
ENGROSSED SUBSTITUTE HOUSE BILL 1368

State of Washington

53rd Legislature

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

Read first time 02/12/93.

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 After February 1, 1994, a district or municipal court may provide
8 by rule for a procedure to allow for deferral of a judicial
9 determination that an infraction was committed. The procedure is
10 subject to the following limitations and standards:

11 (1) The procedure shall require 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 director of the department. Proof of
14 satisfactory completion of the course sent to the department within one
15 hundred twenty days shall result in deferral of the judicial
16 determination and dismissal after three years if the limitations and
17 standards of this section are met. Failure to complete the course
18 satisfactorily shall result in a determination that an infraction was
19 committed.

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

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

8 (4)(a) No person is eligible for a deferral if the case record of
9 convictions and infractions maintained under RCW 46.52.120 shows that
10 the person has any convictions or has more than two infractions.

11 (b) 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) Satisfactory completion of an approved course in traffic safety
29 as part of a deferral granted under this section does not qualify as
30 successful completion of a motor vehicle accident prevention course for
31 purposes of insurance premium reductions required by RCW 48.19.460.

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

35 (8) No procedure for deferral under this section may be implemented
36 by any court that is not electronically connected to the department and
37 that does not have access to the judicial information system.

38 (9) The director of the department shall approve, maintain, and
39 publish for the court a list of traffic safety courses eligible for the

1 deferral program described in this section. The director shall not
2 approve a course unless the course curriculum has been proven through
3 research reports to show positive results in reducing collisions and
4 traffic violation recidivism. The course must include a minimum of
5 eight hours of classroom instruction.

6 (10) The director of the department shall collect a fee from each
7 approved traffic safety school in the amount of not more than two
8 dollars for each person attending a traffic safety course for the
9 purpose of receiving a deferral of judicial determination. The funds
10 shall be deposited in the highway safety fund and used for the purposes
11 of this section.

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

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

17 (2) The form for the notice of traffic infraction shall be
18 prescribed by rule of the supreme court and shall include the
19 following:

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

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

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

32 (d) A statement of the monetary penalty established for the traffic
33 infraction;

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

37 (f) A statement that at any hearing to contest the determination
38 the state has the burden of proving, by a preponderance of the

1 evidence, that the infraction was committed; and that the person may
2 subpoena witnesses including the officer who issued the notice of
3 infraction;

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

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

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

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

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

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

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

29 (2) If the person determined to have committed the infraction does
30 not contest the determination the person shall respond by completing
31 the appropriate portion of the notice of infraction and submitting it,
32 either by mail or in person, to the court specified on the notice. A
33 check or money order in the amount of the penalty prescribed for the
34 infraction must be submitted with the response. When a response which
35 does not contest the determination is received, an appropriate order
36 shall be entered in the court's records, and a record of the response
37 and order shall be furnished to the department in accordance with RCW
38 46.20.270.

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

8 (4) If the person determined to have committed the infraction does
9 not contest the determination but wishes to explain mitigating
10 circumstances surrounding the infraction or to request a deferral in
11 accordance with section 1 of this act, the person shall respond by
12 completing the portion of the notice of infraction requesting a hearing
13 for that purpose and submitting it, either by mail or in person, to the
14 court specified on the notice. The court shall notify the person in
15 writing of the time, place, and date of the hearing.

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

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

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

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

26 (b) The department may not renew the driver's license, or in the
27 case of a standing, stopping, or parking violation the vehicle license,
28 of any person for whom the court has entered an order pursuant to (a)
29 of this subsection until any penalties imposed pursuant to this chapter
30 have been satisfied. For purposes of driver's license nonrenewal only,
31 the lessee of a vehicle shall be considered to be the person to whom a
32 notice of a standing, stopping, or parking violation has been issued
33 for such violations of the vehicle incurred while the vehicle was
34 leased or rented under a bona fide commercial lease or rental agreement
35 between a lessor engaged in the business of leasing vehicles and a
36 lessee who is not the vehicle's registered owner, if the lease
37 agreement contains a provision prohibiting anyone other than the lessee
38 from operating the vehicle. Such a lessor shall, upon the request of
39 the municipality issuing the notice of infraction, supply the

1 municipality with the name and driver's license number of the person
2 leasing the vehicle at the time of the infraction.

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

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

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

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

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