

House Bill Report

HB 1552

*As Reported By House Committee on:
Judiciary*

Title: An act relating to traffic infractions.

Brief Description: Allowing for deferral of a judicial determination that a traffic violation was committed.

Sponsor(s): Representatives Padden, Appelwick, D. Sommers and R. Meyers.

Brief History:

Reported by House Committee on:
Judiciary, February 22, 1991, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *That Substitute House Bill No. 1552 be substituted therefor, and the substitute bill do pass.* Signed by 13 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Belcher; Broback; Forner; Hargrove; Locke; R. Meyers; H. Myers; Riley; and Vance.

Minority Report: *Without recommendation.* Signed by 5 members: Representatives Mielke; Riley; Scott; Tate; and Wineberry

Staff: Bill Perry (786-7123).

Background: Many of the less serious traffic law violations have been decriminalized. These violations are called civil infractions. Persons who commit violations of these laws are not "convicted" or found "guilty" of crimes, but rather they are "determined" to have committed an infraction. Because these infractions are not criminal, the procedures for determining an infraction are less rigorous than those that apply in a criminal case. The penalties for infractions are monetary fines established by state supreme court rule. In many instances, however, the most expensive and serious consequences of a traffic infraction result from reporting the infraction to the Department of Licensing.

A record of an infraction is sent to the Department of Licensing whenever a person is determined to have committed

an infraction. This driving record information is available to insurance companies. Thus, an infraction may result in increased insurance premiums or loss of coverage. It may also result in loss of the person's driving privileges through administrative action of the Department of Licensing.

A person who is cited for a traffic infraction may respond in one of three ways. First, the person may simply pay the fine that is set for the infraction. Second, the person may demand a hearing in order to contest the citation. Third, the person may choose not to contest the citation but nonetheless request a hearing to explain mitigating circumstances surrounding the infraction.

In imposing the penalty for a traffic infraction, the court has several options besides just imposing the standard fine set by the state supreme court rule. The court may waive, reduce, or suspend the standard fine. At the person's request, the court may order the person to do some community service in lieu of paying the fine. However, in any case in which the person has been determined to have committed the infraction, the court is to send a record of its determination to the Department of Licensing.

In non-felony criminal cases, including cases involving traffic crimes, a qualifying defendant may be granted a deferred prosecution. Deferral is available only to a defendant who demonstrates that he or she committed the charged crime because of alcoholism, drug addiction or mental problems. The prosecution is held in abeyance while the defendant completes treatment for his or her problem. A defendant may get no more than one deferral from a criminal traffic charge in a five-year period. The most common use of deferred prosecutions is in drunk driving cases.

Some local courts have instituted procedures in civil traffic infraction cases that are roughly parallel to the deferred prosecution system used in criminal cases. There is no explicit authorization for such procedures in the traffic infraction law, and some county prosecutors have advised their courts that state legislation is needed before deferrals can be used in civil infraction cases.

Summary of Substitute B Bill: Local courts are authorized to provide for deferrals of determinations that civil traffic infractions have been committed. Any program for deferral created under this authorization must contain the following elements:

- o The driver must pay for and successfully complete a traffic safety course approved by the court;

- o Deferrals must be limited to drivers who do not contest their traffic infraction citation; and
- o No person may be eligible for a deferral more than once in the state in any three-year period.

During a deferral, the court is not to send the determination of infraction to the Department of Licensing (DOL). Upon successful completion of the traffic safety course, the court will dismiss the notice of infraction. However, deferral and dismissal of the notice does not affect the imposition of the monetary penalty applicable to the infraction.

If a person who has been granted a deferral commits another driving offense within three years, DOL is to make the original underlying infraction for which the deferral was granted a part of the driver's record.

Local courts may impose an additional fee to cover the cost of administering requests for deferrals in traffic infraction cases.

The deferral program is not available for offenses involving a commercial driver's license.

Substitute Bill Compared to Original Bill: The substitute bill adds the provision regarding re-offense within three years. It also makes deferrals unavailable in cases involving commercial licenses.

Fiscal Note: Requested February 9, 1991.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Deferral programs for infractions are in place already in parts of the state. They have proven to be successful and cost effective. The bill provides a local option.

Testimony Against: The bill will allow masking of true drivers' histories which are among the best objective measures available for setting insurance premiums. Experience with these kinds of programs in other states has been abysmal.

Witnesses: Rich Richard, Spokane County District Court (in favor); Lee Giles, Washington State Safety Council (in favor); Ed Sharman, American Automobile Association (in favor); Dan Wolfe, Safeco (opposes); Martin Sangster, Washington Truckers Association (in favor of substitute

bill); Jean Leonard, State Farm Insurance Company (opposes); and Rick Jensen, Washington State Patrol (expressed concerns).