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**SUBSTITUTE SENATE BILL 5556**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Kilmer, Carrell, and Kauffman)

READ FIRST TIME 02/19/09.

1       AN ACT Relating to toll enforcement for infractions detected  
2 through the use of a photo enforcement system; and reenacting and  
3 amending RCW 46.63.160.

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

5       **Sec. 1.** RCW 46.63.160 and 2007 c 372 s 2 and 2007 c 101 s 2 are  
6 each reenacted and amended to read as follows:

7       (1) This section applies only to infractions issued under RCW  
8 46.61.690 for toll collection evasion.

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

13       (3) Toll collection systems include manual cash collection,  
14 electronic toll collection, and photo enforcement systems.

15       (4) "Electronic toll collection system" means a system of  
16 collecting tolls or charges that is capable of charging the account of  
17 the toll patron the appropriate toll or charge by electronic  
18 transmission from the motor vehicle to the toll collection system,

1 which information is used to charge the appropriate toll or charge to  
2 the patron's account.

3 (5) "Photo enforcement system" means a vehicle sensor installed to  
4 work in conjunction with an electronic toll collection system that  
5 automatically produces one or more photographs, one or more  
6 microphotographs, a videotape, or other recorded images of a vehicle  
7 operated in violation of an infraction under this chapter.

8 (6) The use of a toll collection system is subject to the following  
9 requirements:

10 (a) The department of transportation shall adopt rules that allow  
11 an open standard for automatic vehicle identification transponders used  
12 for electronic toll collection to be compatible with other electronic  
13 payment devices or transponders from the Washington state ferry system,  
14 other public transportation systems, or other toll collection systems  
15 to the extent that technology permits. The rules must also allow for  
16 multiple vendors providing electronic payment devices or transponders  
17 as technology permits.

18 (b) The department of transportation may not sell, distribute, or  
19 make available in any way, the names and addresses of electronic toll  
20 collection system account holders.

21 (7) The use of a photo enforcement system for issuance of notices  
22 of infraction is subject to the following requirements:

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

26 (b) A notice of infraction must be mailed to the registered owner  
27 of the vehicle or to the renter of a vehicle within sixty days of the  
28 violation. The law enforcement officer issuing the notice of  
29 infraction shall include with it a certificate or facsimile thereof,  
30 based upon inspection of photographs, microphotographs, videotape, or  
31 other recorded images produced by a photo enforcement system, stating  
32 the facts supporting the notice of infraction. This certificate or  
33 facsimile is prima facie evidence of the facts contained in it and is  
34 admissible in a proceeding charging a violation under this chapter.  
35 The photographs, digital photographs, microphotographs, videotape, or  
36 other recorded images evidencing the violation must be available for  
37 inspection and admission into evidence in a proceeding to adjudicate  
38 the liability for the infraction.

1 (c) Notwithstanding any other provision of law, all photographs,  
2 digital photographs, microphotographs, videotape, or other recorded  
3 images prepared under this chapter are for the exclusive use of the  
4 tolling agency and law enforcement in the discharge of duties under  
5 this section and are not open to the public and may not be used in a  
6 court in a pending action or proceeding unless the action or proceeding  
7 relates to a violation under this chapter. No photograph, digital  
8 photograph, microphotograph, videotape, or other recorded image may be  
9 used for any purpose other than enforcement of violations under this  
10 chapter nor retained longer than necessary to enforce this chapter or  
11 verify that tolls are paid.

12 (d) All locations where a photo enforcement system is used must be  
13 clearly marked by placing signs in locations that clearly indicate to  
14 a driver that he or she is entering a zone where traffic laws are  
15 enforced by a photo enforcement system.

16 (8) Infractions detected through the use of photo enforcement  
17 systems are not part of the registered owner's driving record under RCW  
18 46.52.101 and 46.52.120. Additionally, infractions generated by the  
19 use of photo enforcement systems under this section shall be processed  
20 in the same manner as parking infractions, including for the purposes  
21 of RCW (~~(3.46.120,)~~) 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

22 (9) The penalty for an infraction detected through the use of a  
23 photo enforcement system shall be forty dollars plus an additional toll  
24 penalty. The toll penalty is equal to three times the cash toll for a  
25 standard passenger car during peak hours. (~~(Any reduction in the total  
26 penalty imposed shall be made proportionally between the forty-dollar  
27 penalty and the toll penalty.)~~) The toll penalty may not be reduced.  
28 The court shall remit the toll penalty to the department of  
29 transportation or a private entity under contract with the department  
30 of transportation for deposit in the statewide account in which tolls  
31 are deposited for the tolling facility at which the violation occurred.  
32 If the driver is found not to have committed an infraction under this  
33 section, the driver shall pay the toll due at the time the photograph  
34 was taken.

35 (10) If the registered owner of the vehicle is a rental car  
36 business the department of transportation or a law enforcement agency  
37 shall, before a notice of infraction being issued under this section,  
38 provide a written notice to the rental car business that a notice of

1 infraction may be issued to the rental car business if the rental car  
2 business does not, within eighteen days of the mailing of the written  
3 notice, provide to the issuing agency by return mail:

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

7 (b) A statement under oath that the business is unable to determine  
8 who was driving or renting the vehicle at the time the infraction  
9 occurred because the vehicle was stolen at the time of the infraction.  
10 A statement provided under this subsection must be accompanied by a  
11 copy of a filed police report regarding the vehicle theft; or

12 (c) In lieu of identifying the vehicle operator, the rental car  
13 business may pay the applicable toll and fee.

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

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