

HOUSE BILL REPORT

ESSB 5272

As Passed House - Amended:

March 24, 2023

Title: An act relating to speed safety camera systems on state highways.

Brief Description: Concerning speed safety camera systems on state highways.

Sponsors: Senate Committee on Transportation (originally sponsored by Senators Liias, King, Kuderer, Nguyen, Nobles, Saldaña and Wilson, C.; by request of Department of Transportation).

Brief History:

Committee Activity:

Transportation: 3/15/23, 3/20/23 [DP].

Floor Activity:

Passed House: 3/24/23, 96-0.

Brief Summary of Engrossed Substitute Bill (As Amended by House)

- Authorizes law enforcement officers to issue a traffic infraction when it is detected through the use of a speed safety camera system (safety camera) in highway work zones through June 30, 2030.
- Places responsibility for the operation and administration of safety cameras in state highway work zones, including the procurement and administration of contracts for the implementation of safety cameras and the mailing of notices of infraction, with the Washington State Department of Transportation (WSDOT).
- Places responsibility for all actions related to the enforcement and adjudication of speed violations, including notice of infraction verification and issuance, with the Washington State Patrol (WSP).
- Refers notices of infraction that have not been paid within 30 days of

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

receipt or that have been disputed to the Office of Administrative Hearings for adjudication by an administrative law judge.

- Mandates that the WSP and the WSDOT, in collaboration with the Washington Traffic Safety Commission, report biennially to the Transportation Committees of the Legislature on the data and efficacy of safety cameras in state highway work zones, with a final report due on July 1, 2029.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: Do pass. Signed by 25 members: Representatives Fey, Chair; Donaghy, Vice Chair; Paul, Vice Chair; Timmons, Vice Chair; Barkis, Ranking Minority Member; Hutchins, Assistant Ranking Minority Member; Low, Assistant Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Berry, Bronoske, Chapman, Cortes, Doglio, Duerr, Entenman, Griffey, Hackney, Mena, Ramel, Ramos, Schmidt, Taylor, Volz, Walsh and Wylie.

Minority Report: Do not pass. Signed by 1 member: Representative Orcutt.

Minority Report: Without recommendation. Signed by 3 members: Representatives Dent, Goehner and Klicker.

Staff: Jennifer Harris (786-7143).

Background:

Authorized Uses and Requirements for Automated Traffic Safety Cameras.

The use of automated traffic safety cameras (traffic cameras) is permitted at red light intersections that meet minimum yellow change interval requirements, at railroad crossings, in school speed zones, in school walk areas, in public park speed zones, in hospital speed zones, and at select locations in cities that are identified as a priority location in a local road safety plan and meet other criteria (as specified below), if the following criteria are met:

1. The local legislative authority with jurisdiction where the traffic cameras are to be located prepares an analysis of the locations within the jurisdiction where traffic cameras are proposed to be located before enacting an ordinance authorizing their use and before adding additional traffic cameras or relocating any existing traffic camera.
2. An ordinance is enacted in cities and counties with traffic cameras installed on or after July 24, 2005, which includes the restrictions required by state law and provisions for public notice and signage.
3. The location where the traffic camera has been installed is clearly marked at least 30 days prior to activation of the traffic camera through the placement of signs at that location that follow federal guidelines as adopted by the Washington State

Department of Transportation (WSDOT).

4. Cities and counties using traffic cameras post an annual report on their websites that includes the number of traffic collisions that occurred at each location with a traffic camera, the number of notices of traffic infractions issued for each traffic camera, and any other relevant information.

For traffic cameras authorized at select locations in cities, a city is only permitted to operate one traffic camera and an additional traffic camera for each 10,000 residents at locations recommended by an equity analysis conducted by the city where one of the following sets of conditions is met:

- the location has been identified as a priority location in a local road safety plan that a city has submitted to the WSDOT, other speed reduction measures are not feasible or have not been sufficiently effective at reducing travel speed at the location, and the location has significantly higher rates of collisions than the city average for the prior three years; or
- the location is in an area of the city designated by local ordinance as a zone subject to specified restrictions and penalties on racing and race attendance.

Automated Traffic Safety Camera Pilot Program.

A pilot program is in effect through June 30, 2025, which authorizes cities with populations greater than 500,000 residents to adopt an ordinance authorizing the use of traffic cameras to detect one or more of the following violations:

- stopping at an intersection or crosswalk (20-intersection maximum);
- stopping when traffic is obstructed;
- public transportation only lane; and
- stopping or traveling in a restricted lane.

