

SENATE BILL REPORT

SB 5722

As Reported by Senate Committee On:
Law & Justice, February 16, 2023

Title: An act relating to photographs, microphotographs, and electronic images from traffic safety cameras and toll systems.

Brief Description: Concerning photographs, microphotographs, and electronic images from traffic safety cameras and toll systems.

Sponsors: Senators Kuderer, King, Dhingra, Fortunato and Wilson, C..

Brief History:

Committee Activity: Law & Justice: 2/13/23, 2/16/23 [DPS, DNP, w/oRec].

Brief Summary of First Substitute Bill

- Allows photographs, microphotographs, electronic images, or any records collected with an automated traffic safety camera or photo toll system to be made available to law enforcement pursuant to a lawfully issued search warrant.
- Allows prosecuting attorneys and defense lawyers to use any records, photographs, microphotographs, and electronic images prepared by traffic safety cameras or toll systems pursuant to a subpoena for producing evidence or permitting inspection in a criminal case in which the court has made a finding of materiality.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5722 be substituted therefor, and the substitute bill do pass.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Kuderer, McCune, Pedersen, Valdez and Wagoner.

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.

Minority Report: Do not pass.

Signed by Senators Padden, Ranking Member; Salomon.

Minority Report: That it be referred without recommendation.

Signed by Senators Torres and Wilson, L..

Staff: Ryan Giannini (786-7285)

Background: Automated Traffic Safety Cameras. State law provides restrictions on the use of automated traffic safety cameras by local governments. Generally, automated traffic safety cameras may only be used for detecting stoplight; railroad crossing; school speed zone violations; speed violations on any roadway identified in a school walk area; speed violations in public park speed zones; hospital speed zones; and speed violations in priority locations, locations that have significantly higher rates of collisions, or specific areas subject to restrictions and penalties on racing and race attendance. Certain cities participating in state-authorized pilot projects may also use traffic safety cameras to detect speed, stopping, and lane violations, subject to various requirements.

Before installing and using automatic traffic safety cameras, a local government must adopt an ordinance meeting certain requirements. A location with an automated traffic safety camera must be clearly marked, indicating that the driver is entering a zone where traffic laws are enforced with a camera. Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate while an infraction is occurring, and may not reveal the face of the driver or passengers.

Photo Toll Systems. Photo toll systems use photographs and video technology to record the license plates of vehicles using toll lanes, to collect applicable tolls. The Department of Transportation has the authority to issue a civil penalty to the registered owner of the vehicle when a toll is assessed through the use of a photo toll system and the toll is not paid by the toll payment due date.

Similar to traffic safety cameras, photo toll systems may only take pictures of the vehicle and license plate, and locations where a photo toll system is used must be clearly marked.

Images and Records Collected with Automatic Traffic Safety Cameras and Photo Toll Systems. Images, photographs, and other specified records obtained with an automated traffic safety camera or photo toll system may only be used for the applicable traffic infractions or toll collection and enforcement. The records are not open to the public and may not be used in court in a pending action or proceeding, unless the action or proceeding relates to the traffic violation or toll collection penalties in question.

Summary of Bill (First Substitute): Any photograph, microphotographs, electronic images, or records collected with an automated traffic safety camera or photo toll system are made available to law enforcement pursuant to a lawfully issued search warrant.

Restrictions that these records be used solely for the purposes of tolls, civil penalties, or infractions do not apply.

Prosecuting attorneys and defense lawyers may use any records, photographs, microphotographs, and electronic images prepared by traffic safety cameras or toll systems pursuant to a subpoena for producing evidence or permitting inspection in a criminal case after the court has made a finding of materiality.

EFFECT OF CHANGES MADE BY LAW & JUSTICE COMMITTEE (First Substitute):

- Allows prosecuting attorneys and defense lawyers to use any records, photographs, microphotographs, and electronic images prepared by traffic safety cameras or toll systems pursuant to a subpoena for producing evidence or permitting inspection in a criminal case in which the court has made a finding of materiality.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Technology is being used more often to prevent and solve crimes. Washington should use technology to solve crimes whenever possible. Traffic cameras is one such technology that should be utilized. There are hundreds of traffic safety cameras throughout the state. Washington law allows the release of data from traffic cameras to issue infractions for non-payment of tolls or other traffic violations. Current law prohibits this data from being released to investigate serious crimes, including violent offenses, locating missing children, or searching for vulnerable adults. In other places, this data is already being used to help solve violent crimes. This information is critical for investigating a crime after the fact. The data can only be accessed by law enforcement pursuant to a lawfully issued search warrant from a judge which will prevent police from digging through images to find a random crime. This constitutional method will give law enforcement the tools needed to protect communities.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Kelly Busey, City of Gig Harbor; Taylor Gardner, WA Assn of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.