
ENGROSSED SENATE BILL 6352

State of Washington 57th Legislature

2002 Regular Session

By Senators Gardner, Benton, Haugen, Kline, Horn and Rasmussen

HELD AT THE DESK 01/16/02. Read first time 01/17/2002. Referred to
Committee on Transportation.

1 AN ACT Relating to commercial drivers' offenses; amending RCW
2 46.63.070, 10.05.010, 10.05.015, and 46.52.130; and repealing RCW
3 48.30.310.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.63.070 and 2000 c 110 s 1 are each amended to read
6 as follows:

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

10 (2) If the person determined to have committed the infraction does
11 not contest the determination the person shall respond by completing
12 the appropriate portion of the notice of infraction and submitting it,
13 either by mail or in person, to the court specified on the notice. A
14 check or money order in the amount of the penalty prescribed for the
15 infraction must be submitted with the response. When a response which
16 does not contest the determination is received, an appropriate order
17 shall be entered in the court's records, and a record of the response
18 and order shall be furnished to the department in accordance with RCW
19 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 the person shall respond by
11 completing the portion of the notice of infraction requesting a hearing
12 for that purpose and submitting it, either by mail or in person, to the
13 court specified on the notice. The court shall notify the person in
14 writing of the time, place, and date of the hearing.

15 (5)(a) In hearings conducted pursuant to subsections (3) and (4) of
16 this section, with the exception of infractions occurring during the
17 operation of a commercial motor vehicle, the court may defer findings,
18 or in a hearing to explain mitigating circumstances may defer entry of
19 its order, for up to one year and impose conditions upon the defendant
20 the court deems appropriate. Upon deferring findings, the court may
21 assess costs as the court deems appropriate for administrative
22 processing. If at the end of the deferral period the defendant has met
23 all conditions and has not been determined to have committed another
24 traffic infraction, the court may dismiss the infraction.

25 (b) A person may not receive more than one deferral within a seven-
26 year period for traffic infractions for moving violations and more than
27 one deferral within a seven-year period for traffic infractions for
28 nonmoving violations.

29 (6) If any person issued a notice of traffic infraction:

30 (a) Fails to respond to the notice of traffic infraction as
31 provided in subsection (2) of this section; or

32 (b) Fails to appear at a hearing requested pursuant to subsection
33 (3) or (4) of this section;

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

1 **Sec. 2.** RCW 10.05.010 and 1998 c 208 s 1 are each amended to read
2 as follows:

3 In a court of limited jurisdiction a person charged with a
4 misdemeanor or gross misdemeanor may petition the court to be
5 considered for a deferred prosecution program. The petition shall be
6 filed with the court at least seven days before the date set for trial
7 but, upon a written motion and affidavit establishing good cause for
8 the delay and failure to comply with this section, the court may waive
9 this requirement subject to the defendant's reimbursement to the court
10 of the witness fees and expenses due for subpoenaed witnesses who have
11 appeared on the date set for trial.

12 A person charged with a traffic infraction, misdemeanor, or gross
13 misdemeanor under Title 46 RCW shall not be eligible for a deferred
14 prosecution program unless the court makes specific findings pursuant
15 to RCW 10.05.020. Such person shall not be eligible for a deferred
16 prosecution program more than once. Separate offenses committed more
17 than seven days apart may not be consolidated in a single program.
18 Under no circumstance is a person charged with an offense under Title
19 46 RCW eligible for a deferred prosecution program if the offense
20 occurred while operating a commercial motor vehicle.

21 **Sec. 3.** RCW 10.05.015 and 1985 c 352 s 5 are each amended to read
22 as follows:

23 At the time of arraignment a person charged with a violation of RCW
24 46.61.502 or 46.61.504, other than a charge in conjunction with the
25 operation of a commercial motor vehicle, may be given a statement by
26 the court that explains the availability, operation, and effects of the
27 deferred prosecution program.

28 **Sec. 4.** RCW 46.52.130 and 2001 c 309 s 1 are each amended to read
29 as follows:

30 A certified abstract of the driving record shall be furnished only
31 to the individual named in the abstract, an employer or prospective
32 employer or an agent acting on behalf of an employer or prospective
33 employer, the insurance carrier that has insurance in effect covering
34 the employer or a prospective employer, the insurance carrier that has
35 insurance in effect covering the named individual, the insurance
36 carrier to which the named individual has applied, an alcohol/drug
37 assessment or treatment agency approved by the department of social and

