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**SUBSTITUTE HOUSE BILL 2778**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** House Committee on Transportation (originally sponsored by Representatives Orr, Silver, Brown, Brough and Dellwo)

Read first time 02/04/94.

1 AN ACT Relating to speed enforcement using photo radar equipment;  
2 amending RCW 46.63.030 and 46.63.070; adding a new section to chapter  
3 46.04 RCW; and prescribing penalties.

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

5 **Sec. 1.** RCW 46.63.030 and 1987 c 66 s 2 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 identified as  
17 speeding through the use of photo radar.

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

4 (3) If any motor vehicle without a driver is found parked,  
5 standing, or stopped in violation of this title or an equivalent  
6 administrative regulation or local law, ordinance, regulation, or  
7 resolution, the officer finding the vehicle shall take its registration  
8 number and may take any other information displayed on the vehicle  
9 which may identify its user, and shall conspicuously affix to the  
10 vehicle a notice of traffic infraction.

11 (4) If the violation is established through the use of photo radar,  
12 the court shall have the notice of infraction and a copy of the  
13 photograph served either personally or by certified mail as provided by  
14 the Infraction Rules for Courts of Limited Jurisdiction.

15 (5) Law enforcement agencies may use photo radar only under the  
16 following conditions:

17 (a) The local law enforcement agency shall plainly mark the  
18 locations where photo radar is used by placing signs on street  
19 locations that state "Entering Photo Radar Enforcement Zone. Speed  
20 Limits Strictly Enforced." and "Leaving Photo Radar Enforcement Zone."

21 (b) While operating photo radar for enforcement purposes, a law  
22 enforcement agency shall set a photo radar speed tolerance level of at  
23 least ten miles per hour over the legal speed limit, regardless of the  
24 existing speed limits.

25 (c) Photo radar must be operated by a law enforcement agency in an  
26 authorized vehicle plainly marked with emergency lights and the agency  
27 shield or emblem on the exterior of the vehicle.

28 (d) Law enforcement agencies may not operate photo radar for more  
29 than two consecutive days within a two-mile radius.

30 (e) Photo radar may be operated only by municipal police  
31 departments.

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

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

37 (2) If the person determined to have committed the infraction does  
38 not contest the determination the person shall respond by completing

1 the appropriate portion of the notice of infraction and submitting it,  
2 either by mail or in person, to the court specified on the notice. A  
3 check or money order in the amount of the penalty prescribed for the  
4 infraction must be submitted with the response. When a response which  
5 does not contest the determination is received, an appropriate order  
6 shall be entered in the court's records, and a record of the response  
7 and order shall be furnished to the department in accordance with RCW  
8 46.20.270.

9 (3)(a) If the person determined to have committed the infraction  
10 wishes to contest the determination the person shall respond by  
11 completing the portion of the notice of infraction requesting a hearing  
12 and submitting it, either by mail or in person, to the court specified  
13 on the notice. The court shall notify the person in writing of the  
14 time, place, and date of the hearing, and that date shall not be sooner  
15 than seven days from the date of the notice, except by agreement.

16 (b) If the person issued a notice of infraction resulting from the  
17 use of photo radar chooses to contest the issuance of the traffic  
18 infraction by refuting that he or she was the person operating the  
19 vehicle at the time the infraction was committed, he or she may within  
20 fifteen days of receipt of the notice of infraction provide to the  
21 court, either by certified mail or in person, a copy of his or her  
22 driver's license and a statement. The court shall examine all evidence  
23 submitted by the parties to determine whether the state has proven by  
24 a preponderance of the evidence that the person named in the notice of  
25 infraction has committed the infraction. The examination must be  
26 conducted under the Infraction Rules for Courts of Limited  
27 Jurisdiction.

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

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

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

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

1 the court shall enter an appropriate order assessing the monetary  
2 penalty prescribed for the traffic infraction and any other penalty  
3 authorized by this chapter and shall notify the department in  
4 accordance with RCW 46.20.270, of the failure to respond to the notice  
5 of infraction or to appear at a requested hearing.

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

8 "Photo radar" means photographic equipment that is linked to a  
9 Doppler radar speed measuring device by computer that synchronizes the  
10 taking of a photograph with a vehicle passing through the radar beam.

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