**5723-S AMH YOUN H2869.1 - NOT FOR FLOOR USE**

**SSB 5723** - H AMD TO TR COMM AMD (H-2751.1/19) **522**

By Representative Young

**NOT ADOPTED 04/09/2019**

On page 2, line 15, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 3, line 14, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 4, line 12, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 5, line 11, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 5, line 33, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 7, line 3, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 7, line 22, after "indigent" insert "or the penalty is waived under RCW 46.63.070(7)"

On page 10, after line 26, insert the following:

"**Sec.**  RCW 46.63.070 and 2011 c 372 s 3 are each amended to read as follows:

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

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

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

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

(5)(a) Except as provided in (b), (c), and (d) of this subsection, in hearings conducted pursuant to subsections (3) and (4) of this section, the court may defer findings, or in a hearing to explain mitigating circumstances may defer entry of its order, for up to one year and impose conditions upon the defendant the court deems appropriate. Upon deferring findings, the court may assess costs as the court deems appropriate for administrative processing. If at the end of the deferral period the defendant has met all conditions and has not been determined to have committed another traffic infraction, the court may dismiss the infraction.

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

(c) A person who is the holder of a commercial driver's license or who was operating a commercial motor vehicle at the time of the violation may not receive a deferral under this section.

(d) A person who commits negligent driving in the second degree with a vulnerable user victim may not receive a deferral for this infraction under this section.

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

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

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

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

(7) If the person determined to have committed the infraction wishes to explain mitigating circumstances in accordance with the requirements of subsection (4) of this section and one of the mitigating circumstances is that this infraction is the first infraction committed within the court's jurisdiction for which the person received the additional penalty under RCW 46.61.145, 46.61.180, 46.61.185, 46.61.190, or 46.61.205, the court shall waive the additional penalty in hearings conducted under subsections (3) and (4) of this section."

Renumber the remaining sections consecutively, correct any internal references accordingly, and correct the title.

EFFECT: Mandates that a judge waive the additional fine for improper overtaking and passing, following too closely, and failure to stop or yield traffic infractions at a hearing requested by the person determined to have committed the infraction when the person presents as a mitigating circumstance that the infraction is the first infraction the person committed within the court's jurisdiction for which he or she received the additional penalty.