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SENATE BILL 5391

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State of Washington

60th Legislature

2007 Regular Session

By Senators Kilmer, Swecker, Haugen and Rockefeller; by request of Board For Judicial Administration

Read first time 01/18/2007. Referred to Committee on Transportation.

1 AN ACT Relating to photo enforcement of traffic infractions; and  
2 amending RCW 46.63.030 and 46.63.160.

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

4 **Sec. 1.** RCW 46.63.030 and 2005 c 167 s 2 are each amended to read  
5 as follows:

6 (1) A law enforcement officer has the authority to issue a notice  
7 of traffic infraction:

8 (a) When the infraction is committed in the officer's presence;

9 (b) When the officer is acting upon the request of a law  
10 enforcement officer in whose presence the traffic infraction was  
11 committed;

12 (c) If an officer investigating at the scene of a motor vehicle  
13 accident has reasonable cause to believe that the driver of a motor  
14 vehicle involved in the accident has committed a traffic infraction;

15 (d) When the ((notice-of)) infraction is detected through the use  
16 of a photo enforcement system under RCW 46.63.160; or

17 (e) When the ((notice-of)) infraction is detected through the use  
18 of an automated traffic safety camera under RCW 46.63.170.

1 (2) A court may issue a notice of traffic infraction upon receipt  
2 of a written statement of the officer that there is reasonable cause to  
3 believe that an infraction was committed.

4 (3) If any motor vehicle without a driver is found parked,  
5 standing, or stopped in violation of this title or an equivalent  
6 administrative regulation or local law, ordinance, regulation, or  
7 resolution, the officer finding the vehicle shall take its registration  
8 number and may take any other information displayed on the vehicle  
9 which may identify its user, and shall conspicuously affix to the  
10 vehicle a notice of traffic infraction.

11 (4) In the case of failure to redeem an abandoned vehicle under RCW  
12 46.55.120, upon receiving a complaint by a registered tow truck  
13 operator that has incurred costs in removing, storing, and disposing of  
14 an abandoned vehicle, an officer of the law enforcement agency  
15 responsible for directing the removal of the vehicle shall send a  
16 notice of infraction by certified mail to the last known address of the  
17 person responsible under RCW 46.55.105. The notice must be entitled  
18 "Littering--Abandoned Vehicle" and give notice of the monetary penalty.  
19 The officer shall append to the notice of infraction, on a form  
20 prescribed by the department of licensing, a notice indicating the  
21 amount of costs incurred as a result of removing, storing, and  
22 disposing of the abandoned vehicle, less any amount realized at  
23 auction, and a statement that monetary penalties for the infraction  
24 will not be considered as having been paid until the monetary penalty  
25 payable under this chapter has been paid and the court is satisfied  
26 that the person has made restitution in the amount of the deficiency  
27 remaining after disposal of the vehicle.

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

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

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

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

1 (4) "Electronic toll collection system" means a system of  
2 collecting tolls or charges that is capable of charging the account of  
3 the toll patron the appropriate toll or charge by electronic  
4 transmission from the motor vehicle to the toll collection system,  
5 which information is used to charge the appropriate toll or charge to  
6 the patron's account.

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

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

14 (a) The department of transportation shall adopt rules that allow  
15 an open standard for automatic vehicle identification transponders used  
16 for electronic toll collection to be compatible with other electronic  
17 payment devices or transponders from the Washington state ferry system,  
18 other public transportation systems, or other toll collection systems  
19 to the extent that technology permits. The rules must also allow for  
20 multiple vendors providing electronic payment devices or transponders  
21 as technology permits.

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

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

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

30 (b) A notice of infraction must be mailed to the registered owner  
31 of the vehicle or to the renter of a vehicle within sixty days of the  
32 violation. The law enforcement officer issuing the notice of  
33 infraction shall include with it a certificate or facsimile thereof,  
34 based upon inspection of photographs, microphotographs, videotape, or  
35 other recorded images produced by a photo enforcement system, stating  
36 the facts supporting the notice of infraction. This certificate or  
37 facsimile is prima facie evidence of the facts contained in it and is  
38 admissible in a proceeding charging a violation under this chapter.

1 The photographs, digital photographs, microphotographs, videotape, or  
2 other recorded images evidencing the violation must be available for  
3 inspection and admission into evidence in a proceeding to adjudicate  
4 the liability for the infraction.

5 (c) Notwithstanding any other provision of law, all photographs,  
6 digital photographs, microphotographs, videotape, or other recorded  
7 images prepared under this chapter are for the exclusive use of the  
8 tolling agency and law enforcement in the discharge of duties under  
9 this section and are not open to the public and may not be used in a  
10 court in a pending action or proceeding unless the action or proceeding  
11 relates to a violation under this chapter. No photograph, digital  
12 photograph, microphotograph, videotape, or other recorded image may be  
13 used for any purpose other than enforcement of violations under this  
14 chapter nor retained longer than necessary to enforce this chapter or  
15 verify that tolls are paid.

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

20 (8) Infractions detected through the use of photo enforcement  
21 systems are not part of the registered owner's driving record under RCW  
22 46.52.101 and 46.52.120. Additionally, infractions generated by the  
23 use of photo enforcement systems under this section shall be processed  
24 in the same manner as parking infractions, including for the purposes  
25 of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

26 (9) The penalty for infractions issued under this section shall be  
27 forty dollars plus three times the amount of the toll evaded. For  
28 purposes of (b) of this subsection, any reduction in the total penalty  
29 imposed shall be made proportionally between the forty dollars and the  
30 amount equal to three times the amount of the toll evaded.

31 (a) If a person appears before the court or violations bureau prior  
32 to adjudication of the citation and provides written evidence that  
33 subsequent to the violation the amount of the toll has been paid to the  
34 department of transportation or private entity under contract with the  
35 department of transportation, the citation shall be dismissed and the  
36 court or violations bureau may assess court administrative costs of  
37 twenty dollars at the time of dismissal. In lieu of personal  
38 appearance, a person may, before the date scheduled for hearing before

1 the court or violations bureau, submit by mail to the court or  
2 violations bureau written evidence that subsequent to the violation the  
3 amount of the toll has been paid to the department of transportation or  
4 private entity under contract with the department of transportation,  
5 the citation shall be dismissed without cost except that the court or  
6 violations bureau may assess court administrative costs of twenty  
7 dollars at the time of dismissal.

8 (b) The court shall remit to the department of transportation or  
9 private entity under contract with the department of transportation for  
10 deposit in the statewide account established for the tolling facility  
11 at which the violation occurred, if any, that portion of all penalties  
12 receipted attributable to three times the amount of the toll evaded.

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

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

23 (b) A statement under oath that the business is unable to determine  
24 who was driving or renting the vehicle at the time the infraction  
25 occurred; or

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

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.

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