

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1941

63rd Legislature
2013 Regular Session

Passed by the House April 23, 2013
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 16, 2013
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1941** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1941

AS AMENDED BY THE SENATE

Passed Legislature - 2013 Regular Session

State of Washington **63rd Legislature** **2013 Regular Session**

By House Transportation (originally sponsored by Representatives Habib, Clibborn, and Springer)

READ FIRST TIME 03/01/13.

1 AN ACT Relating to the adjudication of tolls and accompanying civil
2 penalties; and amending RCW 46.63.160.

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

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

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

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

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

17 (4) Any registered owner or renter of a vehicle traveling upon a
18 toll facility operated under chapter 47.56 or 47.46 RCW is subject to
19 a civil penalty governed by the administrative procedures set forth in

1 this section when the vehicle incurs a toll charge and the toll is not
2 paid by the toll payment due date, which is eighty days from the date
3 the vehicle uses the toll facility and incurs the toll charge.

4 (5)(a) Consistent with chapter 34.05 RCW, the department of
5 transportation shall develop an administrative adjudication process to
6 review appeals of civil penalties issued by the department of
7 transportation for toll nonpayment detected through the use of a photo
8 toll system under this section. The department of transportation shall
9 submit to the transportation committees of the legislature an annual
10 report on the number of times adjudicators reduce or dismiss the civil
11 penalty as provided in (b) of this subsection and the total amount of
12 the civil penalties dismissed. The report must be submitted by
13 December 1st of each year.

14 (b) During the adjudication process, the alleged violator must have
15 an opportunity to explain mitigating circumstances. Hospitalization,
16 a divorce decree or legal separation agreement resulting in a transfer
17 of the vehicle, an active duty member of the military or national guard
18 covered by the federal service members civil relief act, 50 U.S.C. Sec.
19 501 et seq., or state service members' civil relief act, chapter 38.42
20 RCW, eviction, homelessness, the death of the alleged violator or of an
21 immediate family member, or if the alleged violator did not receive a
22 toll charge bill or notice of civil penalty are valid mitigating
23 circumstances. All of these reasons that constitute mitigating
24 circumstances must occur within a reasonable time of the alleged toll
25 violation. In response to these circumstances, the adjudicator may
26 reduce or dismiss the civil penalty.

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

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

32 (b) A notice of civil penalty must include with it a certificate or
33 facsimile thereof, based upon inspection of photographs,
34 microphotographs, videotape, or other recorded images produced by a
35 photo toll system, stating the facts supporting the notice of civil
36 penalty. This certificate or facsimile is prima facie evidence of the
37 facts contained in it and is admissible in a proceeding established
38 under subsection (5) of this section. The photographs, digital

1 photographs, microphotographs, videotape, or other recorded images
2 evidencing the toll nonpayment civil penalty must be available for
3 inspection and admission into evidence in a proceeding to adjudicate
4 the liability for the civil penalty.

5 (c) Notwithstanding any other provision of law, all photographs,
6 digital photographs, microphotographs, videotape, other recorded
7 images, or other records identifying a specific instance of travel
8 prepared under this (~~chapter~~) section are for the exclusive use of
9 the tolling agency for toll collection and enforcement purposes and are
10 not open to the public and may not be used in a court in a pending
11 action or proceeding unless the action or proceeding relates to a civil
12 penalty under this (~~chapter~~) section. No photograph, digital
13 photograph, microphotograph, videotape, other recorded image, or other
14 record identifying a specific instance of travel may be used for any
15 purpose other than toll collection or enforcement of civil penalties
16 under this section. Records identifying a specific instance of travel
17 by a specific person or vehicle must be retained only as required to
18 ensure payment and enforcement of tolls and to comply with state
19 records retention policies.

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

24 (e) Within existing resources, the department of transportation
25 shall conduct education and outreach efforts at least six months prior
26 to activating an all-electronic photo toll system. Methods of outreach
27 shall include a department presence at community meetings in the
28 vicinity of a toll facility, signage, and information published in
29 local media. Information provided shall include notice of when all
30 electronic photo tolling shall begin and methods of payment.
31 Additionally, the department shall provide quarterly reporting on
32 education and outreach efforts and other data related to the issuance
33 of civil penalties.

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

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

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

8 (9) Except as provided otherwise in this subsection, all civil
9 penalties, including the photo toll and associated fees, collected
10 under this section must be deposited into the toll facility account of
11 the facility on which the toll was assessed. However, through June 30,
12 2013, civil penalties deposited into the Tacoma Narrows toll bridge
13 account created under RCW 47.56.165 that are in excess of amounts
14 necessary to support the toll adjudication process applicable to toll
15 collection on the Tacoma Narrows bridge must first be allocated toward
16 repayment of operating loans and reserve payments provided to the
17 account from the motor vehicle account under section 1005(15), chapter
18 518, Laws of 2007. Additionally, all civil penalties, resulting from
19 nonpayment of tolls on the state route number 520 corridor, shall be
20 deposited into the state route number 520 civil penalties account
21 created under section 4, chapter 248, Laws of 2010 but only if chapter
22 248, Laws of 2010 is enacted by June 30, 2010.

23 (10) If the registered owner of the vehicle is a rental car
24 business, the department of transportation shall, before a toll bill is
25 issued, provide a written notice to the rental car business that a toll
26 bill may be issued to the rental car business if the rental car
27 business does not, within thirty days of the mailing of the written
28 notice, provide to the issuing agency by return mail:

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

32 (b) A statement under oath that the business is unable to determine
33 who was driving or renting the vehicle at the time the toll was
34 assessed because the vehicle was stolen at the time the toll was
35 assessed. A statement provided under this subsection must be
36 accompanied by a copy of a filed police report regarding the vehicle
37 theft; or

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

3 Timely mailing of this statement to the issuing agency relieves a
4 rental car business of any liability under this section for the payment
5 of the toll.

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

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

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