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SUBSTITUTE HOUSE BILL 2475

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**State of Washington**                      **58th Legislature**                      **2004 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representative Murray; by request of Department of Transportation)

READ FIRST TIME 02/06/04.

1            AN ACT Relating to toll evasion; amending RCW 46.61.690, 46.63.030,  
2 46.63.140, 46.16.216, and 46.20.270; and adding a new section to  
3 chapter 46.63 RCW.

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

5            **Sec. 1.** RCW 46.61.690 and 1983 c 247 s 1 are each amended to read  
6 as follows:

7            (1) Any person who uses a toll bridge, toll tunnel, toll road, or  
8 toll ferry, and the approaches thereto, operated by the state of  
9 Washington, the department of transportation, (~~or any~~) a political  
10 subdivision or municipal corporation empowered to operate toll  
11 facilities, or an entity operating a toll facility under a contract  
12 with the department of transportation, a political subdivision, or  
13 municipal corporation, at the entrance to which appropriate signs have  
14 been erected to notify both pedestrian and vehicular traffic that it is  
15 entering a toll facility or its approaches and is subject to the  
16 payment of tolls at the designated station for collecting tolls,  
17 commits a traffic infraction if:

18            ((~~1~~—Such)) (a) The person does not pay, refuses to pay, evades,  
19 or attempts to evade the payment of such tolls, or uses or attempts to

1 use any spurious ~~(( $\epsilon$ ))~~, counterfeit, or stolen ticket~~(( $\epsilon$ ))~~,  
2 coupon~~(( $\epsilon$ ))~~, ~~(( $\epsilon$ ))~~ token~~(( $\epsilon$ ))~~, or electronic device for payment of any  
3 such tolls, or

4 ~~(( $\epsilon$ ))~~ ~~((2))~~ ~~Such~~) (b) The person turns, or attempts to turn, the vehicle  
5 around in the bridge, tunnel, loading terminal, approach, or toll plaza  
6 where signs have been erected forbidding such turns, or

7 ~~(( $\epsilon$ ))~~ ~~((3))~~ ~~Such~~) (c) The person refuses to move a vehicle through the  
8 toll ~~(( $\epsilon$ ))~~ ~~gates~~) facility after having come within the area where signs  
9 have been erected notifying traffic that it is entering the area where  
10 toll is collectible or where vehicles may not turn around and where  
11 vehicles are required to pass through the toll ~~(( $\epsilon$ ))~~ ~~gates~~) facility for  
12 the purpose of collecting tolls.

13 (2) A law enforcement officer may issue a notice of traffic  
14 infraction or a notice may be mailed to the registered owner of the  
15 vehicle or person renting the vehicle for violation of this section.

16 (3) In accordance with RCW 46.16.216, upon request by the  
17 department of transportation, the department shall suspend the renewal  
18 of the vehicle registration of a person who does not respond to the  
19 notice of infraction issued for toll violations under this section.

20 **Sec. 2.** RCW 46.63.030 and 2002 c 279 s 14 are each amended to read  
21 as follows:

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

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

25 (b) When the officer is acting upon the request of a law  
26 enforcement officer in whose presence the traffic infraction was  
27 committed; ~~(( $\epsilon$ ))~~

28 (c) If an officer investigating at the scene of a motor vehicle  
29 accident has reasonable cause to believe that the driver of a motor  
30 vehicle involved in the accident has committed a traffic infraction; or

31 (d) When the notice of infraction is mailed to the registered owner  
32 or the person renting a vehicle as authorized under subsection (2) of  
33 this section.

34 (2) When a photo monitoring system is used in compliance with  
35 section 4 of this act, a law enforcement officer, whether present or  
36 not during the commission of the infraction, or other law enforcement  
37 agency with jurisdiction may issue a notice of infraction by mail to

1 the registered owner of the vehicle, or to the person renting the  
2 vehicle. The law enforcement officer shall include with the notice of  
3 infraction a certificate or facsimile thereof, based upon inspection of  
4 photographs, microphotographs, videotape, or other recorded images  
5 produced by a photo monitoring system, stating the facts supporting the  
6 notice of infraction. This certificate or facsimile is prima facie  
7 evidence of the facts contained in it and is admissible in a proceeding  
8 charging a violation of this section or of toll collection rules. The  
9 photographs, digital photographs, microphotographs, videotape, or other  
10 recorded images evidencing the violation must be available for  
11 inspection and admission into evidence in a proceeding to adjudicate  
12 the liability for the violation.

