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**SUBSTITUTE SENATE BILL 5722**

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

**By** Senate Law & Justice (originally sponsored by Senators Kuderer, King, Dhingra, Fortunato, and C. Wilson)

AN ACT Relating to photographs, microphotographs, and electronic images from traffic safety cameras and toll systems; amending RCW 46.63.170, 46.63.170, and 46.63.160; providing an effective date; and providing an expiration date.

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

**Sec.**  RCW 46.63.170 and 2022 c 182 s 423 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, school speed zone violations, speed violations on any roadway identified in a school walk area as defined in RCW 28A.160.160, speed violations in public park speed zones, hospital speed zones, speed violations subject to (c) or (d) 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 website.

(b)(i) Except as provided in (c) and (d) of this subsection and subsection (6) of this section, use of automated traffic safety cameras is restricted to the following locations only: (A) 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; (B) railroad crossings; (C) school speed zones; (D) roadways identified in a school walk area as defined in RCW 28A.160.160; (E) public park speed zones, as defined in (b)(ii) of this subsection; and (F) hospital speed zones, as defined in (b)(ii) of this subsection.

(ii) For the purposes of this section:

(A) "Public park speed zone" means the marked area within public park property and extending 300 feet from the border of public park property (I) consistent with active park use; and (II) where signs are posted to indicate the location is within a public park speed zone.

(B) "Hospital speed zone" means the marked area within hospital property and extending 300 feet from the border of hospital property (I) consistent with hospital use; and (II) where signs are posted to indicate the location is within a hospital speed zone, where "hospital" has the same meaning as in RCW 70.41.020.

(c) In addition to the automated traffic safety cameras authorized under (d) of this subsection, any city west of the Cascade mountains with a population of more than 195,000 located in a county with a population of fewer than 1,500,000 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)(i) Cities may operate at least one automated traffic safety camera under this subsection to detect speed violations, subject to the requirements of (d)(ii) of this subsection. Cities may operate one additional automated traffic safety camera to detect speed violations for every 10,000 residents included in the city's population. Cameras must be placed in locations that comply with one of the following:

(A) The location has been identified as a priority location in a local road safety plan that a city has submitted to the Washington state department of transportation and where other speed reduction measures are not feasible or have not been sufficiently effective at reducing travel speed;

(B) The location has a significantly higher rate of collisions than the city average in a period of at least three years prior to installation and other speed reduction measures are not feasible or have not been sufficiently effective at reducing travel speed; or

(C) The location is in an area within the city limits designated by local ordinance as a zone subject to specified restrictions and penalties on racing and race attendance.

(ii) A city locating an automated traffic safety camera under this subsection (1)(d) must complete an equity analysis that evaluates livability, accessibility, economics, education, and environmental health, and shall consider the outcome of that analysis when identifying where to locate an automated traffic safety camera.

(e) All locations where an automated traffic safety camera is used to detect speed violations on roadways identified in a school walk area, speed violations in public park speed zones, speed violations in hospital speed zones, or speed violations under (d) of this subsection must be clearly marked by placing signs in locations that clearly indicate to a driver either: (i) That the driver is within a school walk area, public park speed zone, or hospital speed zone; or (ii) that the driver is entering an area where speed violations 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.

(f) 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.

(g) A notice of infraction 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 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.

(h) 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.

(i) 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 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, or any other personally identifying data may be used for any purpose other than enforcement of violations under this section nor retained longer than necessary to enforce this section.

(j) Pursuant to a lawfully issued search warrant, any records, photographs, microphotographs, and electronic images prepared under this section shall be made available to law enforcement and all restrictions on their use, as set forth in (i) of this subsection, shall not apply.

(k) Pursuant to a subpoena for producing evidence or permitting inspection in a criminal case in which the court has made a finding of materiality, any records, photographs, microphotographs, and electronic images prepared under this section shall be made available to prosecuting attorneys and defense lawyers and all restrictions on their use, as set forth in (i) of this subsection, shall not apply.

(l) All locations where an automated traffic safety camera is used must be clearly marked at least 30 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.

((~~(k)~~)) (m) 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.

