
HOUSE BILL 1229

State of Washington

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By Representatives Caldier, Kilduff, Klippert, Pettigrew, Appleton, and Santos

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1 AN ACT Relating to photographs, microphotographs, and electronic
2 images from traffic safety cameras and toll systems; and amending RCW
3 46.63.170 and 46.63.160.

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

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

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

9 (a) 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. At a minimum, the local ordinance must contain the
19 restrictions described in this section and provisions for public
20 notice and signage. Cities and counties using automated traffic
21 safety cameras before July 24, 2005, are subject to the restrictions

1 described in this section, but are not required to enact an
2 authorizing ordinance. Beginning one year after June 7, 2012, cities
3 and counties using automated traffic safety cameras must post an
4 annual report of the number of traffic accidents that occurred at
5 each location where an automated traffic safety camera is located as
6 well as the number of notices of infraction issued for each camera
7 and any other relevant information about the automated traffic safety
8 cameras that the city or county deems appropriate on the city's or
9 county's web site.

10 (b) Except as provided in (c) of this subsection, use of
11 automated traffic safety cameras is restricted to the following
12 locations only: (i) Intersections of two arterials with traffic
13 control signals that have yellow change interval durations in
14 accordance with RCW 47.36.022, which interval durations may not be
15 reduced after placement of the camera; (ii) railroad crossings; and
16 (iii) school speed zones.

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

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

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

27 (d) Automated traffic safety cameras may only take pictures of
28 the vehicle and vehicle license plate and only while an infraction is
29 occurring. The picture must not reveal the face of the driver or of
30 passengers in the vehicle. The primary purpose of camera placement is
31 to take pictures of the vehicle and vehicle license plate when an
32 infraction is occurring. Cities and counties shall consider
33 installing cameras in a manner that minimizes the impact of camera
34 flash on drivers.

35 (e) A notice of infraction must be mailed to the registered owner
36 of the vehicle within fourteen days of the violation, or to the
37 renter of a vehicle within fourteen days of establishing the renter's
38 name and address under subsection (3)(a) of this section. The law
39 enforcement officer issuing the notice of infraction shall include
40 with it a certificate or facsimile thereof, based upon inspection of

1 photographs, microphotographs, or electronic images produced by an
2 automated traffic safety camera, stating the facts supporting the
3 notice of infraction. This certificate or facsimile is prima facie
4 evidence of the facts contained in it and is admissible in a
5 proceeding charging a violation under this chapter. The photographs,
6 microphotographs, or electronic images evidencing the violation must
7 be available for inspection and admission into evidence in a
8 proceeding to adjudicate the liability for the infraction. A person
9 receiving a notice of infraction based on evidence detected by an
10 automated traffic safety camera may respond to the notice by mail.

11 (f) The registered owner of a vehicle is responsible for an
12 infraction under RCW 46.63.030(1)(d) unless the registered owner
13 overcomes the presumption in RCW 46.63.075, or, in the case of a
14 rental car business, satisfies the conditions under subsection (3) of
15 this section. If appropriate under the circumstances, a renter
16 identified under subsection (3)(a) of this section is responsible for
17 an infraction.

18 (g) (~~Notwithstanding any other provision of law,~~) All
19 photographs, microphotographs, or electronic images prepared under
20 this section are for the exclusive use of law enforcement in the
21 discharge of duties under this section ((and)) or are available for
22 the investigation and prosecution of crimes pursuant to a lawfully
23 issued search warrant. All such photographs, microphotographs, and
24 electronic images are not open to the public (~~and may not be used in~~
25 ~~a court in a pending action or proceeding unless the action or~~
26 ~~proceeding relates to a violation under this section. No photograph,~~
27 ~~microphotograph, or electronic image may be used for any purpose~~
28 ~~other than enforcement of violations under this section nor retained~~
29 ~~longer than necessary to enforce this section)).~~

30 (h) All locations where an automated traffic safety camera is
31 used must be clearly marked at least thirty days prior to activation
32 of the camera by placing signs in locations that clearly indicate to
33 a driver that he or she is entering a zone where traffic laws are
34 enforced by an automated traffic safety camera. Signs placed in
35 automated traffic safety camera locations after June 7, 2012, must
36 follow the specifications and guidelines under the manual of uniform
37 traffic control devices for streets and highways as adopted by the
38 department of transportation under chapter 47.36 RCW.