13 (3) Unless issued in person by an officer, the notice of infraction  
14 must be mailed to the registered owner within sixty days of the toll  
15 violation.

16 (4) The registered owner of a vehicle is responsible for a  
17 violation unless within fifteen days after issuance of the violation,  
18 if the notice is issued in person, or within eighteen days of the date  
19 of mailing if the notice is mailed, the owner furnishes the officials  
20 or agents of the municipality that issued the notice of infraction  
21 with:

22 (a) A statement made under oath, stating that the vehicle involved  
23 was, at the time, stolen or in the care, custody, or control of some  
24 person other than the registered owner; or

25 (b) Testimony in open court under oath that the person was not the  
26 operator of the vehicle at the time of the alleged violation.

27 ~~((+2))~~ (5) A court may issue a notice of traffic infraction upon  
28 receipt of a written statement of the officer that there is reasonable  
29 cause to believe that an infraction was committed.

30 ~~((+3))~~ (6) If any motor vehicle without a driver is found parked,  
31 standing, or stopped in violation of this title or an equivalent  
32 administrative regulation or local law, ordinance, regulation, or  
33 resolution, the officer finding the vehicle shall take its registration  
34 number and may take any other information displayed on the vehicle  
35 which may identify its user, and shall conspicuously affix to the  
36 vehicle a notice of traffic infraction.

37 ~~((+4))~~ (7) In the case of failure to redeem an abandoned vehicle  
38 under RCW 46.55.120, upon receiving a complaint by a registered tow

1 truck operator that has incurred costs in removing, storing, and  
2 disposing of an abandoned vehicle, an officer of the law enforcement  
3 agency responsible for directing the removal of the vehicle shall send  
4 a notice of infraction by certified mail to the last known address of  
5 the person responsible under RCW 46.55.105. The notice must be  
6 entitled "Littering--Abandoned Vehicle" and give notice of the monetary  
7 penalty. The officer shall append to the notice of infraction, on a  
8 form prescribed by the department of licensing, a notice indicating the  
9 amount of costs incurred as a result of removing, storing, and  
10 disposing of the abandoned vehicle, less any amount realized at  
11 auction, and a statement that monetary penalties for the infraction  
12 will not be considered as having been paid until the monetary penalty  
13 payable under this chapter has been paid and the court is satisfied  
14 that the person has made restitution in the amount of the deficiency  
15 remaining after disposal of the vehicle.

16 **Sec. 3.** RCW 46.63.140 and 1980 c 128 s 11 are each amended to read  
17 as follows:

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

31 (2) The foregoing stated presumption (~~shall apply~~) applies only  
32 when the procedure prescribed in RCW 46.63.030(~~(+3)~~) (6) has been  
33 followed.

34 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.63 RCW  
35 to read as follows:

36 A notice of infraction issued under RCW 46.61.690 for evasion of

1 toll collection systems is subject to the requirements of this section.  
2 Toll collection systems include manual cash collection, electronic toll  
3 collection, and photo monitoring systems.

4 (1) "Electronic toll collection system" means a system of  
5 collecting tolls or charges that is capable of charging the account of  
6 the toll patron the appropriate toll or charge by electronic  
7 transmission from the motor vehicle to the toll collection system,  
8 which information is used to charge the appropriate toll or charge to  
9 the patron's account. The department of transportation shall adopt  
10 rules that allow automatic vehicle identification transponders used for  
11 electronic toll collection to be compatible with other electronic  
12 payment devices or transponders from the Washington state ferry system,  
13 other public transportation systems, or other toll collection systems  
14 to the extent that technology permits.

15 (2) "Photo monitoring system" means a vehicle sensor installed to  
16 work in conjunction with an electronic toll collection system in a toll  
17 facility that automatically produces one or more photographs, one or  
18 more microphotographs, a videotape, or other recorded images of each  
19 vehicle at the time the vehicle is used or operated within a toll  
20 facility.

21 (3) The use of the photo monitoring system for issuance of notices  
22 of infraction for toll violations is subject to the following  
23 requirements:

24 (a) Photo monitoring systems may take photographs, digital  
25 photographs, microphotographs, videotapes, or other recorded image of  
26 the vehicle and vehicle license plate only.

27 (b) A notice of infraction must be mailed to the registered owner  
28 of the vehicle, or to the renter of a vehicle within sixty days of the  
29 toll violation, unless the notice has been issued in person by a law  
30 enforcement officer.

31 (c) A person receiving a notice of infraction based on evidence  
32 detected by a photo monitoring system may respond to the notice by mail  
33 within eighteen days of the date the notice of infraction was mailed.

