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**SUBSTITUTE SENATE BILL 5481**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Hill, Litzow, Mullet, Chase, Rivers, Becker, Bailey, Warnick, Rolfes, and Hasegawa)

READ FIRST TIME 02/27/15.

1 AN ACT Relating to omnibus tolling customer service reform; and  
2 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 2013 c 226 s 1 are each amended to  
5 read as follows:

6 (1) This section applies only to civil penalties for nonpayment  
7 of 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  
15 is eighty days from the date the vehicle uses the toll facility and  
16 incurs 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  
20 in this section when the vehicle incurs a toll charge and the toll is

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

3 (5)(a) The department shall develop rules to allow an individual  
4 who has been issued a notice of civil penalty to present evidence of  
5 mitigating circumstances as to why a toll bill was not timely paid.  
6 If an individual is able to present verifiable evidence to the  
7 department that a civil penalty was incurred due to hospitalization,  
8 military deployment, eviction, homelessness, death of the alleged  
9 violator or of an alleged violator's immediate family member, failure  
10 to receive the toll bill due to an incorrect address that has since  
11 been corrected, a prepaid electronic toll account error that has  
12 since been corrected, or other mitigating circumstances as determined  
13 by the department, the department may dismiss or reduce the civil  
14 penalty and associated fees.

15 (b)(i) Consistent with chapter 34.05 RCW, the department of  
16 transportation shall develop an administrative adjudication process  
17 to review appeals of civil penalties issued by the department of  
18 transportation for toll nonpayment detected through the use of a  
19 photo toll system under this section. The department of  
20 transportation shall submit to the transportation committees of the  
21 legislature an annual report on the number of times adjudicators  
22 reduce or dismiss the civil penalty as provided in (b)(ii) of this  
23 subsection and the total amount of the civil penalties dismissed. The  
24 report must be submitted by December 1st of each year.

25 ~~((b))~~ (ii) During the adjudication process, the alleged  
26 violator must have an opportunity to explain mitigating circumstances  
27 as to why the toll bill was not timely paid. Hospitalization, a  
28 divorce decree or legal separation agreement resulting in a transfer  
29 of the vehicle, an active duty member of the military or national  
30 guard covered by the federal service members civil relief act, 50  
31 U.S.C. Sec. 501 et seq., or state service members' civil relief act,  
32 chapter 38.42 RCW, eviction, homelessness, the death of the alleged  
33 violator or of an immediate family member, ~~((or))~~, being switched to  
34 a different method of toll payment, if the alleged violator did not  
35 receive a toll charge bill or notice of civil penalty, or other  
36 mitigating circumstances as determined by the adjudicator are deemed  
37 valid mitigating circumstances. All of ~~((these))~~ the reasons that  
38 constitute mitigating circumstances must ~~((occur))~~ have occurred  
39 within a reasonable time of the alleged toll violation. In response

1 to these circumstances, the adjudicator may reduce or dismiss the  
2 civil penalty and associated administrative fees.

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

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

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

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

22 (i) Send an electronic mail notice to the email address provided  
23 in the prepaid electronic toll account of unpaid pay-by-mail toll  
24 bills at least ten days prior to a notice of civil penalty being  
25 issued for the associated pay-by-mail toll. The notice must be  
26 separate from any regular notice sent by the department; and

27 (ii) Call the phone numbers provided in the account to provide  
28 notice of unpaid pay-by-mail toll bills at least ten days prior to a  
29 notice of civil penalty being issued for the associated pay-by-mail  
30 toll.

31 (d) Notwithstanding any other provision of law, all photographs,  
32 digital photographs, microphotographs, videotape, other recorded  
33 images, or other records identifying a specific instance of travel  
34 prepared under this section are for the exclusive use of the tolling  
35 agency for toll collection and enforcement purposes and are not open  
36 to the public and may not be used in a court in a pending action or  
37 proceeding unless the action or proceeding relates to a civil penalty  
38 under this section. No photograph, digital photograph,  
39 microphotograph, videotape, other recorded image, or other record  
40 identifying a specific instance of travel may be used for any purpose

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

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

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

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

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

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

31 (9) Except as provided otherwise in this subsection, all civil  
32 penalties, including the photo toll and associated fees, collected  
33 under this section must be deposited into the toll facility account  
34 of the facility on which the toll was assessed. However, through June  
35 30, 2013, civil penalties deposited into the Tacoma Narrows toll  
36 bridge account created under RCW 47.56.165 that are in excess of  
37 amounts necessary to support the toll adjudication process applicable  
38 to toll collection on the Tacoma Narrows bridge must first be  
39 allocated toward repayment of operating loans and reserve payments  
40 provided to the account from the motor vehicle account under section

1 1005(15), chapter 518, Laws of 2007. Additionally, all civil  
2 penalties, resulting from nonpayment of tolls on the state route  
3 number 520 corridor, shall be deposited into the state route number  
4 520 civil penalties account created under section 4, chapter 248,  
5 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June  
6 30, 2010.

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

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

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

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

24 Timely mailing of this statement to the issuing agency relieves a  
25 rental car business of any liability under this section for the  
26 payment of the toll.

27 (11) Within six months of the Interstate 405 high occupancy toll  
28 lanes being opened to the public, the department of transportation  
29 must administer a toll amnesty program. The toll amnesty program must  
30 allow a toll customer who, at the time the amnesty program is in  
31 effect, owes civil penalties, administrative fees, and tolls to pay  
32 the tolls owed and have the civil penalties and associated  
33 administrative fees waived. The department may only administer a toll  
34 amnesty program one time.

35 (12) By June 30, 2016, the department of transportation must make  
36 available to the public a toll customer account application for  
37 mobile technologies that allows toll customers to manage all of their  
38 tolling accounts, regardless of method of payment, from a mobile  
39 platform.

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

3       (a) Connect with the department of licensing's vehicle record  
4 system so that a prepaid electronic toll account is updated  
5 automatically when a toll customer's vehicle record is updated; and

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

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

13       ~~((12))~~ (15) For the purposes of this section((7)):

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

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

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