

SHB 1650 - H AMD

By Representative Darneille

1 On page 1, strike everything after the enacting clause and
2 insert

3 **"Sec. 1.** RCW 46.61.021 and 1997 1st sp.s. c 1 s 1 are each
4 amended to read as follows:

5 (1) Any person requested or signaled to stop by a law
6 enforcement officer for a traffic infraction has a duty to stop.

7 (2) Whenever any person is stopped for a traffic infraction,
8 the officer may detain that person for a reasonable period of time
9 necessary to identify the person, check for outstanding warrants,
10 check the status of the person's license, insurance identification
11 card, and the vehicle's registration, and complete and issue a
12 notice of traffic infraction.

13 (3) Any person requested to identify himself or herself to a
14 law enforcement officer pursuant to an investigation of a traffic
15 infraction has a duty to identify himself or herself, give his or
16 her current address, and sign an acknowledgement of receipt of the
17 notice of infraction. The requirement for a signature does not
18 apply when the person is served with a notice of infraction that is
19 created by electronic means or served by mail.

20 **Sec. 2.** RCW 46.63.060 and 1993 c 501 s 9 are each amended to
21 read as follows:

22 (1) A notice of traffic infraction represents a determination
23 that an infraction has been committed. The determination will be
24 final unless contested as provided in this chapter.

25 (2) The form for the notice of traffic infraction shall be
26 prescribed by rule of the supreme court and shall include the
27 following:

28 (a) A statement that the notice represents a determination that
29 a traffic infraction has been committed by the person named in the

1 notice and that the determination shall be final unless contested
2 as provided in this chapter;

3 (b) A statement that a traffic infraction is a noncriminal
4 offense for which imprisonment may not be imposed as a sanction;
5 that the penalty for a traffic infraction may include sanctions
6 against the person's driver's license including suspension,
7 revocation, or denial; that the penalty for a traffic infraction
8 related to standing, stopping, or parking may include nonrenewal of
9 the vehicle license;

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

12 (d) A statement of the monetary penalty established for the
13 traffic infraction;

14 (e) A statement of the options provided in this chapter for
15 responding to the notice and the procedures necessary to exercise
16 these options;

17 (f) A statement that at any hearing to contest the
18 determination the state has the burden of proving, by a
19 preponderance of the evidence, that the infraction was committed;
20 and that the person may subpoena witnesses including the officer
21 who issued the notice of infraction;

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

26 (h) A statement that the person must respond to the notice as
27 provided in this chapter within fifteen days or the person's
28 driver's license or driving privilege will be suspended by the
29 department until any penalties imposed pursuant to this chapter
30 have been satisfied;

31 (i) A statement that failure to appear at a hearing requested
32 for the purpose of contesting the determination or for the purpose
33 of explaining mitigating circumstances will result in the
34 suspension of the person's driver's license or driving privilege,
35 or in the case of a standing, stopping, or parking violation,
36 refusal of the department to renew the vehicle license, until any
37 penalties imposed pursuant to this chapter have been satisfied; and

38 (j) A statement, which the person shall sign, that the person
39 promises to respond to the notice of infraction in one of the ways

1 provided in this chapter. The requirement for a signature does not
2 apply when the person is served with a notice of infraction that is
3 created by electronic means or served by mail.

4 **Sec. 3.** RCW 46.64.025 and 1999 c 86 s 7 are each amended to
5 read as follows:

6 Whenever any person (~~(violates his or her written promise to~~
7 ~~appear in court, or)) served with a traffic citation fails to
8 appear for a scheduled court hearing, the court in which the
9 defendant failed to appear shall promptly give notice of such fact
10 to the department of licensing. Whenever thereafter the case in
11 which the defendant failed to appear is adjudicated, the court
12 hearing the case shall promptly file with the department a
13 certificate showing that the case has been adjudicated.~~

14 **Sec. 4.** RCW 7.80.070 and 1987 c 456 s 15 are each amended to
15 read as follows:

16 (1) A notice of civil infraction represents a determination
17 that a civil infraction has been committed. The determination is
18 final unless contested as provided in this chapter.

