

2 SB 6352 - S AMD 613
3 By Senators Gardner and Benton

4 ADOPTED 02/18/02

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 46.63.070 and 2000 c 110 s 1 are each amended to read
8 as follows:

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

12 (2) If the person determined to have committed the infraction does
13 not contest the determination the person shall respond by completing
14 the appropriate portion of the notice of infraction and submitting it,
15 either by mail or in person, to the court specified on the notice. A
16 check or money order in the amount of the penalty prescribed for the
17 infraction must be submitted with the response. When a response which
18 does not contest the determination is received, an appropriate order
19 shall be entered in the court's records, and a record of the response
20 and order shall be furnished to the department in accordance with RCW
21 46.20.270.

22 (3) If the person determined to have committed the infraction
23 wishes to contest the determination the person shall respond by
24 completing the portion of the notice of infraction requesting a hearing
25 and submitting it, either by mail or in person, to the court specified
26 on the notice. The court shall notify the person in writing of the
27 time, place, and date of the hearing, and that date shall not be sooner
28 than seven days from the date of the notice, except by agreement.

29 (4) If the person determined to have committed the infraction does
30 not contest the determination but wishes to explain mitigating
31 circumstances surrounding the infraction the person shall respond by
32 completing the portion of the notice of infraction requesting a hearing
33 for that purpose and submitting it, either by mail or in person, to the
34 court specified on the notice. The court shall notify the person in
35 writing of the time, place, and date of the hearing.

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

11 (b) A person may not receive more than one deferral within a seven-
12 year period for traffic infractions for moving violations and more than
13 one deferral within a seven-year period for traffic infractions for
14 nonmoving violations.

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

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

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

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

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

27 In a court of limited jurisdiction a person charged with a
28 misdemeanor or gross misdemeanor may petition the court to be
29 considered for a deferred prosecution program. The petition shall be
30 filed with the court at least seven days before the date set for trial
31 but, upon a written motion and affidavit establishing good cause for
32 the delay and failure to comply with this section, the court may waive
33 this requirement subject to the defendant's reimbursement to the court
34 of the witness fees and expenses due for subpoenaed witnesses who have
35 appeared on the date set for trial.

36 A person charged with a traffic infraction, misdemeanor, or gross
37 misdemeanor under Title 46 RCW shall not be eligible for a deferred
38 prosecution program unless the court makes specific findings pursuant

1 to RCW 10.05.020. Such person shall not be eligible for a deferred
2 prosecution program more than once. Separate offenses committed more
3 than seven days apart may not be consolidated in a single program.
4 Under no circumstance is a person charged with an offense under Title
5 46 RCW eligible for a deferred prosecution program if the offense
6 occurred while operating a commercial motor vehicle.

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

9 At the time of arraignment a person charged with a violation of RCW
10 46.61.502 or 46.61.504, other than a charge in conjunction with the
11 operation of a commercial motor vehicle, may be given a statement by
12 the court that explains the availability, operation, and effects of the
13 deferred prosecution program.

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

16 A certified abstract of the driving record shall be furnished only
17 to the individual named in the abstract, an employer or prospective
18 employer or an agent acting on behalf of an employer or prospective
19 employer, the insurance carrier that has insurance in effect covering
20 the employer or a prospective employer, the insurance carrier that has
21 insurance in effect covering the named individual, the insurance
22 carrier to which the named individual has applied, an alcohol/drug
23 assessment or treatment agency approved by the department of social and
24 health services, to which the named individual has applied or been
25 assigned for evaluation or treatment, or city and county prosecuting
26 attorneys. City attorneys and county prosecuting attorneys may provide
27 the driving record to alcohol/drug assessment or treatment agencies
28 approved by the department of social and health services to which the
29 named individual has applied or been assigned for evaluation or
30 treatment. The director, upon proper request, shall furnish a
31 certified abstract covering the period of not more than the last three
32 years to insurance companies. Upon proper request, the director shall
33 furnish a certified abstract covering a period of not more than the
34 last five years to state approved alcohol/drug assessment or treatment
35 agencies, except that the certified abstract shall also include records
36 of alcohol-related offenses as defined in RCW 46.01.260(2) covering a
37 period of not more than the last ten years. Upon proper request, a

1 certified abstract of the full driving record maintained by the
2 department shall be furnished to a city or county prosecuting attorney,
3 to the individual named in the abstract or to an employer or
4 prospective employer or an agent acting on behalf of an employer or
5 prospective employer of the named individual. The abstract, whenever
6 possible, shall include an enumeration of motor vehicle accidents in
7 which the person was driving; the total number of vehicles involved;
8 whether the vehicles were legally parked or moving; whether the
9 vehicles were occupied at the time of the accident; whether the
10 accident resulted in any fatality; any reported convictions,
11 forfeitures of bail, or findings that an infraction was committed based
12 upon a violation of any motor vehicle law; and the status of the
13 person's driving privilege in this state. The enumeration shall
14 include any reports of failure to appear in response to a traffic
15 citation or failure to respond to a notice of infraction served upon
16 the named individual by an arresting officer. Certified abstracts
17 furnished to prosecutors and alcohol/drug assessment or treatment
18 agencies shall also indicate whether a recorded violation is an
19 alcohol-related offense as defined in RCW 46.01.260(2) that was
20 originally charged as one of the alcohol-related offenses designated in
21 RCW 46.01.260(2)(b)(i).

22 The abstract provided to the insurance company shall exclude any
23 information, except that related to the commission of misdemeanors or
24 felonies by the individual, pertaining to law enforcement officers or
25 fire fighters as defined in RCW 41.26.030, or any officer of the
26 Washington state patrol, while driving official vehicles in the
27 performance of occupational duty. The abstract provided to the
28 insurance company shall include convictions for RCW 46.61.5249 and
29 46.61.525 except that the abstract shall report them only as negligent
30 driving without reference to whether they are for first or second
31 degree negligent driving. The abstract provided to the insurance
32 company shall exclude any deferred prosecution under RCW 10.05.060,
33 except that if a person is removed from a deferred prosecution under
34 RCW 10.05.090, the abstract shall show the deferred prosecution as well
35 as the removal.

36 The director shall collect for each abstract the sum of four
37 dollars and fifty cents which shall be deposited in the highway safety
38 fund.

1 Any insurance company or its agent receiving the certified abstract
2 shall use it exclusively for its own underwriting purposes and shall
3 not divulge any of the information contained in it to a third party.
4 No policy of insurance may be canceled, nonrenewed, denied, or have the
5 rate increased on the basis of such information unless the policyholder
6 was determined to be at fault. ((No insurance company or its agent for
7 underwriting purposes relating to the operation of commercial motor
8 vehicles may use any information contained in the abstract relative to
9 any person's operation of motor vehicles while not engaged in such
10 employment, nor may any insurance company or its agent for underwriting
11 purposes relating to the operation of noncommercial motor vehicles use
12 any information contained in the abstract relative to any person's
13 operation of commercial motor vehicles.))

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

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

26 Release of a certified abstract of the driving record of an
27 employee or prospective employee requires a statement signed by: (1)
28 The employee or prospective employee that authorizes the release of the
29 record, and (2) the employer attesting that the information is
30 necessary to determine whether the licensee should be employed to
31 operate a commercial vehicle or school bus upon the public highways of
32 this state. If the employer or prospective employer authorizes an
33 agent to obtain this information on their behalf, this must be noted in
34 the statement.

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

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