The use of traffic cameras for the pilot program is limited to the following locations:

1. the portion of state and local roadways in downtown areas used for office, commercial, retail shopping, support services, and mixed residential uses;
2. the portion of state and local roadways in areas within one-half mile north of the boundary of the downtown areas specified in (1) above;
3. the portion of non-interstate freeways that travel into and out of the surrounding area north of the downtown boundary identified in (2) above for up to 4 miles; and
4. the portion of roadway systems connected to these non-interstate freeway segments that are arterial roadways for up to 1 mile from their intersection with the non-interstate freeways specified above.

Traffic cameras may not be used on an on-ramp to an interstate. For the purposes of the pilot program, location types where traffic cameras are permitted are expanded to include mid-block on arterial highways.

Restrictions on the Use of Automated Traffic Safety Cameras.

Traffic cameras may only take pictures of the vehicle and vehicle license plate while an

infraction is occurring, and the pictures taken must not reveal the face of the driver or passengers in the vehicle. Photos and electronic images captured by a camera may only be used for the enforcement of traffic infractions for which their use has been authorized, and may not be retained longer than would be necessary for these enforcement purposes. Photos and electronic images are not available to the public and may not be used in a court in a pending action or proceeding unless that action or proceeding relates to a traffic infraction for which their use has been authorized.

The restriction on the use of photos and electronic images captured by a traffic camera also applies to any other personally identifying data through June 30, 2025, which may only be used for the enforcement of traffic infractions for which their use has been authorized, and may not be retained longer than necessary for these enforcement purposes. Also through June 30, 2025, other personally identifying data is not available to the public and may not be used in a court in a pending action or proceeding unless that action or proceeding relates to a traffic infraction for which its use has been authorized.

Automated Traffic Safety Camera-Captured Infractions.

A notice of traffic infraction must be mailed to the registered owner of the vehicle within 14 days of the violation (or to its renter within 14 days of his or her name and address being established). The law enforcement officer issuing the notice must include a certificate or copy of a certificate stating the facts supporting the notice, which serves as prima facie evidence of the facts contained in it. The photographs or electronic images that serve as evidence of the violation must be available for inspection and admission into evidence in a proceeding on the infraction.

The infraction is not part of the registered owner's driving record and must be processed in the same manner as parking infractions. The infraction may not exceed the fine amount for other parking infractions in a jurisdiction in which it has occurred, and also may not exceed the monetary penalty for failure to obey a traffic control device (currently \$139), as set by rule by the Washington State Supreme Court.

The registered owner of a vehicle is held responsible for the infraction unless he or she states under oath in a written statement to the court or in testimony before the court that the vehicle was stolen or was in the care, custody, or control of some other person at the time of the infraction.

Speeding in an Emergency or Work Zone.

A person may not drive a vehicle in an emergency or work zone at a speed greater than the posted speed limit. Traffic infraction penalties, inclusive of fines and assessments, range from \$156 to \$791, depending on the speed limit in the emergency or work zone and on the speed at which the vehicle is traveling.

Summary of Amended Bill:

Through June 30, 2030, a law enforcement officer has the authority to issue a traffic infraction when it is detected through the use of a speed safety camera system (safety camera). A notice of infraction may only be issued if a safety camera captures a speed violation in a state highway work zone when workers are present.

The WSDOT is responsible for the operation and administration of safety cameras in state highway work zones, which includes the procurement and administration of contracts for the implementation of safety cameras and the mailing of notices of infraction. By July 1, 2024, the WSDOT, in consultation with the Washington State Patrol (WSP), the Department of Licensing (DOL), the Office of Administrative Hearings (OAH), the Washington Traffic Safety Commission (WTSC), and civil rights organizations, is required to adopt rules for the operation and administration of safety cameras.

The WSP is responsible for all actions related to the enforcement and adjudication of speed violations, which includes notice of infraction verification and issuance and determining the emergency vehicles that are exempt from the issuance of notices of infraction for infractions detected by safety cameras. By July 1, 2024, the WSP, in consultation with the WSDOT, the DOL, the OAH, the WTSC, and civil rights organizations, is required to adopt rules for the enforcement and adjudication of speed violations detected by safety cameras.

A notice of infraction must be mailed to the registered owner of the vehicle within 30 days of the violation, or to the renter of a vehicle within 30 days of establishing the renter's name and address. The registered owner of a vehicle is held responsible for the infraction unless he or she states under oath in a written statement to the court, or in testimony before the court, that the vehicle was stolen or was in the care, custody, or control of some other person at the time of the infraction.

