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SENATE BILL 6190

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By Senators Erwin, Madsen, Nelson, Thorsness, Sellar, Skratek,  
Newhouse, Hayner, Rasmussen, Bauer and Oke

Read first time 01/21/92. Referred to Committee on Law & Justice.

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. Proof of satisfactory completion of the  
14 course within one hundred twenty days shall result in dismissal of the

1 notice of infraction. Failure to complete the course satisfactorily  
2 shall result in a court determination and order that an infraction was  
3 committed, and the court shall furnish its determination and order to  
4 the department in 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 an approved course in traffic safety  
5 as part of a deferral granted under this section does not qualify as  
6 successful completion of a motor vehicle accident prevention course for  
7 purposes 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 and that allows electronic transmission and retrieval of  
14 driving record information.

15 (10) Before approving a course in traffic safety, the court shall  
16 determine that the course curriculum has been proven through research  
17 reports to show positive results in reducing collisions and traffic  
18 violation recidivism. The course must include a minimum of eight hours  
19 of classroom instruction.

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

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

25 (2) The form for the notice of traffic infraction shall be  
26 prescribed by rule of the supreme court and shall include the  
27 following:

28 (a) A statement that the notice represents a determination that a  
29 traffic infraction has been committed by the person named in the notice

1 and that the determination shall be final unless contested or deferred  
2 as provided in this chapter;

3 (b) A statement that a traffic infraction is a noncriminal offense  
4 for which imprisonment may not be imposed as a sanction; that the  
5 penalty for a traffic infraction may include sanctions against the  
6 person's driver's license including suspension, revocation, or denial;  
7 that the penalty for a traffic infraction related to standing,  
8 stopping, or parking may include nonrenewal of the vehicle license;

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

11 (d) A statement of the monetary penalty established for the traffic  
12 infraction;

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

16 (f) A statement that at any hearing to contest the determination  
17 the state has the burden of proving, by a preponderance of the  
18 evidence, that the infraction was committed; and that the person may  
19 subpoena witnesses including the officer who issued the notice of  
20 infraction;

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

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

29 (i) A statement that failure to appear at a hearing requested for  
30 the purpose of contesting the determination or for the purpose of

1 explaining mitigating circumstances will result in the refusal of the  
2 department to renew the person's driver's license, or in the case of a  
3 standing, stopping, or parking violation the vehicle license, until any  
4 penalties imposed pursuant to this chapter have been satisfied;

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

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

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

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

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

28 (3) If the person determined to have committed the infraction  
29 wishes to contest the determination the person shall respond by

1 completing the portion of the notice of infraction requesting a hearing  
2 and submitting it, either by mail or in person, to the court specified  
3 on the notice. The court shall notify the person in writing of the  
4 time, place, and date of the hearing, and that date shall not be sooner  
5 than seven days from the date of the notice, except by agreement.

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

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

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

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

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

23 (b) The department may not renew the driver's license, or in the  
24 case of a standing, stopping, or parking violation the vehicle license,  
25 of any person for whom the court has entered an order pursuant to (a)  
26 of this subsection until any penalties imposed pursuant to this chapter  
27 have been satisfied. For purposes of driver's license nonrenewal only,  
28 the lessee of a vehicle shall be considered to be the person to whom a  
29 notice of a standing, stopping, or parking violation has been issued  
30 for such violations of the vehicle incurred while the vehicle was

1 leased or rented under a bona fide commercial lease or rental agreement  
2 between a lessor engaged in the business of leasing vehicles and a  
3 lessee who is not the vehicle's registered owner, if the lease  
4 agreement contains a provision prohibiting anyone other than the lessee  
5 from operating the vehicle. Such a lessor shall, upon the request of  
6 the municipality issuing the notice of infraction, supply the  
7 municipality with the name and driver's license number of the person  
8 leasing the vehicle at the time of the infraction.

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

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

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

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