

# HOUSE BILL REPORT

## SHB 1941

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### As Passed Legislature

**Title:** An act relating to the adjudication of tolls and accompanying civil penalties.

**Brief Description:** Concerning the adjudication of tolls and accompanying civil penalties.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Habib, Clibborn and Springer).

#### Brief History:

##### Committee Activity:

Transportation: 2/27/13, 2/28/13 [DPS].

##### Floor Activity:

Passed House: 3/9/13, 98-0.

Senate Amended.

Passed Senate: 4/16/13, 47-0.

House Concurred.

Passed House: 4/23/13, 97-0.

Passed Legislature.

#### Brief Summary of Substitute Bill

- Allows registered owners to present evidence of mitigating circumstances in challenging a civil penalty for failing to pay a toll charge bill.
- Allows an adjudicator to reduce or dismiss a civil penalty.

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### HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Clibborn, Chair; Fey, Vice Chair; Liias, Vice Chair; Moscoso, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Overstreet, Assistant Ranking Minority Member; Angel, Bergquist, Farrell, Fitzgibbon, Habib, Hayes, Johnson, Klippert, Kochmar, Kretz, Kristiansen, Moeller, Morris, O'Ban, Riccelli, Rodne, Ryu, Sells, Shea, Takko, Tarleton, Upthegrove and Zeiger.

**Staff:** Andrew Russell (786-7143).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

Only the Legislature may authorize the imposition of tolls on eligible facilities. In 2009 the Legislature provided such authorization on the floating bridge portion of State Route 520 (SR 520). For this toll facility, the Washington State Transportation Commission is empowered to set toll rates, review toll collection policies, and review toll revenue expenditures.

Drivers are automatically assessed a toll for crossing the floating bridge on SR 520. If the driver does not have a "Good to Go" pass with the Washington State Department of Transportation (WSDOT), the registered owner of the vehicle will receive a toll bill in the mail. If the registered owner fails to pay this toll bill within 80 days, it becomes a toll violation. A civil penalty of \$40 may be assessed for a toll violation. A registered owner may contest or dispute a civil penalty within 15 days of the date of the notice of civil penalty, and the registered owner may request an in-person administrative hearing. During an administrative hearing, the WSDOT has the burden of establishing that the toll violation occurred; however, it is not a defense to a toll violation and notice of civil penalty that a person other than the registered owner was driving the vehicle at the time or that the person did not know to pay a toll.

**Summary of Substitute Bill:**

In challenging a civil penalty for failing to pay a toll bill, the WSDOT must provide a registered owner an opportunity to present evidence of mitigating circumstances. The bill provides an exclusive list of valid reasons that can qualify as "mitigating circumstances." In response to such evidence, the adjudicator may reduce or dismiss the civil penalty. Additionally, the envelopes in which toll charge bills and notices of civil penalties are sent must be marked as time sensitive and related to a toll violation. Finally, the WSDOT must provide an annual report to the transportation committees of the Legislature regarding instances of a judge reducing or dismissing a civil penalty.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This is a consumer protection bill that fixes a problem with our current tolling statute. Administrative law judges are under the impression that they do not have the discretion to waive a civil penalty. The bill also bifurcates the adjudication of a toll charge and a civil penalty. This bill gives people some relief and some equity. Providing an exclusive list of circumstances is more fiscally responsible and judicially efficient.

Administrative law judges should be given discretion to consider mitigating circumstances. The exclusive list of mitigating factors are things that the judges already see when people challenge tolls and civil penalties.

(Opposed) None.

**Persons Testifying:** Representative Habib, prime sponsor; and Lorraine Lee and Anita Crawford-Willis, Office of Administrative Hearings.

**Persons Signed In To Testify But Not Testifying:** None.