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**SUBSTITUTE SENATE BILL 5869**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senate Law & Justice (originally sponsored by Senators Lovick, Dhingra, Keiser, King, Kuderer, Wellman, and C. Wilson)

READ FIRST TIME 01/28/22.

1       AN    ACT    Relating   to    photographs,    digital    photographs,  
2   microphotographs, videotapes, other recorded images, or other records  
3   identifying a specific instance of travel from toll systems and  
4   traffic safety cameras; amending RCW 46.63.160, 46.63.170, and  
5   46.63.170; creating a new section; providing an effective date; and  
6   providing an expiration date.

7   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8       **Sec. 1.**    RCW 46.63.160 and 2015 c 292 s 1 are each amended to  
9   read as follows:

10       (1) This section applies only to civil penalties for nonpayment  
11   of tolls detected through use of photo toll systems.

12       (2) Nothing in this section prohibits a law enforcement officer  
13   from issuing a notice of traffic infraction to a person in control of  
14   a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
15   (b), or (c).

16       (3) A notice of civil penalty may be issued by the department of  
17   transportation when a toll is assessed through use of a photo toll  
18   system and the toll is not paid by the toll payment due date, which  
19   is ((~~eighty~~)) 80 days from the date the vehicle uses the toll  
20   facility and incurs the toll charge.

1 (4) Any registered owner or renter of a vehicle traveling upon a  
2 toll facility operated under chapter 47.56 or 47.46 RCW is subject to  
3 a civil penalty governed by the administrative procedures set forth  
4 in this section when the vehicle incurs a toll charge and the toll is  
5 not paid by the toll payment due date, which is (~~eighty~~) 80 days  
6 from the date the vehicle uses the toll facility and incurs the toll  
7 charge.

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

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

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

1 or notice of civil penalty, or other mitigating circumstances as  
2 determined by the adjudicator are deemed valid mitigating  
3 circumstances. All of the reasons that constitute mitigating  
4 circumstances must have occurred within a reasonable time of the  
5 alleged toll violation. In response to these circumstances, the  
6 adjudicator may reduce or dismiss the civil penalty and associated  
7 administrative fees.

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

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

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

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

28 (A) Send an ((~~electronic mail~~)) email notice to the email address  
29 provided in the prepaid electronic toll account of unpaid pay-by-mail  
30 toll bills at least ((~~ten~~)) 10 days prior to a notice of civil  
31 penalty being issued for the associated pay-by-mail toll. The notice  
32 must be separate from any regular notice sent by the department; and

33 (B) Call the phone numbers provided in the account to provide  
34 notice of unpaid pay-by-mail toll bills at least ((~~ten~~)) 10 days  
35 prior to a notice of civil penalty being issued for the associated  
36 pay-by-mail toll.

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

1           (d) (~~Notwithstanding any other provision of law~~) Except as  
2 provided in (e) through (g) of this subsection, all photographs,  
3 digital photographs, microphotographs, videotape, other recorded  
4 images, or other records identifying a specific instance of travel  
5 prepared under this section are for the exclusive use of the tolling  
6 agency for toll collection and enforcement purposes and are not open  
7 to the public and may not be used in a court in a pending action or  
8 proceeding unless the action or proceeding relates to a civil penalty  
9 under this section. No photograph, digital photograph,  
10 microphotograph, videotape, other recorded image, or other record  
11 identifying a specific instance of travel may be used for any purpose  
12 other than toll collection or enforcement of civil penalties under  
13 this section. Records identifying a specific instance of travel by a  
14 specific person or vehicle must be retained only as required to  
15 ensure payment and enforcement of tolls and to comply with state  
16 records retention policies.

17           (e) Pursuant to a lawfully issued search warrant, any photograph,  
18 digital photograph, microphotograph, videotape, other recorded image,  
19 or other record identifying a specific instance of travel prepared  
20 under this section shall be made available to law enforcement and all  
21 restrictions on their use, as set forth in (d) of this subsection,  
22 shall not apply.

