
HOUSE BILL 1585

State of Washington

65th Legislature

2017 Regular Session

By Representatives Young and Muri

Read first time 01/24/17. 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 2015 c 292 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) The department shall develop rules to allow an individual
6 who has been issued a notice of civil penalty to present evidence of
7 mitigating circumstances as to why a toll bill was not timely paid.
8 If an individual is able to present verifiable evidence to the
9 department that a civil penalty was incurred due to hospitalization,
10 military deployment, eviction, homelessness, death of the alleged
11 violator or of an alleged violator's immediate family member, failure
12 to receive the toll bill due to an incorrect address that has since
13 been corrected, a prepaid electronic toll account error that has
14 since been corrected, an error made by the department or an agent of
15 the department, or other mitigating circumstances as determined by
16 the department, the department may dismiss or reduce the civil
17 penalty and associated fees.

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

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

1 circumstances must have occurred within a reasonable time of the
2 alleged toll violation. In response to these circumstances, the
3 adjudicator may reduce or dismiss the civil penalty and associated
4 administrative fees.

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

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

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

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

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

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

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

37 (d) Notwithstanding any other provision of law, all photographs,
38 digital photographs, microphotographs, videotape, other recorded
39 images, or other records identifying a specific instance of travel
40 prepared under this section are for the exclusive use of the tolling

1 agency for toll collection and enforcement purposes and are not open
2 to the public and may not be used in a court in a pending action or
3 proceeding unless the action or proceeding relates to a civil penalty
4 under this section. No photograph, digital photograph,
5 microphotograph, videotape, other recorded image, or other record
6 identifying a specific instance of travel may be used for any purpose
7 other than toll collection or enforcement of civil penalties under
8 this section. Records identifying a specific instance of travel by a
9 specific person or vehicle must be retained only as required to
10 ensure payment and enforcement of tolls and to comply with state
11 records retention policies.

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

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

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

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

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

37 (9) Except as provided otherwise in this subsection, all civil
38 penalties, including the photo toll and associated fees, collected
39 under this section must be deposited into the toll facility account
40 of the facility on which the toll was assessed. (~~However, through~~

1 ~~June 30, 2013,~~) Civil penalties deposited into the Tacoma Narrows
2 toll bridge account created under RCW 47.56.165 that are in excess of
3 amounts necessary to support the toll adjudication process applicable
4 to toll collection on the Tacoma Narrows bridge must first be
5 allocated toward (~~repayment of operating loans and reserve payments~~
6 ~~provided to the account from the motor vehicle account under section~~
7 ~~1005(15), chapter 518, Laws of 2007)~~ paying bond obligations
8 incurred in constructing the bridge. Additionally, all civil
9 penalties, resulting from nonpayment of tolls on the state route
10 number 520 corridor, shall be deposited into the state route number
11 520 civil penalties account created under section 4, chapter 248,
12 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June
13 30, 2010.

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

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

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

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

31 Timely mailing of this statement to the issuing agency relieves a
32 rental car business of any liability under this section for the
33 payment of the toll.

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

1 in a timely manner, the department may waive or reduce the
2 outstanding amounts of fees and penalties assessed when tolls are not
3 timely paid.

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

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

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

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

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

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

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

32 (15) For the purposes of this section:

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

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

38 (16) If a customer's toll charge or civil penalty is waived
39 pursuant to this section due to an error made by the department, or
40 an agent of the department, in reading the customer's license plate,

1 the secretary of transportation must send a letter to the customer
2 apologizing for the error.

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

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

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

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

16 (a) Provide annual revenue sufficient to provide for annual
17 operating and maintenance expenses, except as provided in RCW
18 47.56.245; and

19 (b) Make payments required under RCW 47.56.165 (~~(and 47.46.140)~~),
20 including insurance costs and the payment of principal and interest
21 on bonds issued for any particular toll bridge or toll bridges(~~(; and~~
22 ~~(c) Repay the motor vehicle fund under RCW 47.46.110, 47.56.165,~~
23 ~~and 47.46.140)~~).

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

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

32 (1) The commission shall retain toll charges on any existing and
33 future facilities constructed under this chapter and financed
34 primarily by bonds issued by the state until(~~(;~~

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

1 ~~(b))~~ bond and deferred sales tax obligations incurred in
2 constructing that facility have been fully paid(~~(; and~~
3 ~~(c) The motor vehicle fund is fully repaid under RCW 47.46.140~~)).

4 (2) This section does not:

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

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

10 (3) Notwithstanding the provisions of subsection (2)(a) of this
11 section, upon satisfaction of the conditions enumerated in subsection
12 (1) of this section:

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

14 (b) The operation, maintenance, upkeep, and repair of the
15 facility must be paid from funds appropriated for the use of the
16 department for the construction and maintenance of the primary state
17 highways of the state of Washington.

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

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

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

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

34 (1) Deposits to the account must include:

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

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

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

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

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

11 (2) Proceeds of bonds shall be used consistent with RCW
12 47.46.130, including the reimbursement of expenses and fees incurred
13 under agreements entered into under RCW 47.46.040 as required by
14 those agreements.

15 (3) Toll charges, other revenues, and interest may only be used
16 to((÷

17 ~~(a))~~ pay required costs that contribute directly to the
18 financing, operation, maintenance, management, and necessary repairs
19 of the tolled facility, as determined by rule by the transportation
20 commission((÷and

21 ~~(b) Repay amounts to the motor vehicle fund as required under RCW~~
22 ~~47.46.140)).~~

23 (4) Toll charges, other revenues, and interest may not be used to
24 pay for costs that do not contribute directly to the financing,
25 operation, maintenance, management, and necessary repairs of the
26 tolled facility, as determined by rule by the transportation
27 commission.

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

31 ~~((When repaying the motor vehicle fund under RCW 47.46.140,~~
32 ~~the state treasurer shall transfer funds from the Tacoma Narrows toll~~
33 ~~bridge account to the motor vehicle fund on or before each debt~~
34 ~~service date for bonds issued for the Tacoma Narrows public private~~
35 ~~initiative project in an amount sufficient to repay the motor vehicle~~
36 ~~fund for amounts transferred from that fund to the highway bond~~
37 ~~retirement fund to provide for any bond principal and interest due on~~
38 ~~that date.))~~ The state treasurer may establish subaccounts for the
39 purpose of segregating toll charges, bond sale proceeds, and other
40 revenues.

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

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