

HOUSE BILL REPORT

ESHB 1793

As Amended by the Senate

Title: An act relating to establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety.

Brief Description: Establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Fitzgibbon, Pettigrew, Macri, Valdez, Fey, Cody, Senn, Springer, Pollet and Tarleton).

Brief History:

Committee Activity:

Transportation: 2/18/19, 2/27/19 [DPS].

Floor Activity:

Passed House: 4/15/19, 57-41.

Floor Activity:

Passed House: 1/30/20, 56-40.

Brief Summary of Engrossed Substitute Bill

- Establishes a pilot program through the end of 2021 for the use of automated traffic safety cameras on certain state and local roadways in or near downtown areas of cities with populations greater than 500,000 that enact an ordinance authorizing their use for the following violations: Stopping When Traffic Obstructed; stopping at intersection or crosswalk; public transportation only lane; stopping or traveling in a restricted lane; and stopping or parking at locations restricted for emergency response vehicle entry or exit or the boarding or disembarking of public transportation vehicles, including public ferries.
- Mandates that a notice of warning without a penalty be issued under the pilot program until January 1, 2020, and requires that, for first time violations under the pilot program after that time, a warning of infraction without a fine, rather than a notice of infraction with a fine, be mailed to the registered owner of a vehicle.
- Requires that one-half of the non-interest money received by a city under the pilot program in excess of the cost to install, operate, and maintain the

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

automated traffic safety cameras be remitted to the State Treasurer and deposited in the Highway Safety Fund.

- Mandates that cities who participate in the pilot program submit a report to the Transportation Committees of the Legislature by June 30, 2021 that includes certain specified infraction issuance information, impacts on safety and on-time performance, and recommendations.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Chapman, Doglio, Entenman, Gregerson, Kloba, Lovick, Mead, Ortiz-Self, Paul, Pellicciotti, Ramos, Riccelli and Shewmake.

Minority Report: Do not pass. Signed by 14 members: Representatives Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke, Chambers, Dent, Dufault, Eslick, Goehner, Irwin, McCaslin, Orcutt, Shea and Van Werven.

Staff: Jennifer Harris (786-7143).

Background:

Authorized Uses and Requirements for Automated Traffic Safety Cameras.

The use of automated traffic safety cameras is permitted at red light intersections that meet minimum yellow change interval requirements, at railroad crossings, and in school speed zones, if the following criteria are met:

1. The local legislative authority with jurisdiction where the cameras are to be located prepares an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located before enacting an ordinance authorizing their use and before adding additional cameras or relocating any existing camera.
2. An ordinance is enacted in cities and counties with automated traffic safety cameras installed on or after July 24, 2005, that includes the restrictions required by state law and provisions for public notice and signage.
3. The location where the camera has been installed is clearly marked at least 30 days prior to activation of the camera through the placement of signs at that location that follow federal guidelines as adopted by the Washington State Department of Transportation.
4. Cities and counties using traffic safety cameras post an annual report on their websites that includes the number of traffic collisions that occurred at each location with a camera, the number of notices of traffic infractions issued for each camera, and any other relevant information.

The use of automated traffic safety cameras to detect speed violations is highly restricted (with the exception of cameras in school speed zones), and must meet the following criteria:

1. be located in a city west of the Cascade mountains with a population greater than 195,000, within a county with a population of fewer than 1.5 million;
2. be the only such camera located in a city that meets the above criteria; and
3. have been authorized by the Legislature as a pilot project for at least one full year.

Currently, only one such camera has met these requirements, and it is located in the City of Tacoma.

With the exception of the camera located in the City of Tacoma, automated traffic safety cameras may only be located:

- at intersections of two arterials with traffic control signals that meet state yellow change interval duration requirements;
- at railroad crossings; and
- in school speed zones.

Restrictions on the Use of Automated Traffic Safety Cameras.

Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate while an infraction is occurring, and the pictures taken must not reveal the face of the driver or passengers in the vehicle. Photos and electronic images captured by a camera may only be used for the enforcement of traffic infractions for which their use has been authorized, and may not be retained longer than would be necessary for these enforcement purposes. Photos and electronic images are not available to the public and may not be used in a court in a pending action or proceeding unless that action or proceeding relates to a traffic infraction for which their use has been authorized.

Automated Traffic Safety Camera-Captured Infractions.

A notice of traffic infraction must be mailed to the registered owner of the vehicle within 14 days of the violation (or to its renter within 14 days of his or her name and address being established). The law enforcement officer issuing the notice must include a certificate or copy of a certificate stating the facts supporting the notice, which serves as prima facie evidence of the facts contained in it. The photographs or electronic images that serve as evidence of the violation must be available for inspection and admission into evidence in a proceeding on the infraction.

