

---

**SUBSTITUTE SENATE BILL 6619**

---

**State of Washington                      60th Legislature                      2008 Regular Session**

**By Senate Judiciary (originally sponsored by Senator Morton)**

READ FIRST TIME 02/08/08.

1            AN ACT Relating to traffic safety camera images; amending RCW  
2 46.63.170; and reenacting and amending RCW 46.63.160.

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

4            **Sec. 1.** RCW 46.63.160 and 2007 c 372 s 2 and 2007 c 101 s 2 are  
5 each reenacted and amended to read as follows:

6            (1) This section applies only to infractions issued under RCW  
7 46.61.690 for toll collection evasion.

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

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

14            (4) "Electronic toll collection system" means a system of  
15 collecting tolls or charges that is capable of charging the account of  
16 the toll patron the appropriate toll or charge by electronic  
17 transmission from the motor vehicle to the toll collection system,  
18 which information is used to charge the appropriate toll or charge to  
19 the patron's account.

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

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

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

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

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

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

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

37 (c) Notwithstanding any other provision of law, all photographs,  
38 digital photographs, microphotographs, videotape, or other recorded

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

10 (d)), except under the following circumstances:

11 (i) If the action or proceeding relates to a violation under this  
12 chapter, all photographs, digital photographs, microphotographs,  
13 videotape, or other recorded images prepared under this chapter must be  
14 made available to a party in the action or proceeding and for admission  
15 into evidence;

16 (ii) If the action or proceeding relates to a civil action for  
17 personal injury or property damage, all photographs, digital  
18 photographs, microphotographs, videotape, or other recorded images  
19 prepared under this chapter must be made available to a party in the  
20 action or proceeding and for admission into evidence; or

21 (iii) If the action or proceeding relates to a criminal violation  
22 of law, all photographs, digital photographs, microphotographs,  
23 videotape, or other recorded images prepared under this chapter must be  
24 made available to a party in the action or proceeding and for admission  
25 into evidence.

26 (d) All photographs, digital photographs, microphotographs,  
27 videotape, or other recorded images prepared under this chapter must be  
28 retained for a minimum of three years from the date of a violation  
29 under this chapter.

30 (e) All locations where a photo enforcement system is used must be  
31 clearly marked by placing signs in locations that clearly indicate to  
32 a driver that he or she is entering a zone where traffic laws are  
33 enforced by a photo enforcement system.

34 (8) The admission into evidence of any photographs, digital  
35 photographs, microphotographs, videotape, or other recorded images  
36 prepared under this chapter in a pending court action or proceeding  
37 under subsection (7)(c) of this section is subject to the rules of  
38 evidence.

1       (9) A reasonable fee not to exceed ten dollars may be charged for  
2 any photograph, digital photograph, microphotograph, videotape, or  
3 other recorded image requested and made available under subsection  
4 (7)(c)(ii) of this section.

5       (10) Infractions detected through the use of photo enforcement  
6 systems are not part of the registered owner's driving record under RCW  
7 46.52.101 and 46.52.120. Additionally, infractions generated by the  
8 use of photo enforcement systems under this section shall be processed  
9 in the same manner as parking infractions, including for the purposes  
10 of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

11       ~~((+9))~~ (11) The penalty for an infraction detected through the use  
12 of a photo enforcement system shall be forty dollars plus an additional  
13 toll penalty. The toll penalty is equal to three times the cash toll  
14 for a standard passenger car during peak hours. Any reduction in the  
15 total penalty imposed shall be made proportionally between the forty-  
16 dollar penalty and the toll penalty. The court shall remit the toll  
17 penalty to the department of transportation or a private entity under  
18 contract with the department of transportation for deposit in the  
19 statewide account in which tolls are deposited for the tolling facility  
20 at which the violation occurred.

21       ~~((+10))~~ (12) If the registered owner of the vehicle is a rental  
22 car business the department of transportation or a law enforcement  
23 agency shall, before a notice of infraction being issued under this  
24 section, provide a written notice to the rental car business that a  
25 notice of infraction may be issued to the rental car business if the  
26 rental car business does not, within eighteen days of the mailing of  
27 the written notice, provide to the issuing agency by return mail:

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

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

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

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 **Sec. 2.** RCW 46.63.170 and 2007 c 372 s 3 are each amended to read  
5 as follows:

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

8 (a) The appropriate local legislative authority must first enact an  
9 ordinance allowing for their use to detect one or more of the  
10 following: Stoplight, railroad crossing, or school speed zone  
11 violations. At a minimum, the local ordinance must contain the  
12 restrictions described in this section and provisions for public notice  
13 and signage. Cities and counties using automated traffic safety  
14 cameras before July 24, 2005, are subject to the restrictions described  
15 in this section, but are not required to enact an authorizing  
16 ordinance.