23           (f) In the event of a missing and/or endangered person emergency  
24 which triggers a statewide Amber Alert or Silver Alert, any  
25 photograph, digital photograph, microphotograph, videotape, other  
26 recorded image, or other record identifying a specific instance of  
27 travel prepared under this section shall immediately be made  
28 available to law enforcement provided the request from a law  
29 enforcement agency includes supervisory approval from within the law  
30 enforcement agency submitting the request and an associated law  
31 enforcement agency case number is included in the request. All  
32 restrictions on their use, as set forth in (d) of this subsection,  
33 shall not apply.

34           (g) Pursuant to a subpoena for producing evidence or permitting  
35 inspection in a criminal case in which the court has made a finding  
36 of materiality, any photograph, digital photograph, microphotograph,  
37 videotape, other recorded image, or other record identifying a  
38 specific instance of travel prepared under this section shall be made  
39 available to prosecuting attorneys and defense lawyers and all

1 restrictions on their use, as set forth in (d) of this subsection,  
2 shall not apply.

3 (h) All locations where a photo toll system is used must be  
4 clearly marked by placing signs in locations that clearly indicate to  
5 a driver that he or she is entering a zone where tolls are assessed  
6 and enforced by a photo toll system.

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

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

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

25 (8) The civil penalty for toll nonpayment detected through the  
26 use of a photo toll system is ~~((forty dollars))~~ \$40 plus the photo  
27 toll and associated fees.

28 (9) Except as provided otherwise in this subsection, all civil  
29 penalties, including the photo toll and associated fees, collected  
30 under this section must be deposited into the toll facility account  
31 of the facility on which the toll was assessed. However, through June  
32 30, 2013, civil penalties deposited into the Tacoma Narrows toll  
33 bridge account created under RCW 47.56.165 that are in excess of  
34 amounts necessary to support the toll adjudication process applicable  
35 to toll collection on the Tacoma Narrows bridge must first be  
36 allocated toward repayment of operating loans and reserve payments  
37 provided to the account from the motor vehicle account under section  
38 1005(15), chapter 518, Laws of 2007. Additionally, all civil  
39 penalties, resulting from nonpayment of tolls on the state route  
40 number 520 corridor, shall be deposited into the state route number

1 520 civil penalties account created under section 4, chapter 248,  
2 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June  
3 30, 2010.

4 (10) If the registered owner of the vehicle is a rental car  
5 business, the department of transportation shall, before a toll bill  
6 is issued, provide a written notice to the rental car business that a  
7 toll bill may be issued to the rental car business if the rental car  
8 business does not, within (~~thirty~~) 30 days of the mailing of the  
9 written notice, provide to the issuing agency by return mail:

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

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

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

21 Timely mailing of this statement to the issuing agency relieves a  
22 rental car business of any liability under this section for the  
23 payment of the toll.

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

34 (12)(a) By June 30, 2016, the department of transportation must  
35 update its website, and accommodate access to the website from mobile  
36 platforms, to allow toll customers to efficiently manage all their  
37 tolling accounts, regardless of method of payment.

38 (b)(i) By June 30, 2016, the department of transportation must  
39 make available to the public a point of access that allows a third  
40 party to develop an application for mobile technologies that (A)

1 securely accesses a user's toll account information and (B) allows  
2 the user to manage his or her toll account to the same extent  
3 possible through the department's website.

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

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

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

15 (b) Document when any toll is assessed for a vehicle listed in a  
16 prepaid electronic toll account in the monthly statement that is made  
17 available to the electronic toll account holder regardless of whether  
18 the method of payment for the toll is via pay-by-mail or prepaid  
19 electronic toll account.

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

22 (15) For the purposes of this section:

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

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

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

33 **Sec. 2.** RCW 46.63.170 and 2020 c 224 s 1 are each amended to  
34 read as follows:

35 (1) The use of automated traffic safety cameras for issuance of  
36 notices of infraction is subject to the following requirements:

37 (a) Except for proposed locations used solely for the pilot  
38 program purposes permitted under subsection (6) of this section, the  
39 appropriate local legislative authority must prepare an analysis of

