**1793-S.E AMS SALD S4585.4 - NOT FOR FLOOR USE**

**ESHB 1793** - S AMD **826**

By Senator Saldaña

**NOT CONSIDERED 12/23/2019**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each amended to read as follows:

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

(a) Except for proposed locations used solely for the pilot program purposes permitted under subsection (6) of this section, the appropriate local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located: (i) Before enacting an ordinance allowing for the initial use of automated traffic safety cameras; and (ii) before adding additional cameras or relocating any existing camera to a new location within the jurisdiction. Automated traffic safety cameras may be used to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations; ((~~or~~)) speed violations subject to (c) of this subsection; or violations included in subsection (6) of this section for the duration of the pilot program authorized under subsection (6) of this section. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance. Beginning one year after June 7, 2012, cities and counties using automated traffic safety cameras must post an annual report of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information about the automated traffic safety cameras that the city or county deems appropriate on the city's or county's web site.

(b) Except as provided in (c) of this subsection and subsection (6) of this section, use of automated traffic safety cameras is restricted to the following locations only: (i) Intersections of two or more arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement of the camera; (ii) railroad crossings; and (iii) school speed zones.

(c) Any city west of the Cascade mountains with a population of more than one hundred ninety-five thousand located in a county with a population of fewer than one million five hundred thousand may operate an automated traffic safety camera to detect speed violations subject to the following limitations:

(i) A city may only operate one such automated traffic safety camera within its respective jurisdiction; and

(ii) The use and location of the automated traffic safety camera must have first been authorized by the Washington state legislature as a pilot project for at least one full year.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to take pictures of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

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

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

(h) All locations where an automated traffic safety camera is used must be clearly marked at least thirty days prior to activation of the camera by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

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

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). Except as provided otherwise in subsection (6) of this section, the amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction. However, the amount of the fine issued for a traffic control signal violation detected through the use of an automated traffic safety camera shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments.

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

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

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

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

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

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

(5)(a) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit as detected by a speed measuring device.

(b) For the purposes of the pilot program authorized under subsection (6) of this section, "automated traffic safety camera" also includes a device used to detect stopping at intersection or crosswalk violations; public transportation only lane violations; and stopping or traveling in restricted lane violations.

(6) ((~~During the 2011-2013 and 2013-2015 fiscal biennia, this section does not apply to automated traffic safety cameras for the purposes of section 216(5), chapter 367, Laws of 2011 and section 216(6), chapter 306, Laws of 2013.~~)) (a)(i) A city with a population greater than five hundred thousand may adopt an ordinance creating a pilot program authorizing automated traffic safety cameras to be used to detect one or more of the following violations: Stopping at intersection or crosswalk violations; public transportation only lane violations; and stopping or traveling in restricted lane violations. Under the pilot program, stopping at intersection or crosswalk violations may only be enforced at the twenty intersections where the city would most like to address safety concerns related to stopping at intersection or crosswalk violations. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage.

(ii)(A) Except where specifically exempted, all of the rules and restrictions applicable to the use of automated traffic safety cameras in this section apply to the use of automated traffic safety cameras in the pilot program established in this subsection (6).

(B) Regarding any violation detected under this pilot program with respect to trucks parked for the purposes of delivering commercial products between the hours of midnight to 5:00 a.m. in public transportation only lanes or in lanes restricted for high occupancy vehicles, a warning notice with no penalty must be issued to the registered owner of the vehicle.

(C) During the pilot program, notice of infractions may not be issued to the registered owner of a public transportation vehicle for any violation listed in (a)(i) of this subsection detected by an automated traffic safety camera.

(b) Use of automated traffic safety cameras as authorized in this subsection (6) is restricted to the following locations only: Locations authorized in subsection (1)(b) of this section; and midblock on arterials. Additionally, the use of automated traffic safety cameras as authorized in this subsection (6) is further limited to the following:

(i) The portion of state and local roadways in downtown areas of the city used for office and commercial activities, as well as retail shopping and support services, and that may include mixed residential uses;

(ii) The portion of state and local roadways in areas in the city within one-half mile of the boundaries of the area described in (b)(i) of this subsection;

(iii) Portions of roadway systems in the city that travel into and out of (b)(ii) of this subsection that are designated by the Washington state department of transportation as noninterstate freeways for up to three miles; and

(iv) Portions of roadway systems in the city connected to the portions of the noninterstate freeways identified in (b)(iii) of this subsection that are designated by the Washington state department of transportation as arterial roadways for up to one mile from the intersection of the arterial roadway and the noninterstate freeway.

