

the event the city shall be unable to negotiate for satisfactory private operation within a reasonable time, the city may operate the facility for a period not to exceed three years, at which time it shall readvertise as provided above in this section.

Passed the House February 29, 1980.

Passed the Senate February 19, 1980.

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CHAPTER 128

[House Bill No. 1418]

TRAFFIC INFRACTIONS

AN ACT Relating to traffic infractions; amending section 8, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.060; amending section 9, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.070; amending section 11, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.090; amending section 13, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.110; amending section 2, chapter 160, Laws of 1913 as last amended by section 3, chapter 155, Laws of 1979 and RCW 13.04.030; amending section 1, chapter 214, Laws of 1975 1st ex. sess. and RCW 35.20.205; amending section 46.64.020, chapter 12, Laws of 1961 and RCW 46.64.020; amending section 111, chapter 136, Laws of 1979 ex. sess. (uncodified); amending section 3, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.030; amending section 25, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.291; amending section 111, chapter 299, Laws of 1961 as last amended by section 1, chapter 129, Laws of 1979 ex. sess. and RCW 3.62.070; amending section 112, chapter 54, Laws of 1975 1st ex. sess. and RCW 46.90.710; adding new sections to chapter 46.63 RCW; adding a new section to chapter 13.40 RCW; prescribing penalties; providing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 8, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.060 are each amended to read as follows:

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

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

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

(b) A statement that a traffic infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction; that the penalty for a traffic infraction may include sanctions against the person's driver's license including suspension, revocation, or denial;

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

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

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

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

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

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

(i) A statement that failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in the refusal of the department to renew the person's driver's license until any penalties imposed pursuant to this chapter have been satisfied;

(j) A statement, which the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

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

Sec. 2. Section 9, chapter 136, Laws of 1979 ex. sess. and RCW 46.63-.070 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 seven 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)~~((1))~~ 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.

~~((b) If any person who has requested a hearing to contest the determination that an infraction has been committed fails to appear without good cause at the time and place set for the hearing the department may not renew the person's driver's license until any penalties imposed pursuant to this chapter have been satisfied:))~~

(4)((~~a~~)) 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.

~~((b) If any person who has requested a hearing to explain mitigating circumstances fails to appear without good cause at the time and place set for the hearing, the department may not renew the person's driver's license until any penalties imposed pursuant to this chapter have been satisfied:))~~

(5) (a) If any person issued a notice of traffic infraction ~~((fails to respond as provided in this section the department may not renew that person's driver's license until any penalties imposed pursuant to this chapter have been satisfied))~~:

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

(ii) 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.

(b) The department may not renew the driver's license of any person for whom the court has entered an order pursuant to (a) of this subsection until any penalties imposed pursuant to this chapter have been satisfied.

Sec. 3. Section 11, chapter 136, Laws of 1979 ex. sess. and RCW 46-.63.090 are each amended to read as follows:

(1) A hearing held for the purpose of contesting the determination that an infraction has been committed shall be without a jury.

(2) The court may consider the notice of traffic infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may subpoena witnesses, including the officer, and has the right to present evidence and examine witnesses present in court.

(3) The burden of proof is upon the state to establish the commission of the infraction by a preponderance of the evidence.

(4) After consideration of the evidence and argument the court shall determine whether the infraction was committed. Where it has not been established that the infraction was committed an order dismissing the notice shall be entered in the court's records. Where it has been established that the infraction was committed an appropriate order shall be entered in the court's records. A record of the court's determination and order shall be furnished to the department in accordance with RCW 46.20.270 as now or hereafter amended.

(5) An appeal from the court's determination or order shall be ~~((in the form of a trial de novo in))~~ to the superior court. ~~((The person has fourteen calendar days from the date of the court's determination in which to give notice of an appeal.))~~ The decision of the superior court is subject only to discretionary review pursuant to Rule 2.3 of the Rules of Appellate Procedure.

Sec. 4. Section 13, chapter 136, Laws of 1979 ex. sess. and RCW 46-.63.110 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The supreme court may prescribe by rule a schedule of monetary penalties for designated traffic infractions.

(3) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction or failure to pay a monetary penalty imposed pursuant to this chapter.

(4) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

(5) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department may not renew the person's driver's license until the penalty has been paid and the penalty provided in subsection ~~((2))~~ (3) of this section has been paid.

NEW SECTION. Sec. 5. There is added to chapter 46.63 RCW a new section to read as follows:

Notwithstanding any other provisions of law governing service of process in civil cases, a court of limited jurisdiction having jurisdiction over an alleged traffic infraction may issue process anywhere within the state.