((~~(l)~~)) (n) If a city is operating an automated traffic safety camera to detect speed violations on roadways identified in a school walk area, speed violations in public park speed zones, speed violations in hospital speed zones, or speed violations under (d) of this subsection, the city shall remit monthly to the state 50 percent of the noninterest money received for infractions issued by those cameras excess of the cost to administer, install, operate, and maintain the automated traffic safety cameras, including the cost of processing infractions. Money remitted under this subsection to the state treasurer shall be deposited in the Cooper Jones active transportation safety account created in RCW 46.68.480. This subsection (1)((~~(l)~~)) (n) does not apply to automated traffic safety cameras authorized for stoplight, railroad crossing, or school speed zone violations.

(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 18 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; stopping when traffic obstructed violations; public transportation only lane violations; and stopping or traveling in restricted lane violations. The device, including all technology defined under "automated traffic safety camera," must not reveal the face of the driver or the passengers in vehicles, and must 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 within the frame is incidentally captured, it may not be made available to the public nor used for any purpose including, but not limited to, any law enforcement action, except in a pending action or proceeding related to a violation under this section.

(6)(a)(i) A city with a population greater than 500,000 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 when traffic obstructed 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 20 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) 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).

(iii) As used in this subsection (6), "public transportation vehicle" means any motor vehicle, streetcar, train, trolley vehicle, ferry boat, or any other device, vessel, 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.

(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 north of the boundary 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 four 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 an on-ramp to an interstate.

(d) From June 11, 2020, 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 authorized in this subsection (6). Beginning January 1, 2021, a notice of infraction must be issued, in a manner consistent with subsections (1) (g) 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 may not exceed $75.

(e) For infractions issued as authorized in this subsection (6), a city with a pilot program shall remit monthly to the state 50 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 Cooper Jones active transportation safety account created in RCW 46.68.480. The remaining 50 percent retained by the city must be used only for improvements to transportation that support equitable access and mobility for persons with disabilities.

(f) A transit authority may not take disciplinary action, regarding a warning or infraction issued pursuant to this subsection (6), against an employee who was operating a public transportation vehicle at the time the violation that was the basis of the warning or infraction was detected.

(g) 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, 2024, and a final report by January 1, 2025, 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, the infrastructure improvements made using the penalty moneys as required under (e) of this subsection, an equity analysis that includes any disproportionate impacts, 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.

**Sec.**  RCW 46.63.170 and 2022 c 182 s 424 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, school speed zone violations, speed violations on any roadway identified in a school walk area as defined in RCW 28A.160.160, speed violations in public park speed zones, hospital speed zones, or speed violations subject to (c) or (d) 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 website.

(b)(i) Except as provided in (c) and (d) of this subsection, use of automated traffic safety cameras is restricted to the following locations only: (A) Intersections of two 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; (B) railroad crossings; (C) school speed zones; (D) roadways identified in a school walk area as defined in RCW 28A.160.160; (E) public park speed zones, as defined in (b)(ii) of this subsection; and (F) hospital speed zones, as defined in (b)(ii) of this subsection.

(ii) For the purposes of this section:

(A) "Public park speed zone" means the marked area within public park property and extending 300 feet from the border of public park property (I) consistent with active park use; and (II) where signs are posted to indicate the location is within a public park speed zone.

(B) "Hospital speed zone" means the marked area within hospital property and extending 300 feet from the border of hospital property (I) consistent with hospital use; and (II) where signs are posted to indicate the location is within a hospital speed zone, where "hospital" has the same meaning as in RCW 70.41.020.

(c) In addition to the automated traffic safety cameras authorized under (d) of this subsection, any city west of the Cascade mountains with a population of more than 195,000 located in a county with a population of fewer than 1,500,000 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)(i) Cities may operate at least one automated traffic safety camera under this subsection to detect speed violations, subject to the requirements of (d)(ii) of this subsection. Cities may operate one additional automated traffic safety camera to detect speed violations for every 10,000 residents included in the city's population. Cameras must be placed in locations that comply with one of the following:

(A) The location has been identified as a priority location in a local road safety plan that a city has submitted to the Washington state department of transportation and where other speed reduction measures are not feasible or have not been sufficiently effective at reducing travel speed;

(B) The location has a significantly higher rate of collisions than the city average in a period of at least three years prior to installation and other speed reduction measures are not feasible or have not been sufficiently effective at reducing travel speed; or

(C) The location is in an area within the city limits designated by local ordinance as a zone subject to specified restrictions and penalties on racing and race attendance.

(ii) A city locating an automated traffic safety camera under this subsection (1)(d) must complete an equity analysis that evaluates livability, accessibility, economics, education, and environmental health, and shall consider the outcome of that analysis when identifying where to locate an automated traffic safety camera.

