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HOUSE BILL 1098

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives Hurst and Hasegawa

Read first time 01/12/11. Referred to Committee on Transportation.

1            AN ACT Relating to automated traffic safety cameras; amending RCW  
2 46.63.170; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.**    The legislature intends to review the  
5 original automated traffic safety camera pilot program to address  
6 concerns raised by the public about abuses related to the use of  
7 automated traffic safety cameras. The legislature is aware that public  
8 outcry against abuses by manufacturers and jurisdictions has led to the  
9 prohibition or significant restriction of the use of these devices in  
10 fifteen states and many other cities. The public outcry has occurred  
11 in states that do not have adequate regulation of automated traffic  
12 safety cameras. The legislature intends to protect our citizens by  
13 enacting responsible regulation for the use of automated traffic safety  
14 cameras.

15            **Sec. 2.**    RCW 46.63.170 and 2010 c 161 s 1127 are each amended to  
16 read as follows:

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

1 (a) The appropriate local legislative authority must first enact an  
2 ordinance allowing for their use to detect one or more of the  
3 following: Stoplight, railroad crossing, or school speed zone  
4 violations. At a minimum, the local ordinance must contain the  
5 restrictions described in this section (~~(and)~~), provisions for public  
6 notice and signage, and a provision that indicates the maximum number  
7 of cameras that may be installed. Cities and counties using automated  
8 traffic safety cameras before July 24, 2005, are subject to the  
9 restrictions described in this section, but are not required to enact  
10 an authorizing ordinance.

11 (b) A local legislative authority that adopts an ordinance allowing  
12 for the use of automated traffic safety cameras must submit the  
13 ordinance to the voters within its jurisdiction at the next general  
14 election. The ordinance must be approved by the voters before  
15 automated traffic safety cameras may be used within the jurisdiction.

16 (c) A local jurisdiction may not install more than the maximum  
17 number of automated traffic safety cameras that is permitted by  
18 ordinance unless the local legislative authority enacts an ordinance  
19 that authorizes a specified number of additional automated traffic  
20 safety cameras. The local legislative authority must submit the  
21 ordinance authorizing the additional automated traffic safety cameras  
22 to the voters within its jurisdiction at the next general election.  
23 The ordinance must be approved by the voters before additional  
24 automated traffic safety cameras may be used within the jurisdiction.

25 (d) Use of automated traffic safety cameras is restricted to two-  
26 arterial intersections, railroad crossings, and school speed zones  
27 only.

28 (~~(e)~~) (e) When an automated traffic safety camera is used at a  
29 two-arterial intersection, the minimum duration of the yellow change  
30 interval for the stoplight must be a duration that is set in accordance  
31 with the "Manual for Uniform Traffic Control Devices" issued by the  
32 department of transportation plus one second.

33 (f) During the 2009-2011 fiscal biennium, automated traffic safety  
34 cameras may be used to detect speed violations for the purposes of  
35 section 201(2), chapter 470, Laws of 2009 if the local legislative  
36 authority first enacts an ordinance authorizing the use of cameras to  
37 detect speed violations.

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

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

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

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

37        ~~((h))~~ (k) All locations where an automated traffic safety camera

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

4 ~~((+i))~~ (1) If a county or city has established an authorized  
5 automated traffic safety camera program under this section, the  
6 compensation paid to the manufacturer or vendor of the equipment used  
7 must be a fixed rate based only upon the value of the equipment and  
8 services provided or rendered in support of the system, and may not be  
9 based upon a portion of the fine or civil penalty imposed or the  
10 revenue generated by the equipment.

11 (2) Infractions generated by the use of automated traffic safety  
12 cameras under this section are traffic infractions. Infractions  
13 detected through the use of automated traffic safety cameras are not  
14 part of the registered owner's driving record under RCW 46.52.101 and  
15 46.52.120. Additionally, infractions generated by the use of automated  
16 traffic safety cameras under this section ~~((shall be processed in the~~  
17 ~~same manner as parking infractions, including for the purposes of RCW~~  
18 ~~3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3)). However, the amount~~  
19 ~~of the fine issued for an infraction generated through the use of an~~  
20 ~~automated traffic safety camera shall not exceed the amount of a fine~~  
21 ~~issued for other parking infractions within the jurisdiction)) must not~~  
22 be made available to the registered owner's insurance company or  
23 employer.

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

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

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

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

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

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

10 (5) A notice of infraction is not valid under this section unless  
11 all of the restrictions in this section have been met.

12 (6) For the purposes of this section, "automated traffic safety  
13 camera" means a device that uses a vehicle sensor installed to work in  
14 conjunction with an intersection traffic control system, a railroad  
15 grade crossing control system, or a speed measuring device, and a  
16 camera synchronized to automatically record one or more sequenced  
17 photographs, microphotographs, or electronic images of the rear of a  
18 motor vehicle at the time the vehicle fails to stop when facing a  
19 steady red traffic control signal or an activated railroad grade  
20 crossing control signal, or exceeds a speed limit in a school speed  
21 zone as detected by a speed measuring device. During the 2009-2011  
22 fiscal biennium, an automated traffic safety camera includes a camera  
23 used to detect speed violations for the purposes of section 201(2),  
24 chapter 470, Laws of 2009.

25 ((+6+)) (7) During the 2009-2011 fiscal biennium, this section does  
26 not apply to automated traffic safety cameras for the purposes of  
27 section 218(2), chapter 470, Laws of 2009.

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