Sec. 6. Section 2, chapter 160, Laws of 1913 as last amended by section 3, chapter 155, Laws of 1979 and RCW 13.04.030 are each amended to read as follows:

The juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

(1) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

(2) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170, as now or hereafter amended;

(3) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210, as now or hereafter amended;

(4) To approve or disapprove alternative residential placement as provided in RCW 13.32A.170;

(5) Relating to children alleged to be or found to be in need of involuntary civil commitment as provided in chapter 72.23 RCW;

(6) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, as now or hereafter amended, unless:

(a) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110, as now or hereafter amended; or

(b) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

(c) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance (~~the case shall be heard in~~) the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That (~~where~~) if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or subsection (6)(a) of this section; and

(7) Under the interstate compact on juveniles as provided in chapter 13.24 RCW.

Sec. 7. Section 1, chapter 214, Laws of 1975 1st ex. sess. and RCW 35.20.205 are each amended to read as follows:

The judges of the municipal court may employ judicial officers to assist in the administration of justice and the accomplishment of the work of the court as said work may be assigned to it by statute or ordinance. The duties

and responsibilities of such officers shall be judicial in nature and shall be fixed by court rule as adopted by the municipal court judges or fixed by ordinance of the city. The judicial officers may be authorized to hear and determine cases involving the commission of traffic infractions as provided in chapter 46.63 RCW. The mayor may appoint the judicial officers as judges pro tempore pursuant to RCW 35.20.200: PROVIDED, That the judicial officer need not be a resident of the city.

To utilize the services of such judicial officers for the purpose of hearing contested matters relating to the interest of the city and its citizens and the operation of the various departments of the city, the city may by ordinance create the office of hearing examiner in the municipal court and assign to it judicial duties and responsibilities.

Sec. 8. Section 46.64.020, chapter 12, Laws of 1961 and RCW 46.64-.020 are each amended to read as follows:

Any person wilfully violating his written and signed promise to appear in court or his written and signed promise to respond to a notice of traffic infraction, as provided in this title, shall be guilty of a misdemeanor regardless of the disposition of the charge upon which he was originally arrested or the disposition of the notice of infraction: PROVIDED, That a written promise to appear in court or a written promise to respond to a notice of traffic infraction may be complied with by an appearance by counsel. Any person who has been issued a notice of infraction pursuant to RCW 46.63.030(3) and who wilfully fails to respond as provided in this title shall be guilty of a misdemeanor regardless of the disposition of the notice of infraction.

Sec. 9. Section 111, chapter 136, Laws of 1979 ex. sess. (uncodified) is amended to read as follows:

The provisions of chapter 136, Laws of 1979 ex. sess. and this 1980 act shall take effect on ((July 1, 1980)) January 1, 1981, and shall apply to violations of the traffic laws committed on or after ((July 1, 1980)) January 1, 1981.

Sec. 10. Section 3, chapter 136, Laws of 1979 ex. sess. and RCW 46.63.030 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction when the infraction is committed in the officer's presence or ((when the notice of traffic infraction is issued pursuant to RCW 46.64-.017, pertaining to investigation at the scene of a motor vehicle accident)) if an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

NEW SECTION. Sec. 11. There is added to chapter 46.63 RCW a new section to read as follows:

(1) In any traffic infraction case involving a violation of this title or equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to the stopping, standing, or parking of a vehicle, proof that the particular vehicle described in the notice of traffic infraction was stopping, standing, or parking in violation of any such provision of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who parked or placed the vehicle at the point where, and for the time during which, the violation occurred.

(2) The foregoing stated presumption shall apply only when the procedure prescribed in RCW 46.63.030(3) has been followed.

Sec. 12. Section 25, chapter 121, Laws of 1965 ex. sess. and RCW 46.20.291 are each amended to read as follows:

(1) The department is hereby authorized to suspend the license of a driver upon a showing by its records or other sufficient evidence that the licensee:

(a) Has committed an offense for which mandatory revocation or suspension of license is provided by law;

(b) Has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury to any person or serious property damage;

(c) Has been convicted (~~((with such frequency))~~) of offenses against traffic regulations governing the movement of vehicles, or found to have committed traffic infractions, with such frequency as to indicate a disrespect for traffic laws ((and)) or a disregard for the safety of other persons on the highways;

(d) Is incompetent to drive a motor vehicle for any of the reasons enumerated in subsections (4), (5) and (8) of RCW 46.20.031;

(e) Has committed one of the prohibited practices relating to drivers' licenses defined in RCW 46.20.336.

