
HOUSE BILL 2819

State of Washington 62nd Legislature 2012 1st Special Session

By Representatives Hurst and Dahlquist

Read first time 03/16/12. Referred to Committee on Transportation.

1 AN ACT Relating to establishing a voter participation process for
2 automated traffic safety camera ordinances; amending RCW 46.63.170;
3 adding a new section to chapter 35.21 RCW; adding a new section to
4 chapter 35A.21 RCW; adding new sections to chapter 36.01 RCW; and
5 creating a new section.

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

7 NEW SECTION. **Sec. 1.** In Washington, the citizens' right of
8 participation is a cornerstone of the legislative process at both the
9 state and local level. The more the citizenry is able to participate
10 in their government, the greater the legitimacy of the decisions that
11 are reached.

12 Citizens in a number of cities have recently voted to overturn
13 decisions to install automated traffic safety cameras. The legislature
14 therefore finds that it is necessary to take action to guarantee the
15 right of all citizens to participate in these decisions and jointly
16 decide if they wish to subject themselves to this type of electronic
17 monitoring.

1 **Sec. 2.** RCW 46.63.170 and 2011 c 367 s 704 are each amended to
2 read as follows:

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

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

14 (b) Use of automated traffic safety cameras is restricted to two-
15 arterial intersections, railroad crossings, and school speed zones
16 only.

17 (c) During the 2011-2013 fiscal biennium, automated traffic safety
18 cameras may be used to detect speed violations for the purposes of
19 section 201(2), chapter 367, Laws of 2011 if the local legislative
20 authority first enacts an ordinance authorizing the use of cameras to
21 detect speed violations.

22 (d) Automated traffic safety cameras may only take pictures of the
23 vehicle and vehicle license plate and only while an infraction is
24 occurring. The picture must not reveal the face of the driver or of
25 passengers in the vehicle.

26 (e) A notice of infraction must be mailed to the registered owner
27 of the vehicle within fourteen days of the violation, or to the renter
28 of a vehicle within fourteen days of establishing the renter's name and
29 address under subsection (3)(a) of this section. The law enforcement
30 officer issuing the notice of infraction shall include with it a
31 certificate or facsimile thereof, based upon inspection of photographs,
32 microphotographs, or electronic images produced by an automated traffic
33 safety camera, stating the facts supporting the notice of infraction.
34 This certificate or facsimile is prima facie evidence of the facts
35 contained in it and is admissible in a proceeding charging a violation
36 under this chapter. The photographs, microphotographs, or electronic
37 images evidencing the violation must be available for inspection and
38 admission into evidence in a proceeding to adjudicate the liability for

1 the infraction. A person receiving a notice of infraction based on
2 evidence detected by an automated traffic safety camera may respond to
3 the notice by mail.

4 (f) The registered owner of a vehicle is responsible for an
5 infraction under RCW 46.63.030(1)((e)) (d) unless the registered
6 owner overcomes the presumption in RCW 46.63.075, or, in the case of a
7 rental car business, satisfies the conditions under subsection (3) of
8 this section. If appropriate under the circumstances, a renter
9 identified under subsection (3)(a) of this section is responsible for
10 an infraction.

11 (g) Notwithstanding any other provision of law, all photographs,
12 microphotographs, or electronic images prepared under this section are
13 for the exclusive use of law enforcement in the discharge of duties
14 under this section and are not open to the public and may not be used
15 in a court in a pending action or proceeding unless the action or
16 proceeding relates to a violation under this section. No photograph,
17 microphotograph, or electronic image may be used for any purpose other
18 than enforcement of violations under this section nor retained longer
19 than necessary to enforce this section.

20 (h) All locations where an automated traffic safety camera is used
21 must be clearly marked by placing signs in locations that clearly
22 indicate to a driver that he or she is entering a zone where traffic
23 laws are enforced by an automated traffic safety camera.

24 (i) If a county or city has established an authorized automated
25 traffic safety camera program under this section, the compensation paid
26 to the manufacturer or vendor of the equipment used must be based only
27 upon the value of the equipment and services provided or rendered in
28 support of the system, and may not be based upon a portion of the fine
29 or civil penalty imposed or the revenue generated by the equipment.