(c) However, automated traffic safety cameras may not be used on portions of a roadway serving as an on-ramp to an interstate.

(d) From the effective date of this section until December 31, 2019, a warning notice with no penalty must be issued to the registered owner of the vehicle for a violation generated through the use of an automated traffic safety camera authorized in this subsection (6). Beginning January 1, 2020, a notice of infraction must be issued, in a manner consistent with subsections (1)(e) and (3) of this section, for a violation generated through the use of an automated traffic safety camera authorized in this subsection (6). However, the penalty for the violation after January 1, 2020, may not exceed sixty dollars.

(e) For infractions issued as authorized in this subsection (6), a city with a pilot program shall remit monthly to the state one hundred percent of the noninterest money received under this subsection (6) in excess of the cost to install, operate, and maintain the automated traffic safety cameras for use in the pilot program. Money remitted under this subsection to the state treasurer shall be deposited in the multimodal transportation account created in RCW 47.66.070.

(f) A city that implements a pilot program under this subsection (6) must provide a preliminary report to the transportation committees of the legislature by June 30, 2021, and a final report by January 1, 2022, on the pilot program that includes the locations chosen for the automated traffic safety cameras used in the pilot program, the number of warnings and traffic infractions issued under the pilot program, the number of traffic infractions issued with respect to vehicles registered outside of the county in which the city is located, safety and on-time performance statistics related to the impact on driver behavior of the use of automated traffic safety cameras in the pilot program, and any recommendations on the use of automated traffic safety cameras to enforce the violations that these cameras were authorized to detect under the pilot program.

(g) As used in this subsection (6), "public transportation vehicle" means any motor vehicle, streetcar, train, trolley vehicle, or any other device or vehicle, that is owned or operated by a transit authority or an entity providing service on behalf of a transit authority that is used for the purpose of carrying passengers and that operates on established routes. "Transit authority" has the meaning provided in RCW 9.91.025.

**Sec.**  RCW 46.63.170 and 2015 3rd sp.s. c 44 s 406 are each amended to read as follows:

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

(a) The appropriate local legislative authority must prepare an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located: (i) Before enacting an ordinance allowing for the initial use of automated traffic safety cameras; and (ii) before adding additional cameras or relocating any existing camera to a new location within the jurisdiction. Automated traffic safety cameras may be used to detect one or more of the following: Stoplight, railroad crossing, or school speed zone violations; or speed violations subject to (c) of this subsection. At a minimum, the local ordinance must contain the restrictions described in this section and provisions for public notice and signage. Cities and counties using automated traffic safety cameras before July 24, 2005, are subject to the restrictions described in this section, but are not required to enact an authorizing ordinance. Beginning one year after June 7, 2012, cities and counties using automated traffic safety cameras must post an annual report of the number of traffic accidents that occurred at each location where an automated traffic safety camera is located as well as the number of notices of infraction issued for each camera and any other relevant information about the automated traffic safety cameras that the city or county deems appropriate on the city's or county's web site.

(b) Except as provided in (c) of this subsection, use of automated traffic safety cameras is restricted to the following locations only: (i) Intersections of two or more arterials with traffic control signals that have yellow change interval durations in accordance with RCW 47.36.022, which interval durations may not be reduced after placement of the camera; (ii) railroad crossings; and (iii) school speed zones.

(c) Any city west of the Cascade mountains with a population of more than one hundred ninety-five thousand located in a county with a population of fewer than one million five hundred thousand may operate an automated traffic safety camera to detect speed violations subject to the following limitations:

(i) A city may only operate one such automated traffic safety camera within its respective jurisdiction; and

(ii) The use and location of the automated traffic safety camera must have first been authorized by the Washington state legislature as a pilot project for at least one full year.

