
SUBSTITUTE HOUSE BILL 1941

State of Washington 63rd Legislature 2013 Regular Session

By House Transportation (originally sponsored by Representatives
Habib, Clibborn, and Springer)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to the adjudication of tolls and accompanying civil
2 penalties; and amending RCW 46.63.160.

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

4 **Sec. 1.** RCW 46.63.160 and 2011 c 367 s 705 are each amended to
5 read as follows:

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

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

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

17 (4) Any registered owner or renter of a vehicle traveling upon a
18 toll facility operated under chapter 47.56 or 47.46 RCW is subject to
19 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)(a) 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 (b) During the adjudication process, the alleged violator must have
10 an opportunity to explain mitigating circumstances. Hospitalization,
11 a divorce decree or legal separation agreement resulting in a transfer
12 of the vehicle, an active duty member of the military or national guard
13 covered by the federal servicemembers civil relief act, 50 U.S.C. Sec.
14 501 et seq., or state service members' civil relief act, chapter 38.42
15 RCW, eviction, homelessness, the death of the alleged violator or of an
16 immediate family member, or if the alleged violator did not receive a
17 toll charge bill or notice of civil penalty are valid mitigating
18 circumstances. All of these reasons that constitute mitigating
19 circumstances must occur within a reasonable time of the alleged toll
20 violation. In response to these circumstances, the adjudicator may
21 reduce or dismiss the civil penalty.

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

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

27 (b) A notice of civil penalty must include with it a certificate or
28 facsimile thereof, based upon inspection of photographs,
29 microphotographs, videotape, or other recorded images produced by a
30 photo toll system, stating the facts supporting the notice of civil
31 penalty. This certificate or facsimile is prima facie evidence of the
32 facts contained in it and is admissible in a proceeding established
33 under subsection (5) of this section. The photographs, digital
34 photographs, microphotographs, videotape, or other recorded images
35 evidencing the toll nonpayment civil penalty must be available for
36 inspection and admission into evidence in a proceeding to adjudicate
37 the liability for the civil penalty.

1 (c) Notwithstanding any other provision of law, all photographs,
2 digital photographs, microphotographs, videotape, other recorded
3 images, or other records identifying a specific instance of travel
4 prepared under this chapter are for the exclusive use of the tolling
5 agency for toll collection and enforcement purposes and are not open to
6 the public and may not be used in a court in a pending action or
7 proceeding unless the action or proceeding relates to a civil penalty
8 under this chapter. No photograph, digital photograph,
9 microphotograph, videotape, other recorded image, or other record
10 identifying a specific instance of travel may be used for any purpose
11 other than toll collection or enforcement of civil penalties under this
12 section. Records identifying a specific instance of travel by a
13 specific person or vehicle must be retained only as required to ensure
14 payment and enforcement of tolls and to comply with state records
15 retention policies.

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

20 (e) Within existing resources, the department of transportation
21 shall conduct education and outreach efforts at least six months prior
22 to activating an all-electronic photo toll system. Methods of outreach
23 shall include a department presence at community meetings in the
24 vicinity of a toll facility, signage, and information published in
25 local media. Information provided shall include notice of when all
26 electronic photo tolling shall begin and methods of payment.
27 Additionally, the department shall provide quarterly reporting on
28 education and outreach efforts and other data related to the issuance
29 of civil penalties.

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

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

37 (9) Except as provided otherwise in this subsection, all civil
38 penalties, including the photo toll and associated fees, collected

1 under this section must be deposited into the toll facility account of
2 the facility on which the toll was assessed. However, through June 30,
3 2013, civil penalties deposited into the Tacoma Narrows toll bridge
4 account created under RCW 47.56.165 that are in excess of amounts
5 necessary to support the toll adjudication process applicable to toll
6 collection on the Tacoma Narrows bridge must first be allocated toward
7 repayment of operating loans and reserve payments provided to the
8 account from the motor vehicle account under section 1005(15), chapter
9 518, Laws of 2007. Additionally, all civil penalties, resulting from
10 nonpayment of tolls on the state route number 520 corridor, shall be
11 deposited into the state route number 520 civil penalties account
12 created under section 4, chapter 248, Laws of 2010 but only if chapter
13 248, Laws of 2010 is enacted by June 30, 2010.

14 (10) If the registered owner of the vehicle is a rental car
15 business, the department of transportation shall, before a toll bill is
16 issued, provide a written notice to the rental car business that a toll
17 bill may be issued to the rental car business if the rental car
18 business does not, within thirty days of the mailing of the written
19 notice, provide to the issuing agency by return mail:

20 (a) A statement under oath stating the name and known mailing
21 address of the individual driving or renting the vehicle when the toll
22 was assessed; or

23 (b) A statement under oath that the business is unable to determine
24 who was driving or renting the vehicle at the time the toll was
25 assessed because the vehicle was stolen at the time the toll was
26 assessed. A statement provided under this subsection must be
27 accompanied by a copy of a filed police report regarding the vehicle
28 theft; or

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

31 Timely mailing of this statement to the issuing agency relieves a
32 rental car business of any liability under this section for the payment
33 of the toll.

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

36 (12) For the purposes of this section, "photo toll system" means

1 the system defined in RCW 47.56.010 and 47.46.020.

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