
Judiciary Committee

HB 1405

Title: An act relating to establishing a statute of limitation for toll collections.

Brief Description: Establishing a statute of limitation for toll collections.

Sponsors: Representatives Harmsworth, Bergquist, Orcutt, Rodne, Muri, Chandler, Stokesbary, Pollet, Stanford, Kilduff and Springer.

Brief Summary of Bill

- Establishes 6 month statutes of limitation on the state's authority to assess and collect toll charges and related penalties from vehicle owners.
- Waives the state's sovereign immunity with respect to the application of the statutes of limitation for these recovery actions.

Hearing Date: 1/31/17

Staff: Audrey Frey (786-7289).

Background:

Toll Facilities.

There are several toll facilities within the state, including the State Route 520 Floating Bridge, the Tacoma Narrows Bridge, the State Route 167 High Occupancy Toll Lanes Project, and the I-405 High Occupancy Toll Lanes. Vehicle owners are automatically assessed a toll for using any of these toll facilities. If the vehicle does not have a Good to Go pass with the Washington State Department of Transportation (WSDOT), the registered owner of the vehicle receives a toll bill in the mail.

If the registered owner fails to pay this toll bill within 80 days, it becomes a toll violation. A civil penalty of \$40 may be assessed for a toll violation along with administrative fees. A registered owner may contest or dispute a civil penalty within 15 days of the date of the notice of

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civil penalty, and the registered owner may request an in-person administrative hearing. An administrative law judge may consider valid mitigating circumstances and reduce or waive any civil penalties.

Nullum Tempus Doctrine, as codified by statute.

The common law *nullum tempus* doctrine, under which statutory time limitations do not run against the state, was codified in statute dating back to 1854. The *nullum tempus* doctrine is related, but not identical, to the doctrine of sovereign immunity and the principle that a sovereign's rules do not bind the sovereign itself unless the sovereign explicitly consents to be bound.

The state Supreme Court has interpreted the statute that codifies the *nullum tempus* doctrine to mean that no statute of limitation applies to actions brought in the name or for the benefit of the state unless there is an express provision to the contrary. In other words, when the state brings an action for the benefit of the public against a person, in order for that person to use a statute of limitation as a defense, the statute of limitation needs to contain an express provision stating that it applies to actions brought in the name or for the benefit of the state.

Express provisions of this nature appear in certain statutes of limitation. For example, as part of the Tort Reform Act of 1986, a statute of repose was amended to expressly provide that the state is subject to that statute, using language such as: "The limitations prescribed in this section apply to all claims or causes of action . . . brought in the name or for the benefit of the state." In conjunction, the statute that codifies the *nullum tempus* doctrine was amended to include an exception that expressly referenced the statute of repose.

Summary of Bill:

Legislative Intent. Legislative intent is set forth: "The legislature intends with this act to establish a clear limit on the state's authority to assess and collect toll charges and related penalties from vehicle owners after the time periods established in this act have elapsed, whether the action is taken directly or delegated to a political subdivision, contractor, or agent."

Waiver of Sovereign Immunity. The state "waives its sovereign immunity with respect to the application of the statutes of limitation for recovery actions established under this act."

Statutes of Limitation. Each of the following laws is modified to include a 6 month statute of limitation, which begins to run from the time the vehicle is present in the toll facility, for the recovery of certain tolls and toll-related civil penalties or fines:

- Public Highways: Public-Private Transportation Initiatives;
- Public Highways: Transportation Innovative Partnerships;
- Public Highways: State Toll Bridges, Tunnels, and Ferries; and
- Port Districts: Toll Facilities

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.