

**SENATE BILL REPORT**

**ESHB 1368**

**AS OF MARCH 30, 1993**

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

**SPONSORS:** House Committee on Judiciary (originally sponsored by Representatives Padden, Appelwick, Johanson, Basich, Jacobsen, Ludwig, Fuhrman, Morris, Morton, Grant, Campbell, Long and Silver)

**HOUSE COMMITTEE ON JUDICIARY**

**SENATE COMMITTEE ON LAW & JUSTICE**

**Staff:** Alan Caplan (786-7465)

**Hearing Dates:** March 31, 1993

**BACKGROUND:**

Many less serious traffic law violations have been decriminalized and are now called civil infractions. Because infractions are not criminal, the procedures for determining an infraction are less rigorous than those applicable to a criminal case. Persons determined to have committed traffic infractions are liable to pay monetary fines established by state Supreme Court rule. However, in many instances, more serious consequences result from reporting the infraction to the Department of Licensing (DOL).

A record of an infraction is sent to DOL whenever a person is determined to have committed an infraction. Because this information is available to insurance companies, an infraction may lead to increased insurance premiums or loss of coverage. It may also result in loss of the person's driving privileges through administrative action by DOL.

In imposing a penalty for a traffic infraction, a court may impose the full standard fine, or may waive, reduce, or suspend the fine. At the person's request, the court may order the person to do 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 must send a record of its determination to DOL.

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:**

Beginning February 2, 1994, local courts are authorized to provide for deferrals of determinations that civil traffic infractions have been committed. Deferral programs created under this authorization must include certain specified elements.

During a deferral, notice of the deferral must be sent to the DOL. However, information regarding the deferral will not be made available to insurance companies. Upon successful completion of the traffic safety course, DOL will dismiss the notice of infraction. 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 fails to complete the safety course or commits another driving offense within three years, DOL is directed to make the original deferred infraction 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.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** available