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SENATE BILL 5338

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Kilmer and McCaslin

Read first time 01/17/2007. Referred to Committee on Transportation.

1            AN ACT Relating to traffic infractions involving rental vehicles;  
2 and amending RCW 46.63.073, 46.63.160, and 46.63.170.

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

4            **Sec. 1.** RCW 46.63.073 and 2005 c 331 s 2 are each amended to read  
5 as follows:

6            (1) In the event a traffic infraction is based on a vehicle's  
7 identification, and the registered owner of the vehicle is a rental car  
8 business, the law enforcement agency shall, before a notice of  
9 infraction may be issued, provide a written notice to the rental car  
10 business that a notice of infraction may be issued to the rental car  
11 business if the rental car business does not, within thirty days of  
12 receiving the written notice, provide to the issuing agency by return  
13 mail:

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

17            (b) A statement under oath that the business is unable to determine  
18 who was driving or renting the vehicle at the time the infraction

1 occurred because the vehicle was stolen at the time of the infraction.  
2 A statement provided under this subsection must be accompanied by a  
3 copy of a filed police report regarding the vehicle theft.

4 Timely mailing of this statement to the issuing law enforcement  
5 agency relieves a rental car business of any liability under this  
6 chapter for the notice of infraction. In lieu of identifying the  
7 vehicle operator, the rental car business may pay the applicable  
8 penalty. ~~((+2))~~ For the purpose of this ~~((section))~~ subsection, a  
9 "traffic infraction based on a vehicle's identification" includes, but  
10 is not limited to, parking infractions, high-occupancy toll lane  
11 violations, and violations recorded by automated traffic safety  
12 cameras.

13 (2) In the event a parking infraction is issued by a private  
14 parking facility and is based on a vehicle's identification, and the  
15 registered owner of the vehicle is a rental car business, the parking  
16 facility shall provide a written notice of the infraction to the rental  
17 car business within thirty days of the infraction date. The rental car  
18 business receiving the written notice of the infraction shall provide  
19 to the parking facility by return mail:

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

23 (b) A statement under oath that the business is unable to determine  
24 who was driving or renting the vehicle at the time the infraction  
25 occurred because the vehicle was stolen at the time of the infraction.  
26 A statement provided under this subsection must be accompanied by a  
27 copy of a filed police report regarding the vehicle theft.

28 Timely mailing of this statement to the parking facility relieves  
29 a rental car business of any liability under this chapter for the  
30 notice of infraction. In lieu of identifying the vehicle operator, the  
31 rental car business may pay the applicable penalty. For the purpose of  
32 this subsection, a "parking infraction based on a vehicle's  
33 identification" is limited to parking infractions occurring on a  
34 parking facility's premises.

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

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

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

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

9 (4) "Electronic toll collection system" means a system of  
10 collecting tolls or charges that is capable of charging the account of  
11 the toll patron the appropriate toll or charge by electronic  
12 transmission from the motor vehicle to the toll collection system,  
13 which information is used to charge the appropriate toll or charge to  
14 the patron's account.

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

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

22 (a) The department of transportation shall adopt rules that allow  
23 an open standard for automatic vehicle identification transponders used  
24 for electronic toll collection to be compatible with other electronic  
25 payment devices or transponders from the Washington state ferry system,  
26 other public transportation systems, or other toll collection systems  
27 to the extent that technology permits. The rules must also allow for  
28 multiple vendors providing electronic payment devices or transponders  
29 as technology permits.

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

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

35 (a) Photo enforcement systems may take photographs, digital  
36 photographs, microphotographs, videotapes, or other recorded images of  
37 the vehicle and vehicle license plate only.

1 (b) A notice of infraction must be mailed to the registered owner  
2 of the vehicle or to the renter of a vehicle within sixty days of the  
3 violation. The law enforcement officer issuing the notice of  
4 infraction shall include with it a certificate or facsimile thereof,  
5 based upon inspection of photographs, microphotographs, videotape, or  
6 other recorded images produced by a photo enforcement system, stating  
7 the facts supporting the notice of infraction. This certificate or  
8 facsimile is prima facie evidence of the facts contained in it and is  
9 admissible in a proceeding charging a violation under this chapter.  
10 The photographs, digital photographs, microphotographs, videotape, or  
11 other recorded images evidencing the violation must be available for  
12 inspection and admission into evidence in a proceeding to adjudicate  
13 the liability for the infraction.

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

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

29 (8) Infractions detected through the use of photo enforcement  
30 systems are not part of the registered owner's driving record under RCW  
31 46.52.101 and 46.52.120.

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

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

4 (b) A statement under oath that the business is unable to determine  
5 who was driving or renting the vehicle at the time the infraction  
6 occurred because the vehicle was stolen at the time of the infraction.  
7 A statement provided under this subsection must be accompanied by a  
8 copy of a filed police report regarding the vehicle theft; or

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

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

14 **Sec. 3.** RCW 46.63.170 and 2005 c 167 s 1 are each amended to read  
15 as follows:

16 (1) The use of automated traffic safety cameras for issuance of  
17 notices of infraction is subject to the following requirements:

18 (a) The appropriate local legislative authority must first enact an  
19 ordinance allowing for their use to detect one or more of the  
20 following: Stoplight, railroad crossing, or school speed zone  
21 violations. At a minimum, the local ordinance must contain the  
22 restrictions described in this section and provisions for public notice  
23 and signage. Cities and counties using automated traffic safety  
24 cameras before July 24, 2005, are subject to the restrictions described  
25 in this section, but are not required to enact an authorizing  
26 ordinance.