34 (d) Notwithstanding any other provision of law, all photographs,  
35 digital photographs, microphotographs, videotape, or other recorded  
36 images prepared under this section are for the exclusive use of the  
37 tolling agency in the discharge of its duties under this section and  
38 are not open to the public and may not be used in a court in a pending

1 action or proceeding unless the action or proceeding relates to a toll  
2 collection violation under this section. The tolling agency shall not  
3 sell, distribute, or make available in any way, the names and addresses  
4 of electronic toll collection system account holders.

5 (4) Infractions detected through the use of photo monitoring  
6 systems will be recorded as stopping, standing, or parking violations  
7 under RCW 46.61.560, but are not part of the registered owner's driving  
8 record under RCW 46.52.101 and 46.52.120.

9 (5) If a notice of infraction is mailed to the registered owner  
10 under RCW 46.63.030(2) and the registered owner is a rental car  
11 business, the infraction will be dismissed against the business if it  
12 mails to the issuing agency, a statement under oath stating the name  
13 and known mailing address of the individual driving or renting the  
14 vehicle when the infraction occurred. If the business is unable to  
15 determine who was driving or renting the vehicle at the time the  
16 infraction occurred, the business must sign a statement under oath  
17 making this statement. The statement must be mailed to the issuing law  
18 enforcement agency within eighteen days of the mailing date of the  
19 notice of infraction. Timely mailing of this statement to the issuing  
20 law enforcement agency relieves a rental car business of any liability  
21 under this chapter for the notice of infraction. A form suitable for  
22 this purpose must be included with each notice of infraction issued to  
23 a rental car business, along with instructions for its completion and  
24 use. In lieu of identifying the vehicle operator, the rental car  
25 business may pay the applicable toll and fee.

26 (6) The legislature respectfully requests the Washington state  
27 supreme court to amend the infraction rules for courts of limited  
28 jurisdiction to conform to this act. Furthermore, the legislature  
29 respectfully asks the court to create a notice of infraction that is  
30 consistent with this act.

31 **Sec. 5.** RCW 46.16.216 and 1990 2nd ex.s. c 1 s 401 are each  
32 amended to read as follows:

33 (1) To renew a vehicle license, an applicant shall satisfy all  
34 listed standing, stopping, (~~and~~) parking, and toll evasion violations  
35 for the vehicle incurred while the vehicle was registered in the  
36 applicant's name and forwarded to the department pursuant to RCW  
37 46.20.270(3). For the purposes of this section, "listed" standing,

1 stopping, (~~and~~) parking, and toll evasion violations include only  
2 those violations for which notice has been received from state or local  
3 agencies by the department one hundred twenty days or more before the  
4 date the vehicle license expires and that are placed on the records of  
5 the department. Notice of such violations received by the department  
6 later than one hundred twenty days before that date that are not  
7 satisfied shall be considered by the department in connection with any  
8 applications for license renewal in any subsequent license year. The  
9 renewal application may be processed by the department or its agents  
10 only if the applicant:

11 (a) Presents a preprinted renewal application showing no listed  
12 standing, stopping, (~~and~~) parking, and toll evasion violations, or in  
13 the absence of such presentation, the agent verifies the information  
14 that would be contained on the preprinted renewal application; or

15 (b) If listed standing, stopping, (~~and~~) parking, and toll evasion  
16 violations exist, presents proof of payment and pays a fifteen dollar  
17 surcharge.

18 (2) The surcharge shall be allocated as follows:

19 (a) Ten dollars shall be deposited in the motor vehicle fund to be  
20 used exclusively for the administrative costs of the department of  
21 licensing; and

22 (b) Five dollars shall be retained by the agent handling the  
23 renewal application to be used by the agent for the administration of  
24 this section.

25 (3) If there is a change in the registered owner of the vehicle,  
26 the department shall forward the information regarding the change to  
27 the state or local charging jurisdiction and release any hold on the  
28 renewal of the vehicle license resulting from parking or toll evasion  
29 violations incurred while the certificate of license registration was  
30 in a previous registered owner's name.

31 (4) The department shall send to all registered owners of vehicles  
32 who have been reported to have outstanding listed parking or toll  
33 evasion violations, at the time of renewal, a statement setting out the  
34 dates and jurisdictions in which the violations occurred as well as the  
35 amounts of unpaid fines and penalties relating to them and the  
36 surcharge to be collected.