A person who receives a notice of infraction based on evidence detected by a safety camera must remit payment in the amount of the penalty within 30 days of receiving the notice of infraction, unless the person disputes the violation. A notice of infraction that has not been paid within 30 days or that has been disputed is referred to the OAH (which presides over administrative law cases) for adjudication by an administrative law judge consistent with administrative law procedures.

Locations where safety cameras are used must be clearly marked before activation of the safety camera by placing signs in locations that indicate to a driver that they are entering a state highway work zone where posted speed limits are monitored by a safety camera. Radar speed feedback signs must be placed along a roadway to provide information on vehicle speed in advance of speed safety camera systems where feasible and constructive.

Safety cameras may only take photos or electronic images of the vehicle and vehicle license plate while a speed violation is occurring. The photo or electronic image must not reveal the face of the driver or of passengers in the vehicle. The WSDOT is required to consider installing cameras in a manner that minimizes the impact of the camera flash on drivers.

All photographs, electronic images, or other personally identifying data may only be used: (1) by the WSP and the WSDOT for infraction-related duties; and (2) in administrative appeal proceedings for infraction-related proceedings.

Speed violations detected through the use of safety cameras are not part of the registered owner's driving record.

Revenue generated from safety-camera-detected infractions must be deposited into the Highway Safety Fund, to be used:

- first for the operation and administrative costs related to the use of safety cameras; and
- with the remainder distributed for the purpose of traffic safety, including, but not limited to, driver training education and local driving under the influence emphasis patrols.

The WSP and the WSDOT, in collaboration with the WTSC, are required to report to the Transportation Committees of the Legislature by July 1, 2025, and every two years thereafter, on the data and efficacy of safety cameras in state highway work zones. A final report is due on July 1, 2029, which must include a recommendation on whether to continue safety camera use beyond June 30, 2030.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Traffic fatalities have increased dramatically in the past few years, including in work zones. Between 2019 and 2022, there were 28 fatalities in work zones in Washington. In the summer of 2022 alone, four people lost their lives in work zones. It is imperative that the state do everything it can to reverse this trend. This bill represents a partnership between labor groups and contractors and is one component of a traffic safety reset. Other needed changes include scheduling more work on the roads during the day and using different striping on roadways.

Vehicle speed is a major factor in traffic fatalities, and highway workers, in addition to the traveling public, are vulnerable to it in work zones. Work zones have lower posted speeds for good reason. Safety cameras have been given the highest possible rating for effectiveness by the National Highway Traffic Safety Administration. They are very effective at reducing speeds, and are an important tool to protect workers when they are at their most vulnerable.

Devastation follows work zone collisions. Both injuries and fatalities have increased in work zones. As a result of a work zone collision, a single mother was dragged for 100 yards and may never walk again. Highway workers are exposed daily to danger.

While it would be preferable for state troopers to do more enforcement in work zones, the WSP is not fully staffed. Safety cameras will be a deterrent to reckless driving and speeding. Other states have used traffic cameras in work zones and have seen the approach result in improvements to safety. This bill authorizes safety cameras in work zones for a limited period of time and builds on existing administrative authority.

(Opposed) None.

(Other) Safety cameras should be used to keep workers safe; drivers need to know that they cannot drive at excessive speeds in work zones. But the bill takes adjudication out of the traditional judicial process and moves it to a separate administrative process. Courts can efficiently and effectively handle these traffic infractions. The precedent for shifting traffic infractions out of the courts should not be set. It will create two different processes for traffic infractions.

Hearings allow people to quickly resolve infractions. Courts have hybrid proceedings that allow people to appear in person when that is their preference. People should have the option of appearing in the jurisdiction where they receive an infraction. Thirty-eight out of 39 courts use remote hearings, and courts allow for the electronic filing of forms and motions. Courts of limited jurisdiction have experience with traffic camera infractions, processing hundreds of thousands a year, with thousands going to hearings, and can implement the bill at low cost.

Persons Testifying: (In support) Senator Marko Liias, prime sponsor; Davor Gjurasic, Washington State Patrol Troopers Association; Jennifer Ziegler, National Construction Alliance; Mallorie Davies, Washington and Northern Idaho District Council of Laborers; Deken Letinich; Travis Snell, Washington State Department of Transportation; Mark McKechnie, Washington Traffic Safety Commission; and Neal Weaver, Washington State Patrol.

(Other) Christopher Stanley, Administrative Office of the Courts; and Whitney Rivera, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.