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**SUBSTITUTE HOUSE BILL 1047**

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**State of Washington                      63rd Legislature                      2013 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Dahlquist, Hurst, and Magendanz)

READ FIRST TIME 02/01/13.

1            AN ACT Relating to photographs, microphotographs, and electronic  
2 images from traffic safety cameras and toll systems; amending RCW  
3 46.63.160; and reenacting and amending RCW 46.63.170.

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

5            **Sec. 1.** RCW 46.63.170 and 2012 c 85 s 3 and 2012 c 83 s 7 are each  
6 reenacted and amended 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 prepare an  
10 analysis of the locations within the jurisdiction where automated  
11 traffic safety cameras are proposed to be located: (i) Before enacting  
12 an ordinance allowing for the initial use of automated traffic safety  
13 cameras; and (ii) before adding additional cameras or relocating any  
14 existing camera to a new location within the jurisdiction. Automated  
15 traffic safety cameras may be used to detect one or more of the  
16 following: Stoplight, railroad crossing, or school speed zone  
17 violations. At a minimum, the local ordinance must contain the  
18 restrictions described in this section and provisions for public notice  
19 and signage. Cities and counties using automated traffic safety

1 cameras before July 24, 2005, are subject to the restrictions described  
2 in this section, but are not required to enact an authorizing  
3 ordinance. Beginning one year after June 7, 2012, cities and counties  
4 using automated traffic safety cameras must post an annual report of  
5 the number of traffic accidents that occurred at each location where an  
6 automated traffic safety camera is located as well as the number of  
7 notices of infraction issued for each camera and any other relevant  
8 information about the automated traffic safety cameras that the city or  
9 county deems appropriate on the city's or county's web site.

10 (b) Use of automated traffic safety cameras is restricted to the  
11 following locations only: (i) Intersections of two arterials with  
12 traffic control signals that have yellow change interval durations in  
13 accordance with RCW 47.36.022, which interval durations may not be  
14 reduced after placement of the camera; (ii) railroad crossings; and  
15 (iii) school speed zones.

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

21 (d) Automated traffic safety cameras may only take pictures of the  
22 vehicle and vehicle license plate and only while an infraction is  
23 occurring. The picture must not reveal the face of the driver or of  
24 passengers in the vehicle. The primary purpose of camera placement is  
25 to take pictures of the vehicle and vehicle license plate when an  
26 infraction is occurring. Cities and counties shall consider installing  
27 cameras in a manner that minimizes the impact of camera flash on  
28 drivers.

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

1 under this chapter. The photographs, microphotographs, or electronic  
2 images evidencing the violation must be available for inspection and  
3 admission into evidence in a proceeding to adjudicate the liability for  
4 the infraction. A person receiving a notice of infraction based on  
5 evidence detected by an automated traffic safety camera may respond to  
6 the notice by mail.

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

14 (g) (~~Notwithstanding any other provision of law,~~) All  
15 photographs, microphotographs, or electronic images prepared under this  
16 section are for the exclusive use of law enforcement in the discharge  
17 of duties under this section ((and)) or are available for the  
18 investigation and prosecution of crimes pursuant to a lawfully issued  
19 search warrant. All such photographs, microphotographs, and electronic  
20 images are not open to the public ((and may not be used in a court in  
21 a pending action or proceeding unless the action or proceeding relates  
22 to a violation under this section. No photograph, microphotograph, or  
23 electronic image may be used for any purpose other than enforcement of  
24 violations under this section nor retained longer than necessary to  
25 enforce this section))).

26 (h) All locations where an automated traffic safety camera is used  
27 must be clearly marked at least thirty days prior to activation of the  
28 camera by placing signs in locations that clearly indicate to a driver  
29 that he or she is entering a zone where traffic laws are enforced by an  
30 automated traffic safety camera. Signs placed in automated traffic  
31 safety camera locations after June 7, 2012, must follow the  
32 specifications and guidelines under the manual of uniform traffic  
33 control devices for streets and highways as adopted by the department  
34 of transportation under chapter 47.36 RCW.