(e) All locations where an automated traffic safety camera is used to detect speed violations on roadways identified in a school walk area, speed violations in public park speed zones, speed violations in hospital speed zones, or speed violations under (d) of this subsection must be clearly marked by placing signs in locations that clearly indicate to a driver either: (i) That the driver is within a school walk area, public park speed zone, or hospital speed zone; or (ii) that the driver is entering an area where speed violations 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.

(f) 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.

(g) A notice of infraction 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 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.

(h) 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.

(i) 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.

(j) Pursuant to a lawfully issued search warrant, any records, photographs, microphotographs, and electronic images prepared under this section shall be made available to law enforcement and all restrictions on their use, as set forth in (i) of this subsection, shall not apply.

(k) Pursuant to a subpoena for producing evidence or permitting inspection in a criminal case in which the court has made a finding of materiality, any records, photographs, microphotographs, and electronic images prepared under this section shall be made available to prosecuting attorneys and defense lawyers and all restrictions on their use, as set forth in (i) of this subsection, shall not apply.

(l) All locations where an automated traffic safety camera is used must be clearly marked at least 30 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.

((~~(k)~~)) (m) 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.

((~~(l)~~)) (n) If a city is operating an automated traffic safety camera to detect speed violations on roadways identified in a school walk area, speed violations in public park speed zones, speed violations in hospital speed zones, or speed violations under (d) of this subsection, the city shall remit monthly to the state 50 percent of the noninterest money received for infractions issued by those cameras excess of the cost to administer, install, operate, and maintain the automated traffic safety cameras, including the cost of processing infractions. Money remitted under this subsection to the state treasurer shall be deposited in the Cooper Jones active transportation safety account created in RCW 46.68.480. This subsection (1)((~~(l)~~)) (n) does not apply to automated traffic safety cameras authorized for stoplight, railroad crossing, or school speed zone violations.

(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 18 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.

**Sec.**  RCW 46.63.160 and 2015 c 292 s 1 are each amended to read as follows:

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

(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) A notice of civil penalty may be issued by the department of transportation when a toll is assessed through use of a photo toll system and the toll is not paid by the toll payment due date, which is ((~~eighty~~)) 80 days from the date the vehicle uses the toll facility and incurs the toll charge.

(4) Any registered owner or renter of a vehicle traveling upon a toll facility operated under chapter 47.56 or 47.46 RCW is subject to a civil penalty governed by the administrative procedures set forth in this section when the vehicle incurs a toll charge and the toll is not paid by the toll payment due date, which is ((~~eighty~~)) 80 days from the date the vehicle uses the toll facility and incurs the toll charge.

(5)(a) The department shall develop rules to allow an individual who has been issued a notice of civil penalty to present evidence of mitigating circumstances as to why a toll bill was not timely paid. If an individual is able to present verifiable evidence to the department that a civil penalty was incurred due to hospitalization, military deployment, eviction, homelessness, death of the alleged violator or of an alleged violator's immediate family member, failure to receive the toll bill due to an incorrect address that has since been corrected, a prepaid electronic toll account error that has since been corrected, an error made by the department or an agent of the department, or other mitigating circumstances as determined by the department, the department may dismiss or reduce the civil penalty and associated fees.

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

(ii) During the adjudication process, the alleged violator must have an opportunity to explain mitigating circumstances as to why the toll bill was not timely paid. Hospitalization, a divorce decree or legal separation agreement resulting in a transfer of the vehicle, an active duty member of the military or national guard covered by the federal service members civil relief act, 50 U.S.C. Sec. 501 et seq., or state service members' civil relief act, chapter 38.42 RCW, eviction, homelessness, the death of the alleged violator or of an immediate family member, being switched to a different method of toll payment, if the alleged violator did not receive a toll charge bill or notice of civil penalty, or other mitigating circumstances as determined by the adjudicator are deemed valid mitigating circumstances. All of the reasons that constitute mitigating circumstances must have occurred within a reasonable time of the alleged toll violation. In response to these circumstances, the adjudicator may reduce or dismiss the civil penalty and associated administrative fees.