19 (2) The form for the notice of civil infraction shall be
20 prescribed by rule of the supreme court and shall include the
21 following:

22 (a) A statement that the notice represents a determination that
23 a civil infraction has been committed by the person named in the
24 notice and that the determination is final unless contested as
25 provided in this chapter;

26 (b) A statement that a civil infraction is a noncriminal
27 offense for which imprisonment may not be imposed as a sanction;

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

30 (d) A statement of the monetary penalty established for the
31 civil infraction;

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

35 (f) A statement that at any hearing to contest the
36 determination the state has the burden of proving, by a
37 preponderance of the evidence, that the civil infraction was

1 committed and that the person may subpoena witnesses including the
2 enforcement officer who issued the notice of civil infraction;

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

7 (h) A statement that the person must respond to the notice as
8 provided in this chapter within fifteen days;

9 (i) A statement that failure to respond to the notice or a
10 failure to appear at a hearing requested for the purpose of
11 contesting the determination or for the purpose of explaining
12 mitigating circumstances will result in a default judgment against
13 the person in the amount of the penalty and that this failure may
14 be referred to the prosecuting attorney for criminal prosecution
15 for failure to respond or appear;

16 (j) A statement, which the person shall sign, that the person
17 promises to respond to the notice of civil infraction in one of the
18 ways provided in this chapter. The requirement for a signature
19 does not apply when the person is served with a notice of civil
20 infraction that is created by electronic means or served by mail;
21 and

22 (k) A statement that failure to respond to a notice of civil
23 infraction (~~as promised~~) or to appear at a requested hearing is
24 a misdemeanor and may be punished by a fine or imprisonment in
25 jail.

26 **Sec. 5.** RCW 7.80.160 and 2002 c 175 s 2 are each amended to
27 read as follows:

28 (1) A person who fails to sign a notice of civil infraction is
29 guilty of a misdemeanor. The requirement for a signature does not
30 apply when the person is served with a notice of civil infraction
31 that is created by electronic means or served by mail.

32 (2) Any person who willfully (~~violating his or her written and~~
33 ~~signed promise to appear in court or his or her written and signed~~
34 ~~promise~~) fails to respond to a notice of civil infraction is
35 guilty of a misdemeanor regardless of the disposition of the notice
36 of civil infraction. A (~~written promise to appear in court or a~~
37 ~~written promise to respond to a~~) notice of civil infraction may be
38 complied with by an appearance by counsel.

1 (3) A person who willfully fails to pay a monetary penalty or
2 to perform community restitution as required by a court under this
3 chapter may be found in contempt of court as provided in chapter
4 7.21 RCW.

5 **Sec. 6.** RCW 7.84.050 and 1987 c 380 s 5 are each amended to
6 read as follows:

7 (1) A notice of infraction represents a determination that an
8 infraction has been committed. The determination shall be final
9 unless contested as provided in this chapter.

10 (2) The form for the notice of infraction shall be prescribed
11 by rule of the supreme court and shall include the following:

12 (a) A statement that the notice represents a determination that
13 an infraction has been committed by the person named in the notice
14 and that the determination shall be final unless contested as
15 provided in this chapter;

16 (b) A statement that an infraction is a noncriminal offense for
17 which imprisonment will not be imposed as a sanction;

18 (c) A statement of the specific infraction for which the notice
19 was issued;

20 (d) A statement of the monetary penalty established for the
21 infraction;

22 (e) A statement of the options provided in this chapter for
23 responding to the notice and the procedures necessary to exercise
24 these options;

25 (f) A statement that at any hearing to contest the
26 determination, the state has the burden of proving, by a
27 preponderance of the evidence, that the infraction was committed;
28 and that the person may subpoena witnesses including the officer
29 who issued the notice of infraction;

