

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2475

Chapter 231, Laws of 2004

58th Legislature
2004 Regular Session

TOLL EVASION

EFFECTIVE DATE: 6/10/04

Passed by the House March 10, 2004
Yeas 93 Nays 4

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 5, 2004
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 31, 2004.

GARY F. LOCKE

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2475** as passed by the House of Representatives and the Senate on the dates hereon set forth.

RICHARD NAFZIGER

Chief Clerk

FILED

March 31, 2004 - 2:18 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2475

AS AMENDED BY THE SENATE

Passed Legislature - 2004 Regular Session

State of Washington 58th Legislature 2004 Regular Session

By House Committee on Transportation (originally sponsored by Representative Murray; by request of Department of Transportation)

READ FIRST TIME 02/06/04.

1 AN ACT Relating to toll evasion; amending RCW 46.61.690, 46.63.030,
2 46.16.216, and 46.20.270; and adding new sections to chapter 46.63 RCW.

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

4 **Sec. 1.** RCW 46.61.690 and 1983 c 247 s 1 are each amended to read
5 as follows:

6 Any person who uses a toll bridge, toll tunnel, toll road, or toll
7 ferry, and the approaches thereto, operated by the state of Washington,
8 the department of transportation, (~~or any~~) a political subdivision or
9 municipal corporation empowered to operate toll facilities, or an
10 entity operating a toll facility under a contract with the department
11 of transportation, a political subdivision, or municipal corporation,
12 at the entrance to which appropriate signs have been erected to notify
13 both pedestrian and vehicular traffic that it is entering a toll
14 facility or its approaches and is subject to the payment of tolls at
15 the designated station for collecting tolls, commits a traffic
16 infraction if:

17 (1) (~~Such~~) The person does not pay, refuses to pay, evades, or
18 attempts to evade the payment of such tolls, or uses or attempts to use

1 any spurious ~~((e))~~, counterfeit, or stolen ticket~~((s))~~, coupon~~((s))~~,
2 ~~((e))~~ token~~((s))~~, or electronic device for payment of any such tolls,
3 or

4 (2) ~~((Such))~~ The person turns, or attempts to turn, the vehicle
5 around in the bridge, tunnel, loading terminal, approach, or toll plaza
6 where signs have been erected forbidding such turns, or

7 (3) ~~((Such))~~ The person refuses to move a vehicle through the toll
8 ~~((gates))~~ facility after having come within the area where signs have
9 been erected notifying traffic that it is entering the area where toll
10 is collectible or where vehicles may not turn around and where vehicles
11 are required to pass through the toll ~~((gates))~~ facility for the
12 purpose of collecting tolls.

13 **Sec. 2.** RCW 46.63.030 and 2002 c 279 s 14 are each amended to read
14 as follows:

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

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

18 (b) When the officer is acting upon the request of a law
19 enforcement officer in whose presence the traffic infraction was
20 committed; ~~((e))~~

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

24 (d) When the notice of infraction is detected through the use of a
25 photo enforcement system under section 6 of this act.

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

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

36 (4) In the case of failure to redeem an abandoned vehicle under RCW
37 46.55.120, upon receiving a complaint by a registered tow truck

1 operator that has incurred costs in removing, storing, and disposing of
2 an abandoned vehicle, an officer of the law enforcement agency
3 responsible for directing the removal of the vehicle shall send a
4 notice of infraction by certified mail to the last known address of the
5 person responsible under RCW 46.55.105. The notice must be entitled
6 "Littering--Abandoned Vehicle" and give notice of the monetary penalty.
7 The officer shall append to the notice of infraction, on a form
8 prescribed by the department of licensing, a notice indicating the
9 amount of costs incurred as a result of removing, storing, and
10 disposing of the abandoned vehicle, less any amount realized at
11 auction, and a statement that monetary penalties for the infraction
12 will not be considered as having been paid until the monetary penalty
13 payable under this chapter has been paid and the court is satisfied
14 that the person has made restitution in the amount of the deficiency
15 remaining after disposal of the vehicle.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.63 RCW
17 to read as follows:

18 (1) In a traffic infraction case involving an infraction detected
19 through the use of a photo enforcement system under section 6 of this
20 act, proof that the particular vehicle described in the notice of
21 traffic infraction was in violation of any such provision of section 6
22 of this act, together with proof that the person named in the notice of
23 traffic infraction was at the time of the violation the registered
24 owner of the vehicle, constitutes in evidence a prima facie presumption
25 that the registered owner of the vehicle was the person in control of
26 the vehicle at the point where, and for the time during which, the
27 violation occurred.

28 (2) This presumption may be overcome only if the registered owner
29 states, under oath, in a written statement to the court or in testimony
30 before the court that the vehicle involved was, at the time, stolen or
31 in the care, custody, or control of some person other than the
32 registered owner.