The infraction is not part of the registered owner's driving record and must be processed in the same manner as parking infractions. The infraction may not exceed the fine amount for other parking infractions in a jurisdiction in which it has occurred, and also may not exceed the monetary penalty for failure to obey a traffic control device (currently \$136), as set by rule by the Washington State Supreme Court.

The registered owner of a vehicle is held responsible for the infraction unless he or she states under oath in a written statement to the court or in testimony before the court that the vehicle was stolen or in the care, custody, or control of some other person at the time of the infraction.

Summary of Engrossed Substitute Bill:

A pilot program is established through the end of 2021 authorizing cities with populations greater than 500,000 people to adopt an ordinance authorizing the use of automated traffic safety cameras to detect the following violations:

- Stopping When Traffic Obstructed;
- stopping at intersection or crosswalk;
- public transportation only lane;
- stopping or traveling in a restricted lane; and
- stopping or parking at locations restricted for emergency response vehicle entry or exit or the boarding or disembarking of public transportation vehicles, including public ferries.

"Public transportation vehicle" is defined as any motor vehicle, streetcar, train, trolley vehicle, ferry boat, or any other device, vessel, or vehicle that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers and that operates on established routes.

The use of automated traffic safety cameras for the pilot program is limited to the following locations:

1. The portion of state and local roadways in downtown areas used for office, commercial, retail shopping, support services, and mixed residential uses.
2. The portion of state and local roadways in areas within one-half mile surrounding the boundaries of the downtown areas specified in (1) above.
3. The portion of non-interstate freeways that travel into and out of the surrounding areas identified in (2) above for up to three miles.
4. The portion of roadway systems connected to these non-interstate freeway segments that are arterial roadways for up to one mile from their intersection with the non-interstate freeways specified above.

The same rules and restrictions applicable to the use of automated traffic safety cameras apply to the use of automated traffic safety cameras for the violations specified above during the pilot program, except that an analysis of the locations where these cameras are proposed to be located is not required prior to the enactment of an ordinance allowing their use.

For the purposes of the pilot program, location types where automated traffic safety cameras are permitted are expanded to include midblock on arterial highways. ("Arterial highway" means every public highway, or portion of a highway, designated as an arterial highway. Roadway classifications other than arterial highways include major collectors, minor collectors, and local roadways.)

Under the pilot program, until January 1, 2020, a warning notice with no penalty must be issued to the registered owner of the vehicle for a violation generated through the use of an automated traffic safety camera. Beginning January 1, 2020, a warning notice with no penalty must be issued to the registered owner of the vehicle for a first violation generated (as of January 1, 2020) through the use of an automated traffic safety camera. A notice of infraction may be issued for subsequent violations, except for trucks that park in lanes restricted for public transportation or high-occupancy vehicle use for the purpose of making deliveries between 12:00 a.m. and 5:00 a.m. These vehicles may only receive a warning notice with no penalty.

For violations issued under the pilot program, 50 percent of the non-interest money received by a city in excess of the cost to install, operate, and maintain the automated traffic safety cameras must be remitted to the state treasurer and must be deposited in the Highway Safety Fund.

A report must be provided to the Transportation Committees of the Legislature by June 30, 2021, by any city that implements this pilot program. The report must include the following:

- locations chosen for the automated traffic safety cameras;
- total number of traffic infractions issued;
- number of traffic infractions issued to individuals whose vehicle is registered outside of the county in which the city is located;
- safety and on-time performance statistics related to the impact on driver behavior; and
- any recommendations on the use of automated traffic safety cameras to enforce the violations they were authorized to detect in the pilot program.

For the purposes of the pilot program, the definition of "automated traffic safety camera" is expanded to include devices used to detect the additional violations for which their use is authorized.

The types of locations where automated traffic safety cameras are permitted is expanded from intersections of two arterials with traffic control signals with specified yellow change intervals to intersections of two or more arterials with traffic control signals with specified yellow change intervals.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment makes the following changes to the automated traffic safety camera pilot program, making the bill identical to the effect of Substitute Senate Bill 5789 as it passed out of the House Transportation Committee:

1. limits the number of intersections where automated traffic safety cameras may be used to enforce stopping at intersection or crosswalk violations to the 20 intersections where a participating city would most like to address safety concerns related to this violation;
2. eliminates the authorization to use automated traffic safety cameras to enforce stopping or parking violations at locations restricted for emergency response vehicle entry or exit or the boarding or disembarking of public transportation vehicles, including public ferries;
3. modifies the locations where automated traffic safety cameras may be used by limiting the areas included that surround the zoned areas specified for inclusion from all areas within one-half mile of the zoned areas to areas within one-half mile to the north of the zoned areas, and by expanding the portion of non-interstate freeways included in the pilot from up to three miles from areas previously included that surround the specified zoned areas to up to four miles from areas now included to the north of the specified zoned areas;
4. prohibits the use of automated traffic safety cameras on on-ramps to interstates;
5. eliminate the exemption for trucks parked for commercial product delivery between 12:00 a.m. and 5:00 a.m. from enforcement under the pilot program of violations

