
SUBSTITUTE SENATE BILL 5338

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Transportation (originally sponsored by
Senators Kilmer and McCaslin)

READ FIRST TIME 02/22/07.

1 AN ACT Relating to traffic infractions involving rental vehicles;
2 and amending RCW 46.63.073, 46.63.160, and 46.63.170.

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

4 **Sec. 1.** RCW 46.63.073 and 2005 c 331 s 2 are each amended to read
5 as follows:

6 (1) In the event a traffic infraction is based on a vehicle's
7 identification, and the registered owner of the vehicle is a rental car
8 business, the law enforcement agency shall, before a notice of
9 infraction may be issued, provide a written notice to the rental car
10 business that a notice of infraction may be issued to the rental car
11 business if the rental car business does not, within thirty days of
12 receiving the written notice, provide to the issuing agency by return
13 mail:

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

17 (b) A statement under oath that the business is unable to determine
18 who was driving or renting the vehicle at the time the infraction

1 occurred because the vehicle was stolen at the time of the infraction.
2 A statement provided under this subsection must be accompanied by a
3 copy of a filed police report regarding the vehicle theft.

4 Timely mailing of this statement to the issuing law enforcement
5 agency relieves a rental car business of any liability under this
6 chapter for the notice of infraction. In lieu of identifying the
7 vehicle operator, the rental car business may pay the applicable
8 penalty. ~~((+2))~~ For the purpose of this ~~((section))~~ subsection, a
9 "traffic infraction based on a vehicle's identification" includes, but
10 is not limited to, parking infractions, high-occupancy toll lane
11 violations, and violations recorded by automated traffic safety
12 cameras.

13 (2) In the event a parking infraction is issued by a private
14 parking facility and is based on a vehicle's identification, and the
15 registered owner of the vehicle is a rental car business, the parking
16 facility shall, before a notice of infraction may be issued, provide a
17 written notice to the rental car business that a notice of infraction
18 may be issued to the rental car business if the rental car business
19 does not, within thirty days of receiving the written notice, provide
20 to the parking facility by return mail:

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

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

29 Timely mailing of this statement to the parking facility relieves
30 a rental car business of any liability under this chapter for the
31 notice of infraction. In lieu of identifying the vehicle operator, the
32 rental car business may pay the applicable penalty. For the purpose of
33 this subsection, a "parking infraction based on a vehicle's
34 identification" is limited to parking infractions occurring on a
35 private parking facility's premises.

36 **Sec. 2.** RCW 46.63.160 and 2004 c 231 s 6 are each amended to read
37 as follows:

1 (1) This section applies only to traffic infractions issued under
2 RCW 46.61.690 for toll collection evasion.

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

7 (3) Toll collection systems include manual cash collection,
8 electronic toll collection, and photo enforcement systems.

9 (4) "Electronic toll collection system" means a system of
10 collecting tolls or charges that is capable of charging the account of
11 the toll patron the appropriate toll or charge by electronic
12 transmission from the motor vehicle to the toll collection system,
13 which information is used to charge the appropriate toll or charge to
14 the patron's account.

15 (5) "Photo enforcement system" means a vehicle sensor installed to
16 work in conjunction with an electronic toll collection system that
17 automatically produces one or more photographs, one or more
18 microphotographs, a videotape, or other recorded images of a vehicle
19 operated in violation of an infraction under this chapter.

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

22 (a) The department of transportation shall adopt rules that allow
23 an open standard for automatic vehicle identification transponders used
24 for electronic toll collection to be compatible with other electronic
25 payment devices or transponders from the Washington state ferry system,
26 other public transportation systems, or other toll collection systems
27 to the extent that technology permits. The rules must also allow for
28 multiple vendors providing electronic payment devices or transponders
29 as technology permits.

30 (b) The department of transportation may not sell, distribute, or
31 make available in any way, the names and addresses of electronic toll
32 collection system account holders.

33 (7) The use of a photo enforcement system for issuance of notices
34 of infraction is subject to the following requirements:

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

1 (b) A notice of infraction must be mailed to the registered owner
2 of the vehicle or to the renter of a vehicle within sixty days of the
3 violation. The law enforcement officer issuing the notice of
4 infraction shall include with it a certificate or facsimile thereof,
5 based upon inspection of photographs, microphotographs, videotape, or
6 other recorded images produced by a photo enforcement system, stating
7 the facts supporting the notice of infraction. This certificate or
8 facsimile is prima facie evidence of the facts contained in it and is
9 admissible in a proceeding charging a violation under this chapter.
10 The photographs, digital photographs, microphotographs, videotape, or
11 other recorded images evidencing the violation must be available for
12 inspection and admission into evidence in a proceeding to adjudicate
13 the liability for the infraction.

14 (c) Notwithstanding any other provision of law, all photographs,
15 digital photographs, microphotographs, videotape, or other recorded
16 images prepared under this chapter are for the exclusive use of the
17 tolling agency and law enforcement in the discharge of duties under
18 this section and are not open to the public and may not be used in a
19 court in a pending action or proceeding unless the action or proceeding
20 relates to a violation under this chapter. No photograph, digital
21 photograph, microphotograph, videotape, or other recorded image may be
22 used for any purpose other than enforcement of violations under this
23 chapter nor retained longer than necessary to enforce this chapter or
24 verify that tolls are paid.

