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**SUBSTITUTE SENATE BILL 6654**

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**State of Washington**

**59th Legislature**

**2006 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by Senators Haugen and Kline; by request of Board For Judicial Administration)

READ FIRST TIME 02/03/06.

1 AN ACT Relating to photo enforcement of traffic infractions; and  
2 amending RCW 46.63.030, 46.63.160, 46.16.216, and 46.20.270.

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

4 **Sec. 1.** RCW 46.63.030 and 2005 c 167 s 2 are each amended to read  
5 as follows:

6 (1) A law enforcement officer has the authority to issue a notice  
7 of traffic infraction:

8 (a) When the infraction is committed in the officer's presence;

9 (b) When the officer is acting upon the request of a law  
10 enforcement officer in whose presence the traffic infraction was  
11 committed;

12 (c) If an officer investigating at the scene of a motor vehicle  
13 accident has reasonable cause to believe that the driver of a motor  
14 vehicle involved in the accident has committed a traffic infraction;

15 (d) When the ((notice-of)) infraction is detected through the use  
16 of a photo enforcement system under RCW 46.63.160; or

17 (e) When the ((notice-of)) infraction is detected through the use  
18 of an automated traffic safety camera under RCW 46.63.170.

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) In the case of failure to redeem an abandoned vehicle under RCW  
12 46.55.120, upon receiving a complaint by a registered tow truck  
13 operator that has incurred costs in removing, storing, and disposing of  
14 an abandoned vehicle, an officer of the law enforcement agency  
15 responsible for directing the removal of the vehicle shall send a  
16 notice of infraction by certified mail to the last known address of the  
17 person responsible under RCW 46.55.105. The notice must be entitled  
18 "Littering--Abandoned Vehicle" and give notice of the monetary penalty.  
19 The officer shall append to the notice of infraction, on a form  
20 prescribed by the department of licensing, a notice indicating the  
21 amount of costs incurred as a result of removing, storing, and  
22 disposing of the abandoned vehicle, less any amount realized at  
23 auction, and a statement that monetary penalties for the infraction  
24 will not be considered as having been paid until the monetary penalty  
25 payable under this chapter has been paid and the court is satisfied  
26 that the person has made restitution in the amount of the deficiency  
27 remaining after disposal of the vehicle.

28 **Sec. 2.** RCW 46.63.160 and 2004 c 231 s 6 are each amended to read  
29 as follows:

30 (1) This section applies only to traffic infractions issued under  
31 RCW 46.61.690 for toll collection evasion.

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

36 (3) Toll collection systems include manual cash collection,  
37 electronic toll collection, and photo enforcement systems.

1 (4) "Electronic toll collection system" means a system of  
2 collecting tolls or charges that is capable of charging the account of  
3 the toll patron the appropriate toll or charge by electronic  
4 transmission from the motor vehicle to the toll collection system,  
5 which information is used to charge the appropriate toll or charge to  
6 the patron's account.

7 (5) "Photo enforcement system" means a vehicle sensor installed to  
8 work in conjunction with an electronic toll collection system that  
9 automatically produces one or more photographs, one or more  
10 microphotographs, a videotape, or other recorded images of a vehicle  
11 operated in violation of an infraction under this chapter.

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

14 (a) The department of transportation shall adopt rules that allow  
15 an open standard for automatic vehicle identification transponders used  
16 for electronic toll collection to be compatible with other electronic  
17 payment devices or transponders from the Washington state ferry system,  
18 other public transportation systems, or other toll collection systems  
19 to the extent that technology permits. The rules must also allow for  
20 multiple vendors providing electronic payment devices or transponders  
21 as technology permits.

22 (b) The department of transportation may not sell, distribute, or  
23 make available in any way, the names and addresses of electronic toll  
24 collection system account holders.

25 (7) The use of a photo enforcement system for issuance of notices  
26 of infraction is subject to the following requirements:

27 (a) Photo enforcement systems may take photographs, digital  
28 photographs, microphotographs, videotapes, or other recorded images of  
29 the vehicle and vehicle license plate only. The picture must not  
30 reveal the face of the driver or of passengers in the vehicle.

31 (b) A notice of infraction must be mailed to the registered owner  
32 of the vehicle or to the renter of a vehicle within sixty days of the  
33 violation. The law enforcement officer issuing the notice of  
34 infraction shall include with it a certificate or facsimile thereof,  
35 based upon inspection of photographs, microphotographs, videotape, or  
36 other recorded images produced by a photo enforcement system, stating  
37 the facts supporting the notice of infraction. This certificate or  
38 facsimile is prima facie evidence of the facts contained in it and is

1 admissible in a proceeding charging a violation under this chapter.  
2 The photographs, digital photographs, microphotographs, videotape, or  
3 other recorded images evidencing the violation must be available for  
4 inspection and admission into evidence in a proceeding to adjudicate  
5 the liability for the infraction.