1 the locations within the jurisdiction where automated traffic safety  
2 cameras are proposed to be located: (i) Before enacting an ordinance  
3 allowing for the initial use of automated traffic safety cameras; and  
4 (ii) before adding additional cameras or relocating any existing  
5 camera to a new location within the jurisdiction. Automated traffic  
6 safety cameras may be used to detect one or more of the following:  
7 Stoplight, railroad crossing, or school speed zone violations; speed  
8 violations subject to (c) of this subsection; or violations included  
9 in subsection (6) of this section for the duration of the pilot  
10 program authorized under subsection (6) of this section. At a  
11 minimum, the local ordinance must contain the restrictions described  
12 in this section and provisions for public notice and signage. Cities  
13 and counties using automated traffic safety cameras before July 24,  
14 2005, are subject to the restrictions described in this section, but  
15 are not required to enact an authorizing ordinance. Beginning one  
16 year after June 7, 2012, cities and counties using automated traffic  
17 safety cameras must post an annual report of the number of traffic  
18 accidents that occurred at each location where an automated traffic  
19 safety camera is located as well as the number of notices of  
20 infraction issued for each camera and any other relevant information  
21 about the automated traffic safety cameras that the city or county  
22 deems appropriate on the city's or county's website.

23 (b) Except as provided in (c) of this subsection and subsection  
24 (6) of this section, use of automated traffic safety cameras is  
25 restricted to the following locations only: (i) Intersections of two  
26 or more arterials with traffic control signals that have yellow  
27 change interval durations in accordance with RCW 47.36.022, which  
28 interval durations may not be reduced after placement of the camera;  
29 (ii) railroad crossings; and (iii) school speed zones.

30 (c) Any city west of the Cascade mountains with a population of  
31 more than (~~one hundred ninety-five thousand~~) 195,000 located in a  
32 county with a population of fewer than (~~one million five hundred~~  
33 ~~thousand~~) 1,500,000 may operate an automated traffic safety camera  
34 to detect speed violations subject to the following limitations:

35 (i) A city may only operate one such automated traffic safety  
36 camera within its respective jurisdiction; and

37 (ii) The use and location of the automated traffic safety camera  
38 must have first been authorized by the Washington state legislature  
39 as a pilot project for at least one full year.



1 (d) Automated traffic safety cameras may only take pictures of  
2 the vehicle and vehicle license plate and only while an infraction is  
3 occurring. The picture must not reveal the face of the driver or of  
4 passengers in the vehicle. The primary purpose of camera placement is  
5 to take pictures of the vehicle and vehicle license plate when an  
6 infraction is occurring. Cities and counties shall consider  
7 installing cameras in a manner that minimizes the impact of camera  
8 flash on drivers.

9 (e) A notice of infraction must be mailed to the registered owner  
10 of the vehicle within (~~fourteen~~) 14 days of the violation, or to  
11 the renter of a vehicle within (~~fourteen~~) 14 days of establishing  
12 the renter's name and address under subsection (3)(a) of this  
13 section. The law enforcement officer issuing the notice of infraction  
14 shall include with it a certificate or facsimile thereof, based upon  
15 inspection of photographs, microphotographs, or electronic images  
16 produced by an automated traffic safety camera, stating the facts  
17 supporting the notice of infraction. This certificate or facsimile is  
18 prima facie evidence of the facts contained in it and is admissible  
19 in a proceeding charging a violation under this chapter. The  
20 photographs, microphotographs, or electronic images evidencing the  
21 violation must be available for inspection and admission into  
22 evidence in a proceeding to adjudicate the liability for the  
23 infraction. A person receiving a notice of infraction based on  
24 evidence detected by an automated traffic safety camera may respond  
25 to the notice by mail.

26 (f) The registered owner of a vehicle is responsible for an  
27 infraction under RCW 46.63.030(1)(d) unless the registered owner  
28 overcomes the presumption in RCW 46.63.075, or, in the case of a  
29 rental car business, satisfies the conditions under subsection (3) of  
30 this section. If appropriate under the circumstances, a renter  
31 identified under subsection (3)(a) of this section is responsible for  
32 an infraction.

33 (g) (~~Notwithstanding any other provision of law~~) Except as  
34 provided in (h) through (j) of this subsection, all photographs,  
35 microphotographs, or electronic images, or any other personally  
36 identifying data prepared under this section are for the exclusive  
37 use of law enforcement in the discharge of duties under this section  
38 and are not open to the public and may not be used in a court in a  
39 pending action or proceeding unless the action or proceeding relates  
40 to a violation under this section. No photograph, microphotograph, or

1 electronic image, or any other personally identifying data may be  
2 used for any purpose other than enforcement of violations under this  
3 section nor retained longer than necessary to enforce this section.