1 health services, to which the named individual has applied or been
2 assigned for evaluation or treatment, or city and county prosecuting
3 attorneys. City attorneys and county prosecuting attorneys may provide
4 the driving record to alcohol/drug assessment or treatment agencies
5 approved by the department of social and health services to which the
6 named individual has applied or been assigned for evaluation or
7 treatment. The director, upon proper request, shall furnish a
8 certified abstract covering the period of not more than the last three
9 years to insurance companies. Upon proper request, the director shall
10 furnish a certified abstract covering a period of not more than the
11 last five years to state approved alcohol/drug assessment or treatment
12 agencies, except that the certified abstract shall also include records
13 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a
14 period of not more than the last ten years. Upon proper request, a
15 certified abstract of the full driving record maintained by the
16 department shall be furnished to a city or county prosecuting attorney,
17 to the individual named in the abstract or to an employer or
18 prospective employer or an agent acting on behalf of an employer or
19 prospective employer of the named individual. The abstract, whenever
20 possible, shall include an enumeration of motor vehicle accidents in
21 which the person was driving; the total number of vehicles involved;
22 whether the vehicles were legally parked or moving; whether the
23 vehicles were occupied at the time of the accident; whether the
24 accident resulted in any fatality; any reported convictions,
25 forfeitures of bail, or findings that an infraction was committed based
26 upon a violation of any motor vehicle law; and the status of the
27 person's driving privilege in this state. The enumeration shall
28 include any reports of failure to appear in response to a traffic
29 citation or failure to respond to a notice of infraction served upon
30 the named individual by an arresting officer. Certified abstracts
31 furnished to prosecutors and alcohol/drug assessment or treatment
32 agencies shall also indicate whether a recorded violation is an
33 alcohol-related offense as defined in RCW 46.01.260(2) that was
34 originally charged as one of the alcohol-related offenses designated in
35 RCW 46.01.260(2)(b)(i).

36 The abstract provided to the insurance company shall exclude any
37 information, except that related to the commission of misdemeanors or
38 felonies by the individual, pertaining to law enforcement officers or
39 fire fighters as defined in RCW 41.26.030, or any officer of the

1 Washington state patrol, while driving official vehicles in the
2 performance of occupational duty. The abstract provided to the
3 insurance company shall include convictions for RCW 46.61.5249 and
4 46.61.525 except that the abstract shall report them only as negligent
5 driving without reference to whether they are for first or second
6 degree negligent driving. The abstract provided to the insurance
7 company shall exclude any deferred prosecution under RCW 10.05.060,
8 except that if a person is removed from a deferred prosecution under
9 RCW 10.05.090, the abstract shall show the deferred prosecution as well
10 as the removal.

11 The director shall collect for each abstract the sum of four
12 dollars and fifty cents which shall be deposited in the highway safety
13 fund.

14 Any insurance company or its agent receiving the certified abstract
15 shall use it exclusively for its own underwriting purposes and shall
16 not divulge any of the information contained in it to a third party.
17 No policy of insurance may be canceled, nonrenewed, denied, or have the
18 rate increased on the basis of such information unless the policyholder
19 was determined to be at fault. (~~No insurance company or its agent for
20 underwriting purposes relating to the operation of commercial motor
21 vehicles may use any information contained in the abstract relative to
22 any person's operation of motor vehicles while not engaged in such
23 employment, nor may any insurance company or its agent for underwriting
24 purposes relating to the operation of noncommercial motor vehicles use
25 any information contained in the abstract relative to any person's
26 operation of commercial motor vehicles.~~)

27 Any employer or prospective employer or an agent acting on behalf
28 of an employer or prospective employer receiving the certified abstract
29 shall use it exclusively for his or her own purpose to determine
30 whether the licensee should be permitted to operate a commercial
31 vehicle or school bus upon the public highways of this state and shall
32 not divulge any information contained in it to a third party.

33 Any alcohol/drug assessment or treatment agency approved by the
34 department of social and health services receiving the certified
35 abstract shall use it exclusively for the purpose of assisting its
36 employees in making a determination as to what level of treatment, if
37 any, is appropriate. The agency, or any of its employees, shall not
38 divulge any information contained in the abstract to a third party.

1 Release of a certified abstract of the driving record of an
2 employee or prospective employee requires a statement signed by: (1)
3 The employee or prospective employee that authorizes the release of the
4 record, and (2) the employer attesting that the information is
5 necessary to determine whether the licensee should be employed to
6 operate a commercial vehicle or school bus upon the public highways of
7 this state. If the employer or prospective employer authorizes an
8 agent to obtain this information on their behalf, this must be noted in
9 the statement.

10 Any negligent violation of this section is a gross misdemeanor.

11 Any intentional violation of this section is a class C felony.

12 NEW SECTION. **Sec. 5.** RCW 48.30.310 (Commercial motor vehicle
13 employment driving record not to be considered, when) and 1977 ex.s. c
14 356 s 3 are each repealed.

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