

HOUSE BILL REPORT

HB 2897

As Reported by House Committee On: Transportation

Title: An act relating to the administration, collection, use, and enforcement of tolls.

Brief Description: Concerning the administration, collection, use, and enforcement of tolls.

Sponsors: Representatives Rolfes, Eddy, Finn, Seaquist, Clibborn, Appleton and Maxwell; by request of Department of Transportation.

Brief History:

Committee Activity:

Transportation: 1/25/10, 2/3/10 [DPS].

Brief Summary of Substitute Bill

- Allows for the detection and issuance of photo tolls, which may be paid through a customer account or upon receipt of a toll bill.
- Provides for an 80-day period between the assessment of a toll and the issuance of a toll infraction for failure to pay a toll.
- Removes the Washington State Patrol from the toll infraction issuance process, and places the issuance in the hands of limited law enforcement officers designated by the Washington State Department of Transportation.
- Expands Toll Collection Account (Account) uses to allow for operations that benefit multiple toll facilities to be cleared through the Account.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Clibborn, Chair; Liias, Vice Chair; Dickerson, Eddy, Finn, Flannigan, Moeller, Morris, Rolfes, Sells, Springer, Takko, Upthegrove, Williams and Wood.

Minority Report: Do not pass. Signed by 12 members: Representatives Roach, Ranking Minority Member; Rodne, Assistant Ranking Minority Member; Armstrong, Campbell, Driscoll, Ericksen, Herrera, Johnson, Klippert, Kristiansen, Nealey and Shea.

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

Staff: David Munnecke (786-7315).

Background:

The Washington State Department of Transportation (WSDOT) operates one toll bridge, the Tacoma Narrows Bridge, and has been granted the authority to toll the State Route (SR) 520 bridge, which is anticipated to occur in 2011. The tolls for the Tacoma Narrows Bridge are paid electronically by customers with a pre-paid account and a transponder in their vehicle, or manually at a toll booth with cash or credit.

Failure to pay a toll is a traffic infraction with a penalty of \$40 that goes to the local jurisdiction's court, plus a penalty amount of three times the cash toll that goes to the account of the facility on which the violation occurred. The detection of toll violations is through the use of a photo enforcement system, which may record images of vehicles and vehicle license plates only. The infractions issued through such a system are issued by a law enforcement officer, are not part of the registered owners' driving records, and a hold on a person's vehicle registration may occur if the traffic infraction penalty is not paid.

A Toll Collection Account (Account) allows for the deposit of customer pre-paid account funds prior to transactions occurring on a specific facility. Funds are then moved to the appropriate facility once a toll charge has been incurred.

Summary of Substitute Bill:

Tolls may continue to be paid using transponders, on all toll facilities, and also cash collection, on toll facilities with manual cash collection systems. Tolls may also be paid after using a toll facility via a photo toll that identifies a vehicle by its license plate. Photo tolls may be paid either by using a customer account, or in response to a toll bill.

Failure to pay a toll detected through a photo toll system is a traffic infraction to be issued by a limited authority peace officer, to be determined by the WSDOT, with a fine of \$40 plus a toll penalty amount of \$12. Photo toll customers have 80 days from the date of use of the toll facility to pay the toll before the toll charge becomes a traffic infraction against the registered owner of the vehicle. For infractions detected through photo toll systems, the registered owner may no longer overcome the presumption that the registered owner was in control of the vehicle at the time of the infraction by declaring so under oath. A hold on a person's vehicle registration may occur if the traffic infraction is not paid.

The Account uses are expanded to allow for operations that benefit multiple toll facilities to be cleared through this Account. At least monthly, operating activities and interest earnings must be distributed to the appropriate toll facility, using an equitable distribution methodology determined by the WSDOT in consultation with the Office of Financial Management.

