

HOUSE BILL REPORT

HB 1368

As Reported By House Committee On:
Judiciary

Title: An act relating to traffic infractions.

Brief Description: Allowing for deferral of a judicial determination that a traffic violation was committed.

Sponsors: Representatives Padden, Appelwick, Johanson, Basich, Jacobsen, Ludwig, Fuhrman, Morris, Morton, Grant, Campbell, Long and Silver.

Brief History:

Reported by House Committee on:
Judiciary, February 9, 1993, DPS.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Campbell; Johanson; Locke; Long; Mastin; H. Myers; Riley; and Wineberry.

Minority Report: Do not pass. Signed by 5 members: Representatives Ballasiotes, Assistant Ranking Minority Member; Chappell; Forner; Scott; and Tate.

Staff: Bill Perry (786-7123).

Background: Many of the less serious traffic law violations have been decriminalized. These violations are called civil infractions. Persons who commit violations of these laws are not "convicted" or found "guilty" of crimes, but rather they are "determined" to have committed an infraction. Because these infractions are not criminal, the procedures for determining an infraction are less rigorous than those that apply in a criminal case. The penalties for infractions are monetary fines established by state supreme court rule. In many instances, however, the most expensive and serious consequences of a traffic infraction result from reporting the infraction to the Department of Licensing.

A record of an infraction is sent to the Department of Licensing whenever a person is determined to have committed an infraction. This driving record information is available

to insurance companies. Thus, an infraction may result in increased insurance premiums or loss of coverage. It may also result in loss of the person's driving privileges through administrative action of the Department of Licensing.

A person who is cited for a traffic infraction may respond in one of three ways. First, the person may simply pay the fine that is set for the infraction. Second, the person may demand a hearing in order to contest the citation. Third, the person may choose not to contest the citation but nonetheless request a hearing to explain mitigating circumstances surrounding the infraction.

In imposing the penalty for a traffic infraction, the court has several options besides just imposing the standard fine set by the state supreme court rule. The court may waive, reduce, or suspend the standard fine. At the person's request, the court may order the person to do some community service in lieu of paying the fine. However, in any case in which the person has been determined to have committed the infraction, the court is to send a record of its determination to the Department of Licensing.

In non-felony criminal cases, including cases involving traffic crimes, a qualifying defendant may be granted a deferred prosecution. Deferral is available only to a defendant who demonstrates that he or she committed the charged crime because of alcoholism, drug addiction, or mental problems. The prosecution is held in abeyance while the defendant completes treatment for his or her problem. A defendant may get no more than one deferral from a criminal traffic charge in a five-year period. The most common use of deferred prosecutions is in drunk driving cases.

Some local courts have instituted procedures in civil traffic infraction cases that are roughly parallel to the deferred prosecution system used in criminal cases. There is no explicit authorization for such procedures in the traffic infraction law, and some county prosecutors have advised their courts that state legislation is needed before deferrals can be used in civil infraction cases.

Summary of Substitute Bill: Beginning February 2, 1994, local courts are authorized to provide for deferrals of determinations that civil traffic infractions have been committed. Any program for deferral created under this authorization must contain certain elements, including the following:

- o The program must allow a driver to attend a traffic safety course approved by the Department of Licensing,

and the driver must pay for and successfully complete the course;

- o No person may be eligible for a deferral more than once in the state in any three-year period; and
- o The local court must have access to the judicial information system.

During a deferral, notice of the deferral is to be sent to the Department of Licensing (DOL). However, information regarding the deferral is not available to insurance companies. Upon successful completion of the traffic safety course, DOL will dismiss the notice of infraction. However, deferral and dismissal of the notice does not affect the imposition of the monetary penalty applicable to the infraction.

If a person who has been granted a deferral commits another driving offense within three years, or fails to complete the safety course, DOL is to make the original underlying infraction for which the deferral was granted a part of the driver's record.

Traffic safety courses must have a minimum of eight hours of classroom instruction with a curriculum that DOL determines has a proven record of reducing traffic accidents and violations. The department is to collect a fee of up to \$2 per attendee from each approved course in order to fund the department's obligations under this act.

The deferral program is not available for offenses involving a commercial driver's license.

Substitute Bill Compared to Original Bill: The substitute makes attendance at a safety course a mandatory feature of a deferral. It also places responsibility for notices regarding deferrals, school completion or failure, and subsequent infractions on the Department of Licensing and the safety course providers. It also removes the authority for local courts to impose fees to fund deferral programs.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Deferrals with appropriate safety courses have been demonstrated to be very effective in reducing accidents and violations. Drivers should not be exposed to higher insurance premiums for an occasional infraction.

Testimony Against: Safety courses in other states have often become complete shams and jokes. Driving records are the single best objective data available for insurance premium setting.

Witnesses: Paul Beighle, Seattle Municipal Court (pro); Thomas Clark, Seattle Municipal Court (pro); Steve Lindstrom, National Traffic Safety Institute (pro); Jean Nelson, Washington State Safety Council (pro); Jan Coolidge, Department of Licensing (pro); John Gullickson, SAFECO (con); Carol Monohon, National Association of Independent Insurers (con); and Jean Leonard, State Farm Insurance Company (con).