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**SUBSTITUTE HOUSE BILL 1552**

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**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. Satisfactory completion of the course  
14 shall result in dismissal of the notice of infraction. Failure to  
15 complete the course satisfactorily shall result in a court

1 determination and order that an infraction was committed, and the court  
2 shall furnish its determination and order to the department in  
3 accordance with RCW 46.20.270.

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

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

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

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

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

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

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

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

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

13 (2) The form for the notice of traffic infraction shall be  
14 prescribed by rule of the supreme court and shall include the  
15 following:

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

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

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

28 (d) A statement of the monetary penalty established for the traffic  
29 infraction;

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

4 (f) A statement that at any hearing to contest the determination  
5 the state has the burden of proving, by a preponderance of the  
6 evidence, that the infraction was committed; and that the person may  
7 subpoena witnesses including the officer who issued the notice of  
8 infraction;

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

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

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

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

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

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

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

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

18       (3) If the person determined to have committed the infraction  
19 wishes to contest the determination the person shall respond by  
20 completing the portion of the notice of infraction requesting a hearing  
21 and submitting it, either by mail or in person, to the court specified  
22 on the notice. The court shall notify the person in writing of the  
23 time, place, and date of the hearing, and that date shall not be sooner  
24 than seven days from the date of the notice, except by agreement.

25       (4) If the person determined to have committed the infraction does  
26 not contest the determination but wishes to explain mitigating  
27 circumstances surrounding the infraction the person shall respond by  
28 completing the portion of the notice of infraction requesting a hearing  
29 for that purpose and submitting it, either by mail or in person, to the

1 court specified on the notice. The court shall notify the person in  
2 writing of the time, place, and date of the hearing.

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

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

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

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

13 (b) The department may not renew the driver's license, or in the  
14 case of a standing, stopping, or parking violation the vehicle license,  
15 of any person for whom the court has entered an order pursuant to (a)  
16 of this subsection until any penalties imposed pursuant to this chapter  
17 have been satisfied. For purposes of driver's license nonrenewal only,  
18 the lessee of a vehicle shall be considered to be the person to whom a  
19 notice of a standing, stopping, or parking violation has been issued  
20 for such violations of the vehicle incurred while the vehicle was  
21 leased or rented under a bona fide commercial lease or rental agreement  
22 between a lessor engaged in the business of leasing vehicles and a  
23 lessee who is not the vehicle's registered owner, if the lease  
24 agreement contains a provision prohibiting anyone other than the lessee  
25 from operating the vehicle. Such a lessor shall, upon the request of  
26 the municipality issuing the notice of infraction, supply the  
27 municipality with the name and driver's license number of the person  
28 leasing the vehicle at the time of the infraction.

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

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

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

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