NEW SECTION. Sec. 13. There is added to chapter 46.63 RCW a new section to read as follows:

(1) Notwithstanding any other provision of law, the court may suspend either a portion or all of the costs of the action.

(2) The court may not award attorney's fees or costs to the defendant in a traffic infraction case.

Sec. 14. Section 111, chapter 299, Laws of 1961 as last amended by section 1, chapter 129, Laws of 1979 ex. sess. and RCW 3.62.070 are each amended to read as follows:

Except in traffic cases wherein bail is forfeited or a monetary penalty paid to a violations bureau, and except in cases filed in municipal departments established pursuant to chapter 3.46 RCW and except in cases where a city has contracted with another city for such services pursuant to chapter 39.34 RCW, in every criminal or traffic infraction action filed by a city for an ordinance violation, the city shall be charged a filing fee determined pursuant to an agreement as provided for in chapter 39.34 RCW, the inter-local cooperation act, between the city and the county providing the court service. In such criminal or traffic infraction actions the cost of providing services necessary for the preparation and presentation of a defense at public expense are not within the filing fee and shall be paid by the city. In all other criminal or traffic infraction actions, no filing fee shall be assessed or collected: PROVIDED, That in such cases, for the purposes of RCW 3.62-.010, four dollars or the agreed filing fee of each fine or penalty, whichever is greater, shall be deemed filing costs. In the event no agreement is reached between a municipal corporation and the county providing the court service within ninety days of September 1, 1979, the municipal corporation and the county shall be deemed to have entered into an agreement to submit the issue to arbitration pursuant to chapter 7.04 RCW, and the municipal corporation and the county shall be entitled to the same rights and subject to the same duties as other parties who have agreed to submit to arbitration pursuant to chapter 7.04 RCW. In the event that such issue is submitted to arbitration, the arbitrator or arbitrators shall only consider those additional costs borne by the county in providing justice court services for such city.

Sec. 15. Section 112, chapter 54, Laws of 1975 1st ex. sess. and RCW 46.90.710 are each amended to read as follows:

Unless another penalty is expressly provided by law, any person (~~who is convicted of violating or failing to comply with any of~~) found to have committed an act designated a traffic infraction under the provisions of this chapter shall be punished by a ((fine)) penalty of not more than two hundred fifty dollars ((or by imprisonment for not more than ninety days or by both such fine and imprisonment)).

NEW SECTION. Sec. 16. There is added to chapter 13.40 RCW a new section to read as follows:

A traffic infraction case involving a juvenile under the age of sixteen may be diverted in accordance with the provisions of this chapter or filed in juvenile court.

(1) If a notice of traffic infraction is filed in juvenile court, the juvenile named in the notice shall be afforded the same due process afforded to adult defendants in traffic infraction cases.

(2) A monetary penalty imposed upon a juvenile under the age of sixteen who is found to have committed a traffic infraction may not exceed one hundred dollars. At the juvenile's request, the court may order performance of a number of hours of community service in lieu of a monetary penalty, at the rate of the prevailing state minimum wage per hour.

(3) A diversion agreement entered into by a juvenile referred pursuant to this section shall be limited to thirty hours of community service, or educational or informational sessions.

(4) If a case involving the commission of a traffic infraction or offense by a juvenile under the age of sixteen has been referred to a diversion unit, an abstract of the action taken by the diversion unit may be forwarded to the department of licensing in the manner provided for in RCW 46.20.270(2).

NEW SECTION. Sec. 17. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 18. Sections 1 through 8 and 10 through 16 of this act shall take effect on January 1, 1981, and shall apply to violations of the traffic laws committed on or after January 1, 1981. Section 9 of this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 28, 1980.

Passed the Senate February 27, 1980.

Approved by the Governor March 12, 1980.

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CHAPTER 129

[Substitute Senate Bill No. 3169]

**WORKERS' COMPENSATION—BENEFITS COMMENCEMENT—
ALTERNATIVE MEDICAL, REHABILITATION, AND REEMPLOYMENT
SERVICES—LEGISLATIVE STUDY—EMPLOYERS' GROUP INSURANCE**

AN ACT Relating to industrial insurance; amending section 51.32.090, chapter 23, Laws of 1961 as last amended by section 47, chapter 350, Laws of 1977 ex. sess. and RCW 51.32.090; and amending section 16, chapter 289, Laws of 1971 ex. sess. as amended by section 24, chapter 350, Laws of 1977 ex. sess. and RCW 51.16.035; and creating new sections.