33 **Sec. 4.** RCW 46.16.216 and 1990 2nd ex.s. c 1 s 401 are each
34 amended to read as follows:

35 (1) To renew a vehicle license, an applicant shall satisfy all
36 listed standing, stopping, and parking violations, and other

1 infractions issued under RCW 46.63.030(1)(d) for the vehicle incurred
2 while the vehicle was registered in the applicant's name and forwarded
3 to the department pursuant to RCW 46.20.270(3). For the purposes of
4 this section, "listed" standing, stopping, and parking violations , and
5 other infractions issued under RCW 46.63.030(1)(d) include only those
6 violations for which notice has been received from state or local
7 agencies or courts by the department one hundred twenty days or more
8 before the date the vehicle license expires and that are placed on the
9 records of the department. Notice of such violations received by the
10 department later than one hundred twenty days before that date that are
11 not satisfied shall be considered by the department in connection with
12 any applications for license renewal in any subsequent license year.
13 The renewal application may be processed by the department or its
14 agents only if the applicant:

15 (a) Presents a preprinted renewal application showing no listed
16 standing, stopping, (~~and~~) or parking violations, or other infractions
17 issued under RCW 46.63.030(1)(d), or in the absence of such
18 presentation, the agent verifies the information that would be
19 contained on the preprinted renewal application; or

20 (b) If listed standing, stopping, (~~and~~) or parking violations, or
21 other infractions issued under RCW 46.63.030(1)(d) exist, presents
22 proof of payment and pays a fifteen dollar surcharge.

23 (2) The surcharge shall be allocated as follows:

24 (a) Ten dollars shall be deposited in the motor vehicle fund to be
25 used exclusively for the administrative costs of the department of
26 licensing; and

27 (b) Five dollars shall be retained by the agent handling the
28 renewal application to be used by the agent for the administration of
29 this section.

30 (3) If there is a change in the registered owner of the vehicle,
31 the department shall forward the information regarding the change to
32 the state or local charging jurisdiction and release any hold on the
33 renewal of the vehicle license resulting from parking violations or
34 other infractions issued under RCW 46.63.030(1)(d) incurred while the
35 certificate of license registration was in a previous registered
36 owner's name.

37 (4) The department shall send to all registered owners of vehicles
38 who have been reported to have outstanding listed parking violations or

1 other infractions issued under RCW 46.63.030(1)(d), at the time of
2 renewal, a statement setting out the dates and jurisdictions in which
3 the violations occurred as well as the amounts of unpaid fines and
4 penalties relating to them and the surcharge to be collected.

5 **Sec. 5.** RCW 46.20.270 and 1990 2nd ex.s. c 1 s 402 are each
6 amended to read as follows:

7 (1) Whenever any person is convicted of any offense for which this
8 title makes mandatory the suspension or revocation of the driver's
9 license of such person by the department, the privilege of the person
10 to operate a vehicle is suspended until the department takes the action
11 required by this chapter, and the court in which such conviction is had
12 shall forthwith secure the immediate forfeiture of the driver's license
13 of such convicted person and immediately forward such driver's license
14 to the department, and on failure of such convicted person to deliver
15 such driver's license the judge shall cause such person to be confined
16 for the period of such suspension or revocation or until such driver's
17 license is delivered to such judge: PROVIDED, That if the convicted
18 person testifies that he or she does not and at the time of the offense
19 did not have a current and valid vehicle driver's license, the judge
20 shall cause such person to be charged with the operation of a motor
21 vehicle without a current and valid driver's license and on conviction
22 punished as by law provided, and the department may not issue a
23 driver's license to such persons during the period of suspension or
24 revocation: PROVIDED, ALSO, That if the driver's license of such
25 convicted person has been lost or destroyed and such convicted person
26 makes an affidavit to that effect, sworn to before the judge, the
27 convicted person may not be so confined, but the department may not
28 issue or reissue a driver's license for such convicted person during
29 the period of such suspension or revocation: PROVIDED, That perfection
30 of notice of appeal shall stay the execution of sentence including the
31 suspension and/or revocation of the driver's license.

32 (2) Every court having jurisdiction over offenses committed under
33 this chapter, or any other act of this state or municipal ordinance
34 adopted by a local authority regulating the operation of motor vehicles
35 on highways, or any federal authority having jurisdiction over offenses
36 substantially the same as those set forth in Title 46 RCW which occur
37 on federal installations within this state, shall forward to the

1 department within ten days of a forfeiture of bail or collateral
2 deposited to secure the defendant's appearance in court, a payment of
3 a fine or penalty, a plea of guilty or a finding of guilt, or a finding
4 that any person has committed a traffic infraction an abstract of the
5 court record in the form prescribed by rule of the supreme court,
6 showing the conviction of any person or the finding that any person has
7 committed a traffic infraction in said court for a violation of any
8 said laws other than regulations governing standing, stopping, parking,
9 and pedestrian offenses.