39 (i) If a county or city has established an authorized automated
40 traffic safety camera program under this section, the compensation

1 paid to the manufacturer or vendor of the equipment used must be
2 based only upon the value of the equipment and services provided or
3 rendered in support of the system, and may not be based upon a
4 portion of the fine or civil penalty imposed or the revenue generated
5 by the equipment.

6 (2) Infractions detected through the use of automated traffic
7 safety cameras are not part of the registered owner's driving record
8 under RCW 46.52.101 and 46.52.120. Additionally, infractions
9 generated by the use of automated traffic safety cameras under this
10 section shall be processed in the same manner as parking infractions,
11 including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120,
12 and 46.20.270(2). The amount of the fine issued for an infraction
13 generated through the use of an automated traffic safety camera shall
14 not exceed the amount of a fine issued for other parking infractions
15 within the jurisdiction. However, the amount of the fine issued for a
16 traffic control signal violation detected through the use of an
17 automated traffic safety camera shall not exceed the monetary penalty
18 for a violation of RCW 46.61.050 as provided under RCW 46.63.110,
19 including all applicable statutory assessments.

20 (3) If the registered owner of the vehicle is a rental car
21 business, the law enforcement agency shall, before a notice of
22 infraction being issued under this section, provide a written notice
23 to the rental car business that a notice of infraction may be issued
24 to the rental car business if the rental car business does not,
25 within eighteen days of receiving the written notice, provide to the
26 issuing agency by return mail:

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

30 (b) A statement under oath that the business is unable to
31 determine who was driving or renting the vehicle at the time the
32 infraction occurred because the vehicle was stolen at the time of the
33 infraction. A statement provided under this subsection must be
34 accompanied by a copy of a filed police report regarding the vehicle
35 theft; or

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

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

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

5 (5) For the purposes of this section, "automated traffic safety
6 camera" means a device that uses a vehicle sensor installed to work
7 in conjunction with an intersection traffic control system, a
8 railroad grade crossing control system, or a speed measuring device,
9 and a camera synchronized to automatically record one or more
10 sequenced photographs, microphotographs, or electronic images of the
11 rear of a motor vehicle at the time the vehicle fails to stop when
12 facing a steady red traffic control signal or an activated railroad
13 grade crossing control signal, or exceeds a speed limit as detected
14 by a speed measuring device.

15 (6) During the 2011-2013 and 2013-2015 fiscal biennia, this
16 section does not apply to automated traffic safety cameras for the
17 purposes of section 216(5), chapter 367, Laws of 2011 and section
18 216(6), chapter 306, Laws of 2013.

19 **Sec. 2.** RCW 46.63.160 and 2015 c 292 s 1 are each amended to
20 read as follows:

21 (1) This section applies only to civil penalties for nonpayment
22 of tolls detected through use of photo toll systems.

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

27 (3) A notice of civil penalty may be issued by the department of
28 transportation when a toll is assessed through use of a photo toll
29 system and the toll is not paid by the toll payment due date, which
30 is eighty days from the date the vehicle uses the toll facility and
31 incurs the toll charge.

32 (4) Any registered owner or renter of a vehicle traveling upon a
33 toll facility operated under chapter 47.56 or 47.46 RCW is subject to
34 a civil penalty governed by the administrative procedures set forth
35 in this section when the vehicle incurs a toll charge and the toll is
36 not paid by the toll payment due date, which is eighty days from the
37 date the vehicle uses the toll facility and incurs the toll charge.

38 (5)(a) The department shall develop rules to allow an individual
39 who has been issued a notice of civil penalty to present evidence of

1 mitigating circumstances as to why a toll bill was not timely paid.
2 If an individual is able to present verifiable evidence to the
3 department that a civil penalty was incurred due to hospitalization,
4 military deployment, eviction, homelessness, death of the alleged
5 violator or of an alleged violator's immediate family member, failure
6 to receive the toll bill due to an incorrect address that has since
7 been corrected, a prepaid electronic toll account error that has
8 since been corrected, an error made by the department or an agent of
9 the department, or other mitigating circumstances as determined by
10 the department, the department may dismiss or reduce the civil
11 penalty and associated fees.

12 (b) (i) Consistent with chapter 34.05 RCW, the department of
13 transportation shall develop an administrative adjudication process
14 to review appeals of civil penalties issued by the department of
15 transportation for toll nonpayment detected through the use of a
16 photo toll system under this section. The department of
17 transportation shall submit to the transportation committees of the
18 legislature an annual report on the number of times adjudicators
19 reduce or dismiss the civil penalty as provided in (b)(ii) of this
20 subsection and the total amount of the civil penalties dismissed. The
21 report must be submitted by December 1st of each year.

