CERTIFICATION OF ENROLLMENT

**ENGROSSED SUBSTITUTE SENATE BILL 5272**

68th Legislature

2023 Regular Session

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| Passed by the Senate March 29, 2023  Yeas 49 Nays 0  **President of the Senate**  Passed by the House March 24, 2023  Yeas 96 Nays 0  **Speaker of the House of Representatives** | CERTIFICATE  I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5272** as passed by the Senate and the House of Representatives on the dates hereon set forth.  Secretary |
| Approved |  |
| **Governor of the State of Washington** | **Secretary of State**  **State of Washington** |

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**ENGROSSED SUBSTITUTE SENATE BILL 5272**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2023 Regular Session

**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; 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 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) The department of transportation is responsible for all actions related to the operation and administration of speed safety camera systems in state highway work zones including, but not limited to, the procurement and administration of contracts necessary for the implementation of speed safety camera systems and the mailing of notices of infraction. By July 1, 2024, the department of transportation, in consultation with the Washington state patrol, department of licensing, office of administrative hearings, Washington traffic safety commission, and other organizations committed to protecting civil rights must adopt rules addressing such actions and take all necessary steps to implement this section.

(b) The Washington state patrol is responsible for all actions related to the enforcement and adjudication of speed violations under this section including, but not limited to, notice of infraction verification and issuance authorization, and determining which types of emergency vehicles are exempt from being issued notices of infraction under this section. 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 must adopt rules addressing such actions and take all necessary steps to implement this section.

(c) When establishing rules under this subsection (3), the department of transportation and 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.

(4) Beginning July 1, 2024:

(a) A notice of infraction may only be issued under this section if a speed safety camera system captures a speed violation in a state highway work zone when workers are present. A notice of infraction under this section may be mailed to the registered owner of the vehicle within 30 days of the violation, or to the renter of a vehicle within 30 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 section. 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 violation. A person receiving a notice of infraction based on evidence detected by a speed safety camera system may, within 30 days of receiving the notice of infraction, remit payment in the amount of the penalty assessed for the violation. If a person receiving a notice of infraction fails to remit payment in the amount of the penalty assessed within 30 days of receiving the notice of infraction, or if such person wishes to dispute the violation, it must be adjudicated in accordance with (b) of this subsection.

(b) A notice of infraction that has not been timely paid or a disputed notice of infraction shall be referred to the office of administrative hearings for adjudication consistent with chapter 34.05 RCW.

(c) Speed safety camera systems may only take photographs, microphotographs, or electronic images of the vehicle and vehicle license plate and only while a speed violation is occurring. The photograph, microphotograph, or electronic image must not reveal the face of the driver or any passengers in the vehicle. The department of transportation shall consider installing speed safety camera systems in a manner that minimizes the impact of camera flash on drivers.

(d) 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 (h) of this subsection. If appropriate under the circumstances, a renter identified under (h)(i) of this subsection is responsible for the traffic infraction.

(e) 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 and department of transportation 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 speed violation under this section. This data may be used in administrative appeal proceedings relative to a violation under this section.

(f) All locations where speed safety camera systems are used must be clearly marked before activation of the camera system 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. Additionally, where feasible and constructive, radar speed feedback signs will be placed in advance of the speed safety camera system to assist drivers in complying with posted speed limits. 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.

(g) Speed violations 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.

(h) If the registered owner of the vehicle is a rental car business, the department of transportation shall, before a notice of infraction may be 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 30 days of receiving the written notice, provide to the issuing agency by return mail:

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

(B) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the speed violation occurred because the vehicle was stolen at the time of the violation. A statement provided under this subsection (4)(h)(i)(B) must be accompanied by a copy of a filed police report regarding the vehicle theft; or

(C) In lieu of identifying the vehicle operator, payment of the applicable penalty.

(ii) Timely mailing of a statement to the department of transportation relieves a rental car business of any liability under this chapter for the notice of infraction.

(5) Revenue generated from the deployment of speed safety camera systems must 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.

(6) 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.

(7) 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.

(8) This section expires June 30, 2030.

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