

ESHB 1793 - S COMM AMD

By Committee on Transportation

ADOPTED 03/07/2020

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each
4 amended to read as follows:

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

7 (a) ~~((The))~~ Except for proposed locations used solely for the
8 pilot program purposes permitted under subsection (6) of this
9 section, the appropriate local legislative authority must prepare an
10 analysis of the locations within the jurisdiction where automated
11 traffic safety cameras are proposed to be located: (i) Before
12 enacting an ordinance allowing for the initial use of automated
13 traffic safety cameras; and (ii) before adding additional cameras or
14 relocating any existing camera to a new location within the
15 jurisdiction. Automated traffic safety cameras may be used to detect
16 one or more of the following: Stoplight, railroad crossing, or school
17 speed zone violations; ~~((or))~~ speed violations subject to (c) of this
18 subsection; or violations included in subsection (6) of this section
19 for the duration of the pilot program authorized under subsection (6)
20 of this section. At a minimum, the local ordinance must contain the
21 restrictions described in this section and provisions for public
22 notice and signage. Cities and counties using automated traffic
23 safety cameras before July 24, 2005, are subject to the restrictions
24 described in this section, but are not required to enact an
25 authorizing ordinance. Beginning one year after June 7, 2012, cities
26 and counties using automated traffic safety cameras must post an
27 annual report of the number of traffic accidents that occurred at
28 each location where an automated traffic safety camera is located as
29 well as the number of notices of infraction issued for each camera
30 and any other relevant information about the automated traffic safety
31 cameras that the city or county deems appropriate on the city's or
32 county's web site.

1 (b) Except as provided in (c) of this subsection and subsection
2 (6) of this section, use of automated traffic safety cameras is
3 restricted to the following locations only: (i) Intersections of two
4 or more arterials with traffic control signals that have yellow
5 change interval durations in accordance with RCW 47.36.022, which
6 interval durations may not be reduced after placement of the camera;
7 (ii) railroad crossings; and (iii) school speed zones.

8 (c) Any city west of the Cascade mountains with a population of
9 more than one hundred ninety-five thousand located in a county with a
10 population of fewer than one million five hundred thousand may
11 operate an automated traffic safety camera to detect speed violations
12 subject to the following limitations:

13 (i) A city may only operate one such automated traffic safety
14 camera within its respective jurisdiction; and

15 (ii) The use and location of the automated traffic safety camera
16 must have first been authorized by the Washington state legislature
17 as a pilot project for at least one full year.

18 (d) Automated traffic safety cameras may only take pictures of
19 the vehicle and vehicle license plate and only while an infraction is
20 occurring. The picture must not reveal the face of the driver or of
21 passengers in the vehicle. The primary purpose of camera placement is
22 to take pictures of the vehicle and vehicle license plate when an
23 infraction is occurring. Cities and counties shall consider
24 installing cameras in a manner that minimizes the impact of camera
25 flash on drivers.

26 (e) A notice of infraction must be mailed to the registered owner
27 of the vehicle within fourteen days of the violation, or to the
28 renter of a vehicle within fourteen days of establishing the renter's
29 name and address under subsection (3)(a) of this section. The law
30 enforcement officer issuing the notice of infraction shall include
31 with it a certificate or facsimile thereof, based upon inspection of
32 photographs, microphotographs, or electronic images produced by an
33 automated traffic safety camera, stating the facts supporting the
34 notice of infraction. This certificate or facsimile is prima facie
35 evidence of the facts contained in it and is admissible in a
36 proceeding charging a violation under this chapter. The photographs,
37 microphotographs, or electronic images evidencing the violation must
38 be available for inspection and admission into evidence in a
39 proceeding to adjudicate the liability for the infraction. A person

1 receiving a notice of infraction based on evidence detected by an
2 automated traffic safety camera may respond to the notice by mail.