4 (h) Pursuant to a lawfully issued search warrant, any photograph,  
5 digital photograph, microphotograph, videotape, other recorded image,  
6 or other record identifying a specific instance of travel prepared  
7 under this section shall be made available to law enforcement and all  
8 restrictions on their use, as set forth in (g) of this subsection,  
9 shall not apply.

10 (i) In the event of a missing and/or endangered person emergency  
11 which triggers a statewide Amber Alert or Silver Alert, any  
12 photograph, digital photograph, microphotograph, videotape, other  
13 recorded image, or other record identifying a specific instance of  
14 travel prepared under this section shall immediately be made  
15 available to law enforcement provided the request from a law  
16 enforcement agency includes supervisory approval from within the law  
17 enforcement agency submitting the request and an associated law  
18 enforcement agency case number is included in the request. All  
19 restrictions on their use, as set forth in (g) of this subsection,  
20 shall not apply.

21 (j) Pursuant to a subpoena for producing evidence or permitting  
22 inspection in a criminal case in which the court has made a finding  
23 of materiality, any photograph, digital photograph, microphotograph,  
24 videotape, other recorded image, or other record identifying a  
25 specific instance of travel prepared under this section shall be made  
26 available to prosecuting attorneys and defense lawyers and all  
27 restrictions on their use, as set forth in (g) of this subsection,  
28 shall not apply.

29 (k) All locations where an automated traffic safety camera is  
30 used must be clearly marked at least (~~(thirty)~~) 30 days prior to  
31 activation of the camera by placing signs in locations that clearly  
32 indicate to a driver that he or she is entering a zone where traffic  
33 laws are enforced by an automated traffic safety camera. Signs placed  
34 in automated traffic safety camera locations after June 7, 2012, must  
35 follow the specifications and guidelines under the manual of uniform  
36 traffic control devices for streets and highways as adopted by the  
37 department of transportation under chapter 47.36 RCW.

38 (~~(i)~~) (l) If a county or city has established an authorized  
39 automated traffic safety camera program under this section, the  
40 compensation paid to the manufacturer or vendor of the equipment used

1 must be based only upon the value of the equipment and services  
2 provided or rendered in support of the system, and may not be based  
3 upon a portion of the fine or civil penalty imposed or the revenue  
4 generated by the equipment.

5 (2) Infractions detected through the use of automated traffic  
6 safety cameras are not part of the registered owner's driving record  
7 under RCW 46.52.101 and 46.52.120. Additionally, infractions  
8 generated by the use of automated traffic safety cameras under this  
9 section shall be processed in the same manner as parking infractions,  
10 including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120,  
11 and 46.20.270(2). Except as provided otherwise in subsection (6) of  
12 this section, the amount of the fine issued for an infraction  
13 generated through the use of an automated traffic safety camera shall  
14 not exceed the amount of a fine issued for other parking infractions  
15 within the jurisdiction. However, the amount of the fine issued for a  
16 traffic control signal violation detected through the use of an  
17 automated traffic safety camera shall not exceed the monetary penalty  
18 for a violation of RCW 46.61.050 as provided under RCW 46.63.110,  
19 including all applicable statutory assessments.

20 (3) If the registered owner of the vehicle is a rental car  
21 business, the law enforcement agency shall, before a notice of  
22 infraction being issued under this section, provide a written notice  
23 to the rental car business that a notice of infraction may be issued  
24 to the rental car business if the rental car business does not,  
25 within (~~eighteen~~) 18 days of receiving the written notice, provide  
26 to the issuing agency by return mail:

27 (a) A statement under oath stating the name and known mailing  
28 address of the individual driving or renting the vehicle when the  
29 infraction occurred; or

30 (b) A statement under oath that the business is unable to  
31 determine who was driving or renting the vehicle at the time the  
32 infraction occurred because the vehicle was stolen at the time of the  
33 infraction. A statement provided under this subsection must be  
34 accompanied by a copy of a filed police report regarding the vehicle  
35 theft; or

36 (c) In lieu of identifying the vehicle operator, the rental car  
37 business may pay the applicable penalty.

38 Timely mailing of this statement to the issuing law enforcement  
39 agency relieves a rental car business of any liability under this  
40 chapter for the notice of infraction.

