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**SENATE BILL 5481**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Hill, Litzow, Mullet, Chase, Rivers, Becker, Bailey, Warnick, Rolfes, and Hasegawa

AN ACT Relating to omnibus tolling customer service reform; and amending RCW 46.63.160.

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

**Sec.**  RCW 46.63.160 and 2013 c 226 s 1 are each amended to read as follows:

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

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

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

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date, which is eighty days from the date the vehicle uses the toll facility and incurs the toll charge. A customer service representative must assist a toll customer who has received a notice of civil penalty to correct any errors or account issues resulting in a civil penalty balance of less than one hundred dollars. If the amount owed, including civil penalties, fees, and tolls, exceeds one hundred dollars, the customer must be referred to the administrative adjudication process described in subsection (5) of this section.

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

(b) During the adjudication process, the alleged violator must have an opportunity to explain mitigating circumstances. Hospitalization, a divorce decree or legal separation agreement resulting in a transfer of the vehicle, an active duty member of the military or national guard covered by the federal service members civil relief act, 50 U.S.C. Sec. 501 et seq., or state service members' civil relief act, chapter 38.42 RCW, eviction, homelessness, the death of the alleged violator or of an immediate family member, ((~~or~~)), being switched to a different method of toll payment, if the alleged violator did not receive a toll charge bill or notice of civil penalty, or other mitigating circumstances as determined by the administrative law judge are deemed valid mitigating circumstances. All of ((~~these~~))the reasons that constitute mitigating circumstances must occur within a reasonable time of the alleged toll violation. In response to these circumstances, the adjudicator may reduce or dismiss the civil penalty and associated administrative fees.

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

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

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

(c) Prior to issuing a notice of civil penalty to a registered owner of a vehicle with an electronic toll collection account, the department of transportation must:

(i) Document when the toll was assessed in the electronic toll collection account in the monthly statement that is made available to the registered owner of the vehicle;

(ii) Use electronic correspondence in addition to monthly statements to inform the registered owner of a vehicle with an electronic toll collection account that the registered owner has unpaid tolls during the eighty-day period between when the toll was assessed and when the unpaid toll becomes a civil penalty; and

(iii) Call the registered owner of the vehicle that was assessed the toll at least five days prior to the unpaid toll becoming a civil penalty, for those customers who have provided the department with phone contact information.

(d) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this section are for the exclusive use of the tolling agency for toll collection and enforcement purposes and are not open to the public and may not be used in a court in a pending action or proceeding unless the action or proceeding relates to a civil penalty under this section. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

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

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

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

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

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

(9) Except as provided otherwise in this subsection, all civil penalties, including the photo toll and associated fees, collected under this section must be deposited into the toll facility account of the facility on which the toll was assessed. However, through June 30, 2013, civil penalties deposited into the Tacoma Narrows toll bridge account created under RCW 47.56.165 that are in excess of amounts necessary to support the toll adjudication process applicable to toll collection on the Tacoma Narrows bridge must first be allocated toward repayment of operating loans and reserve payments provided to the account from the motor vehicle account under section 1005(15), chapter 518, Laws of 2007. Additionally, all civil penalties, resulting from nonpayment of tolls on the state route number 520 corridor, shall be deposited into the state route number 520 civil penalties account created under section 4, chapter 248, Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June 30, 2010.

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

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

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

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

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

(11) The department of transportation must administer a toll amnesty program within one hundred eighty days of the effective date of this section. The department may administer the program periodically thereafter. The toll amnesty program must allow a toll customer, on a one-time basis, who owes civil penalties, administrative fees, and tolls, to pay the tolls owed and have the civil penalties and associated administrative fees waived.

(12) The department of transportation must make available to the public a toll customer account application for mobile technologies that allows toll customers to manage all of their tolling accounts, regardless of method of payment, from a mobile platform.

(13) When acquiring a new photo toll system or making any modifications to an existing photo toll system, the department of transportation must enable the system to connect with the department of licensing's vehicle record system so that customer vehicle related information is shared seamlessly and the toll system is updated automatically when a toll customer's vehicle license plate is changed.

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

((~~(12)~~))(15) For the purposes of this section, "photo toll system" means the system defined in RCW 47.56.010 and 47.46.020.

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