

HOUSE BILL REPORT

ESHB 1793

As Passed Legislature

Title: An act relating to establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety.

Brief Description: Establishing additional uses for automated traffic safety cameras for traffic congestion reduction and increased safety.

Sponsors: House Committee on Transportation (originally sponsored by Representatives Fitzgibbon, Pettigrew, Macri, Valdez, Fey, Cody, Senn, Springer, Pollet and Tarleton).

Brief History:

Committee Activity:

Transportation: 2/18/19, 2/27/19 [DPS].

Floor Activity:

Passed House: 4/15/19, 57-41.

Passed House: 1/30/20, 56-40.

Senate Amended.

Passed Senate: 3/7/20, 27-22.

House Concurred.

Passed House: 3/9/20, 56-40.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Establishes a pilot program for the use of automated traffic safety cameras on certain state and local roadways in or near downtown areas of cities with populations greater than 500,000 for the following violations: stopping at intersection or crosswalk (20-intersection maximum), stopping when traffic obstructed, public transportation only lane, and stopping or traveling in a restricted lane.
- Mandates that a notice of warning without a penalty be issued under the pilot program through December 31, 2020, after which time, a notice of infraction must be issued, with the penalty for the infraction restricted to a \$75 maximum.
- Requires that one-half of the non-interest money received by a city under the pilot program in excess of the cost to install, operate, and maintain the automated traffic safety cameras be directed to the Cooper Jones Active

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.

Transportation Safety Account, and that the other half be used by the city for improvements to transportation that support access and mobility for persons with disabilities.

HOUSE COMMITTEE ON TRANSPORTATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Fey, Chair; Wylie, 1st Vice Chair; Slatter, 2nd Vice Chair; Valdez, 2nd Vice Chair; Chapman, Doglio, Entenman, Gregerson, Kloba, Lovick, Mead, Ortiz-Self, Paul, Pellicciotti, Ramos, Riccelli and Shewmake.

Minority Report: Do not pass. Signed by 14 members: Representatives Barkis, Ranking Minority Member; Walsh, Assistant Ranking Minority Member; Young, Assistant Ranking Minority Member; Boehnke, Chambers, Dent, Dufault, Eslick, Goehner, Irwin, McCaslin, Orcutt, Shea and Van Werven.

Staff: Jennifer Harris (786-7143).

Background:

Authorized Uses and Requirements for Automated Traffic Safety Cameras.

The use of automated traffic safety cameras is permitted at red light intersections that meet minimum yellow change interval requirements, at railroad crossings, and in school speed zones, if the following criteria are met:

1. The local legislative authority with jurisdiction where the cameras are to be located prepares an analysis of the locations within the jurisdiction where automated traffic safety cameras are proposed to be located before enacting an ordinance authorizing their use and before adding additional cameras or relocating any existing camera.
2. An ordinance is enacted in cities and counties with automated traffic safety cameras installed on or after July 24, 2005, that includes the restrictions required by state law and provisions for public notice and signage.
3. The location where the camera has been installed is clearly marked at least 30 days prior to activation of the camera through the placement of signs at that location that follow federal guidelines as adopted by the Washington State Department of Transportation.
4. Cities and counties using traffic safety cameras post an annual report on their websites that includes the number of traffic collisions that occurred at each location with a camera, the number of notices of traffic infractions issued for each camera, and any other relevant information.

The use of automated traffic safety cameras to detect speed violations is highly restricted (with the exception of cameras in school speed zones), and must meet the following criteria:

1. be located in a city west of the Cascade mountains with a population greater than 195,000, within a county with a population of fewer than 1.5 million;
2. be the only such camera located in a city that meets the above criteria; and

3. have been authorized by the Legislature as a pilot project for at least one full year.

Currently, only one such camera meets these requirements, and it is located in the City of Tacoma.

With the exception of the camera located in the City of Tacoma, automated traffic safety cameras may only be located:

- at intersections of two arterials with traffic control signals that meet state yellow change interval duration requirements;
- at railroad crossings; and
- in school speed zones.

Restrictions on the Use of Automated Traffic Safety Cameras.

