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**SUBSTITUTE SENATE BILL 5789**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Lias, Nguyen, Saldaña, and Wilson, C.)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to establishing additional uses for automated  
2 traffic safety cameras for traffic congestion reduction and increased  
3 safety; amending RCW 46.63.170; adding a new section to chapter 46.68  
4 RCW; and providing an expiration date.

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

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

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

10 (a) ~~((The))~~ Except for proposed locations used solely for the  
11 pilot program purposes permitted under subsection (6) of this  
12 section, the appropriate local legislative authority must prepare an  
13 analysis of the locations within the jurisdiction where automated  
14 traffic safety cameras are proposed to be located: (i) Before  
15 enacting an ordinance allowing for the initial use of automated  
16 traffic safety cameras; and (ii) before adding additional cameras or  
17 relocating any existing camera to a new location within the  
18 jurisdiction. Automated traffic safety cameras may be used to detect  
19 one or more of the following: Stoplight, railroad crossing, or school  
20 speed zone violations; ~~((or))~~ speed violations subject to (c) of this  
21 subsection; or violations included in subsection (6) of this section

1 for the duration of the pilot program authorized under subsection (6)  
2 of this section. At a minimum, the local ordinance must contain the  
3 restrictions described in this section and provisions for public  
4 notice and signage. Cities and counties using automated traffic  
5 safety cameras before July 24, 2005, are subject to the restrictions  
6 described in this section, but are not required to enact an  
7 authorizing ordinance. Beginning one year after June 7, 2012, cities  
8 and counties using automated traffic safety cameras must post an  
9 annual report of the number of traffic accidents that occurred at  
10 each location where an automated traffic safety camera is located as  
11 well as the number of notices of infraction issued for each camera  
12 and any other relevant information about the automated traffic safety  
13 cameras that the city or county deems appropriate on the city's or  
14 county's web site.

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

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

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

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

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

1 (e) A notice of infraction must be mailed to the registered owner  
2 of the vehicle within fourteen days of the violation, or to the  
3 renter of a vehicle within fourteen days of establishing the renter's  
4 name and address under subsection (3)(a) of this section. The law  
5 enforcement officer issuing the notice of infraction shall include  
6 with it a certificate or facsimile thereof, based upon inspection of  
7 photographs, microphotographs, or electronic images produced by an  
8 automated traffic safety camera, stating the facts supporting the  
9 notice of infraction. This certificate or facsimile is prima facie  
10 evidence of the facts contained in it and is admissible in a  
11 proceeding charging a violation under this chapter. The photographs,  
12 microphotographs, or electronic images evidencing the violation must  
13 be available for inspection and admission into evidence in a  
14 proceeding to adjudicate the liability for the infraction. A person  
15 receiving a notice of infraction based on evidence detected by an  
16 automated traffic safety camera may respond to the notice by mail.

17 (f) The registered owner of a vehicle is responsible for an  
18 infraction under RCW 46.63.030(1)(d) unless the registered owner  
19 overcomes the presumption in RCW 46.63.075, or, in the case of a  
20 rental car business, satisfies the conditions under subsection (3) of  
21 this section. If appropriate under the circumstances, a renter  
22 identified under subsection (3)(a) of this section is responsible for  
23 an infraction.

24 (g) Notwithstanding any other provision of law, all photographs,  
25 microphotographs, or electronic images, or any other personally  
26 identifying data prepared under this section are for the exclusive  
27 use of law enforcement in the discharge of duties under this section  
28 and are not open to the public and may not be used in a court in a  
29 pending action or proceeding unless the action or proceeding relates  
30 to a violation under this section. No photograph, microphotograph, or  
31 electronic image, or any other personally identifying data may be  
32 used for any purpose other than enforcement of violations under this  
33 section nor retained longer than necessary to enforce this section.

34 (h) All locations where an automated traffic safety camera is  
35 used must be clearly marked at least thirty days prior to activation  
36 of the camera by placing signs in locations that clearly indicate to  
37 a driver that he or she is entering a zone where traffic laws are  
38 enforced by an automated traffic safety camera. Signs placed in  
39 automated traffic safety camera locations after June 7, 2012, must  
40 follow the specifications and guidelines under the manual of uniform

1 traffic control devices for streets and highways as adopted by the  
2 department of transportation under chapter 47.36 RCW.

3 (i) If a county or city has established an authorized automated  
4 traffic safety camera program under this section, the compensation  
5 paid to the manufacturer or vendor of the equipment used must be  
6 based only upon the value of the equipment and services provided or  
7 rendered in support of the system, and may not be based upon a  
8 portion of the fine or civil penalty imposed or the revenue generated  
9 by the equipment.