- related to the use of public transportation-only lanes or lanes otherwise restricted to high-occupancy vehicles;
6. prohibits the capture of the face of drivers or passengers in vehicles by automated traffic safety cameras and the use of facial recognition technology on the images captured;
 7. restricts the use and disclosure of the face of an individual in a crosswalk or otherwise incidentally captured;
 8. restricts the use and disclosure of personally identifying data to the same extent restrictions are in place for photographs, micrographs, and electronic images obtained by an automated traffic safety camera;
 9. replaces the requirement that a warning notice with no penalty be issued for first-time violations with a requirement that a notice of infraction be issued for all violations beginning January 1, 2021;
 10. limits the penalty amount for any infractions issued to no more than \$75;
 11. restricts the use of revenue from penalties by requiring that 50 percent in excess of costs be remitted to the state and deposited in the Cooper Jones Active Transportation Safety Account, and that the remaining 50 percent in excess of costs be retained by the city and used for improvements to transportation that support equitable access and mobility for persons with disabilities;
 12. prohibits a transit authority from taking disciplinary action against an employee who is operating a public transportation vehicle when a warning or infraction is issued against the vehicle;
 13. moves the deadline for a final report to the Transportation Committees of the Legislature on the pilot program from June 30, 2021 to January 1, 2023, requires a preliminary report due by June 30, 2022, and requires that the final report include infrastructure improvements made using revenues from penalties issued and an equity analysis;
 14. establishes the Cooper Jones Active Transportation Safety Account as an appropriated account, with expenditures restricted to the funding of grant projects or programs for bicycle, pedestrian, and non-motorist safety improvements to be administered by the Washington Traffic Safety Commission; and
 15. moves the expiration date for pilot program authorization from January 1, 2022 to June 30, 2023.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Seattle is reaching a period of maximum constraint for traffic due to project construction in the city. Transit lanes need to be available for use by transit vehicles. It is not always feasible for law enforcement officers to block traffic to issue traffic tickets for improper transit lane use because it would slow down traffic more. Vehicles blocking

crosswalks impact pedestrians and members of the disability community. Vehicles also impede the movement of traffic in and out of Harborview Medical Center.

Without the use of cameras, some basic traffic safety laws cannot be enforced. Cameras play a critical role to enable law enforcement to safely and efficiently meet its obligations. Right now these violations can only be enforced by law enforcement officers. This is resource intensive, and reduces the availability of officers to respond to emergent issues. Officers must take up a lane of travel, disrupting traffic, and potentially resulting in unsafe driving behavior. Officers are seriously injured or killed when hit issuing tickets.

When vehicles "block the box" at intersections, which is very common, this prevents wheelchair users from being able to finish crossing the street because the sidewalk ramp is blocked. They are forced to move into traffic, which results in wheelchair users being struck by vehicles. Pedestrians have to decide whether to weave in front of or behind cars, not knowing when the cars will start to move. This is especially problematic for individuals who are visually impaired and who are trying to access transit.

This bill will help manage busy, congested streets. Clear intersections allow all modes to continue moving and prevent delays for transit vehicles. Transit carries 50 percent of all downtown Seattle commuters and needs to be a reliable option for people. Buses can be held up from 10 to 30 minutes due to transit lanes being blocked. Cars move in and out of transit lanes, and there is a lack of enforcement of transit lane restrictions right now. It is the most highly congested areas where drivers are most tempted to use transit lanes. Traffic cameras have proven to be very effective tools in New York City and San Francisco.

(Opposed) Traffic safety and congestion issues need to be addressed. But another bill is moving through the Legislature right now that would remove agreements made related to how the information captured by these cameras can be used. That bill would allow cameras to be used for general law enforcement purposes. The Legislature is also considering adopting a statute on facial recognition that passed unanimously out of the Public Safety Committee.

Persons Testifying: (In support) Representative Fitzgibbon, prime sponsor; Mark Bandy, City of Seattle; Sean O'Donnell, Seattle Police Department; Anna Zivarts, Rooted in Rights; Julia Reitan, Feet First; Jim MacIntosh, Transit Riders Union of Seattle; Kelsey Mesher, Transportation Choices Coalition; Kristina Sawycycki; Bill Bryant, King County Metro; and Logan Bahr, Association of Washington Cities.

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

Persons Signed In To Testify But Not Testifying: None.