

HOQUIAM MUNICIPAL COURT
609 8TH Street ~ Hoquiam WA 98550 ~ (360) 532-5700 x234
William J. Stewart, Judge

MITIGATION HEARING

The issuance of your Notice of Infraction is a determination that you committed the infraction. You have requested a mitigation hearing to explain the circumstances surrounding the commission of this infraction. You may not argue that you did not commit the infraction.

A mitigation hearing is an informal proceeding. There will be no jury present. You may bring a lawyer at your own expense.

You may ask witnesses to attend the mitigation hearing, but they cannot be subpoenaed and required to appear.

You can be required to pay a monetary penalty. Suspension, revocation, or denial of your driver's license may also result from your having committed this infraction.

You may not appeal the court's determination or order.

In a traffic infraction case, a record of the court's determination and order, shall be furnished to the Department of Licensing.

Failure to respond, failure to appear at any hearing, or failure to pay will automatically increase the monetary penalty, and, in a traffic infraction case, your driving privilege will be suspended until you have paid all the penalties required by law. Failure to appear at any hearing may be a crime for which you may be arrested.

HEARING DATE – IRLJ 2.6(d):

"A defendant who objects to the hearing date set by the court, upon the ground that it is not within the time limits prescribed by this rule, shall file with the court and serve upon the prosecuting authority, a written motion for speeding hearing date within 10 days after the notice of hearing is mailed or otherwise given to the defendant. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a hearing commenced on such a date is not within the time limits prescribed by this rule". The court must schedule your mitigation hearing within the time frame established in the Infraction Rules For Limited Jurisdiction Courts (IRLJ).

CONTESTED HEARING

The issuance of your Notice of Infraction is a determination that you committed the infraction. You have requested a contested hearing because you do not believe you committed the infraction.

Rights of the defendants:

As a defendant, you are entitled to the following:

The right to bring a lawyer, at your expense

The right to present evidences and examines witnesses in court.

The right to request from the prosecutor a witness list and copy of the citing officer's sworn statement if it will be offered into evidence at the hearing. You must make the request, in writing, at least 14 days before the hearing, and the witness list and citing officer's sworn statement should be given to you at least 7 days before the hearing.

The right to subpoena witnesses, including the officer who issued the Notice. If you wish to subpoena a witness, you must apply to the court in person at least 14 days prior to the hearing. Witnesses should be served at least 7 days before the hearing.

Hearing Procedure:

The contested hearing will be heard before the court without a jury. The state must prove by a preponderance of the evidence that you did commit the infraction. After consideration of the evidence, the court will determine whether you did commit the infraction.

If the court determines that you did commit the infraction, you may be required to pay a monetary penalty. You may also be required to pay court costs in addition to the monetary penalty.

In a traffic infraction case, a record of the court's determination and order shall be furnished to the Department of Licensing.

You may appeal the court's decision that you did commit the infraction.

Failure to Respond/Failure to Appear/Failure to Pay:

Failure to respond, failure to appear at any hearing, or failure to pay will automatically increase the monetary penalty, and, in a traffic infraction case, your driving privilege will be suspended until you have paid all the penalties required by law. Failure to appear at any hearing may be a crime for which you may be arrested.

Hearing Date – IRLJ 2.6 (d):

"A defendant who objects to the hearing date set by the court upon the grounds that it is not within the time limits prescribed by this rule shall file with the court and serve upon the prosecuting authority a written motion for speedy hearing date within 10 days after the notice of hearing is mailed or otherwise given to the defendant. Failure of a party, for any reason, to make such a motion shall be a waiver of the objection that a hearing commenced on such a date is not within the time limits prescribed by this rule." The court must schedule your contested hearing within the time frame established in the Infraction Rules For Limited Jurisdiction Courts (IRLJ).

DEFERRED FINDINGS

You may ask the court to consider a deferred finding in your case. A deferred finding involves a period (usually 6 months to a year) during which the court may require you comply with certain requirements such as the payment of cost, having no further violations during the period ordered, and attendance of a traffic safety class. At the end of the period of time, if you have complied with the requirements and provide proof and paid the costs, the court will dismiss the infraction and it will not appear on your driving record. To be eligible you must not have had a previous deferred finding within the last seven years.

REQUEST FOR MITIGATION HEARING BY MAIL

You may request to have a hearing by mail if you are unable to appear in court. You may request the "Written Hearing Statement" form from the court. The judge will read your statements and the statements of the police officer. The judge's decision will be mailed to you. If you are planning to have witness's, you must appear for the hearing in person with your witness(s). The court must receive your statement seven (7) days prior to your court hearing.

PAYMENT

Monthly payment arrangements may be made with the Court. A \$10.00 Time Payment Administrative fee will be added to each time payment agreement for Traffic Infractions per Authority HB 1854 (Ch 288, Laws 2005)

Failure to pay the fine may result in suspension of your driver's license, referral to a collection agency and an additional penalty of \$52.

You may choose to cancel your hearing if you pay your ticket, IN FULL 24 HOURS PRIOR to your court date.