

SHB 1941 - S COMM AMD
By Committee on Transportation

ADOPTED 04/16/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 46.63.160 and 2011 c 367 s 705 are each amended to
4 read as follows:

5 (1) This section applies only to civil penalties for nonpayment of
6 tolls detected through use of photo toll systems.

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

11 (3) A notice of civil penalty may be issued by the department of
12 transportation when a toll is assessed through use of a photo toll
13 system and the toll is not paid by the toll payment due date, which is
14 eighty days from the date the vehicle uses the toll facility and incurs
15 the toll charge.

16 (4) Any registered owner or renter of a vehicle traveling upon a
17 toll facility operated under chapter 47.56 or 47.46 RCW is subject to
18 a civil penalty governed by the administrative procedures set forth in
19 this section when the vehicle incurs a toll charge and the toll is not
20 paid by the toll payment due date, which is eighty days from the date
21 the vehicle uses the toll facility and incurs the toll charge.

22 (5)(a) Consistent with chapter 34.05 RCW, the department of
23 transportation shall develop an administrative adjudication process to
24 review appeals of civil penalties issued by the department of
25 transportation for toll nonpayment detected through the use of a photo
26 toll system under this section. The department of transportation shall
27 submit to the transportation committees of the legislature an annual
28 report on the number of times adjudicators reduce or dismiss the civil
29 penalty as provided in (b) of this subsection and the total amount of

1 the civil penalties dismissed. The report must be submitted by
2 December 1st of each year.

3 (b) During the adjudication process, the alleged violator must have
4 an opportunity to explain mitigating circumstances. Hospitalization,
5 a divorce decree or legal separation agreement resulting in a transfer
6 of the vehicle, an active duty member of the military or national guard
7 covered by the federal servicemembers civil relief act, 50 U.S.C. Sec.
8 501 et seq., or state service members' civil relief act, chapter 38.42
9 RCW, eviction, homelessness, the death of the alleged violator or of an
10 immediate family member, or if the alleged violator did not receive a
11 toll charge bill or notice of civil penalty are valid mitigating
12 circumstances. All of these reasons that constitute mitigating
13 circumstances must occur within a reasonable time of the alleged toll
14 violation. In response to these circumstances, the adjudicator may
15 reduce or dismiss the civil penalty.

16 (6) The use of a photo toll system is subject to the following
17 requirements:

18 (a) Photo toll systems may take photographs, digital photographs,
19 microphotographs, videotapes, or other recorded images of the vehicle
20 and vehicle license plate only.

21 (b) A notice of civil penalty must include with it a certificate or
22 facsimile thereof, based upon inspection of photographs,
23 microphotographs, videotape, or other recorded images produced by a
24 photo toll system, stating the facts supporting the notice of civil
25 penalty. This certificate or facsimile is prima facie evidence of the
26 facts contained in it and is admissible in a proceeding established
27 under subsection (5) of this section. The photographs, digital
28 photographs, microphotographs, videotape, or other recorded images
29 evidencing the toll nonpayment civil penalty must be available for
30 inspection and admission into evidence in a proceeding to adjudicate
31 the liability for the civil penalty.

32 (c) Notwithstanding any other provision of law, all photographs,
33 digital photographs, microphotographs, videotape, other recorded
34 images, or other records identifying a specific instance of travel
35 prepared under this ((chapter)) section are for the exclusive use of
36 the tolling agency for toll collection and enforcement purposes and are
37 not open to the public and may not be used in a court in a pending
38 action or proceeding unless the action or proceeding relates to a civil

1 penalty under this ((chapter)) section. No photograph, digital
2 photograph, microphotograph, videotape, other recorded image, or other
3 record identifying a specific instance of travel may be used for any
4 purpose other than toll collection or enforcement of civil penalties
5 under this section. Records identifying a specific instance of travel
6 by a specific person or vehicle must be retained only as required to
7 ensure payment and enforcement of tolls and to comply with state
8 records retention policies.

9 (d) All locations where a photo toll system is used must be clearly
10 marked by placing signs in locations that clearly indicate to a driver
11 that he or she is entering a zone where tolls are assessed and enforced
12 by a photo toll system.

13 (e) Within existing resources, the department of transportation
14 shall conduct education and outreach efforts at least six months prior
15 to activating an all-electronic photo toll system. Methods of outreach
16 shall include a department presence at community meetings in the
17 vicinity of a toll facility, signage, and information published in
18 local media. Information provided shall include notice of when all
19 electronic photo tolling shall begin and methods of payment.
20 Additionally, the department shall provide quarterly reporting on
21 education and outreach efforts and other data related to the issuance
22 of civil penalties.

23 (f) The envelope containing a toll charge bill or related notice
24 issued pursuant to RCW 47.46.105 or 47.56.795, or a notice of civil
25 penalty issued under this section, must prominently indicate that the
26 contents are time sensitive and related to a toll violation.

27 (7) Civil penalties for toll nonpayment detected through the use of
28 photo toll systems must be issued to the registered owner of the
29 vehicle identified by the photo toll system, but are not part of the
30 registered owner's driving record under RCW 46.52.101 and 46.52.120.

31 (8) The civil penalty for toll nonpayment detected through the use
32 of a photo toll system is forty dollars plus the photo toll and
33 associated fees.

34 (9) Except as provided otherwise in this subsection, all civil
35 penalties, including the photo toll and associated fees, collected
36 under this section must be deposited into the toll facility account of
37 the facility on which the toll was assessed. However, through June 30,
38 2013, civil penalties deposited into the Tacoma Narrows toll bridge

1 account created under RCW 47.56.165 that are in excess of amounts
2 necessary to support the toll adjudication process applicable to toll
3 collection on the Tacoma Narrows bridge must first be allocated toward
4 repayment of operating loans and reserve payments provided to the
5 account from the motor vehicle account under section 1005(15), chapter
6 518, Laws of 2007. Additionally, all civil penalties, resulting from
7 nonpayment of tolls on the state route number 520 corridor, shall be
8 deposited into the state route number 520 civil penalties account
9 created under section 4, chapter 248, Laws of 2010 but only if chapter
10 248, Laws of 2010 is enacted by June 30, 2010.

11 (10) If the registered owner of the vehicle is a rental car
12 business, the department of transportation shall, before a toll bill is
13 issued, provide a written notice to the rental car business that a toll
14 bill may be issued to the rental car business if the rental car
15 business does not, within thirty days of the mailing of the written
16 notice, provide to the issuing agency by return mail:

17 (a) A statement under oath stating the name and known mailing
18 address of the individual driving or renting the vehicle when the toll
19 was assessed; or

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

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

28 Timely mailing of this statement to the issuing agency relieves a
29 rental car business of any liability under this section for the payment
30 of the toll.

31 (11) Consistent with chapter 34.05 RCW, the department of
32 transportation shall develop rules to implement this section.

33 (12) For the purposes of this section, "photo toll system" means
34 the system defined in RCW 47.56.010 and 47.46.020."

ADOPTED 04/16/2013

1 On page 1, line 2 of the title, after "penalties;" strike the
2 remainder of the title and insert "and amending RCW 46.63.160."

EFFECT: The department of transportation must report annually to the transportation committees of the legislature on the number of times a judge reduces or waives the civil penalties and the total amount of the civil penalties waived or reduced. The envelope that the department of transportation sends to vehicle owners that contains the toll charge bill or notice of civil penalty must prominently indicate that the envelope contains time sensitive materials related to a toll violation.

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