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**SUBSTITUTE SENATE BILL 5060**

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**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker and Jacobsen)

READ FIRST TIME 03/04/05.

1 AN ACT Relating to regulating the use of automated traffic safety  
2 cameras; amending RCW 46.63.030 and 46.63.075; and adding a new section  
3 to chapter 46.63 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 46.63 RCW  
6 to read as follows:

7 (1) The use of automated traffic safety cameras for issuance of  
8 notices of infraction is subject to the following requirements:

9 (a) The appropriate local legislative authority must first enact an  
10 ordinance allowing for their use to detect one or more of the  
11 following: Stoplight, railroad crossing, or school speed zone  
12 violations. At a minimum, the local ordinance must contain the  
13 restrictions described in this section and provisions for public notice  
14 and signage. Cities and counties using automated traffic safety  
15 cameras before the effective date of this act are subject to the  
16 restrictions described in this section, but are not required to enact  
17 an authorizing ordinance.

18 (b) Use of automated traffic safety cameras is restricted to two-

1 arterial intersections, railroad crossings, and school speed zones  
2 only.

3 (c) Automated traffic safety cameras may only take pictures of the  
4 vehicle and vehicle license plate and only while an infraction is  
5 occurring. The picture must not reveal the face of the driver or of  
6 passengers in the vehicle.

7 (d) A notice of infraction must be mailed to the registered owner  
8 of the vehicle within fourteen days of the violation, or to the renter  
9 of a vehicle within fourteen days of establishing the renter's name and  
10 address under subsection (3)(a) of this section. The law enforcement  
11 officer issuing the notice of infraction shall include with it a  
12 certificate or facsimile thereof, based upon inspection of photographs,  
13 microphotographs, or electronic images produced by an automated traffic  
14 safety camera, stating the facts supporting the notice of infraction.  
15 This certificate or facsimile is prima facie evidence of the facts  
16 contained in it and is admissible in a proceeding charging a violation  
17 under this chapter. The photographs, microphotographs, or electronic  
18 images evidencing the violation must be available for inspection and  
19 admission into evidence in a proceeding to adjudicate the liability for  
20 the infraction. A person receiving a notice of infraction based on  
21 evidence detected by an automated traffic safety camera may respond to  
22 the notice by mail.

23 (e) The registered owner of a vehicle is responsible for an  
24 infraction under RCW 46.63.030(1)(e) unless the registered owner  
25 overcomes the presumption in RCW 46.63.075, or, in the case of a rental  
26 car business, satisfies the conditions under subsection (3) of this  
27 section. If appropriate under the circumstances, a renter identified  
28 under subsection (3)(a) of this section is responsible for an  
29 infraction.

30 (f) Notwithstanding any other provision of law, all photographs,  
31 microphotographs, or electronic images prepared under this section are  
32 for the exclusive use of law enforcement in the discharge of duties  
33 under this section and are not open to the public and may not be used  
34 in a court in a pending action or proceeding unless the action or  
35 proceeding relates to a violation under this section. No photograph,  
36 microphotograph, or electronic image may be used for any purpose other  
37 than enforcement of violations under this section nor retained longer  
38 than necessary to enforce this section.

1 (g) All locations where an automated traffic safety camera is used  
2 must be clearly marked by placing signs in locations that clearly  
3 indicate to a driver that he or she is entering a zone where traffic  
4 laws are enforced by an automated traffic safety camera.

5 (h) If a county or city has established an authorized automated  
6 traffic safety camera program under this section, the compensation paid  
7 to the manufacturer or vendor of the equipment used must be based only  
8 upon the value of the equipment and services provided or rendered in  
9 support of the system, and may not be based upon a portion of the fine  
10 or civil penalty imposed or the revenue generated by the equipment.

11 (2) Infractions detected through the use of automated traffic  
12 safety cameras are not part of the registered owner's driving record  
13 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated  
14 by the use of automated traffic safety cameras under this section shall  
15 be processed in the same manner as parking infractions, including for  
16 the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and  
17 46.20.270(3).

18 (3) If the registered owner of the vehicle is a rental car  
19 business, the law enforcement agency shall, before a notice of  
20 infraction being issued under this section, provide a written notice to  
21 the rental car business that a notice of infraction may be issued to  
22 the rental car business if the rental car business does not, within  
23 eighteen days of receiving the written notice, provide to the issuing  
24 agency by return mail:

25 (a) A statement under oath stating the name and known mailing  
26 address of the individual driving or renting the vehicle when the  
27 infraction occurred; or

28 (b) A statement under oath that the business is unable to determine  
29 who was driving or renting the vehicle at the time the infraction  
30 occurred; or

31 (c) In lieu of identifying the vehicle operator, the rental car  
32 business may pay the applicable penalty.