30 (g) A statement that at any hearing requested for the purpose
31 of explaining mitigating circumstances surrounding the commission
32 of the infraction the person shall be deemed to have committed the
33 infraction and shall not subpoena witnesses;

34 (h) A statement that failure to respond to a notice of
35 infraction within fifteen days is a misdemeanor and may be punished
36 by fine or imprisonment;

37 (i) A statement that failure to appear at a hearing requested
38 for the purpose of contesting the determination or for the purpose

1 of explaining mitigating circumstances is a misdemeanor and may be
2 punished by fine or imprisonment; and

3 (j) A statement, which the person shall sign, that the person
4 promises to respond to the notice of infraction in one of the ways
5 provided in this chapter. The requirement for a signature does not
6 apply when the person is served with a notice of infraction that is
7 created by electronic means or served by mail.

8 **Sec. 7.** RCW 18.27.240 and 1986 c 197 s 4 are each amended to
9 read as follows:

10 The form of the notice of infraction issued under this chapter
11 shall include the following:

12 (1) A statement that the notice represents a determination that
13 the infraction has been committed by the contractor named in the
14 notice and that the determination shall be final unless contested
15 as provided in this chapter;

16 (2) A statement that the infraction is a noncriminal offense
17 for which imprisonment shall not be imposed as a sanction;

18 (3) A statement of the specific violation which necessitated
19 issuance of the infraction;

20 (4) A statement of penalty involved if the infraction is
21 established;

22 (5) A statement of the options provided in this chapter for
23 responding to the notice and the procedures necessary to exercise
24 these options;

25 (6) A statement that at any hearing to contest the notice of
26 infraction the state has the burden of proving, by a preponderance
27 of the evidence, that the infraction was committed; and that the
28 contractor may subpoena witnesses, including the compliance
29 inspector of the department who issued and served the notice of
30 infraction;

31 (7) A statement, which the person who has been served with the
32 notice of infraction shall sign, that the contractor (~~promises~~
33 ~~to~~) must respond to the notice of infraction in one of the ways
34 provided in this chapter. The requirement for a signature does not
35 apply when the person is served with a notice of infraction that is
36 created by electronic means or served by mail;

1 (8) A statement that refusal to sign the infraction as directed
2 in subsection (7) of this section is a misdemeanor and may be
3 punished by a fine or imprisonment in jail; and

4 (9) A statement that a contractor's willful failure to respond
5 to a notice of infraction (~~as promised~~) is a misdemeanor and may
6 be punished by a fine or imprisonment in jail.

7 The requirement for a signature does not apply when the person
8 is served with a notice of infraction that is created by electronic
9 means or served by mail.

10 **Sec. 8.** RCW 18.106.190 and 1994 c 174 s 4 are each amended to
11 read as follows:

12 The form of the notice of infraction issued under this chapter
13 shall include the following:

14 (1) A statement that the notice represents a determination that
15 the infraction has been committed by the person named in the notice
16 and that the determination shall be final unless contested as
17 provided in this chapter;

18 (2) A statement that the infraction is a noncriminal offense
19 for which imprisonment shall not be imposed as a sanction;

20 (3) A statement of the specific infraction for which the notice
21 was issued;

22 (4) A statement of the monetary penalty that has been
23 established for the infraction;

24 (5) A statement of the options provided in this chapter for
25 responding to the notice and the procedures necessary to exercise
26 these options;

27 (6) A statement that at any hearing to contest the
28 determination the state has the burden of proving, by a
29 preponderance of the evidence, that the infraction was committed;
30 and that the person may subpoena witnesses, including the
31 authorized representative of the department who issued and served
32 the notice of infraction;

33 (7) A statement, which the person shall sign, that the person
34 promises to respond to the notice of infraction in one of the ways
35 provided in this chapter;

36 (8) A statement that refusal to sign the infraction as directed
37 in subsection (7) of this section is a misdemeanor; and

1 (9) A statement that willful failure to respond to a notice of
2 infraction as promised is a misdemeanor and may be punished by a
3 fine or imprisonment in jail.