(d) Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate and only while an infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The primary purpose of camera placement is to take pictures of the vehicle and vehicle license plate when an infraction is occurring. Cities and counties shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.

(e) A notice of infraction must be mailed to the registered owner of the vehicle within fourteen days of the violation, or to the renter of a vehicle within fourteen days of establishing the renter's name and address under subsection (3)(a) of this section. The law enforcement officer issuing the notice of infraction shall include with it a certificate or facsimile thereof, based upon inspection of photographs, microphotographs, or electronic images produced by an automated traffic safety camera, stating the facts supporting the notice of infraction. This certificate or facsimile is prima facie evidence of the facts contained in it and is admissible in a proceeding charging a violation under this chapter. The photographs, microphotographs, or electronic images evidencing the violation must be available for inspection and admission into evidence in a proceeding to adjudicate the liability for the infraction. A person receiving a notice of infraction based on evidence detected by an automated traffic safety camera may respond to the notice by mail.

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

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

(h) All locations where an automated traffic safety camera is used must be clearly marked at least thirty days prior to activation of the camera by placing signs in locations that clearly indicate to a driver that he or she is entering a zone where traffic laws are enforced by an automated traffic safety camera. Signs placed in automated traffic safety camera locations after June 7, 2012, must follow the specifications and guidelines under the manual of uniform traffic control devices for streets and highways as adopted by the department of transportation under chapter 47.36 RCW.

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

(2) Infractions detected through the use of automated traffic safety cameras are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120. Additionally, infractions generated by the use of automated traffic safety cameras under this section shall be processed in the same manner as parking infractions, including for the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(2). The amount of the fine issued for an infraction generated through the use of an automated traffic safety camera shall not exceed the amount of a fine issued for other parking infractions within the jurisdiction. However, the amount of the fine issued for a traffic control signal violation detected through the use of an automated traffic safety camera shall not exceed the monetary penalty for a violation of RCW 46.61.050 as provided under RCW 46.63.110, including all applicable statutory assessments.

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

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

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

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

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

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

(5) For the purposes of this section, "automated traffic safety camera" means a device that uses a vehicle sensor installed to work in conjunction with an intersection traffic control system, a railroad grade crossing control system, or a speed measuring device, and a camera synchronized to automatically record one or more sequenced photographs, microphotographs, or electronic images of the rear of a motor vehicle at the time the vehicle fails to stop when facing a steady red traffic control signal or an activated railroad grade crossing control signal, or exceeds a speed limit as detected by a speed measuring device.

(6) During the 2011-2013 and 2013-2015 fiscal biennia, this section does not apply to automated traffic safety cameras for the purposes of section 216(5), chapter 367, Laws of 2011 and section 216(6), chapter 306, Laws of 2013.

NEW SECTION. **Sec.**  Section 1 of this act expires January 1, 2022.

NEW SECTION. **Sec.**  Section 2 of this act takes effect January 1, 2022."

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By Senator Saldaña

**NOT CONSIDERED 12/23/2019**

On page 1, line 3 of the title, after "safety;" strike the remainder of the title and insert "amending RCW 46.63.170 and 46.63.170; providing an effective date; and providing an expiration date."

EFFECT: (1) Reduces the violations that may be detected by a camera in the pilot program to: Stopping at intersection or crosswalk violations; public transportation only lane violations; and stopping or traveling in restricted lane violations.

(2) Further limits the pilot program enforcement of intersection or crosswalk blocking violations to the 20 intersections at which the city would most like to address safety concerns.

(3) Exempts portions of roadways that serve as an on-ramp to an interstate from the pilot program.

(4) Requires that only a warning may be issued for violations until December 31, 2019.

(5) Changes the penalty framework by removing the limitation that the first violation after January 1, 2020, is a warning and instead requires that a violation result in a notice of infraction with a monetary penalty from January 1, 2020, to January 1, 2022.

(6) Limits the amount of the fine for the infraction to no more than $60.

(7) Public transportation vehicles may not be issued an infraction under the pilot program.

(8) Redirects 100 percent of the amount of the penalties that are in excess of the cost to install and maintain the cameras to the state Multimodal Transportation Account instead of the Highway Safety Account.