33 Timely mailing of this statement to the issuing law enforcement  
34 agency relieves a rental car business of any liability under this  
35 chapter for the notice of infraction.

36 (4) Nothing in this section prohibits a law enforcement officer  
37 from issuing a notice of traffic infraction to a person in control of

1 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
2 (b), or (c).

3 (5) For the purposes of this section, "automated traffic safety  
4 camera" means a device that uses a vehicle sensor installed to work in  
5 conjunction with an intersection traffic control system, a railroad  
6 grade crossing control system, or a speed measuring device, and a  
7 camera synchronized to automatically record one or more sequenced  
8 photographs, microphotographs, or electronic images of the rear of a  
9 motor vehicle at the time the vehicle fails to stop when facing a  
10 steady red traffic control signal or an activated railroad grade  
11 crossing control signal, or exceeds a speed limit in a school speed  
12 zone as detected by a speed measuring device.

13 **Sec. 2.** RCW 46.63.030 and 2004 c 231 s 2 are each amended to read  
14 as follows:

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

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

18 (b) When the officer is acting upon the request of a law  
19 enforcement officer in whose presence the traffic infraction was  
20 committed;

21 (c) If an officer investigating at the scene of a motor vehicle  
22 accident has reasonable cause to believe that the driver of a motor  
23 vehicle involved in the accident has committed a traffic infraction;  
24 ((~~or~~))

25 (d) When the notice of infraction is detected through the use of a  
26 photo enforcement system under RCW 46.63.160; or

27 (e) When the notice of infraction is detected through the use of  
28 an automated traffic safety camera under section 1 of this act.

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

32 (3) If any motor vehicle without a driver is found parked,  
33 standing, or stopped in violation of this title or an equivalent  
34 administrative regulation or local law, ordinance, regulation, or  
35 resolution, the officer finding the vehicle shall take its registration  
36 number and may take any other information displayed on the vehicle

1 which may identify its user, and shall conspicuously affix to the  
2 vehicle a notice of traffic infraction.

3 (4) In the case of failure to redeem an abandoned vehicle under RCW  
4 46.55.120, upon receiving a complaint by a registered tow truck  
5 operator that has incurred costs in removing, storing, and disposing of  
6 an abandoned vehicle, an officer of the law enforcement agency  
7 responsible for directing the removal of the vehicle shall send a  
8 notice of infraction by certified mail to the last known address of the  
9 person responsible under RCW 46.55.105. The notice must be entitled  
10 "Littering--Abandoned Vehicle" and give notice of the monetary penalty.  
11 The officer shall append to the notice of infraction, on a form  
12 prescribed by the department of licensing, a notice indicating the  
13 amount of costs incurred as a result of removing, storing, and  
14 disposing of the abandoned vehicle, less any amount realized at  
15 auction, and a statement that monetary penalties for the infraction  
16 will not be considered as having been paid until the monetary penalty  
17 payable under this chapter has been paid and the court is satisfied  
18 that the person has made restitution in the amount of the deficiency  
19 remaining after disposal of the vehicle.

20 **Sec. 3.** RCW 46.63.075 and 2004 c 231 s 3 are each amended to read  
21 as follows:

22 (1) In a traffic infraction case involving an infraction detected  
23 through the use of a photo enforcement system under RCW 46.63.160, or  
24 detected through the use of an automated traffic safety camera under  
25 section 1 of this act, proof that the particular vehicle described in  
26 the notice of traffic infraction was in violation of any such provision  
27 of RCW 46.63.160 or section 1 of this act, together with proof that the  
28 person named in the notice of traffic infraction was at the time of the  
29 violation the registered owner of the vehicle, constitutes in evidence  
30 a prima facie presumption that the registered owner of the vehicle was  
31 the person in control of the vehicle at the point where, and for the  
32 time during which, the violation occurred.

33 (2) This presumption may be overcome only if the registered owner  
34 states, under oath, in a written statement to the court or in testimony  
35 before the court that the vehicle involved was, at the time, stolen or

1 in the care, custody, or control of some person other than the  
2 registered owner.

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