3 (f) The registered owner of a vehicle is responsible for an
4 infraction under RCW 46.63.030(1)(d) unless the registered owner
5 overcomes the presumption in RCW 46.63.075, or, in the case of a
6 rental car business, satisfies the conditions under subsection (3) of
7 this section. If appropriate under the circumstances, a renter
8 identified under subsection (3)(a) of this section is responsible for
9 an infraction.

10 (g) Notwithstanding any other provision of law, all photographs,
11 microphotographs, or electronic images, or any other personally
12 identifying data prepared under this section are for the exclusive
13 use of law enforcement in the discharge of duties under this section
14 and are not open to the public and may not be used in a court in a
15 pending action or proceeding unless the action or proceeding relates
16 to a violation under this section. No photograph, microphotograph, or
17 electronic image, or any other personally identifying data may be
18 used for any purpose other than enforcement of violations under this
19 section nor retained longer than necessary to enforce this section.

20 (h) All locations where an automated traffic safety camera is
21 used must be clearly marked at least thirty days prior to activation
22 of the camera by placing signs in locations that clearly indicate to
23 a driver that he or she is entering a zone where traffic laws are
24 enforced by an automated traffic safety camera. Signs placed in
25 automated traffic safety camera locations after June 7, 2012, must
26 follow the specifications and guidelines under the manual of uniform
27 traffic control devices for streets and highways as adopted by the
28 department of transportation under chapter 47.36 RCW.

29 (i) If a county or city has established an authorized automated
30 traffic safety camera program under this section, the compensation
31 paid to the manufacturer or vendor of the equipment used must be
32 based only upon the value of the equipment and services provided or
33 rendered in support of the system, and may not be based upon a
34 portion of the fine or civil penalty imposed or the revenue generated
35 by the equipment.

36 (2) Infractions detected through the use of automated traffic
37 safety cameras are not part of the registered owner's driving record
38 under RCW 46.52.101 and 46.52.120. Additionally, infractions
39 generated by the use of automated traffic safety cameras under this
40 section shall be processed in the same manner as parking infractions,

1 including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120,
2 and 46.20.270(2). (~~The~~) Except as provided otherwise in subsection
3 (6) of this section, the amount of the fine issued for an infraction
4 generated through the use of an automated traffic safety camera shall
5 not exceed the amount of a fine issued for other parking infractions
6 within the jurisdiction. However, the amount of the fine issued for a
7 traffic control signal violation detected through the use of an
8 automated traffic safety camera shall not exceed the monetary penalty
9 for a violation of RCW 46.61.050 as provided under RCW 46.63.110,
10 including all applicable statutory assessments.

11 (3) If the registered owner of the vehicle is a rental car
12 business, the law enforcement agency shall, before a notice of
13 infraction being issued under this section, provide a written notice
14 to the rental car business that a notice of infraction may be issued
15 to the rental car business if the rental car business does not,
16 within eighteen days of receiving the written notice, provide to the
17 issuing agency by return mail:

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

21 (b) A statement under oath that the business is unable to
22 determine who was driving or renting the vehicle at the time the
23 infraction occurred because the vehicle was stolen at the time of the
24 infraction. A statement provided under this subsection must be
25 accompanied by a copy of a filed police report regarding the vehicle
26 theft; or

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

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

32 (4) 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 (5) (a) For the purposes of this section, "automated traffic
37 safety camera" means a device that uses a vehicle sensor installed to
38 work in conjunction with an intersection traffic control system, a
39 railroad grade crossing control system, or a speed measuring device,
40 and a camera synchronized to automatically record one or more

1 sequenced photographs, microphotographs, or electronic images of the
2 rear of a motor vehicle at the time the vehicle fails to stop when
3 facing a steady red traffic control signal or an activated railroad
4 grade crossing control signal, or exceeds a speed limit as detected
5 by a speed measuring device.