6 (c) Notwithstanding any other provision of law, all photographs,  
7 digital photographs, microphotographs, videotape, or other recorded  
8 images prepared under this chapter are for the exclusive use of the  
9 tolling agency and law enforcement in the discharge of duties under  
10 this section and are not open to the public and may not be used in a  
11 court in a pending action or proceeding unless the action or proceeding  
12 relates to a violation under this chapter. No photograph, digital  
13 photograph, microphotograph, videotape, or other recorded image may be  
14 used for any purpose other than enforcement of violations under this  
15 chapter nor retained longer than necessary to enforce this chapter or  
16 verify that tolls are paid.

17 (d) All locations where a photo enforcement system is used must be  
18 clearly marked by placing signs in locations that clearly indicate to  
19 a driver that he or she is entering a zone where traffic laws are  
20 enforced by a photo enforcement system.

21 (8) Infractions detected through the use of photo enforcement  
22 systems are not part of the registered owner's driving record under RCW  
23 46.52.101 and 46.52.120. Additionally, infractions generated by the  
24 use of photo enforcement systems under this section shall be processed  
25 in the same manner as parking infractions, including for the purposes  
26 of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and 46.20.270(3).

27 (9) The penalty for infractions issued under this section shall be  
28 forty dollars.

29 (10) If the registered owner of the vehicle is a rental car  
30 business the department of transportation or a law enforcement agency  
31 shall, before a notice of infraction being issued under this section,  
32 provide a written notice to the rental car business that a notice of  
33 infraction may be issued to the rental car business if the rental car  
34 business does not, within eighteen days of the mailing of the written  
35 notice, provide to the issuing agency by return mail:

36 (a) A statement under oath stating the name and known mailing  
37 address of the individual driving or renting the vehicle when the  
38 infraction occurred; or

1 (b) A statement under oath that the business is unable to determine  
2 who was driving or renting the vehicle at the time the infraction  
3 occurred; or

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

6 Timely mailing of this statement to the issuing law enforcement  
7 agency relieves a rental car business of any liability under this  
8 chapter for the notice of infraction.

9 **Sec. 3.** RCW 46.16.216 and 2004 c 231 s 4 are each amended to read  
10 as follows:

11 (1) To renew a vehicle license, an applicant shall satisfy all  
12 listed standing, stopping, and parking violations(~~(, and other~~  
13 ~~infractions issued under RCW 46.63.030(1)(d))~~) for the vehicle incurred  
14 while the vehicle was registered in the applicant's name and forwarded  
15 to the department pursuant to RCW 46.20.270(3). For the purposes of  
16 this section, "listed" standing, stopping, and parking violations(~~(, and other~~  
17 ~~infractions issued under RCW 46.63.030(1)(d))~~) include only  
18 those violations for which notice has been received from state or local  
19 agencies or courts by the department one hundred twenty days or more  
20 before the date the vehicle license expires and that are placed on the  
21 records of the department. Notice of such violations received by the  
22 department later than one hundred twenty days before that date that are  
23 not satisfied shall be considered by the department in connection with  
24 any applications for license renewal in any subsequent license year.  
25 The renewal application may be processed by the department or its  
26 agents only if the applicant:

27 (a) Presents a preprinted renewal application showing no listed  
28 standing, stopping, or parking violations(~~(, or other~~  
29 ~~infractions issued under RCW 46.63.030(1)(d))~~), or in the absence of such  
30 presentation, the agent verifies the information that would be  
31 contained on the preprinted renewal application; or

32 (b) If listed standing, stopping, or parking violations(~~(, or other~~  
33 ~~infractions issued under RCW 46.63.030(1)(d))~~) exist, presents proof of  
34 payment and pays a fifteen dollar surcharge.

35 (2) The surcharge shall be allocated as follows:

36 (a) Ten dollars shall be deposited in the motor vehicle fund to be

1 used exclusively for the administrative costs of the department of  
2 licensing; and

3 (b) Five dollars shall be retained by the agent handling the  
4 renewal application to be used by the agent for the administration of  
5 this section.

6 (3) If there is a change in the registered owner of the vehicle,  
7 the department shall forward the information regarding the change to  
8 the state or local charging jurisdiction and release any hold on the  
9 renewal of the vehicle license resulting from parking violations (~~(or~~  
10 ~~other infractions issued under RCW 46.63.030(1)(d))~~) incurred while the  
11 certificate of license registration was in a previous registered  
12 owner's name.