Substitute Bill Compared to Original Bill:

The substitute bill requires the WSDOT to retain records identifying a specific instance of travel only as required to ensure payment and enforcement of tolls and to comply with the state records retention policy for toll facilities. The WSDOT and its agents are allowed to use electronic toll collection system technology only for toll collection purposes, and the WSDOT, to the extent practicable, must allow for anonymous toll accounts that are not linked to a specific vehicle.

The WSDOT is required to deposit all administrative fees into the toll facility account of the facility on which the toll was assessed.

Finally, the substitute bill makes technical changes regarding the issuance of toll infractions and other infractions related to tolled facilities.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on January 15, 2011.

Staff Summary of Public Testimony:

(In support) This bill addresses the needs of the Tacoma Narrows Bridge community, as well as simplifying tolling operations across the state and melding them together, which should lead to more revenue going towards paying off the debt. It provides for consistent, transparent, and customer friendly approaches to tolling. It addresses the concerns of many people by allowing users to pay rather than be treated as violators, and addresses privacy concerns as well.

The substitute bill was brought forward because it matches the Senate version of the bill, which requires the WSDOT to adjudicate the tolls. This is a new idea, but whatever approach is used needs to be nailed down quickly in order to move forward.

The judicial branch supports the customer friendly approach in the bill, and the idea of giving people more time to pay the toll. However, the judiciary is concerned about giving the WSDOT the authority to adjudicate. It is a fundamental aspect of our system that people are entitled to legal recourse, and it is judges that usually provide this recourse. It is not impossible for the WSDOT to build such a system, but doing so would likely not produce savings. It could also be that a citizen would bring suit against such a system, and if the suit was successful then the money the system collected would have to be returned. Overall, a redundant adjudication system will not lead to savings, but will create risk. People already use the courts for toll violations in Pierce County, and this should be allowed to continue.

Municipal courts currently spend 80 percent of their time dealing with infractions. In Illinois, a system similar to what the WSDOT proposes takes approximately five minutes per infraction, but the King County system that the courts are prepared to implement will only take 3.5 minutes.

Tolling seems simple, but it turns out to be quite complicated. There is currently no grace period for violations, so either version of the bill will be a great improvement in that regard. However, while fewer people will be seen due to this grace period, those who are seen will feel that they have been treated unfairly.

Approximately 1 percent of bridge users are violators in Pierce County, which added up to 113,000 people last year. Twenty-two thousand of those people wanted a hearing, and 5,300 came in person. Many people become judges in order to peacefully resolve disputes. Experience shows that people must be allowed to be heard in order to feel that a system is fair, and that the person hearing the dispute should be outside the system. The current system is being run efficiently, including through the use of batching of infractions.

The WSDOT has consulted with toll facilities around the country and worked with the expert review panel over the summer. The WSDOT has learned through this process that successful tolling requires efficient and transparent systems and a strong customer focus. The 80-day period before violations is key, as are the changes to the tolling account that will allow for transparent expenditures. The issue of adjudication is a topic throughout the industry.

There is currently 20 to 40 percent unemployment in the construction industry in Washington, and this industry makes up 20 percent of the economy. In order to keep Washington rolling, we need to move forward with the construction of new facilities and take advantage of the current favorable bidding climate. This bill is an integral part of moving forward.

(In support with concerns) People shouldn't have to choose between travelling and their privacy. There should be no secondary use of toll records, and these records should be deleted quickly once the toll is paid. The privacy of the transponders themselves should also be protected in much the same way the enhanced driver's license is protected. Tolling accounts should be private, and there should be no differential between the various payment options.

(Opposed) None.

Persons Testifying: (In support) Representative Rolfes, prime sponsor; Barbara Linde, King County District Court; Maggie Ross, Pierce County District Court; Dave Johnson, Washington State Building Trades Council; and Craig Stone, Washington State Department of Transportation.

(In support with concerns) Shankar Narayan, American Civil Liberties Union Washington.

Persons Signed In To Testify But Not Testifying: None.