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HOUSE BILL 1552

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State of Washington                      52nd Legislature                      1991 Regular Session

By Representatives Padden, Appelwick, D. Sommers and R. Meyers.

Read first time February 1, 1991. 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            A district or municipal court may provide by rule for a procedure  
8 to allow for deferral of a judicial determination that an infraction  
9 was committed. The procedure is subject to the following limitations  
10 and standards:

11            (1) The procedure shall 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 court. Satisfactory completion of the course  
14 shall result in dismissal of the notice of infraction. Failure to  
15 complete the course satisfactorily shall result in a court

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

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

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

11 (4) No person is eligible for a deferral more than once within the  
12 state in a three-year period. A person applying for a deferral shall  
13 sign a statement under penalty of perjury that he or she was not  
14 granted a deferral under this section within three years of receipt of  
15 the notice of infraction that is the basis for the application. If a  
16 deferral is granted, the court shall send the department a record of  
17 the notice of infraction and the deferral. The department shall  
18 maintain the record for at least three years for the purpose of  
19 allowing courts to determine whether a person is eligible to receive a  
20 deferral.

21 (5) Deferral does not affect imposition of monetary penalties under  
22 this chapter.

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

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

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

4 (2) The form for the notice of traffic infraction shall be  
5 prescribed by rule of the supreme court and shall include the  
6 following:

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

11 (b) A statement that a traffic infraction is a noncriminal offense  
12 for which imprisonment may not be imposed as a sanction; that the  
13 penalty for a traffic infraction may include sanctions against the  
14 person's driver's license including suspension, revocation, or denial;  
15 that the penalty for a traffic infraction related to standing,  
16 stopping, or parking may include nonrenewal of the vehicle license;

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

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

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

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

29 (g) A statement that at any hearing requested for the purpose of  
30 explaining mitigating circumstances surrounding the commission of the

1 infraction the person will be deemed to have committed the infraction  
2 and may not subpoena witnesses;

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

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

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

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

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

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

24 (2) If the person determined to have committed the infraction does  
25 not contest the determination the person shall respond by completing  
26 the appropriate portion of the notice of infraction and submitting it,  
27 either by mail or in person, to the court specified on the notice. The  
28 person may also request a deferral in accordance with section 1 of this  
29 act. A check or money order in the amount of the penalty prescribed

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

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

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

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

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

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

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

1 (b) The department may not renew the driver's license, or in the  
2 case of a standing, stopping, or parking violation the vehicle license,  
3 of any person for whom the court has entered an order pursuant to (a)  
4 of this subsection until any penalties imposed pursuant to this chapter  
5 have been satisfied. For purposes of driver's license nonrenewal only,  
6 the lessee of a vehicle shall be considered to be the person to whom a  
7 notice of a standing, stopping, or parking violation has been issued  
8 for such violations of the vehicle incurred while the vehicle was  
9 leased or rented under a bona fide commercial lease or rental agreement  
10 between a lessor engaged in the business of leasing vehicles and a  
11 lessee who is not the vehicle's registered owner, if the lease  
12 agreement contains a provision prohibiting anyone other than the lessee  
13 from operating the vehicle. Such a lessor shall, upon the request of  
14 the municipality issuing the notice of infraction, supply the  
15 municipality with the name and driver's license number of the person  
16 leasing the vehicle at the time of the infraction.

17 **Sec. 4.** RCW 46.63.100 and 1979 ex.s. c 136 s 12 are each amended  
18 to read as follows:

19 (1) A hearing held for the purpose of allowing a person to explain  
20 mitigating circumstances surrounding the commission of an infraction  
21 shall be an informal proceeding. The person may not subpoena  
22 witnesses. The determination that an infraction has been committed may  
23 not be contested at a hearing held for the purpose of explaining  
24 mitigating circumstances.

25 (2) After the court has heard the explanation of the circumstances  
26 surrounding the commission of the infraction an appropriate order shall  
27 be entered in the court's records. Except in the case of a deferral  
28 granted in accordance with section 1 of this act, a record of the

1 court's determination and order shall be furnished to the department in  
2 accordance with RCW 46.20.270 as now or hereafter amended.

3 (3) There may be no appeal from the court's determination or order.