30 (2) Infractions detected through the use of automated traffic
31 safety cameras are not part of the registered owner's driving record
32 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated
33 by the use of automated traffic safety cameras under this section shall
34 be processed in the same manner as parking infractions, including for
35 the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3).
36 However, the amount of the fine issued for an infraction generated
37 through the use of an automated traffic safety camera shall not exceed

1 the amount of a fine issued for other parking infractions within the
2 jurisdiction.

3 (3) If the registered owner of the vehicle is a rental car
4 business, the law enforcement agency shall, before a notice of
5 infraction being issued under this section, provide a written notice to
6 the rental car business that a notice of infraction may be issued to
7 the rental car business if the rental car business does not, within
8 eighteen days of receiving the written notice, provide to the issuing
9 agency by return mail:

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

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

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

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

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

27 (5) For the purposes of this section, "automated traffic safety
28 camera" means a device that uses a vehicle sensor installed to work in
29 conjunction with an intersection traffic control system, a railroad
30 grade crossing control system, or a speed measuring device, and a
31 camera synchronized to automatically record one or more sequenced
32 photographs, microphotographs, or electronic images of the rear of a
33 motor vehicle at the time the vehicle fails to stop when facing a
34 steady red traffic control signal or an activated railroad grade
35 crossing control signal, or exceeds a speed limit in a school speed
36 zone as detected by a speed measuring device. During the 2011-2013
37 fiscal biennium, an automated traffic safety camera includes a camera

1 used to detect speed violations for the purposes of section 201(2),
2 chapter 367, Laws of 2011.

3 (6) During the 2011-2013 fiscal biennium, this section does not
4 apply to automated traffic safety cameras for the purposes of section
5 216(5), chapter 367, Laws of 2011.

6 (7)(a) Ordinances adopted under this section are subject to
7 referendum for forty-five days after passage. A referendum petition
8 must be: Signed by registered voters in a number equal to not less
9 than fifteen percent of the votes cast in the last general state
10 election in the adopting county or city, as determined by the county
11 auditor; submitted to the applicable county or city legislative body;
12 and submitted to the auditor of the applicable county or the county in
13 which all or a majority of the applicable city's territory is located.
14 Upon receipt of the county auditor's certificate of sufficiency by the
15 legislative body, the question of whether to employ automated traffic
16 safety cameras as provided in the ordinance must be submitted to the
17 voters of the county or city in a general election, if one is to be
18 held within ninety days, or at a special election called for that
19 purpose according to RCW 29A.04.321 or 29A.04.330. The election,
20 including required notifications, must be conducted as provided in the
21 general election law. The ordinance must be deemed approved by the
22 voters unless a majority of the votes cast on the proposition are in
23 opposition to the proposition.

24 (b) After the expiration of the forty-fifth day from but excluding
25 the date of passage of the ordinance, if no timely and sufficient
26 referendum petition has been filed, the ordinance must take effect upon
27 the date fixed in the ordinance.

28 NEW SECTION. Sec. 3. A new section is added to chapter 35.21 RCW
29 to read as follows:

30 (1) Ordinances pertaining to the use or prohibition of automated
31 traffic safety cameras for issuance of notices of infraction may be
32 initiated by petition of registered voters of the city filed with the
33 legislative body. A copy of the petition must be filed with the
34 auditor of the county in which all or a majority of the city's
35 territory is located. If the petition accompanying the proposed
36 ordinance is signed by registered voters in a number equal to not less
37 than fifteen percent of the votes cast in the last general state

1 election in the city, as determined by the county auditor, and if it
2 contains a request that, unless passed by the legislative body, the
3 ordinance be submitted to a vote of the registered voters of the city,
4 the legislative body must:

5 (a) Pass the proposed ordinance without alteration within twenty
6 days after the county auditor's certificate of sufficiency has been
7 received by the legislative body; or

8 (b) Immediately after the county auditor's certificate of
9 sufficiency for the petition is received, cause to be called a special
10 election to be held within ninety days, or at a special election called
11 for that purpose according to RCW 29A.04.321 or 29A.04.330, for
12 submission of the proposed ordinance without alteration, to a vote of
13 the people. If the number of votes cast favor the proposed ordinance,
14 it is effective immediately and must be made a part of the record of
15 ordinances of the city.

