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**SUBSTITUTE HOUSE BILL 1385**

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**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives O'Brien, K. Schmidt, Fisher, Sheahan, Cooper, Lovick, Scott and Delvin)

Read first time 03/04/1999.

1 AN ACT Relating to restricting the use of automated traffic  
2 enforcement systems; amending RCW 46.63.030; adding a new section to  
3 chapter 46.63 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature recognizes that some local  
6 governments in Washington state are using automated traffic enforcement  
7 systems. While these devices may be effective at enforcing traffic  
8 violations and reducing accidents, the legislature is concerned that  
9 these devices are being used without regulation. The purpose of this  
10 act is to restrict and regulate automated traffic enforcement systems  
11 so they can operate effectively while protecting individual privacy.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.63 RCW  
13 to read as follows:

14 The use of automated traffic enforcement systems is subject to the  
15 following restrictions:

16 (1) Automated traffic enforcement systems may not be used unless  
17 the appropriate local legislative authority first enacts an ordinance  
18 allowing for their use. At a minimum, the local ordinance must contain

1 the restrictions described in this section. Cities and counties using  
2 automated traffic enforcement systems before the effective date of this  
3 act are subject to the restrictions described in this section, but are  
4 not required to enact an authorizing ordinance.

5 (2) Automated traffic enforcement systems may take pictures of the  
6 vehicle and vehicle license plate only, and no identifiable person may  
7 appear in the photographs. If an identifiable person in the vehicle  
8 does appear in the photograph, the infraction must be dismissed and the  
9 photograph and any negatives must be destroyed.

10 (3) Automated traffic enforcement systems may only be operated on  
11 city and county roads or highways when being used to enforce school and  
12 construction zone speeding, stop light violations, toll enforcement  
13 violations, and railroad crossing violations. In addition to the uses  
14 enumerated in this subsection, automated traffic enforcement systems  
15 may be used in locations where the chief law enforcement officer of the  
16 jurisdiction has designated a certain location as a serious traffic  
17 safety concern. Before operating an automated traffic enforcement  
18 system in a location designated a serious traffic safety concern, the  
19 chief law enforcement officer must file written notice with the local  
20 government legislative body explaining the reasons why the location has  
21 received the designation. The local legislative body may revoke the  
22 designation at any time.

23 (4) Automated traffic enforcement systems may only be operated on  
24 state and federal highways when being used to enforce school and  
25 construction zone speeding, toll enforcement violations, railroad  
26 crossing violations, and ramp metering violations.

27 (5) The law enforcement agency shall plainly mark the locations  
28 where the automated traffic enforcement system is used by placing signs  
29 on street locations that clearly indicate to a driver that he or she is  
30 entering a zone where traffic laws are enforced by an automated traffic  
31 enforcement system.

32 (6) Notices of infractions must be mailed to the registered owner  
33 of the vehicle within fourteen days of the infraction occurring.

34 (7) A person receiving a notice of an infraction based on evidence  
35 detected by an automated traffic enforcement system may respond to the  
36 notice by mail.

37 **Sec. 3.** RCW 46.63.030 and 1995 c 219 s 5 are each amended to read  
38 as follows:

1 (1) A law enforcement officer has the authority to issue a notice  
2 of traffic infraction:

3 (a) When the infraction is committed in the officer's presence;

4 (b) When the officer is acting upon the request of a law  
5 enforcement officer in whose presence the traffic infraction was  
6 committed; or

7 (c) If an officer investigating at the scene of a motor vehicle  
8 accident has reasonable cause to believe that the driver of a motor  
9 vehicle involved in the accident has committed a traffic infraction.

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

13 (3) When an automated traffic enforcement system is used, a law  
14 enforcement officer, whether present or not during the time of the  
15 infraction, or court may issue a notice of traffic infraction by mail  
16 to the registered owner of the vehicle. The registered owner is  
17 responsible for the infraction. The registered owner may sign an  
18 affidavit denying that he or she committed the infraction, but will  
19 remain responsible until the person who committed the infraction  
20 settles the infraction. The affidavit must be included with each  
21 infraction issued and must include instructions.

22 (4) When the notice of traffic infraction is sent to the registered  
23 owner under subsection (3) of this section, and the registered owner is  
24 a business or government entity, the infraction will be dismissed  
25 against the business or government entity if the business or government  
26 entity mails to the issuing agency, within fourteen days of receiving  
27 the notice of traffic infraction, the name and mailing address of the  
28 individual driving, renting, or leasing the vehicle when the infraction  
29 occurred. If the business or government entity is unable to determine  
30 who was driving, leasing, or renting the vehicle at the time the  
31 infraction occurred, the business or government entity must sign an  
32 affidavit making this declaration. The affidavit must be mailed to the  
33 issuing agency within fourteen days of receiving the notice of traffic  
34 infraction. Timely mailing of this affidavit to the issuing agency  
35 relieves the business or government entity of any liability under this  
36 chapter for the notice of infraction. The affidavit must be included  
37 with each infraction issued and must include instructions.

38 (5) If any motor vehicle without a driver is found parked,  
39 standing, or stopped in violation of this title or an equivalent

1 administrative regulation or local law, ordinance, regulation, or  
2 resolution, the officer finding the vehicle shall take its registration  
3 number and may take any other information displayed on the vehicle  
4 which may identify its user, and shall conspicuously affix to the  
5 vehicle a notice of traffic infraction.

6 ~~((4))~~ (6) In the case of failure to redeem an abandoned vehicle  
7 under RCW 46.55.120, upon receiving a complaint by a registered tow  
8 truck operator that has incurred costs in removing, storing, and  
9 disposing of an abandoned vehicle, an officer of the law enforcement  
10 agency responsible for directing the removal of the vehicle shall send  
11 a notice of infraction by certified mail to the last known address of  
12 the registered owner of the vehicle. The officer shall append to the  
13 notice of infraction, on a form prescribed by the department of  
14 licensing, a notice indicating the amount of costs incurred as a result  
15 of removing, storing, and disposing of the abandoned vehicle, less any  
16 amount realized at auction, and a statement that monetary penalties for  
17 the infraction will not be considered as having been paid until the  
18 monetary penalty payable under this chapter has been paid and the court  
19 is satisfied that the person has made restitution in the amount of the  
20 deficiency remaining after disposal of the vehicle.

21 NEW SECTION. **Sec. 4.** The legislature respectfully requests the  
22 Washington state supreme court to amend the Infraction Rules of Courts  
23 of Limited Jurisdiction to conform to this act. Furthermore, the  
24 legislature respectfully asks the court to create a notice of  
25 infraction that is consistent with this act.

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