1 (4) Nothing in this section prohibits a law enforcement officer  
2 from issuing a notice of traffic infraction to a person in control of  
3 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
4 (b), or (c).

5 (5)(a) For the purposes of this section, "automated traffic  
6 safety camera" means a device that uses a vehicle sensor installed to  
7 work in conjunction with an intersection traffic control system, a  
8 railroad grade crossing control system, or a speed measuring device,  
9 and a camera synchronized to automatically record one or more  
10 sequenced photographs, microphotographs, or electronic images of the  
11 rear of a motor vehicle at the time the vehicle fails to stop when  
12 facing a steady red traffic control signal or an activated railroad  
13 grade crossing control signal, or exceeds a speed limit as detected  
14 by a speed measuring device.

15 (b) For the purposes of the pilot program authorized under  
16 subsection (6) of this section, "automated traffic safety camera"  
17 also includes a device used to detect stopping at intersection or  
18 crosswalk violations; stopping when traffic obstructed violations;  
19 public transportation only lane violations; and stopping or traveling  
20 in restricted lane violations. The device, including all technology  
21 defined under "automated traffic safety camera," must not reveal the  
22 face of the driver or the passengers in vehicles, and must not use  
23 any facial recognition technology in real time or after capturing any  
24 information. If the face of any individual in a crosswalk or  
25 otherwise within the frame is incidentally captured, it may not be  
26 made available to the public nor used for any purpose including, but  
27 not limited to, any law enforcement action, except in a pending  
28 action or proceeding related to a violation under this section.

29 (6)(a)(i) A city with a population greater than (~~five hundred~~  
30 ~~thousand~~) 500,000 may adopt an ordinance creating a pilot program  
31 authorizing automated traffic safety cameras to be used to detect one  
32 or more of the following violations: Stopping when traffic obstructed  
33 violations; stopping at intersection or crosswalk violations; public  
34 transportation only lane violations; and stopping or traveling in  
35 restricted lane violations. Under the pilot program, stopping at  
36 intersection or crosswalk violations may only be enforced at the  
37 twenty intersections where the city would most like to address safety  
38 concerns related to stopping at intersection or crosswalk violations.  
39 At a minimum, the local ordinance must contain the restrictions

1 described in this section and provisions for public notice and  
2 signage.

3 (ii) Except where specifically exempted, all of the rules and  
4 restrictions applicable to the use of automated traffic safety  
5 cameras in this section apply to the use of automated traffic safety  
6 cameras in the pilot program established in this subsection (6).

7 (iii) As used in this subsection (6), "public transportation  
8 vehicle" means any motor vehicle, streetcar, train, trolley vehicle,  
9 ferry boat, or any other device, vessel, or vehicle that is owned or  
10 operated by a transit authority or an entity providing service on  
11 behalf of a transit authority that is used for the purpose of  
12 carrying passengers and that operates on established routes. "Transit  
13 authority" has the meaning provided in RCW 9.91.025.

14 (b) Use of automated traffic safety cameras as authorized in this  
15 subsection (6) is restricted to the following locations only:  
16 Locations authorized in subsection (1)(b) of this section; and  
17 midblock on arterials. Additionally, the use of automated traffic  
18 safety cameras as authorized in this subsection (6) is further  
19 limited to the following:

20 (i) The portion of state and local roadways in downtown areas of  
21 the city used for office and commercial activities, as well as retail  
22 shopping and support services, and that may include mixed residential  
23 uses;

24 (ii) The portion of state and local roadways in areas in the city  
25 within one-half mile north of the boundary of the area described in  
26 (b)(i) of this subsection;

27 (iii) Portions of roadway systems in the city that travel into  
28 and out of (b)(ii) of this subsection that are designated by the  
29 Washington state department of transportation as noninterstate  
30 freeways for up to four miles; and

31 (iv) Portions of roadway systems in the city connected to the  
32 portions of the noninterstate freeways identified in (b)(iii) of this  
33 subsection that are designated by the Washington state department of  
34 transportation as arterial roadways for up to one mile from the  
35 intersection of the arterial roadway and the noninterstate freeway.

36 (c) However, automated traffic safety cameras may not be used on  
37 an on-ramp to an interstate.