25 (d) All locations where a photo enforcement system is used must be
26 clearly marked by placing signs in locations that clearly indicate to
27 a driver that he or she is entering a zone where traffic laws are
28 enforced by a photo enforcement system.

29 (8) Infractions detected through the use of photo enforcement
30 systems are not part of the registered owner's driving record under RCW
31 46.52.101 and 46.52.120.

32 (9) If the registered owner of the vehicle is a rental car business
33 the department of transportation or a law enforcement agency shall,
34 before a notice of infraction being issued under this section, provide
35 a written notice to the rental car business that a notice of infraction
36 may be issued to the rental car business if the rental car business
37 does not, within eighteen days of the mailing of the written notice,
38 provide to the issuing agency by return mail:

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

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

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

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

14 **Sec. 3.** RCW 46.63.170 and 2005 c 167 s 1 are each amended to read
15 as follows:

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

18 (a) The appropriate local legislative authority must first enact an
19 ordinance allowing for their use to detect one or more of the
20 following: Stoplight, railroad crossing, or school speed zone
21 violations. At a minimum, the local ordinance must contain the
22 restrictions described in this section and provisions for public notice
23 and signage. Cities and counties using automated traffic safety
24 cameras before July 24, 2005, are subject to the restrictions described
25 in this section, but are not required to enact an authorizing
26 ordinance.

27 (b) Use of automated traffic safety cameras is restricted to two-
28 arterial intersections, railroad crossings, and school speed zones
29 only.

30 (c) Automated traffic safety cameras may only take pictures of the
31 vehicle and vehicle license plate and only while an infraction is
32 occurring. The picture must not reveal the face of the driver or of
33 passengers in the vehicle.

34 (d) A notice of infraction must be mailed to the registered owner
35 of the vehicle within fourteen days of the violation, or to the renter
36 of a vehicle within fourteen days of establishing the renter's name and
37 address under subsection (3)(a) of this section. The law enforcement

1 officer issuing the notice of infraction shall include with it a
2 certificate or facsimile thereof, based upon inspection of photographs,
3 microphotographs, or electronic images produced by an automated traffic
4 safety camera, stating the facts supporting the notice of infraction.
5 This certificate or facsimile is prima facie evidence of the facts
6 contained in it and is admissible in a proceeding charging a violation
7 under this chapter. The photographs, microphotographs, or electronic
8 images evidencing the violation must be available for inspection and
9 admission into evidence in a proceeding to adjudicate the liability for
10 the infraction. A person receiving a notice of infraction based on
11 evidence detected by an automated traffic safety camera may respond to
12 the notice by mail.

13 (e) The registered owner of a vehicle is responsible for an
14 infraction under RCW 46.63.030(1)(e) unless the registered owner
15 overcomes the presumption in RCW 46.63.075, or, in the case of a rental
16 car business, satisfies the conditions under subsection (3) of this
17 section. If appropriate under the circumstances, a renter identified
18 under subsection (3)(a) of this section is responsible for an
19 infraction.

20 (f) Notwithstanding any other provision of law, all photographs,
21 microphotographs, or electronic images prepared under this section are
22 for the exclusive use of law enforcement in the discharge of duties
23 under this section and are not open to the public and may not be used
24 in a court in a pending action or proceeding unless the action or
25 proceeding relates to a violation under this section. No photograph,
26 microphotograph, or electronic image may be used for any purpose other
27 than enforcement of violations under this section nor retained longer
28 than necessary to enforce this section.

29 (g) All locations where an automated traffic safety camera is used
30 must be clearly marked by placing signs in locations that clearly
31 indicate to a driver that he or she is entering a zone where traffic
32 laws are enforced by an automated traffic safety camera.

33 (h) If a county or city has established an authorized automated
34 traffic safety camera program under this section, the compensation paid
35 to the manufacturer or vendor of the equipment used must be based only
36 upon the value of the equipment and services provided or rendered in
37 support of the system, and may not be based upon a portion of the fine
38 or civil penalty imposed or the revenue generated by the equipment.

1 (2) Infractions detected through the use of automated traffic
2 safety cameras are not part of the registered owner's driving record
3 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated
4 by the use of automated traffic safety cameras under this section shall
5 be processed in the same manner as parking infractions, including for
6 the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and
7 46.20.270(3). However, the amount of the fine issued for an infraction
8 generated through the use of an automated traffic safety camera shall
9 not exceed the amount of a fine issued for other parking infractions
10 within the jurisdiction.

11 (3) If the registered owner of the vehicle is a rental car
12 business, the law enforcement agency shall, before a notice of
13 infraction being issued under this section, provide a written notice to
14 the rental car business that a notice of infraction may be issued to
15 the rental car business if the rental car business does not, within
16 eighteen days of receiving the written notice, provide to the issuing
17 agency by return mail:

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

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

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

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

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

35 (5) For the purposes of this section, "automated traffic safety
36 camera" means a device that uses a vehicle sensor installed to work in
37 conjunction with an intersection traffic control system, a railroad
38 grade crossing control system, or a speed measuring device, and a

1 camera synchronized to automatically record one or more sequenced
2 photographs, microphotographs, or electronic images of the rear of a
3 motor vehicle at the time the vehicle fails to stop when facing a
4 steady red traffic control signal or an activated railroad grade
5 crossing control signal, or exceeds a speed limit in a school speed
6 zone as detected by a speed measuring device.

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