented
12 by any court that does not have computer equipment that is connected to
13 the department of licensing and that allows electronic transmission and
14 retrieval of driving record information.

15 **Sec. 2.** RCW 46.63.060 and 1984 c 224 s 2 are each amended to read
16 as follows:

17 (1) A notice of traffic infraction represents a determination that
18 an infraction has been committed. The determination will be final
19 unless contested or deferred as provided in this chapter.

20 (2) The form for the notice of traffic infraction shall be
21 prescribed by rule of the supreme court and shall include the
22 following:

23 (a) A statement that the notice represents a determination that a
24 traffic infraction has been committed by the person named in the notice
25 and that the determination shall be final unless contested or deferred
26 as provided in this chapter;

27 (b) A statement that a traffic infraction is a noncriminal offense
28 for which imprisonment may not be imposed as a sanction; that the
29 penalty for a traffic infraction may include sanctions against the

1 person's driver's license including suspension, revocation, or denial;
2 that the penalty for a traffic infraction related to standing,
3 stopping, or parking may include nonrenewal of the vehicle license;

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

6 (d) A statement of the monetary penalty established for the traffic
7 infraction;

8 (e) A statement of the options, including deferral, provided in
9 this chapter for responding to the notice and the procedures necessary
10 to exercise these options;

11 (f) A statement that at any hearing to contest the determination
12 the state has the burden of proving, by a preponderance of the
13 evidence, that the infraction was committed; and that the person may
14 subpoena witnesses including the officer who issued the notice of
15 infraction;

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

20 (h) A statement that the person must respond to the notice as
21 provided in this chapter within fifteen days or the person's driver's
22 license will not be renewed by the department until any penalties
23 imposed pursuant to this chapter have been satisfied;

24 (i) A statement that failure to appear at a hearing requested for
25 the purpose of contesting the determination or for the purpose of
26 explaining mitigating circumstances will result in the refusal of the
27 department to renew the person's driver's license, or in the case of a
28 standing, stopping, or parking violation the vehicle license, until any
29 penalties imposed pursuant to this chapter have been satisfied;

1 (j) A statement, which the person shall sign, that the person
2 promises to respond to the notice of infraction in one of the ways
3 provided in this chapter;

4 (k) A statement that failure to respond to a notice of infraction
5 as promised is a misdemeanor and may be punished by a fine or
6 imprisonment in jail.

7 **Sec. 3.** RCW 46.63.070 and 1984 c 224 s 3 are each amended to read
8 as follows:

9 (1) Any person who receives a notice of traffic infraction shall
10 respond to such notice as provided in this section within fifteen days
11 of the date of the notice.

12 (2) If the person determined to have committed the infraction does
13 not contest the determination the person shall respond by completing
14 the appropriate portion of the notice of infraction and submitting it,
15 either by mail or in person, to the court specified on the notice. The
16 person may also request a deferral in accordance with section 1 of this
17 act. A check or money order in the amount of the penalty prescribed
18 for the infraction must be submitted with the response. When a
19 response which does not contest the determination is received, an
20 appropriate order shall be entered in the court's records, and except
21 in the case of a deferral granted in accordance with section 1 of this
22 act, a record of the response and order shall be furnished to the
23 department in accordance with RCW 46.20.270.

24 (3) If the person determined to have committed the infraction
25 wishes to contest the determination the person shall respond by
26 completing the portion of the notice of infraction requesting a hearing
27 and submitting it, either by mail or in person, to the court specified
28 on the notice. The court shall notify the person in writing of the

1 time, place, and date of the hearing, and that date shall not be sooner
2 than seven days from the date of the notice, except by agreement.

3 (4) If the person determined to have committed the infraction does
4 not contest the determination but wishes to explain mitigating
5 circumstances surrounding the infraction the person shall respond by
6 completing the portion of the notice of infraction requesting a hearing
7 for that purpose and submitting it, either by mail or in person, to the
8 court specified on the notice. The court shall notify the person in
9 writing of the time, place, and date of the hearing.

10 (5)(a) If any person issued a notice of traffic infraction:

11 (i) Fails to respond to the notice of traffic infraction as
12 provided in subsection (2) of this section; or

13 (ii) Fails to appear at a hearing requested pursuant to subsection
14 (3) or (4) of this section;

15 the court shall enter an appropriate order assessing the monetary
16 penalty prescribed for the traffic infraction and any other penalty
17 authorized by this chapter and shall notify the department in
18 accordance with RCW 46.20.270, of the failure to respond to the notice
19 of infraction or to appear at a requested hearing.

20 (b) The department may not renew the driver's license, or in the
21 case of a standing, stopping, or parking violation the vehicle license,
22 of any person for whom the court has entered an order pursuant to (a)
23 of this subsection until any penalties imposed pursuant to this chapter
24 have been satisfied. For purposes of driver's license nonrenewal only,
25 the lessee of a vehicle shall be considered to be the person to whom a
26 notice of a standing, stopping, or parking violation has been issued
27 for such violations of the vehicle incurred while the vehicle was
28 leased or rented under a bona fide commercial lease or rental agreement
29 between a lessor engaged in the business of leasing vehicles and a
30 lessee who is not the vehicle's registered owner, if the lease

1 agreement contains a provision prohibiting anyone other than the lessee
2 from operating the vehicle. Such a lessor shall, upon the request of
3 the municipality issuing the notice of infraction, supply the
4 municipality with the name and driver's license number of the person
5 leasing the vehicle at the time of the infraction.

6 **Sec. 4.** RCW 46.63.100 and 1979 ex.s. c 136 s 12 are each amended
7 to read as follows:

8 (1) A hearing held for the purpose of allowing a person to explain
9 mitigating circumstances surrounding the commission of an infraction
10 shall be an informal proceeding. The person may not subpoena
11 witnesses. The determination that an infraction has been committed may
12 not be contested at a hearing held for the purpose of explaining
13 mitigating circumstances.

14 (2) After the court has heard the explanation of the circumstances
15 surrounding the commission of the infraction an appropriate order shall
16 be entered in the court's records. Except in the case of a deferral
17 granted in accordance with section 1 of this act, a record of the
18 court's determination and order shall be furnished to the department in
19 accordance with RCW 46.20.270 as now or hereafter amended.

20 (3) There may be no appeal from the court's determination or order.