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HOUSE BILL 1368

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

Read first time 01/25/93. Referred to Committee on Judiciary.

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 may 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 director of the department. Proof of  
14 satisfactory completion of the course to the court within one hundred  
15 twenty days shall result in deferral of the judicial determination and  
16 dismissal after three years if the limitations and standards of this  
17 section are met. Failure to complete the course satisfactorily shall  
18 result in a court determination and order that an infraction was

1 committed, and the court shall furnish its determination and order to  
2 the department in accordance with RCW 46.20.270.

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

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

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

25 (5) Deferral does not affect imposition of monetary penalties under  
26 this chapter.

27 (6) The court may assess a fee to cover the cost to the court of  
28 processing an application for a deferral. The fee is subject to the  
29 provisions of RCW 3.62.020.

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

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

37 (9) No procedure for deferral under this section may be implemented  
38 by any court that does not have computer equipment that is connected to

1 the department and that allows electronic storage and retrieval of  
2 driving record information.

3 (10) The director of the department shall approve, maintain, and  
4 publish for the court a list of traffic safety courses eligible for the  
5 deferral program described in this section. The director shall not  
6 approve a course unless the course curriculum has been proven through  
7 research reports to show positive results in reducing collisions and  
8 traffic violation recidivism. The course must include a minimum of  
9 eight hours of classroom instruction.

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

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

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

21 (2) The form for the notice of traffic infraction shall be  
22 prescribed by rule of the supreme court and shall include the  
23 following:

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

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

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

36 (d) A statement of the monetary penalty established for the traffic  
37 infraction;

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

4 (f) A statement that at any hearing to contest the determination  
5 the state has the burden of proving, by a preponderance of the  
6 evidence, that the infraction was committed; and that the person may  
7 subpoena witnesses including the officer who issued the notice of  
8 infraction;

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

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

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

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

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

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

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

34 (2) If the person determined to have committed the infraction does  
35 not contest the determination the person shall respond by completing  
36 the appropriate portion of the notice of infraction and submitting it,  
37 either by mail or in person, to the court specified on the notice. The  
38 person may also request a deferral in accordance with section 1 of this

1 act. A check or money order in the amount of the penalty prescribed  
2 for the infraction must be submitted with the response. When a  
3 response which does not contest the determination is received, an  
4 appropriate order shall be entered in the court's records, and except  
5 in the case of a deferral granted in accordance with section 1 of this  
6 act, a record of the response and order shall be furnished to the  
7 department in accordance with RCW 46.20.270.

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

15 (4) If the person determined to have committed the infraction does  
16 not contest the determination but wishes to explain mitigating  
17 circumstances surrounding the infraction the person shall respond by  
18 completing the portion of the notice of infraction requesting a hearing  
19 for that purpose and submitting it, either by mail or in person, to the  
20 court specified on the notice. The court shall notify the person in  
21 writing of the time, place, and date of the hearing.

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

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

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

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

32 (b) The department may not renew the driver's license, or in the  
33 case of a standing, stopping, or parking violation the vehicle license,  
34 of any person for whom the court has entered an order pursuant to (a)  
35 of this subsection until any penalties imposed pursuant to this chapter  
36 have been satisfied. For purposes of driver's license nonrenewal only,  
37 the lessee of a vehicle shall be considered to be the person to whom a  
38 notice of a standing, stopping, or parking violation has been issued  
39 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.

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