
HOUSE BILL 2141

State of Washington 64th Legislature 2015 Regular Session

By Representatives Young, Caldier, and Condotta

Read first time 02/17/15. Referred to Committee on Transportation.

1 AN ACT Relating to dedicating revenue from civil penalties
2 associated with tolls for crossing the Tacoma Narrows bridge to
3 repaying debt issued to construct the bridge; amending RCW 46.63.160,
4 47.46.100, 47.46.110, 47.46.130, and 47.56.165; and repealing RCW
5 47.46.140.

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

7 **Sec. 1.** RCW 46.63.160 and 2013 c 226 s 1 are each amended to
8 read as follows:

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

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

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

20 (4) Any registered owner or renter of a vehicle traveling upon a
21 toll facility operated under chapter 47.56 or 47.46 RCW is subject to

1 a civil penalty governed by the administrative procedures set forth
2 in this section when the vehicle incurs a toll charge and the toll is
3 not paid by the toll payment due date, which is eighty days from the
4 date the vehicle uses the toll facility and incurs the toll charge.

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

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

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

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

34 (b) A notice of civil penalty must include with it a certificate
35 or facsimile thereof, based upon inspection of photographs,
36 microphotographs, videotape, or other recorded images produced by a
37 photo toll system, stating the facts supporting the notice of civil
38 penalty. This certificate or facsimile is prima facie evidence of the
39 facts contained in it and is admissible in a proceeding established
40 under subsection (5) of this section. The photographs, digital

1 photographs, microphotographs, videotape, or other recorded images
2 evidencing the toll nonpayment civil penalty must be available for
3 inspection and admission into evidence in a proceeding to adjudicate
4 the liability for the civil penalty.

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

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

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

34 (f) The envelope containing a toll charge bill or related notice
35 issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of civil
36 penalty issued under this section, must prominently indicate that the
37 contents are time sensitive and related to a toll violation.

38 (7) Civil penalties for toll nonpayment detected through the use
39 of photo toll systems must be issued to the registered owner of the

1 vehicle identified by the photo toll system, but are not part of the
2 registered owner's driving record under RCW 46.52.101 and 46.52.120.

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

6 (9) Except as provided otherwise in this subsection, all civil
7 penalties, including the photo toll and associated fees, collected
8 under this section must be deposited into the toll facility account
9 of the facility on which the toll was assessed. (~~However, through~~
10 ~~June 30, 2013,~~) Civil penalties deposited into the Tacoma Narrows
11 toll bridge account created under RCW 47.56.165 that are in excess of
12 amounts necessary to support the toll adjudication process applicable
13 to toll collection on the Tacoma Narrows bridge must first be
14 allocated toward (~~repayment of operating loans and reserve payments~~
15 ~~provided to the account from the motor vehicle account under section~~
16 ~~1005(15), chapter 518, Laws of 2007)~~ paying bond obligations
17 incurred in constructing the bridge. Additionally, all civil
18 penalties, resulting from nonpayment of tolls on the state route
19 number 520 corridor, shall be deposited into the state route number
20 520 civil penalties account created under section 4, chapter 248,
21 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June
22 30, 2010.

23 (10) If the registered owner of the vehicle is a rental car
24 business, the department of transportation shall, before a toll bill
25 is issued, provide a written notice to the rental car business that a
26 toll bill may be issued to the rental car business if the rental car
27 business does not, within thirty days of the mailing of the written
28 notice, provide to the issuing agency by return mail:

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

32 (b) A statement under oath that the business is unable to
33 determine who was driving or renting the vehicle at the time the toll
34 was assessed because the vehicle was stolen at the time the toll was
35 assessed. A statement provided under this subsection must be
36 accompanied by a copy of a filed police report regarding the vehicle
37 theft; or

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

1 Timely mailing of this statement to the issuing agency relieves a
2 rental car business of any liability under this section for the
3 payment of the toll.

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

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

8 **Sec. 2.** RCW 47.46.100 and 2002 c 114 s 7 are each amended to
9 read as follows:

10 (1) The commission shall fix the rates of toll and other charges
11 for all toll bridges built under this chapter that are financed
12 primarily by bonds issued by the state. Subject to RCW 47.46.090, the
13 commission may impose and modify toll charges from time to time as
14 conditions warrant.

15 (2) In establishing toll charges, the commission shall give due
16 consideration to any required costs for operating and maintaining the
17 toll bridge or toll bridges, including the cost of insurance, and to
18 any amount required by law to meet the redemption of bonds and
19 interest payments on them.

20 (3) The toll charges must be imposed in amounts sufficient to:

21 (a) Provide annual revenue sufficient to provide for annual
22 operating and maintenance expenses, except as provided in RCW
23 47.56.245; and

24 (b) Make payments required under RCW 47.56.165 (~~and 47.46.140~~),
25 including insurance costs and the payment of principal and interest
26 on bonds issued for any particular toll bridge or toll bridges(~~and~~

27 ~~(c) Repay the motor vehicle fund under RCW 47.46.110, 47.56.165,~~
28 ~~and 47.46.140~~)).

