

SSB 5481 - H COMM AMD  
By Committee on Transportation

ADOPTED 4/14/2015

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 46.63.160 and 2013 c 226 s 1 are each amended to  
4 read as follows:

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

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

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

16 (4) Any registered owner or renter of a vehicle traveling upon a  
17 toll facility operated under chapter 47.56 or 47.46 RCW is subject to  
18 a civil penalty governed by the administrative procedures set forth  
19 in this section when the vehicle incurs a toll charge and the toll is  
20 not paid by the toll payment due date, which is eighty days from the  
21 date the vehicle uses the toll facility and incurs the toll charge.

22 (5)(a) The department shall develop rules to allow an individual  
23 who has been issued a notice of civil penalty to present evidence of  
24 mitigating circumstances as to why a toll bill was not timely paid.  
25 If an individual is able to present verifiable evidence to the  
26 department that a civil penalty was incurred due to hospitalization,  
27 military deployment, eviction, homelessness, death of the alleged  
28 violation or of an alleged violator's immediate family member, failure  
29 to receive the toll bill due to an incorrect address that has since  
30 been corrected, a prepaid electronic toll account error that has  
31 since been corrected, an error made by the department or an agent of  
32 the department, or other mitigating circumstances as determined by

1 the department, the department may dismiss or reduce the civil  
2 penalty and associated fees.

3 (b)(i) Consistent with chapter 34.05 RCW, the department of  
4 transportation shall develop an administrative adjudication process  
5 to review appeals of civil penalties issued by the department of  
6 transportation for toll nonpayment detected through the use of a  
7 photo toll system under this section. The department of  
8 transportation shall submit to the transportation committees of the  
9 legislature an annual report on the number of times adjudicators  
10 reduce or dismiss the civil penalty as provided in (b)(ii) of this  
11 subsection and the total amount of the civil penalties dismissed. The  
12 report must be submitted by December 1st of each year.

13 ~~((b))~~ (ii) During the adjudication process, the alleged  
14 violator must have an opportunity to explain mitigating circumstances  
15 as to why the toll bill was not timely paid. Hospitalization, a  
16 divorce decree or legal separation agreement resulting in a transfer  
17 of the vehicle, an active duty member of the military or national  
18 guard covered by the federal service members civil relief act, 50  
19 U.S.C. Sec. 501 et seq., or state service members' civil relief act,  
20 chapter 38.42 RCW, eviction, homelessness, the death of the alleged  
21 violator or of an immediate family member, ~~((or))~~, being switched to  
22 a different method of toll payment, if the alleged violator did not  
23 receive a toll charge bill or notice of civil penalty, or other  
24 mitigating circumstances as determined by the adjudicator are deemed  
25 valid mitigating circumstances. All of ~~((these))~~ the reasons that  
26 constitute mitigating circumstances must ~~((occur))~~ have occurred  
27 within a reasonable time of the alleged toll violation. In response  
28 to these circumstances, the adjudicator may reduce or dismiss the  
29 civil penalty and associated administrative fees.

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

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

35 (b) A notice of civil penalty must include with it a certificate  
36 or facsimile thereof, based upon inspection of photographs,  
37 microphotographs, videotape, or other recorded images produced by a  
38 photo toll system, stating the facts supporting the notice of civil  
39 penalty. This certificate or facsimile is prima facie evidence of the  
40 facts contained in it and is admissible in a proceeding established

1 under subsection (5) of this section. The photographs, digital  
2 photographs, microphotographs, videotape, or other recorded images  
3 evidencing the toll nonpayment civil penalty must be available for  
4 inspection and admission into evidence in a proceeding to adjudicate  
5 the liability for the civil penalty.

6 (c)(i) By June 30, 2016, prior to issuing a notice of civil  
7 penalty to a registered owner of a vehicle listed on an active  
8 prepaid electronic toll account, the department of transportation  
9 must:

10 (A) Send an electronic mail notice to the email address provided  
11 in the prepaid electronic toll account of unpaid pay-by-mail toll  
12 bills at least ten days prior to a notice of civil penalty being  
13 issued for the associated pay-by-mail toll. The notice must be  
14 separate from any regular notice sent by the department; and

15 (B) Call the phone numbers provided in the account to provide  
16 notice of unpaid pay-by-mail toll bills at least ten days prior to a  
17 notice of civil penalty being issued for the associated pay-by-mail  
18 toll.

