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**SUBSTITUTE SENATE BILL 5272**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Senate Transportation (originally sponsored by Senators Liias, King, Kuderer, Nguyen, Nobles, Saldaña, and C. Wilson; by request of Department of Transportation)

AN ACT Relating to speed safety camera systems on state highways; amending RCW 46.63.030 and 46.63.075; adding a new section to chapter 46.63 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

**Sec.**  RCW 46.63.030 and 2013 2nd sp.s. c 23 s 23 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence, except as provided in RCW 46.09.485;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed;

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction;

(d) When the infraction is detected through the use of an automated traffic safety camera under RCW 46.63.170; ((~~or~~))

(e) When the infraction is detected through the use of an automated school bus safety camera under RCW 46.63.180; or

(f) When the infraction is detected through the use of a speed safety camera system under section 3 of this act.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the person responsible under RCW 46.55.105. The notice must be entitled "Littering—Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

**Sec.**  RCW 46.63.075 and 2012 c 83 s 6 are each amended to read as follows:

(1) In a traffic infraction case involving an infraction detected through the use of an automated traffic safety camera under RCW 46.63.170 ((~~or~~)), detected through the use of a speed safety camera system under section 3 of this act, or detected through the use of an automated school bus safety camera under RCW 46.63.180, proof that the particular vehicle described in the notice of traffic infraction was in violation of any such provision of RCW 46.63.170, section 3 of this act, and 46.63.180, together with proof that the person named in the notice of traffic infraction was at the time of the violation the registered owner of the vehicle, constitutes in evidence a prima facie presumption that the registered owner of the vehicle was the person in control of the vehicle at the point where, and for the time during which, the violation occurred.

(2) This presumption may be overcome only if the registered owner states, under oath, in a written statement to the court or in testimony before the court that the vehicle involved was, at the time, stolen or in the care, custody, or control of some person other than the registered owner.

NEW SECTION. **Sec.**  A new section is added to chapter 46.63 RCW to read as follows:

(1) This section applies to the use of speed safety camera systems in state highway work zones.

(2) 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).

(3) The Washington state patrol is the primary law enforcement agency to verify and issue the notice of infraction as outlined in this subsection. A notice of infraction may only be issued under this section if workers are present in the state highway work zone at the time the violation occurs. A notice of infraction under this section must be mailed to the registered owner of the vehicle within 14 days of the violation, or to the renter of a vehicle within 14 days of establishing the renter's name and address. 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 a speed 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 a speed safety camera may respond to the notice by mail.

(4)(a) The notice of infraction shall be referred to the office of administrative hearings for adjudication by an administrative law judge and issuance of a final order, in accordance with chapter 34.05 RCW.

(b) During the adjudication process, the registered owner must have an opportunity to present evidence to contest or mitigate the traffic infraction. In response to these circumstances, the administrative law judge may reduce or dismiss the infraction, civil penalty, and associated administrative fees.

(5) Speed safety camera systems may only take pictures of the vehicle and vehicle license plate and only while a traffic infraction is occurring. The picture must not reveal the face of the driver or of passengers in the vehicle. The purpose of camera placement is to take pictures of the vehicle and vehicle license plate when a state highway work zone traffic infraction is occurring. The department of transportation shall consider installing cameras in a manner that minimizes the impact of camera flash on drivers.

(6) The registered owner of a vehicle is responsible for a traffic infraction under RCW 46.63.030 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 (10) of this section. If appropriate under the circumstances, a renter identified under subsection (10)(a) of this section is responsible for an infraction.

(7) Notwithstanding any other provision of law, all photographs, microphotographs, or electronic images, or any other personally identifying data prepared under this section are for the exclusive use of the Washington state patrol in the discharge of duties under this section and are not open to the public and may not be used in court in a pending action or proceeding unless the action or proceeding relates to a violation under this section. This data may be used in administrative appeal proceedings relative to a violation under this section.

(8) All locations where speed safety camera systems are used must be clearly marked before activation of the camera by placing signs in locations that clearly indicate to a driver that they are entering a state highway work zone where posted speed limits are monitored by a speed safety camera system. Signs placed in these locations 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.

(9) Infractions detected through the use of speed safety camera systems are not part of the registered owner's driving record under RCW 46.52.101 and 46.52.120.

(10) If the registered owner of the vehicle is a rental car business, the Washington state patrol shall, before a notice of infraction being issued under this section, provide a written notice to the rental car business that a notice of traffic infraction may be issued to the rental car business if the rental car business does not, within 18 days of receiving the written notice, provide to the issuing agency by return mail:

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

(ii) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the traffic infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection (10)(a)(ii) must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(iii) In lieu of identifying the vehicle operator, pay the applicable penalty.

(b) Timely mailing of a statement to the Washington state patrol relieves a rental car business of any liability under this chapter for the notice of infraction.

(11) Revenue generated from the deployment of speed safety camera systems shall be deposited into the highway safety fund and first used exclusively for the operating and administrative costs under this section. The operation of speed safety camera systems is intended to increase safety in state highway work zones by changing driver behavior. Consequently, any revenue generated that exceeds the operating and administrative costs under this section must be distributed for the purpose of traffic safety including, but not limited to, driver training education and local DUI emphasis patrols.

(12) The Washington state patrol and department of transportation, in collaboration with the Washington traffic safety commission, must report to the transportation committees of the legislature by July 1, 2025, and biennially thereafter, on the data and efficacy of speed safety camera system use in state highway work zones. The final report due on July 1, 2029, must include a recommendation on whether or not to continue such speed safety camera system use beyond June 30, 2030.

(13) For the purposes of this section:

(a) "Speed safety camera system" means employing the use of speed measuring devices and cameras synchronized to automatically record one or more sequenced photographs, microphotographs, or other electronic images of a motor vehicle that exceeds a posted state highway work zone speed limit as detected by the speed measuring devices.

(b) "State highway work zone" means an area of any highway with construction, maintenance, utility work, or incident response activities authorized by the department of transportation. A state highway work zone is identified by the placement of temporary traffic control devices that may include signs, channelizing devices, barriers, pavement markings, and/or work vehicles with warning lights. It extends from the first warning sign or high intensity rotating, flashing, oscillating, or strobe lights on a vehicle to the end road work sign or the last temporary traffic control device or vehicle.

(14) This section expires June 30, 2030.

NEW SECTION. **Sec.**  By July 1, 2024, the Washington state patrol, in consultation with the department of transportation, department of licensing, office of administrative hearings, Washington traffic safety commission, and other organizations committed to protecting civil rights, shall adopt rules for the use of speed safety camera systems in state highway work zones. When establishing these rules, the Washington state patrol may also consult with other public and private agencies that have an interest in the use of speed safety camera systems in state highway work zones. The chief of the Washington state patrol may also take any necessary steps for implementation of such speed safety camera use.

NEW SECTION. **Sec.**  Except for section 4 of this act, this act takes effect July 1, 2024.

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