

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.