6 (b) For the purposes of the pilot program authorized under
7 subsection (6) of this section, "automated traffic safety camera"
8 also includes a device used to detect stopping at intersection or
9 crosswalk violations; stopping when traffic obstructed violations;
10 public transportation only lane violations; and stopping or traveling
11 in restricted lane violations. The device, including all technology
12 defined under "automated traffic safety camera," must not reveal the
13 face of the driver or the passengers in vehicles, and must not use
14 any facial recognition technology in real time or after capturing any
15 information. If the face of any individual in a crosswalk or
16 otherwise within the frame is incidentally captured, it may not be
17 made available to the public nor used for any purpose including, but
18 not limited to, any law enforcement action, except in a pending
19 action or proceeding related to a violation under this section.

20 ~~(6) ((During the 2011-2013 and 2013-2015 fiscal biennia, this~~
21 ~~section does not apply to automated traffic safety cameras for the~~
22 ~~purposes of section 216(5), chapter 367, Laws of 2011 and section~~
23 ~~216(6), chapter 306, Laws of 2013.))~~ (a) (i) A city with a population
24 greater than five hundred thousand may adopt an ordinance creating a
25 pilot program authorizing automated traffic safety cameras to be used
26 to detect one or more of the following violations: Stopping when
27 traffic obstructed violations; stopping at intersection or crosswalk
28 violations; public transportation only lane violations; and stopping
29 or traveling in restricted lane violations. Under the pilot program,
30 stopping at intersection or crosswalk violations may only be enforced
31 at the twenty intersections where the city would most like to address
32 safety concerns related to stopping at intersection or crosswalk
33 violations. At a minimum, the local ordinance must contain the
34 restrictions described in this section and provisions for public
35 notice and signage.

36 (ii) Except where specifically exempted, all of the rules and
37 restrictions applicable to the use of automated traffic safety
38 cameras in this section apply to the use of automated traffic safety
39 cameras in the pilot program established in this subsection (6).

1 (iii) As used in this subsection (6), "public transportation
2 vehicle" means any motor vehicle, streetcar, train, trolley vehicle,
3 ferry boat, or any other device, vessel, or vehicle that is owned or
4 operated by a transit authority or an entity providing service on
5 behalf of a transit authority that is used for the purpose of
6 carrying passengers and that operates on established routes. "Transit
7 authority" has the meaning provided in RCW 9.91.025.

8 (b) Use of automated traffic safety cameras as authorized in this
9 subsection (6) is restricted to the following locations only:
10 Locations authorized in subsection (1)(b) of this section; and
11 midblock on arterials. Additionally, the use of automated traffic
12 safety cameras as authorized in this subsection (6) is further
13 limited to the following:

14 (i) The portion of state and local roadways in downtown areas of
15 the city used for office and commercial activities, as well as retail
16 shopping and support services, and that may include mixed residential
17 uses;

18 (ii) The portion of state and local roadways in areas in the city
19 within one-half mile north of the boundary of the area described in
20 (b)(i) of this subsection;

21 (iii) Portions of roadway systems in the city that travel into
22 and out of (b)(ii) of this subsection that are designated by the
23 Washington state department of transportation as noninterstate
24 freeways for up to four miles; and

25 (iv) Portions of roadway systems in the city connected to the
26 portions of the noninterstate freeways identified in (b)(iii) of this
27 subsection that are designated by the Washington state department of
28 transportation as arterial roadways for up to one mile from the
29 intersection of the arterial roadway and the noninterstate freeway.

30 (c) However, automated traffic safety cameras may not be used on
31 an on-ramp to an interstate.

32 (d) From the effective date of this section through December 31,
33 2020, a warning notice with no penalty must be issued to the
34 registered owner of the vehicle for a violation generated through the
35 use of an automated traffic safety camera authorized in this
36 subsection (6). Beginning January 1, 2021, a notice of infraction
37 must be issued, in a manner consistent with subsections (1)(e) and
38 (3) of this section, for a violation generated through the use of an
39 automated traffic safety camera authorized in this subsection (6).