10 (3) Every state agency or municipality having jurisdiction over
11 offenses committed under this chapter, or under any other act of this
12 state or municipal ordinance adopted by a state or local authority
13 regulating the operation of motor vehicles on highways, may forward to
14 the department within ten days of failure to respond, failure to pay a
15 penalty, failure to appear at a hearing to contest the determination
16 that a violation of any statute, ordinance, or regulation relating to
17 standing, stopping, ~~((or))~~ parking, or other infraction issued under
18 RCW 46.63.030(1)(d) has been committed, or failure to appear at a
19 hearing to explain mitigating circumstances, an abstract of the
20 citation record in the form prescribed by rule of the department,
21 showing the finding by such municipality that two or more violations of
22 laws governing standing, stopping, and parking or one or more other
23 infractions issued under RCW 46.63.030(1)(d) have been committed and
24 indicating the nature of the defendant's failure to act. Such
25 violations or infractions may not have occurred while the vehicle is
26 stolen from the registered owner or is leased or rented under a bona
27 fide commercial vehicle lease or rental agreement between a lessor
28 engaged in the business of leasing vehicles and a lessee who is not the
29 vehicle's registered owner. The department may enter into agreements
30 of reciprocity with the duly authorized representatives of the states
31 for reporting to each other violations of laws governing standing,
32 stopping, and parking.

33 (4) For the purposes of Title 46 RCW the term "conviction" means a
34 final conviction in a state or municipal court or by any federal
35 authority having jurisdiction over offenses substantially the same as
36 those set forth in Title 46 RCW which occur on federal installations in
37 this state, an unvacated forfeiture of bail or collateral deposited to
38 secure a defendant's appearance in court, the payment of a fine, a plea

1 of guilty, or a finding of guilt on a traffic law violation charge,
2 regardless of whether the imposition of sentence or sanctions are
3 deferred or the penalty is suspended, but not including entry into a
4 deferred prosecution agreement under chapter 10.05 RCW.

5 (5) For the purposes of Title 46 RCW the term "finding that a
6 traffic infraction has been committed" means a failure to respond to a
7 notice of infraction or a determination made by a court pursuant to
8 this chapter. Payment of a monetary penalty made pursuant to RCW
9 46.63.070(2) is deemed equivalent to such a finding.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 46.63 RCW
11 to read as follows:

12 (1) This section applies only to traffic infractions issued under
13 RCW 46.61.690 for toll collection evasion.

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

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

20 (4) "Electronic toll collection system" means a system of
21 collecting tolls or charges that is capable of charging the account of
22 the toll patron the appropriate toll or charge by electronic
23 transmission from the motor vehicle to the toll collection system,
24 which information is used to charge the appropriate toll or charge to
25 the patron's account.

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

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

33 (a) The department of transportation shall adopt rules that allow
34 an open standard for automatic vehicle identification transponders used
35 for electronic toll collection to be compatible with other electronic
36 payment devices or transponders from the Washington state ferry system,
37 other public transportation systems, or other toll collection systems

1 to the extent that technology permits. The rules must also allow for
2 multiple vendors providing electronic payment devices or transponders
3 as technology permits.

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

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

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

12 (b) A notice of infraction must be mailed to the registered owner
13 of the vehicle or to the renter of a vehicle within sixty days of the
14 violation. The law enforcement officer issuing the notice of
15 infraction shall include with it a certificate or facsimile thereof,
16 based upon inspection of photographs, microphotographs, videotape, or
17 other recorded images produced by a photo enforcement system, stating
18 the facts supporting the notice of infraction. This certificate or
19 facsimile is prima facie evidence of the facts contained in it and is
20 admissible in a proceeding charging a violation under this chapter.
21 The photographs, digital photographs, microphotographs, videotape, or
22 other recorded images evidencing the violation must be available for
23 inspection and admission into evidence in a proceeding to adjudicate
24 the liability for the infraction.

25 (c) Notwithstanding any other provision of law, all photographs,
26 digital photographs, microphotographs, videotape, or other recorded
27 images prepared under this chapter are for the exclusive use of the
28 tolling agency and law enforcement in the discharge of duties under
29 this section and are not open to the public and may not be used in a
30 court in a pending action or proceeding unless the action or proceeding
31 relates to a violation under this chapter. No photograph, digital
32 photograph, microphotograph, video tape, or other recorded image may be
33 used for any purpose other than enforcement of violations under this
34 chapter nor retained longer than necessary to enforce this chapter or
35 verify that tolls are paid.

36 (d) All locations where a photo enforcement system is used must be
37 clearly marked by placing signs in locations that clearly indicate to

1 a driver that he or she is entering a zone where traffic laws are
2 enforced by a photo enforcement system.

3 (8) Infractions detected through the use of photo enforcement
4 systems are not part of the registered owner's driving record under RCW
5 46.52.101 and 46.52.120.

6 (9) If the registered owner of the vehicle is a rental car business
7 the department of transportation or a law enforcement agency shall,
8 before a notice of infraction being issued under this section, provide
9 a written notice to the rental car business that a notice of infraction
10 may be issued to the rental car business if the rental car business
11 does not, within eighteen days of the mailing of the written notice,
12 provide to the issuing agency by return mail:

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

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

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

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

Passed by the House March 10, 2004.

Passed by the Senate March 5, 2004.

Approved by the Governor March 31, 2004.

Filed in Office of Secretary of State March 31, 2004.