35 (i) If a county or city has established an authorized automated  
36 traffic safety camera program under this section, the compensation paid  
37 to the manufacturer or vendor of the equipment used must be based only

1 upon the value of the equipment and services provided or rendered in  
2 support of the system, and may not be based upon a portion of the fine  
3 or civil penalty imposed or the revenue generated by the equipment.

4 (2) Infractions detected through the use of automated traffic  
5 safety cameras are not part of the registered owner's driving record  
6 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated  
7 by the use of automated traffic safety cameras under this section shall  
8 be processed in the same manner as parking infractions, including for  
9 the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3).  
10 The amount of the fine issued for an infraction generated through the  
11 use of an automated traffic safety camera shall not exceed the amount  
12 of a fine issued for other parking infractions within the jurisdiction.  
13 However, the amount of the fine issued for a traffic control signal  
14 violation detected through the use of an automated traffic safety  
15 camera shall not exceed the monetary penalty for a violation of RCW  
16 46.61.050 as provided under RCW 46.63.110, including all applicable  
17 statutory assessments.

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

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

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

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

35 Timely mailing of this statement to the issuing law enforcement  
36 agency relieves a rental car business of any liability under this  
37 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. During the 2011-2013  
15 fiscal biennium, an automated traffic safety camera includes a camera  
16 used to detect speed violations for the purposes of section 201(2),  
17 chapter 367, Laws of 2011.

18 (6) During the 2011-2013 fiscal biennium, this section does not  
19 apply to automated traffic safety cameras for the purposes of section  
20 216(5), chapter 367, Laws of 2011.

21 **Sec. 2.** RCW 46.63.160 and 2011 c 367 s 705 are each amended to  
22 read as follows:

23 (1) This section applies only to civil penalties for nonpayment of  
24 tolls detected through use of photo toll systems.

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

29 (3) A notice of civil penalty may be issued by the department of  
30 transportation when a toll is assessed through use of a photo toll  
31 system and the toll is not paid by the toll payment due date, which is  
32 eighty days from the date the vehicle uses the toll facility and incurs  
33 the toll charge.

34 (4) Any registered owner or renter of a vehicle traveling upon a  
35 toll facility operated under chapter 47.56 or 47.46 RCW is subject to  
36 a civil penalty governed by the administrative procedures set forth in

1 this section when the vehicle incurs a toll charge and the toll is not  
2 paid by the toll payment due date, which is eighty days from the date  
3 the vehicle uses the toll facility and incurs the toll charge.

4 (5) Consistent with chapter 34.05 RCW, the department of  
5 transportation shall develop an administrative adjudication process to  
6 review appeals of civil penalties issued by the department of  
7 transportation for toll nonpayment detected through the use of a photo  
8 toll system under this section.

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

11 (a) Photo toll systems may take photographs, digital photographs,  
12 microphotographs, videotapes, or other recorded images of the vehicle  
13 and vehicle license plate only.

14 (b) A notice of civil penalty must include with it a certificate or  
15 facsimile thereof, based upon inspection of photographs,  
16 microphotographs, videotape, or other recorded images produced by a  
17 photo toll system, stating the facts supporting the notice of civil  
18 penalty. This certificate or facsimile is prima facie evidence of the  
19 facts contained in it and is admissible in a proceeding established  
20 under subsection (5) of this section. The photographs, digital  
21 photographs, microphotographs, videotape, or other recorded images  
22 evidencing the toll nonpayment civil penalty must be available for  
23 inspection and admission into evidence in a proceeding to adjudicate  
24 the liability for the civil penalty.