1 However, the penalty for the violation may not exceed seventy-five
2 dollars.

3 (e) For infractions issued as authorized in this subsection (6),
4 a city with a pilot program shall remit monthly to the state fifty
5 percent of the noninterest money received under this subsection (6)
6 in excess of the cost to install, operate, and maintain the automated
7 traffic safety cameras for use in the pilot program. Money remitted
8 under this subsection to the state treasurer shall be deposited in
9 the Cooper Jones active transportation safety account created in
10 section 2 of this act. The remaining fifty percent retained by the
11 city must be used only for improvements to transportation that
12 support equitable access and mobility for persons with disabilities.

13 (f) A transit authority may not take disciplinary action,
14 regarding a warning or infraction issued pursuant to this subsection
15 (6), against an employee who was operating a public transportation
16 vehicle at the time the violation that was the basis of the warning
17 or infraction was detected.

18 (g) A city that implements a pilot program under this subsection
19 (6) must provide a preliminary report to the transportation
20 committees of the legislature by June 30, 2022, and a final report by
21 January 1, 2023, on the pilot program that includes the locations
22 chosen for the automated traffic safety cameras used in the pilot
23 program, the number of warnings and traffic infractions issued under
24 the pilot program, the number of traffic infractions issued with
25 respect to vehicles registered outside of the county in which the
26 city is located, the infrastructure improvements made using the
27 penalty moneys as required under (e) of this subsection, an equity
28 analysis that includes any disproportionate impacts, safety, and on-
29 time performance statistics related to the impact on driver behavior
30 of the use of automated traffic safety cameras in the pilot program,
31 and any recommendations on the use of automated traffic safety
32 cameras to enforce the violations that these cameras were authorized
33 to detect under the pilot program.

34 NEW SECTION. Sec. 2. A new section is added to chapter 46.68
35 RCW to read as follows:

36 The Cooper Jones active transportation safety account is created
37 in the state treasury. All receipts from penalties collected under
38 RCW 46.63.170(6)(e) shall be deposited into the account. Expenditures
39 from the account may be used only to fund grant projects or programs

1 for bicycle, pedestrian, and nonmotorist safety improvement
2 administered by the Washington traffic safety commission. The account
3 is subject to allotment procedures under chapter 43.88 RCW. Moneys in
4 the account may be spent only after appropriation.

5 NEW SECTION. **Sec. 3.** Section 1 of this act expires June 30,
6 2023."

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7 On page 1, line 3 of the title, after "safety;" strike the
8 remainder of the title and insert "amending RCW 46.63.170; adding a
9 new section to chapter 46.68 RCW; and providing an expiration date."

EFFECT: (1) Reduces the violations that may be detected by a camera in the pilot program to: Stopping at intersection or crosswalk violations; public transportation only lane violations; and stopping or traveling in restricted lane violations.

(2) Further limits the pilot program enforcement of intersection or crosswalk blocking violations to the 20 intersections at which the city would most like to address safety concerns.

(3) Exempts portions of roadways that serve as an on-ramp to an interstate from the pilot program, reduced the area to the south of downtown that would have been eligible for the pilot, extends the length of noninterstate freeway eligible for the pilot from 3 to 4 miles.

(4) Requires that only a warning may be issued for violations until January 1, 2021, and changes the penalty framework requiring beginning January 1, 2021, that a violation result in a notice of infraction with a monetary penalty.

(5) Provides that facial recognition technology may not be applied to a live or recorded image and that any image of a person incidentally captured in a photo of a violation under the expanded use of the cameras may only be used in the enforcement of the violation of the pilot.

(6) Limits the amount of the fine for the infraction to no more than \$75.

(7) Public transportation benefit districts may not take disciplinary action against the driver of a public transportation vehicle for a violation detected by the cameras under the pilot.

(8) Redirects 50 percent of the amount of the penalties that are in excess of the cost to install and maintain the cameras to the state Cooper Jones Active Transportation Safety Account and requires the remaining 50 percent retained by the city be used only for ADA improvements to transportation infrastructure.

(9) Extends the pilot to June 30, 2023.

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