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**SUBSTITUTE HOUSE BILL 1368**

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**State of Washington**

**53rd Legislature**

**1993 Regular Session**

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

23 (5) Deferral does not affect imposition of monetary penalties under  
24 this chapter.

25 (6) Satisfactory completion of an approved course in traffic safety  
26 as part of a deferral granted under this section does not qualify as  
27 successful completion of a motor vehicle accident prevention course for  
28 purposes of insurance premium reductions required by RCW 48.19.460.

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

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

35 (9) The director of the department shall approve, maintain, and  
36 publish for the court a list of traffic safety courses eligible for the  
37 deferral program described in this section. The director shall not  
38 approve a course unless the course curriculum has been proven through  
39 research reports to show positive results in reducing collisions and

1 traffic violation recidivism. The course must include a minimum of  
2 eight hours of classroom instruction.

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

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

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

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

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

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

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

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

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

34 (f) A statement that at any hearing to contest the determination  
35 the state has the burden of proving, by a preponderance of the  
36 evidence, that the infraction was committed; and that the person may  
37 subpoena witnesses including the officer who issued the notice of  
38 infraction;

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

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

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

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

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

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

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

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

36 (3) If the person determined to have committed the infraction  
37 wishes to contest the determination the person shall respond by  
38 completing the portion of the notice of infraction requesting a hearing

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

5 (4) If the person determined to have committed the infraction does  
6 not contest the determination but wishes to explain mitigating  
7 circumstances surrounding the infraction or to request a deferral in  
8 accordance with section 1 of this act, 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  
31 leased or rented under a bona fide commercial lease or rental agreement  
32 between a lessor engaged in the business of leasing vehicles and a  
33 lessee who is not the vehicle's registered owner, if the lease  
34 agreement contains a provision prohibiting anyone other than the lessee  
35 from operating the vehicle. Such a lessor shall, upon the request of  
36 the municipality issuing the notice of infraction, supply the  
37 municipality with the name and driver's license number of the person  
38 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.

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