29 (4) The bond principal and interest payments(~~(, including~~
30 ~~repayment of the motor vehicle fund for amounts transferred from that~~
31 ~~fund to provide for such principal and interest payments,~~))
32 constitute a first direct and exclusive charge and lien on all tolls
33 and other revenues from the toll bridge concerned, subject to
34 operating and maintenance expenses.

35 **Sec. 3.** RCW 47.46.110 and 2002 c 114 s 8 are each amended to
36 read as follows:

1 (1) The commission shall retain toll charges on any existing and
2 future facilities constructed under this chapter and financed
3 primarily by bonds issued by the state until((+

4 ~~(a) All costs of investigation, financing, acquisition of~~
5 ~~property, and construction advanced from the motor vehicle fund have~~
6 ~~been fully repaid, except as provided in subsection (2)(b) of this~~
7 ~~section;~~

8 ~~(b))~~ bond and deferred sales tax obligations incurred in
9 constructing that facility have been fully paid((+and

10 ~~(c) The motor vehicle fund is fully repaid under RCW 47.46.140)).~~

11 (2) This section does not:

12 (a) Prohibit the use of toll revenues to fund maintenance,
13 operations, or management of facilities constructed under this
14 chapter except as prohibited by RCW 47.56.245;

15 (b) Require repayment of funds specifically appropriated as a
16 nonreimbursable state financial contribution to a project.

17 (3) Notwithstanding the provisions of subsection (2)(a) of this
18 section, upon satisfaction of the conditions enumerated in subsection
19 (1) of this section:

20 (a) The facility must be operated as a toll-free facility; and

21 (b) The operation, maintenance, upkeep, and repair of the
22 facility must be paid from funds appropriated for the use of the
23 department for the construction and maintenance of the primary state
24 highways of the state of Washington.

25 **Sec. 4.** RCW 47.46.130 and 2002 c 114 s 10 are each amended to
26 read as follows:

27 Proceeds of the sale of bonds issued by the state for projects
28 constructed under this chapter must be deposited in the state
29 treasury to the credit of a special account designated for those
30 purposes. Those proceeds must be expended only for the purposes
31 enumerated in this chapter((τ)) and for payment of the expense
32 incurred in the issuance and sale of any such bonds((, and to repay
33 ~~the motor vehicle fund for any sums advanced to pay the cost of~~
34 ~~surveys, location, design, development, right-of-way, and other~~
35 ~~activities related to the financing and construction of the bridge~~
36 ~~and its approaches)).~~

37 **Sec. 5.** RCW 47.56.165 and 2009 c 567 s 1 are each amended to
38 read as follows:

1 A special account to be known as the Tacoma Narrows toll bridge
2 account is created in the motor vehicle fund in the state treasury.

3 (1) Deposits to the account must include:

4 (a) All proceeds of bonds issued for construction of the Tacoma
5 Narrows public-private initiative project, including any capitalized
6 interest;

7 (b) All of the toll charges and other revenues received from the
8 operation of the Tacoma Narrows bridge as a toll facility, to be
9 deposited at least monthly;

10 (c) Any interest that may be earned from the deposit or
11 investment of those revenues;

12 (d) Notwithstanding RCW 47.12.063, proceeds from the sale of any
13 surplus real property acquired for the purpose of building the second
14 Tacoma Narrows bridge; and

15 (e) All liquidated damages collected under any contract involving
16 the construction of the second Tacoma Narrows bridge.

17 (2) Proceeds of bonds shall be used consistent with RCW
18 47.46.130, including the reimbursement of expenses and fees incurred
19 under agreements entered into under RCW 47.46.040 as required by
20 those agreements.

21 (3) Toll charges, other revenues, and interest may only be used
22 to(~~(+~~

23 ~~(a+))~~ pay required costs that contribute directly to the
24 financing, operation, maintenance, management, and necessary repairs
25 of the tolled facility, as determined by rule by the transportation
26 commission(~~(+and~~

27 ~~(b) Repay amounts to the motor vehicle fund as required under RCW~~
28 ~~47.46.140)).~~

29 (4) Toll charges, other revenues, and interest may not be used to
30 pay for costs that do not contribute directly to the financing,
31 operation, maintenance, management, and necessary repairs of the
32 tolled facility, as determined by rule by the transportation
33 commission.

34 (5) The department shall make detailed quarterly expenditure
35 reports available to the transportation commission and to the public
36 on the department's web site using current department resources.

37 (6) (~~When repaying the motor vehicle fund under RCW 47.46.140,~~
38 ~~the state treasurer shall transfer funds from the Tacoma Narrows toll~~
39 ~~bridge account to the motor vehicle fund on or before each debt~~
40 ~~service date for bonds issued for the Tacoma Narrows public private~~

1 ~~initiative project in an amount sufficient to repay the motor vehicle~~
2 ~~fund for amounts transferred from that fund to the highway bond~~
3 ~~retirement fund to provide for any bond principal and interest due on~~
4 ~~that date.)~~) The state treasurer may establish subaccounts for the
5 purpose of segregating toll charges, bond sale proceeds, and other
6 revenues.

7 NEW SECTION. **Sec. 6.** RCW 47.46.140 (Repayment of motor vehicle
8 fund from toll charges) and 2002 c 114 s 12 are each repealed.

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