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ENGROSSED SUBSTITUTE SENATE BILL 5530

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State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Smith, Roach, Rasmussen and Winsley)

Read first time 02/23/95.

1 AN ACT Relating to automated traffic enforcement; amending RCW  
2 46.63.030 and 46.63.070; adding a new section to chapter 46.04 RCW; and  
3 creating a new section.

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

5 **Sec. 1.** RCW 46.63.030 and 1994 c 176 s 3 are each amended to read  
6 as follows:

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

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

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

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

16 (d) To the registered owner of a motor vehicle when the traffic  
17 infraction was recorded by an automated traffic enforcement system.

18 (2)(a) City and county law enforcement agencies may only utilize  
19 automated traffic enforcement systems when their local legislative

1 bodies first adopt ordinances allowing for their use and setting  
2 restrictions. The restrictions shall include a conclusive presumption  
3 that no traffic infraction citation based on information obtained from  
4 an automated traffic enforcement system may be alleged at any time  
5 against a registered owner when, as a result of information obtained  
6 from an automated traffic enforcement system operated by the city or  
7 county: (i) The owner has previously been issued a citation by the  
8 same jurisdiction alleging an infraction of the same provision of state  
9 or local law; and (ii) the owner has not been notified of the previous  
10 alleged infraction.

11 (b) A law enforcement agency may not issue a traffic infraction  
12 recorded by an automated traffic enforcement system until the  
13 Washington supreme court adopts rules to determine the procedure for  
14 processing infractions recorded by automated traffic enforcement  
15 systems.

16 (3) Law enforcement agencies may only use automated traffic  
17 enforcement systems to enforce speeding violations under the following  
18 conditions:

19 (a) An automated traffic enforcement system must be operated by a  
20 law enforcement agency in a law enforcement vehicle plainly marked with  
21 emergency lights and the agency shield or emblem on the exterior of the  
22 vehicle; and

23 (b) The local law enforcement agency shall plainly mark the  
24 locations where the automated traffic enforcement system is used by  
25 placing signs on street locations that clearly indicate to a driver  
26 that he or she is entering a zone enforced by an automated traffic  
27 enforcement system.

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

31 ~~((+3))~~ (5) If any motor vehicle without a driver is found parked,  
32 standing, or stopped in violation of this title or an equivalent  
33 administrative regulation or local law, ordinance, regulation, or  
34 resolution, the officer finding the vehicle shall take its registration  
35 number and may take any other information displayed on the vehicle  
36 which may identify its user, and shall conspicuously affix to the  
37 vehicle a notice of traffic infraction.

38 ~~((+4))~~ (6) In the case of failure to redeem an abandoned vehicle  
39 under RCW 46.55.120 an officer shall send a notice of infraction by

1 certified mail to the last known address of the registered owner of the  
2 vehicle.

3 **Sec. 2.** RCW 46.63.070 and 1993 c 501 s 10 are each amended to read  
4 as follows:

5 (1) Any person who receives a notice of traffic infraction shall  
6 respond to such notice as provided in this section within fifteen days  
7 of the date of the notice.

8 (2) If the person determined to have committed the infraction does  
9 not contest the determination the person shall respond by completing  
10 the appropriate portion of the notice of infraction and submitting it,  
11 either by mail or in person, to the court specified on the notice. A  
12 check or money order in the amount of the penalty prescribed for the  
13 infraction must be submitted with the response. When a response which  
14 does not contest the determination is received, an appropriate order  
15 shall be entered in the court's records, and a record of the response  
16 and order shall be furnished to the department in accordance with RCW  
17 46.20.270.

18 (3)(a) If the person determined to have committed the infraction  
19 wishes to contest the determination the person shall respond by  
20 completing the portion of the notice of infraction requesting a hearing  
21 and submitting it, either by mail or in person, to the court specified  
22 on the notice. The court shall notify the person in writing of the  
23 time, place, and date of the hearing, and that date shall not be sooner  
24 than seven days from the date of the notice, except by agreement.

25 (b) The registered owner of a vehicle is only responsible for  
26 infractions that occur when he or she was the person operating the  
27 vehicle at the time the infraction was committed. If the person issued  
28 a notice of infraction resulting from the use of an automated traffic  
29 enforcement system chooses to contest the issuance of the traffic  
30 infraction by refuting that he or she was the person operating the  
31 vehicle at the time the infraction was committed, he or she may sign an  
32 affidavit under penalty of perjury that he or she was not the person  
33 operating the vehicle at the time the infraction was committed.

34 (c) Each law enforcement agency shall make a reasonable effort to  
35 issue traffic infractions within thirty days.

36 (4) If the person determined to have committed the infraction does  
37 not contest the determination but wishes to explain mitigating  
38 circumstances surrounding the infraction the person shall respond by

1 completing the portion of the notice of infraction requesting a hearing  
2 for that purpose and submitting it, either by mail or in person, to the  
3 court specified on the notice. The court shall notify the person in  
4 writing of the time, place, and date of the hearing.

5 (5) If any person issued a notice of traffic infraction:

6 (a) Fails to respond to the notice of traffic infraction as  
7 provided in subsection (2) of this section; or

8 (b) Fails to appear at a hearing requested pursuant to subsection  
9 (3) or (4) of this section;

10 the court shall enter an appropriate order assessing the monetary  
11 penalty prescribed for the traffic infraction and any other penalty  
12 authorized by this chapter and shall notify the department in  
13 accordance with RCW 46.20.270, of the failure to respond to the notice  
14 of infraction or to appear at a requested hearing.

15 (6) Renting and leasing companies are not responsible for  
16 infractions issued to rental and leased vehicles recorded by automated  
17 traffic enforcement systems.

18 NEW SECTION. Sec. 3. A new section is added to chapter 46.04 RCW  
19 to read as follows:

20 "Automated traffic enforcement system" means photographic equipment  
21 linked to a violation detection system that synchronizes the taking of  
22 a photograph with the occurrence of a traffic violation.

23 NEW SECTION. Sec. 4. The legislature respectfully requests that  
24 the Washington state supreme court consider adoption of rules to  
25 implement the affidavit process contemplated in RCW 46.63.070(3)(b).

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