Automated traffic safety cameras may only take pictures of the vehicle and vehicle license plate while an infraction is occurring, and the pictures taken must not reveal the face of the driver or passengers in the vehicle. Photos and electronic images captured by a camera may only be used for the enforcement of traffic infractions for which their use has been authorized, and may not be retained longer than would be necessary for these enforcement purposes. Photos and electronic images are not available to the public and may not be used in a court in a pending action or proceeding unless that action or proceeding relates to a traffic infraction for which their use has been authorized.

Automated Traffic Safety Camera-Captured Infractions.

A notice of traffic infraction must be mailed to the registered owner of the vehicle within 14 days of the violation (or to its renter within 14 days of his or her name and address being established). The law enforcement officer issuing the notice must include a certificate or copy of a certificate stating the facts supporting the notice, which serves as prima facie evidence of the facts contained in it. The photographs or electronic images that serve as evidence of the violation must be available for inspection and admission into evidence in a proceeding on the infraction.

The infraction is not part of the registered owner's driving record and must be processed in the same manner as parking infractions. The infraction may not exceed the fine amount for other parking infractions in a jurisdiction in which it has occurred, and also may not exceed the monetary penalty for failure to obey a traffic control device (currently \$139), as set by rule by the Washington State Supreme Court.

The registered owner of a vehicle is held responsible for the infraction unless he or she states under oath in a written statement to the court or in testimony before the court that the vehicle was stolen or in the care, custody, or control of some other person at the time of the infraction.

Summary of Engrossed Substitute Bill:

Pilot Program Scope.

A pilot program is established through June 30, 2023, authorizing cities with populations greater than 500,000 people to adopt an ordinance authorizing the use of automated traffic safety cameras to detect one or more of the following violations:

- stopping at intersection or crosswalk (20-intersection maximum, see below for details);
- stopping when traffic obstructed;
- public transportation only lane; and
- stopping or traveling in a restricted lane.

Stopping at intersection or crosswalk violations may only be enforced at the 20 intersections where the city would most like to address safety concerns related to these violations.

The use of automated traffic safety cameras for the pilot program is limited to the following locations:

1. the portion of state and local roadways in downtown areas used for office, commercial, retail shopping, support services, and mixed residential uses;
2. the portion of state and local roadways in areas within one-half mile north of the boundary of the downtown areas specified in (1) above;
3. the portion of non-interstate freeways that travel into and out of the surrounding northern area identified in (2) above for up to four miles; and
4. the portion of roadway systems connected to these non-interstate freeway segments that are arterial roadways for up to 1 mile from their intersection with the non-interstate freeways specified above.

Automated traffic safety cameras may not be used on an on-ramp to an interstate. For the purposes of the pilot program, location types where automated traffic safety cameras are permitted are expanded to include midblock on arterial highways.

Pilot Program Restrictions.

The same rules and restrictions applicable to the use of automated traffic safety cameras generally apply to the use of automated traffic safety cameras for the violations specified above during the pilot program, except that an analysis of the locations where these cameras are proposed to be located is not required prior to the enactment of an ordinance allowing their use. The ordinance adopted to authorize the use of these cameras must include the restrictions provided under state law that apply to them, including provisions for public notice and signage.

The detection device used may not reveal the face of the driver or passengers in vehicles, and may not use any facial recognition technology in real time or after capturing any information. If the face of any individual in a crosswalk or otherwise in the frame of the image is incidentally captured, it may not be made available to the public or used for any purpose, including any law enforcement action, except in a pending action or proceeding related to a traffic infraction for which its use has been authorized.

Pilot Program Penalties.

Under the pilot program, through December 31, 2020, 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. Beginning January 1, 2020, a notice of infraction must be issued for a violation generated through the use of an automated traffic safety camera being used as part of the pilot program. The penalty for a violation generated through the use of an automated traffic safety camera may not exceed \$75 in the pilot program.

A transit authority may not take disciplinary action related to a warning or infraction issued as part of the pilot program against an employee operating a public transportation vehicle at the time of the violation for which the warning or infraction was issued.

For violations issued as part of the pilot program, 50 percent of the non-interest money received by a city in excess of the cost to install, operate, and maintain the automated traffic safety cameras must be remitted to the State Treasurer and must be deposited in the Cooper Jones Active Transportation Safety Account. The remaining 50 percent may only be used for transportation improvements that support equitable access and mobility for persons with disabilities.

Pilot Program Report Requirements.