19 (ii) The department is relieved of its obligation to provide  
20 notice as required by this section if the customer has declined to  
21 receive communications from the department through such methods.

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

37 ~~((d))~~ (e) All locations where a photo toll system is used must  
38 be clearly marked by placing signs in locations that clearly indicate  
39 to a driver that he or she is entering a zone where tolls are  
40 assessed and enforced by a photo toll system.

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

11       (~~(f)~~) (g) The envelope containing a toll charge bill or related  
12 notice issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of  
13 civil penalty issued under this section, must prominently indicate  
14 that the contents are time sensitive and related to a toll violation.

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

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

22       (9) Except as provided otherwise in this subsection, all civil  
23 penalties, including the photo toll and associated fees, collected  
24 under this section must be deposited into the toll facility account  
25 of the facility on which the toll was assessed. However, through June  
26 30, 2013, civil penalties deposited into the Tacoma Narrows toll  
27 bridge account created under RCW 47.56.165 that are in excess of  
28 amounts necessary to support the toll adjudication process applicable  
29 to toll collection on the Tacoma Narrows bridge must first be  
30 allocated toward repayment of operating loans and reserve payments  
31 provided to the account from the motor vehicle account under section  
32 1005(15), chapter 518, Laws of 2007. Additionally, all civil  
33 penalties, resulting from nonpayment of tolls on the state route  
34 number 520 corridor, shall be deposited into the state route number  
35 520 civil penalties account created under section 4, chapter 248,  
36 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June  
37 30, 2010.

38       (10) If the registered owner of the vehicle is a rental car  
39 business, the department of transportation shall, before a toll bill  
40 is issued, provide a written notice to the rental car business that a

1 toll bill may be issued to the rental car business if the rental car  
2 business does not, within thirty days of the mailing of the written  
3 notice, provide to the issuing agency by return mail:

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

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

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

15 Timely mailing of this statement to the issuing agency relieves a  
16 rental car business of any liability under this section for the  
17 payment of the toll.

18 (11) It is the intent of the legislature that the department  
19 provide an educational opportunity when vehicle owners incur fees and  
20 penalties associated with late payment of tolls for the first time.  
21 As part of this educational opportunity, the department may waive  
22 penalties and fees if the issue that resulted in the toll not being  
23 timely paid has been resolved and the vehicle owner establishes an  
24 electronic toll account, if practicable. To aid in collecting tolls  
25 in a timely manner, the department may waive or reduce the  
26 outstanding amounts of fees and penalties assessed when tolls are not  
27 timely paid.

28 (12)(a) By June 30, 2016, the department of transportation must  
29 update its web site, and accommodate access to the web site from  
30 mobile platforms, to allow toll customers to efficiently manage all  
31 their tolling accounts, regardless of method of payment.

32 (b)(i) By June 30, 2016, the department of transportation must  
33 make available to the public a point of access that allows a third  
34 party to develop an application for mobile technologies that (A)  
35 securely accesses a user's toll account information and (B) allows  
36 the user to manage his or her toll account to the same extent  
37 possible through the department's web site.

38 (ii) If the department determines that it would be cost-effective  
39 and in the best interests of the citizens of Washington, it may also  
40 develop an application for mobile technologies that allows toll

1 customers to manage all of their tolling accounts from a mobile  
2 platform.

3 (13) When acquiring a new photo toll system, the department of  
4 transportation must enable the new system to:

5 (a) Connect with the department of licensing's vehicle record  
6 system so that a prepaid electronic toll account can be updated  
7 automatically when a toll customer's vehicle record is updated, if  
8 the customer has consented to such updates; and

9 (b) Document when any toll is assessed for a vehicle listed in a  
10 prepaid electronic toll account in the monthly statement that is made  
11 available to the electronic toll account holder regardless of whether  
12 the method of payment for the toll is via pay-by-mail or prepaid  
13 electronic toll account.

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

16 ~~((12))~~ (15) For the purposes of this section((7)):

17 (a) "Photo toll system" means the system defined in RCW 47.56.010  
18 and 47.46.020.

19 (b) "Prepaid electronic toll account" means a prepaid toll  
20 account linked to a pass or license plate number, including "Good to  
21 Go!".