1       **Sec. 6.** RCW 46.20.270 and 1990 2nd ex.s. c 1 s 402 are each  
2 amended to read as follows:

3       (1) Whenever any person is convicted of any offense for which this  
4 title makes mandatory the suspension or revocation of the driver's  
5 license of such person by the department, the privilege of the person  
6 to operate a vehicle is suspended until the department takes the action  
7 required by this chapter, and the court in which such conviction is had  
8 shall forthwith secure the immediate forfeiture of the driver's license  
9 of such convicted person and immediately forward such driver's license  
10 to the department, and on failure of such convicted person to deliver  
11 such driver's license the judge shall cause such person to be confined  
12 for the period of such suspension or revocation or until such driver's  
13 license is delivered to such judge: PROVIDED, That if the convicted  
14 person testifies that he or she does not and at the time of the offense  
15 did not have a current and valid vehicle driver's license, the judge  
16 shall cause such person to be charged with the operation of a motor  
17 vehicle without a current and valid driver's license and on conviction  
18 punished as by law provided, and the department may not issue a  
19 driver's license to such persons during the period of suspension or  
20 revocation: PROVIDED, ALSO, That if the driver's license of such  
21 convicted person has been lost or destroyed and such convicted person  
22 makes an affidavit to that effect, sworn to before the judge, the  
23 convicted person may not be so confined, but the department may not  
24 issue or reissue a driver's license for such convicted person during  
25 the period of such suspension or revocation: PROVIDED, That perfection  
26 of notice of appeal shall stay the execution of sentence including the  
27 suspension and/or revocation of the driver's license.

28       (2) Every court having jurisdiction over offenses committed under  
29 this chapter, or any other act of this state or municipal ordinance  
30 adopted by a local authority regulating the operation of motor vehicles  
31 on highways, or any federal authority having jurisdiction over offenses  
32 substantially the same as those set forth in Title 46 RCW which occur  
33 on federal installations within this state, shall forward to the  
34 department within ten days of a forfeiture of bail or collateral  
35 deposited to secure the defendant's appearance in court, a payment of  
36 a fine or penalty, a plea of guilty or a finding of guilt, or a finding  
37 that any person has committed a traffic infraction an abstract of the  
38 court record in the form prescribed by rule of the supreme court,



1 showing the conviction of any person or the finding that any person has  
2 committed a traffic infraction in said court for a violation of any  
3 said laws other than regulations governing standing, stopping, parking,  
4 and pedestrian offenses.

5 (3) Every state agency or municipality having jurisdiction over  
6 offenses committed under this chapter, or under any other act of this  
7 state or municipal ordinance adopted by a state or local authority  
8 regulating the operation of motor vehicles on highways, may forward to  
9 the department within ten days of failure to respond, failure to pay a  
10 penalty, failure to appear at a hearing to contest the determination  
11 that a violation of any statute, ordinance, or regulation relating to  
12 standing, stopping, (~~(or)~~) parking, or toll evasion has been committed,  
13 or failure to appear at a hearing to explain mitigating circumstances,  
14 an abstract of the citation record in the form prescribed by rule of  
15 the department, showing the finding by such municipality that two or  
16 more violations of laws governing standing, stopping, and parking have  
17 been committed and indicating the nature of the defendant's failure to  
18 act. Such violations may not have occurred while the vehicle is stolen  
19 from the registered owner or is leased or rented under a bona fide  
20 commercial vehicle lease or rental agreement between a lessor engaged  
21 in the business of leasing vehicles and a lessee who is not the  
22 vehicle's registered owner. The department may enter into agreements  
23 of reciprocity with the duly authorized representatives of the states  
24 for reporting to each other violations of laws governing standing,  
25 stopping, and parking.

26 (4) For the purposes of Title 46 RCW the term "conviction" means a  
27 final conviction in a state or municipal court or by any federal  
28 authority having jurisdiction over offenses substantially the same as  
29 those set forth in Title 46 RCW which occur on federal installations in  
30 this state, an unvacated forfeiture of bail or collateral deposited to  
31 secure a defendant's appearance in court, the payment of a fine, a plea  
32 of guilty, or a finding of guilt on a traffic law violation charge,  
33 regardless of whether the imposition of sentence or sanctions are  
34 deferred or the penalty is suspended, but not including entry into a  
35 deferred prosecution agreement under chapter 10.05 RCW.

36 (5) For the purposes of Title 46 RCW the term "finding that a  
37 traffic infraction has been committed" means a failure to respond to a

1 notice of infraction or a determination made by a court pursuant to  
2 this chapter. Payment of a monetary penalty made pursuant to RCW  
3 46.63.070(2) is deemed equivalent to such a finding.

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