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SENATE BILL 6619

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State of Washington

60th Legislature

2008 Regular Session

By Senator Morton

Read first time 01/21/08. Referred to Committee on Transportation.

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 proceeding~~  
5 ~~relates to a violation under this chapter. No photograph, digital~~  
6 ~~photograph, microphotograph, videotape, or other recorded image may be~~  
7 ~~used for any purpose other than enforcement of violations under this~~  
8 ~~chapter nor retained longer than necessary to enforce this chapter or~~  
9 ~~verify that tolls are paid.~~

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

14 (8) Infractions detected through the use of photo enforcement  
15 systems are not part of the registered owner's driving record under RCW  
16 46.52.101 and 46.52.120. Additionally, infractions generated by the  
17 use of photo enforcement systems under this section shall be processed  
18 in the same manner as parking infractions, including for the purposes  
19 of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

20 (9) The penalty for an infraction detected through the use of a  
21 photo enforcement system shall be forty dollars plus an additional toll  
22 penalty. The toll penalty is equal to three times the cash toll for a  
23 standard passenger car during peak hours. Any reduction in the total  
24 penalty imposed shall be made proportionally between the forty-dollar  
25 penalty and the toll penalty. The court shall remit the toll penalty  
26 to the department of transportation or a private entity under contract  
27 with the department of transportation for deposit in the statewide  
28 account in which tolls are deposited for the tolling facility at which  
29 the violation occurred.

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

37 (a) A statement under oath stating the name and known mailing

1 address of the individual driving or renting the vehicle when the  
2 infraction occurred; or

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

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

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

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

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

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

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

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

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

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

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

19 (f) Notwithstanding any other provision of law, all photographs,  
20 microphotographs, or electronic images prepared under this section are  
21 for:

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

29 (ii) Use in civil court proceedings subject to the Washington rules  
30 of evidence.

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

35 (h) If a county or city has established an authorized automated  
36 traffic safety camera program under this section, the compensation paid  
37 to the manufacturer or vendor of the equipment used must be based only

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

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

14 (3) If the registered owner of the vehicle is a rental car  
15 business, the law enforcement agency shall, before a notice of  
16 infraction being issued under this section, provide a written notice to  
17 the rental car business that a notice of infraction may be issued to  
18 the rental car business if the rental car business does not, within  
19 eighteen days of receiving the written notice, provide to the issuing  
20 agency 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; or

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

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

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

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

11 (6) For the uses described in subsection (1)(f) of this section,  
12 the department shall create a library to store all photographs, digital  
13 photographs, microphotographs, videotape, or other recorded images  
14 captured under this chapter by state and local traffic safety cameras  
15 for no less than three years from the date the image is captured.  
16 Images must be stored in a way that allows the image to be retrieved  
17 according to the location of the camera and the date and time at which  
18 the image was captured.

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