13 (4) The department shall send to all registered owners of vehicles  
14 who have been reported to have outstanding listed parking violations  
15 (~~(or other infractions issued under RCW 46.63.030(1)(d))~~), at the time  
16 of renewal, a statement setting out the dates and jurisdictions in  
17 which the violations occurred as well as the amounts of unpaid fines  
18 and penalties relating to them and the surcharge to be collected.

19 **Sec. 4.** RCW 46.20.270 and 2005 c 288 s 3 are each amended to read  
20 as follows:

21 (1) Whenever any person is convicted of any offense for which this  
22 title makes mandatory the withholding of the driving privilege of such  
23 person by the department, the court in which such conviction is had  
24 shall forthwith mark the person's Washington state driver's license or  
25 permit to drive, if any, in a manner authorized by the department. A  
26 valid driver's license or permit to drive marked under this subsection  
27 shall remain in effect until the person's driving privilege is withheld  
28 by the department pursuant to notice given under RCW 46.20.245, unless  
29 the license or permit expires or otherwise becomes invalid prior to the  
30 effective date of this action. Perfection of notice of appeal shall  
31 stay the execution of sentence including the withholding of the driving  
32 privilege.

33 (2) Every court having jurisdiction over offenses committed under  
34 this chapter, or any other act of this state or municipal ordinance  
35 adopted by a local authority regulating the operation of motor vehicles  
36 on highways, or any federal authority having jurisdiction over offenses  
37 substantially the same as those set forth in Title 46 RCW which occur

1 on federal installations within this state, shall forward to the  
2 department within ten days of a forfeiture of bail or collateral  
3 deposited to secure the defendant's appearance in court, a payment of  
4 a fine or penalty, a plea of guilty or a finding of guilt, or a finding  
5 that any person has committed a traffic infraction an abstract of the  
6 court record in the form prescribed by rule of the supreme court,  
7 showing the conviction of any person or the finding that any person has  
8 committed a traffic infraction in said court for a violation of any  
9 said laws other than regulations governing standing, stopping, parking,  
10 and pedestrian offenses.

11 (3) Every state agency or municipality having jurisdiction over  
12 offenses committed under this chapter, or under any other act of this  
13 state or municipal ordinance adopted by a state or local authority  
14 regulating the operation of motor vehicles on highways, may forward to  
15 the department within ten days of failure to respond, failure to pay a  
16 penalty, failure to appear at a hearing to contest the determination  
17 that a violation of any statute, ordinance, or regulation relating to  
18 standing, stopping, or parking(~~(, or other infraction issued under RCW~~  
19 ~~46.63.030(1)(d))~~) has been committed, or failure to appear at a hearing  
20 to explain mitigating circumstances, an abstract of the citation record  
21 in the form prescribed by rule of the department, showing the finding  
22 by such municipality that two or more violations of laws governing  
23 standing, stopping, and parking (~~(or one or more other infractions~~  
24 ~~issued under RCW 46.63.030(1)(d))~~) have been committed and indicating  
25 the nature of the defendant's failure to act. Such violations or  
26 infractions may not have occurred while the vehicle is stolen from the  
27 registered owner or is leased or rented under a bona fide commercial  
28 vehicle lease or rental agreement between a lessor engaged in the  
29 business of leasing vehicles and a lessee who is not the vehicle's  
30 registered owner. The department may enter into agreements of  
31 reciprocity with the duly authorized representatives of the states for  
32 reporting to each other violations of laws governing standing,  
33 stopping, and parking.

34 (4) For the purposes of Title 46 RCW the term "conviction" means a  
35 final conviction in a state or municipal court or by any federal  
36 authority having jurisdiction over offenses substantially the same as  
37 those set forth in Title 46 RCW which occur on federal installations in  
38 this state, an unvacated forfeiture of bail or collateral deposited to

1 secure a defendant's appearance in court, the payment of a fine, a plea  
2 of guilty, or a finding of guilt on a traffic law violation charge,  
3 regardless of whether the imposition of sentence or sanctions are  
4 deferred or the penalty is suspended, but not including entry into a  
5 deferred prosecution agreement under chapter 10.05 RCW.

6 (5) For the purposes of Title 46 RCW the term "finding that a  
7 traffic infraction has been committed" means a failure to respond to a  
8 notice of infraction or a determination made by a court pursuant to  
9 this chapter. Payment of a monetary penalty made pursuant to RCW  
10 46.63.070(2) is deemed equivalent to such a finding.

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