25 (c) ~~((Notwithstanding any other provision of law,))~~ All  
26 photographs, digital photographs, microphotographs, videotape, other  
27 recorded images, or other records identifying a specific instance of  
28 travel prepared under this chapter are for the exclusive use of the  
29 tolling agency for toll collection and enforcement purposes ((and)) or  
30 are available for the investigation and prosecution of crimes pursuant  
31 to a lawfully issued search warrant. All such photographs, digital  
32 photographs, microphotographs, videotapes, recorded images, and other  
33 records are not open to the public ((and may not be used in a court in  
34 a pending action or proceeding unless the action or proceeding relates  
35 to a civil penalty under this chapter. No photograph, digital  
36 photograph, microphotograph, videotape, other recorded image, or other  
37 record identifying a specific instance of travel may be used for any  
38 purpose other than toll collection or enforcement of civil penalties

1 ~~under this section~~)). Records identifying a specific instance of  
2 travel by a specific person or vehicle must be retained only as  
3 required to ensure payment and enforcement of tolls and to comply with  
4 state records retention policies.

5 (d) All locations where a photo toll system is used must be clearly  
6 marked by placing signs in locations that clearly indicate to a driver  
7 that he or she is entering a zone where tolls are assessed and enforced  
8 by a photo toll system.

9 (e) Within existing resources, the department of transportation  
10 shall conduct education and outreach efforts at least six months prior  
11 to activating an all-electronic photo toll system. Methods of outreach  
12 shall include a department presence at community meetings in the  
13 vicinity of a toll facility, signage, and information published in  
14 local media. Information provided shall include notice of when all  
15 electronic photo tolling shall begin and methods of payment.  
16 Additionally, the department shall provide quarterly reporting on  
17 education and outreach efforts and other data related to the issuance  
18 of civil penalties.

19 (7) Civil penalties for toll nonpayment detected through the use of  
20 photo toll systems must be issued to the registered owner of the  
21 vehicle identified by the photo toll system, but are not part of the  
22 registered owner's driving record under RCW 46.52.101 and 46.52.120.

23 (8) The civil penalty for toll nonpayment detected through the use  
24 of a photo toll system is forty dollars plus the photo toll and  
25 associated fees.

26 (9) Except as provided otherwise in this subsection, all civil  
27 penalties, including the photo toll and associated fees, collected  
28 under this section must be deposited into the toll facility account of  
29 the facility on which the toll was assessed. However, through June 30,  
30 2013, civil penalties deposited into the Tacoma Narrows toll bridge  
31 account created under RCW 47.56.165 that are in excess of amounts  
32 necessary to support the toll adjudication process applicable to toll  
33 collection on the Tacoma Narrows bridge must first be allocated toward  
34 repayment of operating loans and reserve payments provided to the  
35 account from the motor vehicle account under section 1005(15), chapter  
36 518, Laws of 2007. Additionally, all civil penalties, resulting from  
37 nonpayment of tolls on the state route number 520 corridor, shall be

1 deposited into the state route number 520 civil penalties account  
2 created under section 4, chapter 248, Laws of 2010 but only if chapter  
3 248, Laws of 2010 is enacted by June 30, 2010.

4 (10) If the registered owner of the vehicle is a rental car  
5 business, the department of transportation shall, before a toll bill is  
6 issued, provide a written notice to the rental car business that a toll  
7 bill may be issued to the rental car business if the rental car  
8 business does not, within thirty days of the mailing of the written  
9 notice, provide to the issuing 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 toll  
12 was assessed; 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 toll was  
15 assessed because the vehicle was stolen at the time the toll was  
16 assessed. A statement provided under this subsection must be  
17 accompanied by a copy of a filed police report regarding the vehicle  
18 theft; or

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

21 Timely mailing of this statement to the issuing agency relieves a  
22 rental car business of any liability under this section for the payment  
23 of the toll.

24 (11) Consistent with chapter 34.05 RCW, the department of  
25 transportation shall develop rules to implement this section.

26 (12) For the purposes of this section, "photo toll system" means  
27 the system defined in RCW 47.56.010 and 47.46.020.

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