In addition to providing a preliminary report to the transportation committees of the Legislature by June 30, 2022, a final report must be provided to the transportation committees by January 1, 2023, by any city that implements the pilot program. The report must include:

- locations chosen for the automated traffic safety cameras;
- the total number of notice of traffic infractions and traffic infractions issued;
- the number of warnings issued to individuals whose vehicle is registered outside of the county in which the city is located;
- the infrastructure improvements made using revenue from fines assessed;
- an equity analysis that includes any disproportionate impacts, safety, and on-time performance statistics related to the impact on driver behavior; and
- any recommendations on the use of automated traffic safety cameras to enforce the violations they were authorized to detect in the pilot program.

Restrictions on the Use of Automated Traffic Safety Cameras Generally.

The restriction on the use of photos and electronic images captured by a camera is broadened to apply to any other personally identifying data, which may only be used for the enforcement of traffic infractions for which their use has been authorized, and may not be retained longer than would be necessary for these enforcement purposes. Other personally identifying data also is not available to the public and may not be used in a court in a pending action or proceeding unless that action or proceeding relates to a traffic infraction for which its use has been authorized.

The types of locations where automated traffic safety cameras are permitted is expanded from intersections of two arterials with traffic control signals with specified yellow change intervals to intersections of two or more arterials with traffic control signals with specified yellow change intervals.

Cooper Jones Active Transportation Safety Account.

The Cooper Jones Active Transportation Safety Account is created as an appropriated account. Expenditures from the account may only be used to fund grant projects or programs for bicycle, pedestrian, and non-motorist safety improvements administered by the Washington Traffic Safety Commission.

Expiration of Pilot Program and Related Changes.

Authorization for the automated traffic safety camera pilot program and general changes to restrictions on the use of automated traffic safety cameras expire on June 30, 2023.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Seattle is reaching a period of maximum constraint for traffic due to project construction in the city. Transit lanes need to be available for use by transit vehicles. It is not always feasible for law enforcement officers to block traffic to issue traffic tickets for improper transit lane use because it would slow down traffic more. Vehicles blocking crosswalks impact pedestrians and members of the disability community. Vehicles also impede the movement of traffic in and out of Harborview Medical Center.

Without the use of cameras, some basic traffic safety laws cannot be enforced. Cameras play a critical role to enable law enforcement to safely and efficiently meet its obligations. Right now these violations can only be enforced by law enforcement officers. This is resource intensive, and reduces the availability of officers to respond to emergent issues. Officers must take up a lane of travel, disrupting traffic, and potentially resulting in unsafe driving behavior. Officers are seriously injured or killed when hit issuing tickets.

When vehicles "block the box" at intersections, which is very common, this prevents wheelchair users from being able to finish crossing the street because the sidewalk ramp is blocked. They are forced to move into traffic, which results in wheelchair users being struck by vehicles. Pedestrians have to decide whether to weave in front of or behind cars, not knowing when the cars will start to move. This is especially problematic for individuals who are visually impaired and who are trying to access transit.

This bill will help manage busy, congested streets. Clear intersections allow all modes to continue moving and prevent delays for transit vehicles. Transit carries 50 percent of all downtown Seattle commuters and needs to be a reliable option for people. Buses can be held up from 10 to 30 minutes due to transit lanes being blocked. Cars move in and out of transit lanes, and there is a lack of enforcement of transit lane restrictions right now. It is the most

highly congested areas where drivers are most tempted to use transit lanes. Traffic cameras have proven to be very effective tools in New York City and San Francisco.

(Opposed) Traffic safety and congestion issues need to be addressed. But another bill is moving through the Legislature right now that would remove agreements made related to how the information captured by these cameras can be used. That bill would allow cameras to be used for general law enforcement purposes. The Legislature is also considering adopting a statute on facial recognition that passed unanimously out of the Public Safety Committee.

Persons Testifying: (In support) Representative Fitzgibbon, prime sponsor; Mark Bandy, City of Seattle; Sean O'Donnell, Seattle Police Department; Anna Zivarts, Rooted in Rights; Julia Reitan, Feet First; Jim MacIntosh, Transit Riders Union of Seattle; Kelsey Mesher, Transportation Choices Coalition; Kristina Sawycycki; Bill Bryant, King County Metro; and Logan Bahr, Association of Washington Cities.

(Opposed) Eric Gonzalez Alfaro, American Civil Liberties Union-Washington.

Persons Signed In To Testify But Not Testifying: None.