4 The requirement for a signature does not apply when the person
5 is served with a notice of infraction that is created by electronic
6 means or served by mail.

7 **Sec. 9.** RCW 20.01.482 and 2004 c 43 s 3 are each amended to
8 read as follows:

9 (1) The director shall have the authority to issue a notice of
10 civil infraction if an infraction is committed in his or her
11 presence or, if after investigation, the director has reasonable
12 cause to believe an infraction has been committed.

13 (2) It is a misdemeanor for any person to refuse to properly
14 identify himself or herself for the purpose of issuance of a notice
15 of infraction (~~(or to refuse to sign the written or electronic~~
16 ~~promise to appear or respond to a notice of infraction)~~).

17 (3) Any person willfully (~~(violating a written or electronic~~
18 ~~and signed promise)~~) failing to respond to a notice of infraction
19 is guilty of a misdemeanor regardless of the disposition of the
20 notice of infraction.

21 **Sec. 10.** RCW 43.63B.140 and 1994 c 284 s 26 are each amended
22 to read as follows:

23 (1) The department shall prescribe the form of the notice of
24 infraction issued under this chapter.

25 (2) The notice of infraction shall include the following:

26 (a) A statement that the notice represents a determination that
27 the infraction has been committed by the person named in the notice
28 and that the determination is final unless contested as provided in
29 this chapter;

30 (b) A statement that the infraction is a noncriminal offense
31 for which imprisonment may not be imposed as a sanction;

32 (c) A statement of the specific infraction for which the notice
33 was issued;

34 (d) A statement of a monetary penalty that has been established
35 for the infraction;

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

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

9 (g) A statement, that the person shall sign, that the person
10 promises to respond to the notice of infraction in one of the ways
11 provided in this chapter;

12 (h) A statement that refusal to sign the infraction as directed
13 in (g) of this subsection is a misdemeanor; and

14 (i) A statement that willful failure to respond to a notice of
15 infraction as promised is a misdemeanor and may be punished by a
16 fine or imprisonment in jail.

17 The requirement for a signature does not apply when the person
18 is served with a notice of infraction that is created by electronic
19 means or served by mail.

20 **Sec. 11.** RCW 81.112.230 and 1999 c 20 s 5 are each amended to
21 read as follows:

22 Nothing in RCW 81.112.020 and 81.112.210 through 81.112.230
23 shall be deemed to prevent law enforcement authorities from
24 prosecuting for theft, trespass, or other charges by any individual
25 who:

26 (1) Fails to pay the required fare on more than one occasion
27 within a twelve-month period;

28 (2) Fails to ((sign)) respond to a notice of civil infraction;
29 or

30 (3) Fails to depart the train, including but not limited to
31 commuter trains and light rail trains, when requested to do so by
32 a person designated to monitor fare payment.

33 NEW SECTION: **Sec. 12.** A new section is added to chapter
34 46.63 RCW to read as follows:

35 (1) A person under whose name a notice of infraction has been
36 issued has the right to challenge whether such infraction was
37 issued to him or her.

1 (2) For the purposes of such a challenge (a) a sworn statement
2 completed by the challenging person; or (b) testimony in open court
3 by the challenging person, stating that he or she was not the
4 person who was the subject of the infraction, shall be prima facie
5 evidence that the challenging person is not the person who
6 committed the alleged infraction."

7 Correct the title

EFFECT: Corrects a technical error by incorporating the text of the statutes referenced. Clarifies that a person who is issued a notice of infraction may challenge whether the signature on the notice is his or hers. Establishes that a sworn statement or testimony in open court by the challenging person is prima facie evidence that the challenging person is not the person who committed the infraction.