

2 **ESHB 1552** - S COMM AMD

3 By Committee on Law & Justice

4

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

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 46.63 RCW  
8 to read as follows:

9 A district or municipal court may provide by rule for a procedure  
10 to allow for deferral of a judicial determination that an infraction  
11 was committed. The procedure is subject to the following limitations  
12 and standards:

13 (1) The procedure may allow a person receiving a notice of  
14 infraction to attend, at the person's own expense, a course in traffic  
15 safety approved by the director of the traffic safety commission.  
16 Proof of satisfactory completion of the course to the court within one  
17 hundred twenty days shall result in deferral of the judicial  
18 determination and dismissal after three years if the limitations and  
19 standards of this section are met. Failure to complete the course  
20 satisfactorily shall result in a court determination and order that an  
21 infraction was committed, and the court shall furnish its determination  
22 and order to the department in accordance with RCW 46.20.270.

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

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

4 (4) No person is eligible for a deferral more than once within the  
5 state in a three-year period. A person applying for a deferral shall  
6 sign a statement under penalty of perjury that he or she was not  
7 granted a deferral under this section within three years of receipt of  
8 the notice of infraction that is the basis for the application. If a  
9 deferral is granted, the court shall send the department a record of  
10 the notice of infraction and the deferral. The department shall  
11 maintain the record for at least three years for the purpose of  
12 allowing courts to determine whether a person is eligible to receive a  
13 deferral. If within three years after receiving a deferral a person is  
14 determined to have committed an infraction, or is convicted of a crime,  
15 for which notification of the department is required under RCW  
16 46.20.270(2), the department upon receipt of that notification shall  
17 include the infraction for which the deferral was granted as part of  
18 the person's driving record for purposes of RCW 46.52.130.

19 (5) Deferral does not affect imposition of monetary penalties under  
20 this chapter.

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

24 (7) Satisfactory completion of an approved course in traffic safety  
25 as part of a deferral granted under this section does not qualify as  
26 successful completion of a motor vehicle accident prevention course for  
27 purposes of insurance premium reductions required by RCW 48.19.460.

28 (8) No deferral may be granted under this section for an infraction  
29 committed while operating a motor vehicle under circumstances that  
30 require a commercial driver's license pursuant to chapter 46.25 RCW.

1 (9) No procedure for deferral under this section may be implemented  
2 by any court that does not have computer equipment that is connected to  
3 the department and that allows electronic transmission and retrieval of  
4 driving record information.

5 (10) The director of the traffic safety commission shall approve,  
6 maintain, and publish for the court a list of traffic safety courses  
7 eligible for the deferral program described in this section. The  
8 director shall not approve a course unless the course curriculum has  
9 been proven through research reports to show positive results in  
10 reducing collisions and traffic violation recidivism. The course must  
11 include a minimum of eight hours of classroom instruction.

12 (11) The director of the traffic safety commission shall collect a  
13 fee from each approved traffic safety school in the amount of two  
14 dollars for each person attending a traffic safety course for the  
15 purpose of receiving a deferral of judicial determination. The funds  
16 shall be deposited in the highway safety fund and used for the purposes  
17 of this section."

18 "**Sec. 2.** RCW 46.63.060 and 1984 c 224 s 2 are each amended to read  
19 as follows:

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

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

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

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

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

9 (d) A statement of the monetary penalty established for the traffic  
10 infraction;

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

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

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

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

27 (i) A statement that failure to appear at a hearing requested for  
28 the purpose of contesting the determination or for the purpose of  
29 explaining mitigating circumstances will result in the refusal of the  
30 department to renew the person's driver's license, or in the case of a

1 standing, stopping, or parking violation the vehicle license, until any  
2 penalties imposed pursuant to this chapter have been satisfied;

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;

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

9 "Sec. 3. RCW 46.63.070 and 1984 c 224 s 3 are each amended to read  
10 as follows:

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

14 (2) If the person determined to have committed the infraction does  
15 not contest the determination the person shall respond by completing  
16 the appropriate portion of the notice of infraction and submitting it,  
17 either by mail or in person, to the court specified on the notice. The  
18 person may also request a deferral in accordance with section 1 of this  
19 act. A check or money order in the amount of the penalty prescribed  
20 for the infraction must be submitted with the response. When a  
21 response which does not contest the determination is received, an  
22 appropriate order shall be entered in the court's records, and except  
23 in the case of a deferral granted in accordance with section 1 of this  
24 act, a record of the response and order shall be furnished to the  
25 department in accordance with RCW 46.20.270.

26 (3) If the person determined to have committed the infraction  
27 wishes to contest the determination the person shall respond by  
28 completing the portion of the notice of infraction requesting a hearing  
29 and submitting it, either by mail or in person, to the court specified

1 on the notice. The court shall notify the person in writing of the  
2 time, place, and date of the hearing, and that date shall not be sooner  
3 than seven days from the date of the notice, except by agreement.

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

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

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

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

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

21 (b) The department may not renew the driver's license, or in the  
22 case of a standing, stopping, or parking violation the vehicle license,  
23 of any person for whom the court has entered an order pursuant to (a)  
24 of this subsection until any penalties imposed pursuant to this chapter  
25 have been satisfied. For purposes of driver's license nonrenewal only,  
26 the lessee of a vehicle shall be considered to be the person to whom a  
27 notice of a standing, stopping, or parking violation has been issued  
28 for such violations of the vehicle incurred while the vehicle was  
29 leased or rented under a bona fide commercial lease or rental agreement  
30 between a lessor engaged in the business of leasing vehicles and a

1 lessee who is not the vehicle's registered owner, if the lease  
2 agreement contains a provision prohibiting anyone other than the lessee  
3 from operating the vehicle. Such a lessor shall, upon the request of  
4 the municipality issuing the notice of infraction, supply the  
5 municipality with the name and driver's license number of the person  
6 leasing the vehicle at the time of the infraction."

7 "Sec. 4. RCW 46.63.100 and 1979 ex.s. c 136 s 12 are each amended  
8 to read as follows:

9 (1) A hearing held for the purpose of allowing a person to explain  
10 mitigating circumstances surrounding the commission of an infraction  
11 shall be an informal proceeding. The person may not subpoena  
12 witnesses. The determination that an infraction has been committed may  
13 not be contested at a hearing held for the purpose of explaining  
14 mitigating circumstances.

15 (2) After the court has heard the explanation of the circumstances  
16 surrounding the commission of the infraction an appropriate order shall  
17 be entered in the court's records. Except in the case of a deferral  
18 granted in accordance with section 1 of this act, a record of the  
19 court's determination and order shall be furnished to the department in  
20 accordance with RCW 46.20.270 as now or hereafter amended.

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

23 "NEW SECTION. Sec. 5. This act takes effect July 1, 1993."

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4 In line 1 of the title, after "infractions;" strike the remainder  
5 of the title and insert "amending RCW 46.63.060, 46.63.070, and  
6 46.63.100; adding a new section to chapter 46.63 RCW; and providing an  
7 effective date."