

HOUSE BILL REPORT

ESSB 6499

As Passed House:
March 2, 2010

Title: An act relating to the administration, collection, use, and enforcement of tolls.

Brief Description: Concerning the administration, collection, use, and enforcement of tolls.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Murray and Haugen; by request of Department of Transportation).

Brief History:

Committee Activity:

Transportation: 2/23/10, 2/24/10 [DP].

Floor Activity:

Passed House: 3/2/10, 55-42.

Brief Summary of Engrossed Substitute Bill

- Allows for the detection and issuance of photo tolls, which may be paid through a customer account or upon receipt of a toll bill.
- Provides for an 80-day period between the assessment of a toll and the issuance of a toll infraction for failure to pay a toll.
- Removes the Washington State Patrol from the toll infraction issuance process, and places the issuance in the hands of limited law enforcement officers designated by the Washington State Department of Transportation (WSDOT).
- Removes the court system from the toll infraction adjudication process, and requires the WSDOT to develop an administrative adjudication process for appeals of civil penalties related to toll infractions.
- Expands the Toll Collection Account (Account) uses to allow for operations that benefit multiple toll facilities to be cleared through the Account.

HOUSE COMMITTEE ON TRANSPORTATION

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 15 members: Representatives Clibborn, Chair; Liias, Vice Chair; Dickerson, Eddy, Finn, Flannigan, Moeller, Rolfes, Sells, Simpson, Springer, Takko, Upthegrove, Williams and Wood.

Minority Report: Do not pass. Signed by 12 members: Representatives Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong, Campbell, Driscoll, Ericksen, Herrera, Johnson, Klippert, Kristiansen, Nealey and Shea.

Staff: David Munnecke (786-7315).

Background:

The Washington State Department of Transportation (WSDOT) operates one toll bridge, the Tacoma Narrows Bridge, and has been granted the authority to toll the State Route (SR) 520 bridge, which is anticipated to occur in 2011. The tolls for the Tacoma Narrows Bridge are paid electronically by customers with a pre-paid account and a transponder in their vehicle, or manually at a toll booth with cash or credit.

Failure to pay a toll is a traffic infraction with a penalty of \$40 that goes to the local jurisdiction's court, plus a penalty amount of three times the cash toll that goes to the account of the facility on which the violation occurred. The detection of toll violations is through the use of a photo enforcement system, which may record images of vehicles and vehicle license plates only. The infractions issued through such a system are issued by a law enforcement officer, are not part of the registered owners' driving records, and a hold on a person's vehicle registration may occur if the traffic infraction penalty is not paid.

The Toll Collection Account allows for the deposit of customer pre-paid account funds prior to transactions occurring on a specific facility. Funds are then moved to the appropriate facility once a toll charge has been incurred.

Summary of Bill:

Tolls may be paid after using a toll facility via a photo toll that identifies a vehicle by its license plate. Photo tolls may be paid using a customer account, or in response to a toll bill, which may contain an administrative fee adopted by the Washington State Transportation Commission that may not exceed the cost of collection. Tolls may also continue to be paid using existing methods.

Failure to pay a toll detected through a photo toll system is a civil penalty to be issued by the WSDOT with a fine of \$40, plus the original toll amount and associated fees. Photo toll customers have 80 days from the time they use the toll facility to pay the toll before the toll charge becomes a civil penalty. The WSDOT must develop an administrative adjudication process to review appeals of civil penalties. A hold on a person's vehicle registration may occur if the civil penalty is not paid.

The WSDOT must conduct outreach and education on tolling at least six months prior to commencing all electronic tolling, and provide ongoing quarterly reports on civil penalty data. Beginning on July 1, 2011, penalties deposited into the Tacoma Narrows Bridge

Account must first be used to repay any loans from the Motor Vehicle Account. Penalties resulting from non-payment of a toll on the SR 520 corridor are deposited into the SR 520 Civil Penalties Account if Engrossed Substitute Senate Bill 6392 is enacted by June 30, 2010.

A new traffic infraction is created for using a toll facility while displaying a vehicle license plate that has been in any manner changed, altered, obscured, or disfigured, or has become illegible.

The Toll Collection Account uses are expanded to allow for operations that benefit multiple toll facilities to be cleared through the Toll Collection Account. At least monthly, operating activities and interest earnings must be distributed to the appropriate toll facility, using an equitable distribution methodology determined by the WSDOT in consultation with the Office of Financial Management.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains a contingent effective date. The bill becomes effective upon certification by the Secretary of the WSDOT that the tolling operations center and photo toll system are fully operational. If no certificate is issued by December 1, 2012, this bill becomes null and void.

Staff Summary of Public Testimony:

(In support) This agency request legislation comes out of the expert review panel process that was undertaken by the Joint Transportation Committee last year, and the legislation is intended to create a fair and transparent process for tolling. The 80-day time frame before the issuance of a toll infraction is an important part of this process, since it gives the WSDOT an opportunity to receive a toll payment prior to issuing an infraction. This modified time frame would apply to all facilities once it goes into effect in 2011. The changes to the central toll account are also an important issue in that the changes allow the WSDOT to properly account for costs that effect multiple facilities.

An administrative process to deal with infractions is becoming more common across the nation, with an opportunity to appeal to the courts still provided if individuals are not satisfied by the administrative determination. If the WSDOT were to handle adjudications, there would be costs for hearing examiners, clerks, computers, and hearing rooms; the overall cost would probably be lower due to the use of technology, centralized administration, and the fact that the WSDOT will most likely not hear from most people who receive infractions.

The local governments on the east side of the SR 520 bridge believe this bill is important and is a significant part of the process moving forward. These communities, as well as the labor community, want to see as much revenue as possible going back into paying for the facility.

The point of this bill is to set a statewide policy. Not all the people who receive a toll bill are going to pay it on time, so there will be adjudication. This bill will allow toll infractions to be dealt with efficiently at a statewide level, rather than on a county-by-county basis. The

state already has adjudicatory processes to deal with other issues, such as license suspensions for driving under the influence. The state has dealt with any issues that have arisen and fixed the process if necessary.

(Opposed) The Pierce and King County judges are in favor of maintaining a court process for toll infractions, and are thus opposed to this bill. It is the job of the courts to resolve disputes between citizens and their government. Under this bill, the courts are concerned about the appearance of fairness, since WSDOT will be handling the issuance of tolls, the issuance of infractions, and the resolution of the disputes. It is true that an appeal to superior court is possible, but only at a cost of \$230, so many people might not take advantage of this opportunity.

It is the business of district courts to handle infractions; this is what takes up approximately 80 percent of district courts' time, and they are the experts. King County courts are very clear on their costs for undertaking the toll infraction process, and believe that the WSDOT is seriously underestimating the cost. That said, the \$40 toll amount is higher than necessary to cover the courts' costs, and the split between the courts and the Toll Collection Account that is contemplated in the companion measure is appropriate. The courts intend to add judges to deal with the workload required by the toll infractions from the SR 520 bridge, but not full-fledged judges.

Persons Testifying: (In support) Duke Schaub, Associated General Contractors of Washington; Craig Stone, Washington State Department of Transportation; Doug Levy, City of Redmond; Terry Tilton, Washington State Building and Construction Trades Council; and Michael Groesch, Washington Business Roundtable.

(Opposed) Mellani McAleenan, Board for Judicial Administration.

Persons Signed In To Testify But Not Testifying: None.