38 (d) From June 11, 2020, through December 31, 2020, a warning  
39 notice with no penalty must be issued to the registered owner of the  
40 vehicle for a violation generated through the use of an automated

1 traffic safety camera authorized in this subsection (6). Beginning  
2 January 1, 2021, a notice of infraction must be issued, in a manner  
3 consistent with subsections (1)(e) and (3) of this section, for a  
4 violation generated through the use of an automated traffic safety  
5 camera authorized in this subsection (6). However, the penalty for  
6 the violation may not exceed (~~(seventy-five dollars)~~) \$75.

7 (e) For infractions issued as authorized in this subsection (6),  
8 a city with a pilot program shall remit monthly to the state  
9 (~~(fifty)~~) 50 percent of the noninterest money received under this  
10 subsection (6) in excess of the cost to install, operate, and  
11 maintain the automated traffic safety cameras for use in the pilot  
12 program. Money remitted under this subsection to the state treasurer  
13 shall be deposited in the Cooper Jones active transportation safety  
14 account created in RCW 46.68.480. The remaining (~~(fifty)~~) 50 percent  
15 retained by the city must be used only for improvements to  
16 transportation that support equitable access and mobility for persons  
17 with disabilities.

18 (f) A transit authority may not take disciplinary action,  
19 regarding a warning or infraction issued pursuant to this subsection  
20 (6), against an employee who was operating a public transportation  
21 vehicle at the time the violation that was the basis of the warning  
22 or infraction was detected.

23 (g) A city that implements a pilot program under this subsection  
24 (6) must provide a preliminary report to the transportation  
25 committees of the legislature by June 30, 2022, and a final report by  
26 January 1, 2023, on the pilot program that includes the locations  
27 chosen for the automated traffic safety cameras used in the pilot  
28 program, the number of warnings and traffic infractions issued under  
29 the pilot program, the number of traffic infractions issued with  
30 respect to vehicles registered outside of the county in which the  
31 city is located, the infrastructure improvements made using the  
32 penalty moneys as required under (e) of this subsection, an equity  
33 analysis that includes any disproportionate impacts, safety, and on-  
34 time performance statistics related to the impact on driver behavior  
35 of the use of automated traffic safety cameras in the pilot program,  
36 and any recommendations on the use of automated traffic safety  
37 cameras to enforce the violations that these cameras were authorized  
38 to detect under the pilot program.

1       **Sec. 3.** RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each  
2 amended to read as follows:

3       (1) The use of automated traffic safety cameras for issuance of  
4 notices of infraction is subject to the following requirements:

5       (a) The appropriate local legislative authority must prepare an  
6 analysis of the locations within the jurisdiction where automated  
7 traffic safety cameras are proposed to be located: (i) Before  
8 enacting an ordinance allowing for the initial use of automated  
9 traffic safety cameras; and (ii) before adding additional cameras or  
10 relocating any existing camera to a new location within the  
11 jurisdiction. Automated traffic safety cameras may be used to detect  
12 one or more of the following: Stoplight, railroad crossing, or school  
13 speed zone violations; or speed violations subject to (c) of this  
14 subsection. At a minimum, the local ordinance must contain the  
15 restrictions described in this section and provisions for public  
16 notice and signage. Cities and counties using automated traffic  
17 safety cameras before July 24, 2005, are subject to the restrictions  
18 described in this section, but are not required to enact an  
19 authorizing ordinance. Beginning one year after June 7, 2012, cities  
20 and counties using automated traffic safety cameras must post an  
21 annual report of the number of traffic accidents that occurred at  
22 each location where an automated traffic safety camera is located as  
23 well as the number of notices of infraction issued for each camera  
24 and any other relevant information about the automated traffic safety  
25 cameras that the city or county deems appropriate on the city's or  
26 county's website.

27       (b) Except as provided in (c) of this subsection, use of  
28 automated traffic safety cameras is restricted to the following  
29 locations only: (i) Intersections of two arterials with traffic  
30 control signals that have yellow change interval durations in  
31 accordance with RCW 47.36.022, which interval durations may not be  
32 reduced after placement of the camera; (ii) railroad crossings; and  
33 (iii) school speed zones.

