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**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.

3 (b) A law enforcement agency may not issue a traffic infraction  
4 recorded by an automated traffic enforcement system until the  
5 Washington supreme court adopts rules to determine the procedure for  
6 processing infractions recorded by automated traffic enforcement  
7 systems.

8 (3) A court may issue a notice of traffic infraction upon receipt  
9 of a written statement of the officer that there is reasonable cause to  
10 believe that an infraction was committed.

11 ~~((+3))~~ (4) If any motor vehicle without a driver is found parked,  
12 standing, or stopped in violation of this title or an equivalent  
13 administrative regulation or local law, ordinance, regulation, or  
14 resolution, the officer finding the vehicle shall take its registration  
15 number and may take any other information displayed on the vehicle  
16 which may identify its user, and shall conspicuously affix to the  
17 vehicle a notice of traffic infraction.

18 ~~((+4))~~ (5) In the case of failure to redeem an abandoned vehicle  
19 under RCW 46.55.120 an officer shall send a notice of infraction by  
20 certified mail to the last known address of the registered owner of the  
21 vehicle.

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

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

27 (2) If the person determined to have committed the infraction does  
28 not contest the determination the person shall respond by completing  
29 the appropriate portion of the notice of infraction and submitting it,  
30 either by mail or in person, to the court specified on the notice. A  
31 check or money order in the amount of the penalty prescribed for the  
32 infraction must be submitted with the response. When a response which  
33 does not contest the determination is received, an appropriate order  
34 shall be entered in the court's records, and a record of the response  
35 and order shall be furnished to the department in accordance with RCW  
36 46.20.270.

37 (3)(a) If the person determined to have committed the infraction  
38 wishes to contest the determination the person shall respond by

1 completing the portion of the notice of infraction requesting a hearing  
2 and submitting it, either by mail or in person, to the court specified  
3 on the notice. The court shall notify the person in writing of the  
4 time, place, and date of the hearing, and that date shall not be sooner  
5 than seven days from the date of the notice, except by agreement.

6 (b) The registered owner of a vehicle is only responsible for  
7 infractions that occur when he or she was the person operating the  
8 vehicle at the time the infraction was committed. If the person issued  
9 a notice of infraction resulting from the use of an automated traffic  
10 enforcement system chooses to contest the issuance of the traffic  
11 infraction by refuting that he or she was the person operating the  
12 vehicle at the time the infraction was committed, he or she may sign an  
13 affidavit under penalty of perjury that he or she was not the person  
14 operating the vehicle at the time the infraction was committed.

15 (c) It is a complete defense to a traffic infraction for violation  
16 of a speed regulation recorded by the use of an automated traffic  
17 enforcement system if the person has been issued a previous traffic  
18 infraction for violation of a speed regulation recorded by the use of  
19 an automated traffic enforcement system within the previous thirty days  
20 and the person has not received notice of any prior traffic infraction  
21 for violation of a speed regulation recorded by an automated traffic  
22 enforcement system within the previous thirty days.

23 (d) Each law enforcement agency shall make a reasonable effort to  
24 issue traffic infractions within thirty days.

25 (4) If the person determined to have committed the infraction does  
26 not contest the determination but wishes to explain mitigating  
27 circumstances surrounding the infraction the person shall respond by  
28 completing the portion of the notice of infraction requesting a hearing  
29 for that purpose and submitting it, either by mail or in person, to the  
30 court specified on the notice. The court shall notify the person in  
31 writing of the time, place, and date of the hearing.

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

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

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

37 the court shall enter an appropriate order assessing the monetary  
38 penalty prescribed for the traffic infraction and any other penalty  
39 authorized by this chapter and shall notify the department in

1 accordance with RCW 46.20.270, of the failure to respond to the notice  
2 of infraction or to appear at a requested hearing.

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

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

8 "Automated traffic enforcement system" means photographic equipment  
9 linked to a violation detection system that synchronizes the taking of  
10 a photograph with the occurrence of a traffic violation.

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

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