22 (ii) During the adjudication process, the alleged violator must
23 have an opportunity to explain mitigating circumstances as to why the
24 toll bill was not timely paid. Hospitalization, a divorce decree or
25 legal separation agreement resulting in a transfer of the vehicle, an
26 active duty member of the military or national guard covered by the
27 federal service members civil relief act, 50 U.S.C. Sec. 501 et seq.,
28 or state service members' civil relief act, chapter 38.42 RCW,
29 eviction, homelessness, the death of the alleged violator or of an
30 immediate family member, being switched to a different method of toll
31 payment, if the alleged violator did not receive a toll charge bill
32 or notice of civil penalty, or other mitigating circumstances as
33 determined by the adjudicator are deemed valid mitigating
34 circumstances. All of the reasons that constitute mitigating
35 circumstances must have occurred within a reasonable time of the
36 alleged toll violation. In response to these circumstances, the
37 adjudicator may reduce or dismiss the civil penalty and associated
38 administrative fees.

39 (6) The use of a photo toll system is subject to the following
40 requirements:

1 (a) Photo toll systems may take photographs, digital photographs,
2 microphotographs, videotapes, or other recorded images of the vehicle
3 and vehicle license plate only.

4 (b) A notice of civil penalty must include with it a certificate
5 or facsimile thereof, based upon inspection of photographs,
6 microphotographs, videotape, or other recorded images produced by a
7 photo toll system, stating the facts supporting the notice of civil
8 penalty. This certificate or facsimile is prima facie evidence of the
9 facts contained in it and is admissible in a proceeding established
10 under subsection (5) of this section. The photographs, digital
11 photographs, microphotographs, videotape, or other recorded images
12 evidencing the toll nonpayment civil penalty must be available for
13 inspection and admission into evidence in a proceeding to adjudicate
14 the liability for the civil penalty.

15 (c)(i) By June 30, 2016, prior to issuing a notice of civil
16 penalty to a registered owner of a vehicle listed on an active
17 prepaid electronic toll account, the department of transportation
18 must:

19 (A) Send an (~~electronic mail~~) email notice to the email address
20 provided in the prepaid electronic toll account of unpaid pay-by-mail
21 toll bills at least ten days prior to a notice of civil penalty being
22 issued for the associated pay-by-mail toll. The notice must be
23 separate from any regular notice sent by the department; and

24 (B) Call the phone numbers provided in the account to provide
25 notice of unpaid pay-by-mail toll bills at least ten days prior to a
26 notice of civil penalty being issued for the associated pay-by-mail
27 toll.

28 (ii) The department is relieved of its obligation to provide
29 notice as required by this section if the customer has declined to
30 receive communications from the department through such methods.

31 (d) (~~Notwithstanding any other provision of law,~~) All
32 photographs, digital photographs, microphotographs, videotape, other
33 recorded images, or other records identifying a specific instance of
34 travel prepared under this section are for the exclusive use of the
35 tolling agency for toll collection and enforcement purposes ((and))
36 or are available for the investigation and prosecution of crimes
37 pursuant to a lawfully issued search warrant. All such photographs,
38 digital photographs, microphotographs, videotapes, recorded images,
39 and other records are not open to the public (~~and may not be used in~~
40 ~~a court in a pending action or proceeding unless the action or~~

1 ~~proceeding relates to a civil penalty under this section. No~~
2 ~~photograph, digital photograph, microphotograph, videotape, other~~
3 ~~recorded image, or other record identifying a specific instance of~~
4 ~~travel may be used for any purpose other than toll collection or~~
5 ~~enforcement of civil penalties under this section)).~~ Records
6 identifying a specific instance of travel by a specific person or
7 vehicle must be retained only as required to ensure payment and
8 enforcement of tolls and to comply with state records retention
9 policies.

10 (e) All locations where a photo toll system is used must be
11 clearly marked by placing signs in locations that clearly indicate to
12 a driver that he or she is entering a zone where tolls are assessed
13 and enforced by a photo toll system.

14 (f) Within existing resources, the department of transportation
15 shall conduct education and outreach efforts at least six months
16 prior to activating an all-electronic photo toll system. Methods of
17 outreach shall include a department presence at community meetings in
18 the vicinity of a toll facility, signage, and information published
19 in local media. Information provided shall include notice of when all
20 electronic photo tolling shall begin and methods of payment.
21 Additionally, the department shall provide quarterly reporting on
22 education and outreach efforts and other data related to the issuance
23 of civil penalties.

