
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; and amending RCW
2 46.63.070, 10.05.010, and 10.05.015.

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

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

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

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

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