

HOUSE BILL REPORT

HB 1229

As Reported by House Committee On: Public Safety

Title: An act relating to photographs, microphotographs, and electronic images from traffic safety cameras and toll systems.

Brief Description: Concerning photographs, microphotographs, and electronic images from traffic safety cameras and toll systems.

Sponsors: Representatives Caldier, Kilduff, Klippert, Pettigrew, Appleton and Santos.

Brief History:

Committee Activity:

Public Safety: 1/21/19, 1/31/19 [DPS].

Brief Summary of Substitute Bill

- Allows a photograph, electronic image, or other specified record collected with an automated traffic safety camera or photo toll system to be used for a criminal investigation and prosecution pursuant to a lawfully issued search warrant.

HOUSE COMMITTEE ON PUBLIC SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Goodman, Chair; Davis, Vice Chair; Klippert, Ranking Minority Member; Sutherland, Assistant Ranking Minority Member; Appleton, Graham, Griffey, Lovick, Orwall, Pellicciotti and Pettigrew.

Staff: Kelly Leonard (786-7147).

Background:

Automated Traffic Safety Cameras. State law provides restrictions on the use of automated traffic safety cameras by local governments. Generally, automated traffic safety cameras may only be used for the purpose of detecting stoplight, railroad crossing, or school speed

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zone violations. Certain cities participating in state-authorized pilot projects may also use traffic safety cameras to detect speed violations.

Before installing and using automatic traffic safety cameras, a local government must adopt an ordinance meeting certain requirements. A location with an automated traffic safety camera must be clearly marked, indicating to a driver that he or she is entering a zone where traffic laws are enforced with a camera. Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate while an infraction is occurring, and may not reveal the face of the driver or passengers.

Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record. Infractions must be mailed to the registered owner of the vehicle within 14 days, processed like parking infractions, and any fines issued for infractions may not exceed the amount of fines issued for other local parking infractions.

Photo Toll Systems. Photo toll systems use digital photography and video technology to record the license plates of vehicles using toll lanes in order to collect applicable tolls. The Department of Transportation has the authority to issue a civil penalty to the registered owner of the vehicle when a toll is assessed through the use of a photo toll system and the toll is not paid by the toll payment due date.

Similar to traffic safety cameras, photo toll systems may only take pictures of the vehicle and license plate, and locations where a photo toll system is used must be clearly marked.

Images and Records Collected with Automatic Traffic Safety Cameras and Photo Toll Systems. Images, photographs, and other specified records obtained with an automated traffic safety camera or photo toll system may be used only for the applicable traffic infractions or toll collection and enforcement. The records are not open to the public and may not be used in court in a pending action or proceeding, unless the action or proceeding relates to the traffic violation or toll collection penalties in question.

Summary of Substitute Bill:

A photograph, electronic image, or other specified record collected with an automated traffic safety camera or photo toll system may be used for a criminal investigation and prosecution pursuant to a lawfully issued search warrant. Specified records may be maintained pursuant to a court order.

Substitute Bill Compared to Original Bill:

The provisions in the chapter of the code governing tolling on state bridges, tunnels, and ferries are amended to include the policy changes provided in the underlying bill.

Amendatory changes are reorganized to clarify that the records are not open to the public and may be used only for specified purposes. Current laws governing retention of records are

restored, while adding language specifying that records can be kept longer if directed by a court order.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Automated traffic safety cameras and photo toll systems contain valuable information for active criminal investigations, but those records may not be accessed or used under current law. Law enforcement agencies have served search warrants onto the Department of Transportation (DOT), and the DOT has refused to turn over the records.

These devices record vehicle information only. No personal information is collected. However, the vehicle information can be very valuable for investigating kidnapping and missing persons cases, drive-by shootings, robberies, and even murder cases. There are actual active cases where these records would be useful. Knowing if a particular vehicle has crossed the Tacoma Narrows Bridge or another location can help narrow down investigatory leads.

Current requirements for obtaining a warrant provide the safeguards necessary to prevent abuses of these records. Warrants must: be based on reliable information showing probable cause that a crime has occurred; be issued by neutral magistrates; and describe exactly what is being searched for and what records can be accessed.

Law enforcement can access phone records with a warrant, which contain much more data and potentially personal information. These records should not be treated differently.

This bill was introduced in 2013, and it passed the House of Representatives.

(Opposed) Secondary uses of information collected by automated traffic safety cameras and photo toll systems should be strictly prohibited. The information should be used only for the intended purpose. When these systems were established, the Legislature wisely chose to prohibit secondary uses and to put in place privacy protections. Nothing has changed since these systems were created. The reasons for these restrictions have not changed. The Legislature should be very sensitive to this. This bill would encourage law enforcement to install more automated traffic safety cameras in more places.

Persons Testifying: (In support) Representative Caldier, prime sponsor; Kelly Busey, Gig Harbor Police Department; Michael Perrow, City of Gig Harbor; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

(Opposed) Eric Gonzalez Alfaro, American Civil Liberties Union of Washington.

Persons Signed In To Testify But Not Testifying: None.