27 (b) Use of automated traffic safety cameras is restricted to two-  
28 arterial intersections, railroad crossings, and school speed zones  
29 only.

30 (c) Automated traffic safety cameras may only take pictures of the  
31 vehicle and vehicle license plate and only while an infraction is  
32 occurring. The picture must not reveal the face of the driver or of  
33 passengers in the vehicle.

34 (d) A notice of infraction must be mailed to the registered owner  
35 of the vehicle within fourteen days of the violation, or to the renter  
36 of a vehicle within fourteen days of establishing the renter's name and  
37 address under subsection (3)(a) of this section. The law enforcement

1 officer issuing the notice of infraction shall include with it a  
2 certificate or facsimile thereof, based upon inspection of photographs,  
3 microphotographs, or electronic images produced by an automated traffic  
4 safety camera, stating the facts supporting the notice of infraction.  
5 This certificate or facsimile is prima facie evidence of the facts  
6 contained in it and is admissible in a proceeding charging a violation  
7 under this chapter. The photographs, microphotographs, or electronic  
8 images evidencing the violation must be available for inspection and  
9 admission into evidence in a proceeding to adjudicate the liability for  
10 the infraction. A person receiving a notice of infraction based on  
11 evidence detected by an automated traffic safety camera may respond to  
12 the notice by mail.

13 (e) The registered owner of a vehicle is responsible for an  
14 infraction under RCW 46.63.030(1)(e) unless the registered owner  
15 overcomes the presumption in RCW 46.63.075, or, in the case of a rental  
16 car business, satisfies the conditions under subsection (3) of this  
17 section. If appropriate under the circumstances, a renter identified  
18 under subsection (3)(a) of this section is responsible for an  
19 infraction.

20 (f) Notwithstanding any other provision of law, all photographs,  
21 microphotographs, or electronic images prepared under this section are  
22 for the exclusive use of law enforcement in the discharge of duties  
23 under this section and are not open to the public and may not be used  
24 in a court in a pending action or proceeding unless the action or  
25 proceeding relates to a violation under this section. No photograph,  
26 microphotograph, or electronic image may be used for any purpose other  
27 than enforcement of violations under this section nor retained longer  
28 than necessary to enforce this section.

29 (g) All locations where an automated traffic safety camera is used  
30 must be clearly marked by placing signs in locations that clearly  
31 indicate to a driver that he or she is entering a zone where traffic  
32 laws are enforced by an automated traffic safety camera.

33 (h) If a county or city has established an authorized automated  
34 traffic safety camera program under this section, the compensation paid  
35 to the manufacturer or vendor of the equipment used must be based only  
36 upon the value of the equipment and services provided or rendered in  
37 support of the system, and may not be based upon a portion of the fine  
38 or civil penalty imposed or the revenue generated by the equipment.

1 (2) Infractions detected through the use of automated traffic  
2 safety cameras are not part of the registered owner's driving record  
3 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated  
4 by the use of automated traffic safety cameras under this section shall  
5 be processed in the same manner as parking infractions, including for  
6 the purposes of RCW 3.46.120, 3.50.100, 35.20.220, 46.16.216, and  
7 46.20.270(3). However, the amount of the fine issued for an infraction  
8 generated through the use of an automated traffic safety camera shall  
9 not exceed the amount of a fine issued for other parking infractions  
10 within the jurisdiction.

11 (3) If the registered owner of the vehicle is a rental car  
12 business, the law enforcement agency shall, before a notice of  
13 infraction being issued under this section, provide a written notice to  
14 the rental car business that a notice of infraction may be issued to  
15 the rental car business if the rental car business does not, within  
16 eighteen days of receiving the written notice, provide to the issuing  
17 agency by return mail:

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

21 (b) A statement under oath that the business is unable to determine  
22 who was driving or renting the vehicle at the time the infraction  
23 occurred because the vehicle was stolen at the time of the infraction.  
24 A statement provided under this subsection must be accompanied by a  
25 copy of a filed police report regarding the vehicle theft; or

26 (c) In lieu of identifying the vehicle operator, the rental car  
27 business may pay the applicable penalty.

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

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

35 (5) For the purposes of this section, "automated traffic safety  
36 camera" means a device that uses a vehicle sensor installed to work in  
37 conjunction with an intersection traffic control system, a railroad  
38 grade crossing control system, or a speed measuring device, and a

1 camera synchronized to automatically record one or more sequenced  
2 photographs, microphotographs, or electronic images of the rear of a  
3 motor vehicle at the time the vehicle fails to stop when facing a  
4 steady red traffic control signal or an activated railroad grade  
5 crossing control signal, or exceeds a speed limit in a school speed  
6 zone as detected by a speed measuring device.

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