

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5060

59th Legislature
2005 Regular Session

Passed by the Senate March 14, 2005
YEAS 30 NAYS 19

President of the Senate

Passed by the House April 15, 2005
YEAS 61 NAYS 33

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5060** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5060

Passed Legislature - 2005 Regular Session

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). However, the amount of the fine issued for an infraction
18 generated through the use of an automated traffic safety camera shall
19 not exceed the amount of a fine issued for other parking infractions
20 within the jurisdiction.

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

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

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

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

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

1 (4) Nothing in this section prohibits a law enforcement officer
2 from issuing a notice of traffic infraction to a person in control of
3 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),
4 (b), or (c).

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

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

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

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

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

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

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

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

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

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

1 number and may take any other information displayed on the vehicle
2 which may identify its user, and shall conspicuously affix to the
3 vehicle a notice of traffic infraction.

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

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

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

34 (2) This presumption may be overcome only if the registered owner
35 states, under oath, in a written statement to the court or in testimony
36 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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