16 (2) Elections called under this section, including required
17 notifications, must be conducted as provided in the general election
18 law.

19 (3) The petitioner preparing an initiative petition for submission
20 under this section must follow the procedures established in RCW
21 35.21.005.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 35A.21 RCW
23 to read as follows:

24 (1) Ordinances pertaining to the use or prohibition of automated
25 traffic safety cameras for issuance of notices of infraction may be
26 initiated by petition of registered voters of the code city filed with
27 the legislative body. A copy of the petition must be filed with the
28 auditor of the county in which all or a majority of the code city's
29 territory is located. If the petition accompanying the proposed
30 ordinance is signed by registered voters in a number equal to not less
31 than fifteen percent of the votes cast in the last general state
32 election in the code city, as determined by the county auditor, and if
33 it contains a request that, unless passed by the legislative body, the
34 ordinance be submitted to a vote of the registered voters of the code
35 city, the legislative body must:

36 (a) Pass the proposed ordinance without alteration within twenty

1 days after the county auditor's certificate of sufficiency has been
2 received by the legislative body; or

3 (b) Immediately after the county auditor's certificate of
4 sufficiency for the petition is received, cause to be called a special
5 election to be held within ninety days, or at a special election called
6 for that purpose according to RCW 29A.04.321 or 29A.04.330, for
7 submission of the proposed ordinance without alteration, to a vote of
8 the people. If the number of votes cast favor the proposed ordinance,
9 it is effective immediately and must be made a part of the record of
10 ordinances of the code city.

11 (2) Elections called under this section, including required
12 notifications, must be conducted as provided in the general election
13 law.

14 (3) The petitioner preparing an initiative petition for submission
15 under this section must follow the procedures established in RCW
16 35.21.005.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 36.01 RCW
18 to read as follows:

19 (1) Ordinances pertaining to the use or prohibition of automated
20 traffic safety cameras for issuance of notices of infraction may be
21 initiated by petition of registered voters of the county filed with the
22 legislative body. A copy of the petition must be filed with the county
23 auditor. If the petition accompanying the proposed ordinance is signed
24 by registered voters in a number equal to not less than fifteen percent
25 of the votes cast in the last general state election in the city, as
26 determined by the county auditor, and if it contains a request that,
27 unless passed by the legislative body, the ordinance be submitted to a
28 vote of the registered voters of the county, the legislative body must:

29 (a) Pass the proposed ordinance without alteration within twenty
30 days after the county auditor's certificate of sufficiency has been
31 received by the legislative body; or

32 (b) Immediately after the county auditor's certificate of
33 sufficiency for the petition is received, cause to be called a special
34 election to be held within ninety days, or at a special election called
35 for that purpose according to RCW 29A.04.321 or 29A.04.330, for
36 submission of the proposed ordinance without alteration, to a vote of

1 the people. If the number of votes cast favor the proposed ordinance,
2 it is effective immediately and must be made a part of the record of
3 ordinances of the county.

4 (2) Elections called under this section, including required
5 notifications, must be conducted as provided in the general election
6 law.

7 (3) The petitioner preparing an initiative petition for submission
8 under this section must follow the procedures established in section 6
9 of this act.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.01 RCW
11 to read as follows:

12 Petitions filed under section 5 of this act must be submitted to
13 the county auditor who shall verify the signatures on the petition to
14 determine that the petition has been signed by the requisite number of
15 persons who are registered voters within the county. If the petition
16 is found not to have the requisite number of signatures, it must be
17 returned to the petitioners. If the petition is found to be
18 sufficient, the auditor shall certify and transmit the petition to the
19 county legislative body.

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