24 (g) The envelope containing a toll charge bill or related notice
25 issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of civil
26 penalty issued under this section, must prominently indicate that the
27 contents are time sensitive and related to a toll violation.

28 (7) Civil penalties for toll nonpayment detected through the use
29 of photo toll systems must be issued to the registered owner of the
30 vehicle identified by the photo toll system, but are not part of the
31 registered owner's driving record under RCW 46.52.101 and 46.52.120.

32 (8) The civil penalty for toll nonpayment detected through the
33 use of a photo toll system is forty dollars plus the photo toll and
34 associated fees.

35 (9) Except as provided otherwise in this subsection, all civil
36 penalties, including the photo toll and associated fees, collected
37 under this section must be deposited into the toll facility account
38 of the facility on which the toll was assessed. However, through June
39 30, 2013, civil penalties deposited into the Tacoma Narrows toll
40 bridge account created under RCW 47.56.165 that are in excess of

1 amounts necessary to support the toll adjudication process applicable
2 to toll collection on the Tacoma Narrows bridge must first be
3 allocated toward repayment of operating loans and reserve payments
4 provided to the account from the motor vehicle account under section
5 1005(15), chapter 518, Laws of 2007. Additionally, all civil
6 penalties, resulting from nonpayment of tolls on the state route
7 number 520 corridor, shall be deposited into the state route number
8 520 civil penalties account created under section 4, chapter 248,
9 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June
10 30, 2010.

11 (10) If the registered owner of the vehicle is a rental car
12 business, the department of transportation shall, before a toll bill
13 is issued, provide a written notice to the rental car business that a
14 toll bill may be issued to the rental car business if the rental car
15 business does not, within thirty days of the mailing of the written
16 notice, provide to the issuing agency by return mail:

17 (a) A statement under oath stating the name and known mailing
18 address of the individual driving or renting the vehicle when the
19 toll was assessed; or

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

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

28 Timely mailing of this statement to the issuing agency relieves a
29 rental car business of any liability under this section for the
30 payment of the toll.

31 (11) It is the intent of the legislature that the department
32 provide an educational opportunity when vehicle owners incur fees and
33 penalties associated with late payment of tolls for the first time.
34 As part of this educational opportunity, the department may waive
35 penalties and fees if the issue that resulted in the toll not being
36 timely paid has been resolved and the vehicle owner establishes an
37 electronic toll account, if practicable. To aid in collecting tolls
38 in a timely manner, the department may waive or reduce the
39 outstanding amounts of fees and penalties assessed when tolls are not
40 timely paid.

1 (12)(a) By June 30, 2016, the department of transportation must
2 update its web site, and accommodate access to the web site from
3 mobile platforms, to allow toll customers to efficiently manage all
4 their tolling accounts, regardless of method of payment.

5 (b)(i) By June 30, 2016, the department of transportation must
6 make available to the public a point of access that allows a third
7 party to develop an application for mobile technologies that (A)
8 securely accesses a user's toll account information and (B) allows
9 the user to manage his or her toll account to the same extent
10 possible through the department's web site.

11 (ii) If the department determines that it would be cost-effective
12 and in the best interests of the citizens of Washington, it may also
13 develop an application for mobile technologies that allows toll
14 customers to manage all of their tolling accounts from a mobile
15 platform.

16 (13) When acquiring a new photo toll system, the department of
17 transportation must enable the new system to:

18 (a) Connect with the department of licensing's vehicle record
19 system so that a prepaid electronic toll account can be updated
20 automatically when a toll customer's vehicle record is updated, if
21 the customer has consented to such updates; and

22 (b) Document when any toll is assessed for a vehicle listed in a
23 prepaid electronic toll account in the monthly statement that is made
24 available to the electronic toll account holder regardless of whether
25 the method of payment for the toll is via pay-by-mail or prepaid
26 electronic toll account.

27 (14) Consistent with chapter 34.05 RCW, the department of
28 transportation shall develop rules to implement this section.

29 (15) For the purposes of this section:

30 (a) "Photo toll system" means the system defined in RCW 47.56.010
31 and 47.46.020.

32 (b) "Prepaid electronic toll account" means a prepaid toll
33 account linked to a pass or license plate number, including "Good to
34 Go!".

35 (16) If a customer's toll charge or civil penalty is waived
36 pursuant to this section due to an error made by the department, or
37 an agent of the department, in reading the customer's license plate,

1 the secretary of transportation must send a letter to the customer
2 apologizing for the error.

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