
SENATE BILL 5374

State of Washington

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By Senators Kline and Keiser

Read first time 01/28/13. Referred to Committee on Law & Justice.

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 are not open to the public and may not
18 be used in a court in a pending action or proceeding unless the action
19 or proceeding relates to a violation under this section. No
20 photograph, microphotograph, or electronic image may be used for any
21 purpose other than enforcement of violations under this section nor
22 retained longer than necessary to enforce this section. The records,
23 photographs, microphotographs, and electronic images are available to
24 law enforcement pursuant to a lawfully issued search warrant.

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

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

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

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

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

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

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

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

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

37 (4) Nothing in this section prohibits a law enforcement officer

1 from issuing a notice of traffic infraction to a person in control of
2 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),
3 (b), or (c).

4 (5) For the purposes of this section, "automated traffic safety
5 camera" means a device that uses a vehicle sensor installed to work in
6 conjunction with an intersection traffic control system, a railroad
7 grade crossing control system, or a speed measuring device, and a
8 camera synchronized to automatically record one or more sequenced
9 photographs, microphotographs, or electronic images of the rear of a
10 motor vehicle at the time the vehicle fails to stop when facing a
11 steady red traffic control signal or an activated railroad grade
12 crossing control signal, or exceeds a speed limit in a school speed
13 zone as detected by a speed measuring device. During the 2011-2013
14 fiscal biennium, an automated traffic safety camera includes a camera
15 used to detect speed violations for the purposes of section 201(2),
16 chapter 367, Laws of 2011.

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

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

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

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

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

33 (4) Any registered owner or renter of a vehicle traveling upon a
34 toll facility operated under chapter 47.56 or 47.46 RCW is subject to
35 a civil penalty governed by the administrative procedures set forth in
36 this section when the vehicle incurs a toll charge and the toll is not

1 paid by the toll payment due date, which is eighty days from the date
2 the vehicle uses the toll facility and incurs the toll charge.

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

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

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

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

24 (c) (~~Notwithstanding any other provision of law~~) Absent a search
25 warrant, all photographs, digital photographs, microphotographs,
26 videotape, other recorded images, or other records identifying a
27 specific instance of travel prepared under this chapter are for the
28 exclusive use of the tolling agency for toll collection and enforcement
29 purposes and are not open to the public and may not be used in a court
30 in a pending action or proceeding unless the action or proceeding
31 relates to a civil penalty under this chapter. No photograph, digital
32 photograph, microphotograph, videotape, other recorded image, or other
33 record identifying a specific instance of travel may be used for any
34 purpose other than toll collection or enforcement of civil penalties
35 under this section. Records identifying a specific instance of travel
36 by a specific person or vehicle must be retained only as required to
37 ensure payment and enforcement of tolls and to comply with state
38 records retention policies. The records, photographs, digital

1 photographs, microphotographs, videotapes, and other recorded images
2 are available to law enforcement pursuant to a lawfully issued search
3 warrant.

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

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

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

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

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

1 created under section 4, chapter 248, Laws of 2010 but only if chapter
2 248, Laws of 2010 is enacted by June 30, 2010.

3 (10) If the registered owner of the vehicle is a rental car
4 business, the department of transportation shall, before a toll bill is
5 issued, provide a written notice to the rental car business that a toll
6 bill may be issued to the rental car business if the rental car
7 business does not, within thirty days of the mailing of the written
8 notice, provide to the issuing agency by return mail:

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

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

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

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

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

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

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