

RCW 46.63.160 Photo toll systems—Civil penalties for nonpayment of tolls, mitigating circumstances—System requirements—Rules—

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

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

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

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

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

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

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

alleged toll violation. In response to these circumstances, the adjudicator may reduce or dismiss the civil penalty and associated administrative fees.

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

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

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

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

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

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

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

(d) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this section are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under this section. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

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

(f) Within existing resources, the department of transportation shall conduct education and outreach efforts at least six months prior to activating an all-electronic photo toll system. Methods of outreach shall include a department presence at community meetings in the

vicinity of a toll facility, signage, and information published in local media. Information provided shall include notice of when all electronic photo tolling shall begin and methods of payment. Additionally, the department shall provide quarterly reporting on education and outreach efforts and other data related to the issuance of civil penalties.

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

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

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

(9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, through June 30, 2013, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 that are in excess of amounts necessary to support the toll adjudication process applicable to toll collection on the Tacoma Narrows bridge must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account [fund] under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4, chapter 248, Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

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

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

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

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

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

(11) It is the intent of the legislature that the department provide an educational opportunity when vehicle owners incur fees and penalties associated with late payment of tolls for the first time. As part of this educational opportunity, the department may waive penalties and fees if the issue that resulted in the toll not being

timely paid has been resolved and the vehicle owner establishes an electronic toll account, if practicable. To aid in collecting tolls in a timely manner, the department may waive or reduce the outstanding amounts of fees and penalties assessed when tolls are not timely paid.

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

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

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

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

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

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

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

(15) For the purposes of this section:

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

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

(16) If a customer's toll charge or civil penalty is waived pursuant to this section due to an error made by the department, or an agent of the department, in reading the customer's license plate, the secretary of transportation must send a letter to the customer apologizing for the error. [2015 c 292 s 1; 2013 c 226 s 1; 2011 c 367 s 705; 2010 c 249 s 6; (2010 c 161 s 1126 repealed by 2012 c 83 s 8); 2009 c 272 s 1. Prior: 2007 c 372 s 2; 2007 c 101 s 2; 2004 c 231 s 6.]

Contingent effective date—2011 c 367 ss 705 and 722: "Sections 705 and 722 of this act take effect upon certification by the secretary of transportation that the new statewide tolling operations center and photo toll system are fully operational. A notice of certification must be filed with the code reviser for publication in the state register. If a certificate is not issued by the secretary of transportation by December 1, 2012, sections 705 and 722 of this act are null and void." [2011 c 367 s 1104.] A notice of certification

was filed with the code reviser on December 2, 2011, becoming effective December 3, 2011 (see WSR 11-24-042).

Contingent effective date—2010 c 249: See note following RCW 47.56.795.

Effective date—Intent—Legislation to reconcile chapter 161, Laws of 2010 and other amendments made during the 2010 legislative session—2010 c 161: See notes following RCW 46.04.013.

Report to legislature—2009 c 272: "The department shall report to the transportation committees of the legislature by December 1, 2009, with recommendations regarding implementing a time period for the payment of tolls after crossing the Tacoma Narrows bridge in which individuals without a transponder could pay the toll due prior to the issuance of an infraction." [2009 c 272 s 2.]