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

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

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

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

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

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

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

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

20 (b) For the purposes of the pilot program authorized under  
21 subsection (6) of this section, "automated traffic safety camera"  
22 also includes a device used to detect stopping at intersection or  
23 crosswalk violations; stopping when traffic obstructed violations;  
24 public transportation only lane violations; and stopping or traveling  
25 in restricted lane violations. The device, including all technology  
26 defined under "automated traffic safety camera," must not reveal the  
27 face of the driver or the passengers in vehicles, and must not use  
28 any facial recognition technology in real time or after capturing any  
29 information. If the face of any individual in a crosswalk or  
30 otherwise within the frame is incidentally captured, it may not be  
31 made available to the public nor used for any purpose including, but  
32 not limited to, any law enforcement action, except in a pending  
33 action or proceeding related to a violation under this section.

34 ~~((During the 2011-2013 and 2013-2015 fiscal biennia, this~~  
35 ~~section does not apply to automated traffic safety cameras for the~~  
36 ~~purposes of section 216(5), chapter 367, Laws of 2011 and section~~  
37 ~~216(6), chapter 306, Laws of 2013.)) (a) (i) A city with a population  
38 greater than five hundred thousand may adopt an ordinance creating a  
39 pilot program authorizing automated traffic safety cameras to be used  
40 to detect one or more of the following violations: Stopping when~~

1 traffic obstructed violations; stopping at intersection or crosswalk  
2 violations; public transportation only lane violations; and stopping  
3 or traveling in restricted lane violations. Under the pilot program,  
4 stopping at intersection or crosswalk violations may only be enforced  
5 at the twenty intersections where the city would most like to address  
6 safety concerns related to stopping at intersection or crosswalk  
7 violations. At a minimum, the local ordinance must contain the  
8 restrictions described in this section and provisions for public  
9 notice and signage.

10 (ii) Except where specifically exempted, all of the rules and  
11 restrictions applicable to the use of automated traffic safety  
12 cameras in this section apply to the use of automated traffic safety  
13 cameras in the pilot program established in this subsection (6).

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

21 (b) Use of automated traffic safety cameras as authorized in this  
22 subsection (6) is restricted to the following locations only:  
23 Locations authorized in subsection (1)(b) of this section; and  
24 midblock on arterials. Additionally, the use of automated traffic  
25 safety cameras as authorized in this subsection (6) is further  
26 limited to the following:

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

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

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

38 (iv) Portions of roadway systems in the city connected to the  
39 portions of the noninterstate freeways identified in (b)(iii) of this  
40 subsection that are designated by the Washington state department of

1 transportation as arterial roadways for up to one mile from the  
2 intersection of the arterial roadway and the noninterstate freeway.

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

5 (d) From the effective date of this section through December 31,  
6 2020, a warning notice with no penalty must be issued to the  
7 registered owner of the vehicle for a violation generated through the  
8 use of an automated traffic safety camera authorized in this  
9 subsection (6). Beginning January 1, 2021, a notice of infraction  
10 must be issued, in a manner consistent with subsections (1)(e) and  
11 (3) of this section, for a violation generated through the use of an  
12 automated traffic safety camera authorized in this subsection (6).  
13 However, the penalty for the violation may not exceed seventy-five  
14 dollars.

15 (e) For infractions issued as authorized in this subsection (6),  
16 a city with a pilot program shall remit monthly to the state fifty  
17 percent of the noninterest money received under this subsection (6)  
18 in excess of the cost to install, operate, and maintain the automated  
19 traffic safety cameras for use in the pilot program. Money remitted  
20 under this subsection to the state treasurer shall be deposited in  
21 the Cooper Jones active transportation safety account created in  
22 section 2 of this act. The remaining fifty percent retained by the  
23 city must be used only for improvements to transportation that  
24 support equitable access and mobility for persons with disabilities.

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

30 (g) A city that implements a pilot program under this subsection  
31 (6) must provide a preliminary report to the transportation  
32 committees of the legislature by June 30, 2022, and a final report by  
33 January 1, 2023, on the pilot program that includes the locations  
34 chosen for the automated traffic safety cameras used in the pilot  
35 program, the number of warnings and traffic infractions issued under  
36 the pilot program, the number of traffic infractions issued with  
37 respect to vehicles registered outside of the county in which the  
38 city is located, the infrastructure improvements made using the  
39 penalty moneys as required under (e) of this subsection, an equity  
40 analysis that includes any disproportionate impacts, safety, and on-

1 time performance statistics related to the impact on driver behavior  
2 of the use of automated traffic safety cameras in the pilot program,  
3 and any recommendations on the use of automated traffic safety  
4 cameras to enforce the violations that these cameras were authorized  
5 to detect under the pilot program.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.68  
7 RCW to read as follows:

8 The Cooper Jones active transportation safety account is created  
9 in the state treasury. All receipts from penalties collected under  
10 RCW 46.63.170(6)(e) shall be deposited into the account. Expenditures  
11 from the account may be used only to fund grant projects or programs  
12 for bicycle, pedestrian, and nonmotorist safety improvement  
13 administered by the Washington traffic safety commission. The account  
14 is subject to allotment procedures under chapter 43.88 RCW. Moneys in  
15 the account may be spent only after appropriation.

16 NEW SECTION. **Sec. 3.** Section 1 of this act expires June 30,  
17 2023.

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