34       (c) Any city west of the Cascade mountains with a population of  
35 more than (~~one hundred ninety-five thousand~~) 195,000 located in a  
36 county with a population of fewer than (~~one million five hundred~~  
37 ~~thousand~~) 1,500,000 may operate an automated traffic safety camera  
38 to detect speed violations subject to the following limitations:

39       (i) A city may only operate one such automated traffic safety  
40 camera within its respective jurisdiction; and

1 (ii) The use and location of the automated traffic safety camera  
2 must have first been authorized by the Washington state legislature  
3 as a pilot project for at least one full year.

4 (d) Automated traffic safety cameras may only take pictures of  
5 the vehicle and vehicle license plate and only while an infraction is  
6 occurring. The picture must not reveal the face of the driver or of  
7 passengers in the vehicle. The primary purpose of camera placement is  
8 to take pictures of the vehicle and vehicle license plate when an  
9 infraction is occurring. Cities and counties shall consider  
10 installing cameras in a manner that minimizes the impact of camera  
11 flash on drivers.

12 (e) A notice of infraction must be mailed to the registered owner  
13 of the vehicle within (~~fourteen~~) 14 days of the violation, or to  
14 the renter of a vehicle within (~~fourteen~~) 14 days of establishing  
15 the renter's name and address under subsection (3)(a) of this  
16 section. The law enforcement officer issuing the notice of infraction  
17 shall include with it a certificate or facsimile thereof, based upon  
18 inspection of photographs, microphotographs, or electronic images  
19 produced by an automated traffic safety camera, stating the facts  
20 supporting the notice of infraction. This certificate or facsimile is  
21 prima facie evidence of the facts contained in it and is admissible  
22 in a proceeding charging a violation under this chapter. The  
23 photographs, microphotographs, or electronic images evidencing the  
24 violation must be available for inspection and admission into  
25 evidence in a proceeding to adjudicate the liability for the  
26 infraction. A person receiving a notice of infraction based on  
27 evidence detected by an automated traffic safety camera may respond  
28 to the notice by mail.

29 (f) The registered owner of a vehicle is responsible for an  
30 infraction under RCW 46.63.030(1)(d) unless the registered owner  
31 overcomes the presumption in RCW 46.63.075, or, in the case of a  
32 rental car business, satisfies the conditions under subsection (3) of  
33 this section. If appropriate under the circumstances, a renter  
34 identified under subsection (3)(a) of this section is responsible for  
35 an infraction.

36 (~~Notwithstanding any other provision of law~~) Except as  
37 provided in (h) through (j) of this subsection, all photographs,  
38 microphotographs, or electronic images prepared under this section  
39 are for the exclusive use of law enforcement in the discharge of  
40 duties under this section and are not open to the public and may not



1 be used in a court in a pending action or proceeding unless the  
2 action or proceeding relates to a violation under this section. No  
3 photograph, microphotograph, or electronic image may be used for any  
4 purpose other than enforcement of violations under this section nor  
5 retained longer than necessary to enforce this section.

6 (h) Pursuant to a lawfully issued search warrant, any photograph,  
7 digital photograph, microphotograph, videotape, other recorded image,  
8 or other record identifying a specific instance of travel prepared  
9 under this section shall be made available to law enforcement and all  
10 restrictions on their use, as set forth in (g) of this subsection,  
11 shall not apply.

12 (i) In the event of a missing and/or endangered person emergency  
13 which triggers a statewide Amber Alert or Silver Alert, any  
14 photograph, digital photograph, microphotograph, videotape, other  
15 recorded image, or other record identifying a specific instance of  
16 travel prepared under this section shall immediately be made  
17 available to law enforcement provided the request from a law  
18 enforcement agency includes supervisory approval from within the law  
19 enforcement agency submitting the request and an associated law  
20 enforcement agency case number is included in the request. All  
21 restrictions on their use, as set forth in (g) of this subsection,  
22 shall not apply.

23 (j) Pursuant to a subpoena for producing evidence or permitting  
24 inspection in a criminal case in which the court has made a finding  
25 of materiality, any photograph, digital photograph, microphotograph,  
26 videotape, other recorded image, or other record identifying a  
27 specific instance of travel prepared under this section shall be made  
28 available to prosecuting attorneys and defense lawyers and all  
29 restrictions on their use, as set forth in (g) of this subsection,  
30 shall not apply.