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

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

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

(c)(i) By June 30, 2016, prior to issuing a notice of civil penalty to a registered owner of a vehicle listed on an active prepaid electronic toll account, the department of transportation must:

(A) Send an ((~~electronic mail~~)) email notice to the email address provided in the prepaid electronic toll account of unpaid pay-by-mail toll bills at least ((~~ten~~)) 10 days prior to a notice of civil penalty being issued for the associated pay-by-mail toll. The notice must be separate from any regular notice sent by the department; and

(B) Call the phone numbers provided in the account to provide notice of unpaid pay-by-mail toll bills at least ten days prior to a notice of civil penalty being issued for the associated pay-by-mail toll.

(ii) The department is relieved of its obligation to provide notice as required by this section if the customer has declined to receive communications from the department through such methods.

(d) Notwithstanding any other provision of law, all photographs, digital photographs, microphotographs, videotape, other recorded images, or other records identifying a specific instance of travel prepared under this section are for the exclusive use of the tolling agency for toll collection and enforcement purposes 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 civil penalty under this section. No photograph, digital photograph, microphotograph, videotape, other recorded image, or other record identifying a specific instance of travel may be used for any purpose other than toll collection or enforcement of civil penalties under this section. Records identifying a specific instance of travel by a specific person or vehicle must be retained only as required to ensure payment and enforcement of tolls and to comply with state records retention policies.

(e) Pursuant to a lawfully issued search warrant, any records, photographs, microphotographs, and electronic images prepared under this section shall be made available to law enforcement and all restrictions on their use, as set forth in (d) of this subsection, shall not apply.

(f) Pursuant to a subpoena for producing evidence or permitting inspection in a criminal case in which the court has made a finding of materiality, any records, photographs, microphotographs, and electronic images prepared under this section shall be made available to prosecuting attorneys and defense lawyers and all restrictions on their use, as set forth in (d) of this subsection, shall not apply.

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

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

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

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

(8) The civil penalty for toll nonpayment detected through the use of a photo toll system is ((~~forty dollars~~)) $40 plus the photo toll and associated fees.

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

(10) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a toll bill is issued, provide a written notice to the rental car business that a toll bill may be issued to the rental car business if the rental car business does not, within ((~~thirty~~)) 30 days of the mailing of 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 toll was assessed; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the toll was assessed because the vehicle was stolen at the time the toll was assessed. 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 toll and fee.

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

(11) It is the intent of the legislature that the department provide an educational opportunity when vehicle owners incur fees and penalties associated with late payment of tolls for the first time. As part of this educational opportunity, the department may waive penalties and fees if the issue that resulted in the toll not being timely paid has been resolved and the vehicle owner establishes an electronic toll account, if practicable. To aid in collecting tolls in a timely manner, the department may waive or reduce the outstanding amounts of fees and penalties assessed when tolls are not timely paid.

(12)(a) By June 30, 2016, the department of transportation must update its website, and accommodate access to the website from mobile platforms, to allow toll customers to efficiently manage all their tolling accounts, regardless of method of payment.

(b)(i) By June 30, 2016, the department of transportation must make available to the public a point of access that allows a third party to develop an application for mobile technologies that (A) securely accesses a user's toll account information and (B) allows the user to manage his or her toll account to the same extent possible through the department's website.

(ii) If the department determines that it would be cost-effective and in the best interests of the citizens of Washington, it may also develop an application for mobile technologies that allows toll customers to manage all of their tolling accounts from a mobile platform.

(13) When acquiring a new photo toll system, the department of transportation must enable the new system to:

(a) Connect with the department of licensing's vehicle record system so that a prepaid electronic toll account can be updated automatically when a toll customer's vehicle record is updated, if the customer has consented to such updates; and

(b) Document when any toll is assessed for a vehicle listed in a prepaid electronic toll account in the monthly statement that is made available to the electronic toll account holder regardless of whether the method of payment for the toll is via pay-by-mail or prepaid electronic toll account.

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

(15) For the purposes of this section:

(a) "Photo toll system" means the system defined in RCW 47.56.010 and 47.46.020.

(b) "Prepaid electronic toll account" means a prepaid toll account linked to a pass or license plate number, including "Good to Go!".

(16) If a customer's toll charge or civil penalty is waived pursuant to this section due to an error made by the department, or an agent of the department, in reading the customer's license plate, the secretary of transportation must send a letter to the customer apologizing for the error.

NEW SECTION. **Sec.**  Section 1 of this act expires June 30, 2025.

NEW SECTION. **Sec.**  Section 2 of this act takes effect June 30, 2025.

**--- END ---**