

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5391

60th Legislature
2007 Regular Session

Passed by the Senate February 23, 2007
YEAS 39 NAYS 8

President of the Senate

Passed by the House April 4, 2007
YEAS 65 NAYS 30

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5391** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5391

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Kilmer, Swecker, Haugen and Rockefeller; by request of Board For Judicial Administration)

READ FIRST TIME 02/07/07.

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

36 (10) If the registered owner of the vehicle is a rental car
37 business the department of transportation or a law enforcement agency
38 shall, before a notice of infraction being issued under this section,

1 provide a written notice to the rental car business that a notice of
2 infraction may be issued to the rental car business if the rental car
3 business does not, within eighteen days of the mailing of the written
4 notice, provide to the issuing agency by return mail:

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

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

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

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

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