31 (k) All locations where an automated traffic safety camera is  
32 used must be clearly marked at least (~~thirty~~) 30 days prior to  
33 activation of the camera by placing signs in locations that clearly  
34 indicate to a driver that he or she is entering a zone where traffic  
35 laws are enforced by an automated traffic safety camera. Signs placed  
36 in automated traffic safety camera locations after June 7, 2012, must  
37 follow the specifications and guidelines under the manual of uniform  
38 traffic control devices for streets and highways as adopted by the  
39 department of transportation under chapter 47.36 RCW.

1       (~~(i)~~) (1) If a county or city has established an authorized  
2 automated traffic safety camera program under this section, the  
3 compensation paid to the manufacturer or vendor of the equipment used  
4 must be based only upon the value of the equipment and services  
5 provided or rendered in support of the system, and may not be based  
6 upon a portion of the fine or civil penalty imposed or the revenue  
7 generated by the equipment.

8       (2) Infractions detected through the use of automated traffic  
9 safety cameras are not part of the registered owner's driving record  
10 under RCW 46.52.101 and 46.52.120. Additionally, infractions  
11 generated by the use of automated traffic safety cameras under this  
12 section shall be processed in the same manner as parking infractions,  
13 including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120,  
14 and 46.20.270(2). The amount of the fine issued for an infraction  
15 generated through the use of an automated traffic safety camera shall  
16 not exceed the amount of a fine issued for other parking infractions  
17 within the jurisdiction. However, the amount of the fine issued for a  
18 traffic control signal violation detected through the use of an  
19 automated traffic safety camera shall not exceed the monetary penalty  
20 for a violation of RCW 46.61.050 as provided under RCW 46.63.110,  
21 including all applicable statutory assessments.

22       (3) If the registered owner of the vehicle is a rental car  
23 business, the law enforcement agency shall, before a notice of  
24 infraction being issued under this section, provide a written notice  
25 to the rental car business that a notice of infraction may be issued  
26 to the rental car business if the rental car business does not,  
27 within (~~(eighteen)~~) 18 days of receiving the written notice, provide  
28 to the issuing agency by return mail:

29       (a) A statement under oath stating the name and known mailing  
30 address of the individual driving or renting the vehicle when the  
31 infraction occurred; or

32       (b) A statement under oath that the business is unable to  
33 determine who was driving or renting the vehicle at the time the  
34 infraction occurred because the vehicle was stolen at the time of the  
35 infraction. A statement provided under this subsection must be  
36 accompanied by a copy of a filed police report regarding the vehicle  
37 theft; or

38       (c) In lieu of identifying the vehicle operator, the rental car  
39 business may pay the applicable penalty.

1 Timely mailing of this statement to the issuing law enforcement  
2 agency relieves a rental car business of any liability under this  
3 chapter for the notice of infraction.

4 (4) Nothing in this section prohibits a law enforcement officer  
5 from issuing a notice of traffic infraction to a person in control of  
6 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
7 (b), or (c).

8 (5) For the purposes of this section, "automated traffic safety  
9 camera" means a device that uses a vehicle sensor installed to work  
10 in conjunction with an intersection traffic control system, a  
11 railroad grade crossing control system, or a speed measuring device,  
12 and a camera synchronized to automatically record one or more  
13 sequenced photographs, microphotographs, or electronic images of the  
14 rear of a motor vehicle at the time the vehicle fails to stop when  
15 facing a steady red traffic control signal or an activated railroad  
16 grade crossing control signal, or exceeds a speed limit as detected  
17 by a speed measuring device.

18 (6) During the 2011-2013 and 2013-2015 fiscal biennia, this  
19 section does not apply to automated traffic safety cameras for the  
20 purposes of section 216(5), chapter 367, Laws of 2011 and section  
21 216(6), chapter 306, Laws of 2013.

22 NEW SECTION. **Sec. 4.** Section 2 of this act expires June 30,  
23 2023.

24 NEW SECTION. **Sec. 5.** Section 3 of this act takes effect June  
25 30, 2023.

26 NEW SECTION. **Sec. 6.** If specific funding for the purposes of  
27 this act, referencing this act by bill or chapter number, is not  
28 provided by June 30, 2022, in the omnibus appropriations act, this  
29 act is null and void.

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