22 (16) If a customer's toll charge or civil penalty is waived  
23 pursuant to this section due to an error made by the department, or  
24 an agent of the department, in reading the customer's license plate,  
25 the secretary of transportation must send a letter to the customer  
26 apologizing for the error.

27 **Sec. 2.** RCW 47.56.795 and 2010 c 249 s 3 are each amended to  
28 read as follows:

29 (1) A toll collection system may include, but is not limited to,  
30 electronic toll collection and photo tolling.

31 (2)(a) A photo toll system may take photographs, digital  
32 photographs, microphotographs, videotapes, or other recorded images  
33 of the vehicle and vehicle license plate only.

34 (b) Notwithstanding any other provision of law, all photographs,  
35 digital photographs, microphotographs, videotape, other recorded  
36 images, or other records identifying a specific instance of travel  
37 prepared under this chapter are for the exclusive use of the tolling  
38 agency for toll collection and enforcement purposes and are not open  
39 to the public and may not be used in a court in a pending action or

1 proceeding unless the action or proceeding relates to a civil penalty  
2 under RCW 46.63.160. No photograph, digital photograph,  
3 microphotograph, videotape, other recorded image, or other record  
4 identifying a specific instance of travel may be used for any purpose  
5 other than toll collection or enforcement of civil penalties under  
6 RCW 46.63.160. Records identifying a specific instance of travel by a  
7 specific person or vehicle must be retained only as required to  
8 ensure payment and enforcement of tolls and to comply with state  
9 records retention policies. Aggregate records that do not identify an  
10 individual, vehicle, or account may be maintained.

11 (3) The department and its agents shall only use electronic toll  
12 collection system technology for toll collection purposes.

13 (4) Tolls may be collected and paid by the following methods:

14 (a) A customer may pay an electronic toll through an electronic  
15 toll collection account;

16 (b) A customer may pay a photo toll either through a customer-  
17 initiated payment or in response to a toll bill; or

18 (c) A customer may pay with cash on toll facilities that have a  
19 manual cash collection system.

20 (5) To the extent practicable, the department shall adopt  
21 electronic toll collection options, which allow for anonymous  
22 customer accounts and anonymous accounts that are not linked to a  
23 specific vehicle.

24 (6) The transportation commission shall adopt rules, in  
25 accordance with chapter 34.05 RCW, to assess administrative fees as  
26 appropriate for toll collection processes. Administrative fees must  
27 not exceed toll collection costs. All administrative fees collected  
28 under this section must be deposited into the toll facility account  
29 of the facility on which the toll was assessed.

30 (7) Failure to pay a photo toll by the toll payment due date is a  
31 violation for which a notice of civil penalty may be issued under RCW  
32 46.63.160.

33 (8) For an electronic toll collection system that uses an in-  
34 vehicle device, such as a transponder, to identify a particular  
35 customer for the purposes of paying an electronic toll from that  
36 customer's toll collection account, the department must allow such  
37 in-vehicle devices to be offered for sale at vehicle dealers."

38 Correct the title.

EFFECT: (1) Adds an error made by the department of transportation (WSDOT) or an agent of the WSDOT to the list of mitigating circumstances for which the WSDOT may dismiss or reduce the civil penalty and associated fees.

(2) Provides that the WSDOT need not contact a customer by phone and email if the customer has not provided consent to such contact from the WSDOT.

(3) Removes provisions relating to a toll amnesty program and provides instead that the WSDOT may waive or reduce outstanding fees and penalties if the issue that resulted in the toll not being timely paid has been resolved and the customer has established an electronic toll account, if practicable.

(4) Removes requirements relating to the WSDOT creating a mobile application and instead requires WSDOT to update its web site to allow toll customers to efficiently manage their tolling accounts.

(5) Allows the WSDOT to develop a mobile application only if it would be cost-effective and in the best interests of the citizens of Washington.

(6) Requires the WSDOT to provide a point of access to allow a third party to develop a mobile application that allows a user to manage his or her toll account.

(7) Provides that a customer's toll account may be updated when his or her vehicle record is updated if the customer has consented to such updates.

(8) Requires the secretary of the WSDOT to provide a letter apologizing for the WSDOT's error if a customer's toll charge or civil penalty is waived due to an error made by the WSDOT or an agent of the WSDOT in reading the customer's license plate.

(9) Requires the WSDOT to allow electronic toll collection transponders to be sold at vehicle dealers.

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