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

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

24 (d) A notice of infraction must be mailed to the registered owner  
25 of the vehicle within fourteen days of the violation, or to the renter  
26 of a vehicle within fourteen days of establishing the renter's name and  
27 address under subsection (~~(3)~~) (5)(a) of this section. The law  
28 enforcement officer issuing the notice of infraction shall include with  
29 it a certificate or facsimile thereof, based upon inspection of  
30 photographs, microphotographs, or electronic images produced by an  
31 automated traffic safety camera, stating the facts supporting the  
32 notice of infraction. This certificate or facsimile is prima facie  
33 evidence of the facts contained in it and is admissible in a proceeding  
34 charging a violation under this chapter. The photographs,  
35 microphotographs, or electronic images evidencing the violation must be  
36 available for inspection and admission into evidence in a proceeding to

1 adjudicate the liability for the infraction. A person receiving a  
2 notice of infraction based on evidence detected by an automated traffic  
3 safety camera may respond to the notice by mail.

4 (e) The registered owner of a vehicle is responsible for an  
5 infraction under RCW 46.63.030(1)(e) unless the registered owner  
6 overcomes the presumption in RCW 46.63.075, or, in the case of a rental  
7 car business, satisfies the conditions under subsection ~~((+3))~~ (5) of  
8 this section. If appropriate under the circumstances, a renter  
9 identified under subsection ~~((+3))~~ (5)(a) of this section is  
10 responsible for an infraction.

11 (f) Notwithstanding any other provision of law, all photographs,  
12 microphotographs, or electronic images prepared under this section are  
13 for the ~~((exclusive))~~ use of law enforcement in the discharge of duties  
14 under this section and are not open to the public and may not be used  
15 in a court in a pending action or proceeding ~~((unless the action or  
16 proceeding relates to a violation under this section. No photograph,  
17 microphotograph, or electronic image may be used for any purpose other  
18 than enforcement of violations under this section nor retained longer  
19 than necessary to enforce this section.~~

20 ~~(g))~~, except under the following circumstances:

21 (i) If the action or proceeding relates to a violation under this  
22 section, all photographs, microphotographs, or electronic images  
23 prepared under this section must be made available to a party in the  
24 action or proceeding and for admission into evidence;

25 (ii) If the action or proceeding relates to a civil action for  
26 personal injury or property damage, all photographs, microphotographs,  
27 or electronic images prepared under this section must be made available  
28 to a party in the action or proceeding and for admission into evidence;  
29 or

30 (iii) If the action or proceeding relates to a criminal violation  
31 of law, all photographs, microphotographs, or electronic images  
32 prepared under this section must be made available to a party in the  
33 action or proceeding and for admission into evidence.

34 (g) All photographs, microphotographs, or electronic images  
35 prepared under this section must be retained for a minimum of three  
36 years from the date of a violation under this section.

37 (h) All locations where an automated traffic safety camera is used

1 must be clearly marked by placing signs in locations that clearly  
2 indicate to a driver that he or she is entering a zone where traffic  
3 laws are enforced by an automated traffic safety camera.

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

11 (2) The admission into evidence of any photographs,  
12 microphotographs, or electronic images prepared under this section in  
13 a pending court action or proceeding under subsection (1)(f) of this  
14 section is subject to the rules of evidence.

15 (3) A reasonable fee not to exceed ten dollars may be charged for  
16 any photograph, microphotograph, or electronic image requested and made  
17 available under subsection (1)(f)(ii) of this section.

18 (4) Infractions detected through the use of automated traffic  
19 safety cameras are not part of the registered owner's driving record  
20 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated  
21 by the use of automated traffic safety cameras under this section shall  
22 be processed in the same manner as parking infractions, including for  
23 the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and  
24 46.20.270(3). However, the amount of the fine issued for an infraction  
25 generated through the use of an automated traffic safety camera shall  
26 not exceed the amount of a fine issued for other parking infractions  
27 within the jurisdiction.

28 ~~((3))~~ (5) If the registered owner of the vehicle is a rental car  
29 business, the law enforcement agency shall, before a notice of  
30 infraction being issued under this section, provide a written notice to  
31 the rental car business that a notice of infraction may be issued to  
32 the rental car business if the rental car business does not, within  
33 eighteen days of receiving the written notice, provide to the issuing  
34 agency by return mail:

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

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

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

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

11 ~~((4))~~ (6) Nothing in this section prohibits a law enforcement  
12 officer from issuing a notice of traffic infraction to a person in  
13 control of a vehicle at the time a violation occurs under RCW  
14 46.63.030(1) (a), (b), or (c).

15 ~~((5))~~ (7) For the purposes of this section, "automated traffic  
16 safety camera" means a device that uses a vehicle sensor installed to  
17 work in conjunction with an intersection traffic control system, a  
18 railroad grade crossing control system, or a speed measuring device,  
19 and a camera synchronized to automatically record one or more sequenced  
20 photographs, microphotographs, or electronic images of the rear of a  
21 motor vehicle at the time the vehicle fails to stop when facing a  
22 steady red traffic control signal or an activated railroad grade  
23 crossing control signal, or exceeds a speed limit in a school speed  
24 zone as detected by a speed measuring device.

--- END ---