

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5481**

64th Legislature  
2015 Regular Session

Passed by the Senate April 16, 2015  
Yeas 47 Nays 1

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**President of the Senate**

Passed by the House April 14, 2015  
Yeas 97 Nays 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5481** as passed by Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5481**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

**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 and 47.56.795.

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, an error made by the department or an agent of  
13 the department, or other mitigating circumstances as determined by  
14 the department, the department may dismiss or reduce the civil  
15 penalty and associated fees.

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

26 ~~((b))~~ (ii) During the adjudication process, the alleged  
27 violator must have an opportunity to explain mitigating circumstances  
28 as to why the toll bill was not timely paid. Hospitalization, a  
29 divorce decree or legal separation agreement resulting in a transfer  
30 of the vehicle, an active duty member of the military or national  
31 guard covered by the federal service members civil relief act, 50  
32 U.S.C. Sec. 501 et seq., or state service members' civil relief act,  
33 chapter 38.42 RCW, eviction, homelessness, the death of the alleged  
34 violator or of an immediate family member, ~~((or))~~, being switched to  
35 a different method of toll payment, if the alleged violator did not  
36 receive a toll charge bill or notice of civil penalty, or other  
37 mitigating circumstances as determined by the adjudicator are deemed  
38 valid mitigating circumstances. All of ~~((these))~~ the reasons that  
39 constitute mitigating circumstances must ~~((occur))~~ have occurred  
40 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)(i) By June 30, 2016, prior to issuing a notice of civil  
20 penalty to a registered owner of a vehicle listed on an active  
21 prepaid electronic toll account, the department of transportation  
22 must:

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

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

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

35 (d) Notwithstanding any other provision of law, all photographs,  
36 digital photographs, microphotographs, videotape, other recorded  
37 images, or other records identifying a specific instance of travel  
38 prepared under this section are for the exclusive use of the tolling  
39 agency for toll collection and enforcement purposes and are not open  
40 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 this section. 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 this section. 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.

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

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

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

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

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

35 (9) Except as provided otherwise in this subsection, all civil  
36 penalties, including the photo toll and associated fees, collected  
37 under this section must be deposited into the toll facility account  
38 of the facility on which the toll was assessed. However, through June  
39 30, 2013, civil penalties deposited into the Tacoma Narrows toll  
40 bridge account created under RCW 47.56.165 that are in excess of

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

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

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

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

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

28 Timely mailing of this statement to the issuing agency relieves a  
29 rental car business of any liability under this section for the  
30 payment of the toll.

31 (11) It is the intent of the legislature that the department  
32 provide an educational opportunity when vehicle owners incur fees and  
33 penalties associated with late payment of tolls for the first time.  
34 As part of this educational opportunity, the department may waive  
35 penalties and fees if the issue that resulted in the toll not being  
36 timely paid has been resolved and the vehicle owner establishes an  
37 electronic toll account, if practicable. To aid in collecting tolls  
38 in a timely manner, the department may waive or reduce the  
39 outstanding amounts of fees and penalties assessed when tolls are not  
40 timely paid.

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

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

11 (ii) If the department determines that it would be cost-effective  
12 and in the best interests of the citizens of Washington, it may also  
13 develop an application for mobile technologies that allows toll  
14 customers to manage all of their tolling accounts from a mobile  
15 platform.

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

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

22 (b) Document when any toll is assessed for a vehicle listed in a  
23 prepaid electronic toll account in the monthly statement that is made  
24 available to the electronic toll account holder regardless of whether  
25 the method of payment for the toll is via pay-by-mail or prepaid  
26 electronic toll account.

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

29 ((+12+)) (15) For the purposes of this section((τ)):

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

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

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

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

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

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

8       (b) Notwithstanding any other provision of law, all photographs,  
9 digital photographs, microphotographs, videotape, other recorded  
10 images, or other records identifying a specific instance of travel  
11 prepared under this chapter are for the exclusive use of the tolling  
12 agency for toll collection and enforcement purposes and are not open  
13 to the public and may not be used in a court in a pending action or  
14 proceeding unless the action or proceeding relates to a civil penalty  
15 under RCW 46.63.160. No photograph, digital photograph,  
16 microphotograph, videotape, other recorded image, or other record  
17 identifying a specific instance of travel may be used for any purpose  
18 other than toll collection or enforcement of civil penalties under  
19 RCW 46.63.160. Records identifying a specific instance of travel by a  
20 specific person or vehicle must be retained only as required to  
21 ensure payment and enforcement of tolls and to comply with state  
22 records retention policies. Aggregate records that do not identify an  
23 individual, vehicle, or account may be maintained.

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

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

27       (a) A customer may pay an electronic toll through an electronic  
28 toll collection account;

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

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

33       (5) To the extent practicable, the department shall adopt  
34 electronic toll collection options, which allow for anonymous  
35 customer accounts and anonymous accounts that are not linked to a  
36 specific vehicle.

37       (6) The transportation commission shall adopt rules, in  
38 accordance with chapter 34.05 RCW, to assess administrative fees as  
39 appropriate for toll collection processes. Administrative fees must  
40 not exceed toll collection costs. All administrative fees collected



1 under this section must be deposited into the toll facility account  
2 of the facility on which the toll was assessed.

3 (7) Failure to pay a photo toll by the toll payment due date is a  
4 violation for which a notice of civil penalty may be issued under RCW  
5 46.63.160.

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

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