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HOUSE BILL 1585

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State of Washington

65th Legislature

2017 Regular Session

By Representative Young

1 AN ACT Relating to dedicating revenue from civil penalties  
2 associated with tolls for crossing the Tacoma Narrows bridge to  
3 repaying debt issued to construct the bridge; amending RCW 46.63.160,  
4 47.46.100, 47.46.110, 47.46.130, and 47.56.165; and repealing RCW  
5 47.46.140.

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

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

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

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

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

20 (4) Any registered owner or renter of a vehicle traveling upon a  
21 toll facility operated under chapter 47.56 or 47.46 RCW is subject to

1 a civil penalty governed by the administrative procedures set forth  
2 in this section when the vehicle incurs a toll charge and the toll is  
3 not paid by the toll payment due date, which is eighty days from the  
4 date the vehicle uses the toll facility and incurs the toll charge.

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

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

28 (ii) During the adjudication process, the alleged violator must  
29 have an opportunity to explain mitigating circumstances as to why the  
30 toll bill was not timely paid. Hospitalization, a divorce decree or  
31 legal separation agreement resulting in a transfer of the vehicle, an  
32 active duty member of the military or national guard covered by the  
33 federal service members civil relief act, 50 U.S.C. Sec. 501 et seq.,  
34 or state service members' civil relief act, chapter 38.42 RCW,  
35 eviction, homelessness, the death of the alleged violator or of an  
36 immediate family member, being switched to a different method of toll  
37 payment, if the alleged violator did not receive a toll charge bill  
38 or notice of civil penalty, or other mitigating circumstances as  
39 determined by the adjudicator are deemed valid mitigating  
40 circumstances. All of the reasons that constitute mitigating

1 circumstances must have occurred within a reasonable time of the  
2 alleged toll violation. In response to these circumstances, the  
3 adjudicator may reduce or dismiss the civil penalty and associated  
4 administrative fees.

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

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

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

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

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

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

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

37 (d) Notwithstanding any other provision of law, all photographs,  
38 digital photographs, microphotographs, videotape, other recorded  
39 images, or other records identifying a specific instance of travel  
40 prepared under this section are for the exclusive use of the tolling

1 agency for toll collection and enforcement purposes and are not open  
2 to the public and may not be used in a court in a pending action or  
3 proceeding unless the action or proceeding relates to a civil penalty  
4 under this section. No photograph, digital photograph,  
5 microphotograph, videotape, other recorded image, or other record  
6 identifying a specific instance of travel may be used for any purpose  
7 other than toll collection or enforcement of civil penalties under  
8 this section. Records identifying a specific instance of travel by a  
9 specific person or vehicle must be retained only as required to  
10 ensure payment and enforcement of tolls and to comply with state  
11 records retention policies.

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

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

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

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

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

37 (9) Except as provided otherwise in this subsection, all civil  
38 penalties, including the photo toll and associated fees, collected  
39 under this section must be deposited into the toll facility account  
40 of the facility on which the toll was assessed. (~~However, through~~

1 ~~June 30, 2013,~~) Civil penalties deposited into the Tacoma Narrows  
2 toll bridge account created under RCW 47.56.165 that are in excess of  
3 amounts necessary to support the toll adjudication process applicable  
4 to toll collection on the Tacoma Narrows bridge must first be  
5 allocated toward (~~repayment of operating loans and reserve payments~~  
6 ~~provided to the account from the motor vehicle account under section~~  
7 ~~1005(15), chapter 518, Laws of 2007)~~ paying bond obligations  
8 incurred in constructing the bridge. Additionally, all civil  
9 penalties, resulting from nonpayment of tolls on the state route  
10 number 520 corridor, shall be deposited into the state route number  
11 520 civil penalties account created under section 4, chapter 248,  
12 Laws of 2010 but only if chapter 248, Laws of 2010 is enacted by June  
13 30, 2010.

14 (10) If the registered owner of the vehicle is a rental car  
15 business, the department of transportation shall, before a toll bill  
16 is issued, provide a written notice to the rental car business that a  
17 toll bill may be issued to the rental car business if the rental car  
18 business does not, within thirty days of the mailing of the written  
19 notice, provide to the issuing agency by return mail:

20 (a) A statement under oath stating the name and known mailing  
21 address of the individual driving or renting the vehicle when the  
22 toll was assessed; or

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

29 (c) In lieu of identifying the vehicle operator, the rental car  
30 business may pay the applicable toll and fee.

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

34 (11) It is the intent of the legislature that the department  
35 provide an educational opportunity when vehicle owners incur fees and  
36 penalties associated with late payment of tolls for the first time.  
37 As part of this educational opportunity, the department may waive  
38 penalties and fees if the issue that resulted in the toll not being  
39 timely paid has been resolved and the vehicle owner establishes an  
40 electronic toll account, if practicable. To aid in collecting tolls

1 in a timely manner, the department may waive or reduce the  
2 outstanding amounts of fees and penalties assessed when tolls are not  
3 timely paid.

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

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

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

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

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

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

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

32 (15) For the purposes of this section:

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

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

38 (16) If a customer's toll charge or civil penalty is waived  
39 pursuant to this section due to an error made by the department, or  
40 an agent of the department, in reading the customer's license plate,

1 the secretary of transportation must send a letter to the customer  
2 apologizing for the error.

3 **Sec. 2.** RCW 47.46.100 and 2002 c 114 s 7 are each amended to  
4 read as follows:

5 (1) The commission shall fix the rates of toll and other charges  
6 for all toll bridges built under this chapter that are financed  
7 primarily by bonds issued by the state. Subject to RCW 47.46.090, the  
8 commission may impose and modify toll charges from time to time as  
9 conditions warrant.

10 (2) In establishing toll charges, the commission shall give due  
11 consideration to any required costs for operating and maintaining the  
12 toll bridge or toll bridges, including the cost of insurance, and to  
13 any amount required by law to meet the redemption of bonds and  
14 interest payments on them.

15 (3) The toll charges must be imposed in amounts sufficient to:

16 (a) Provide annual revenue sufficient to provide for annual  
17 operating and maintenance expenses, except as provided in RCW  
18 47.56.245; and

19 (b) Make payments required under RCW 47.56.165 (~~(and 47.46.140)~~),  
20 including insurance costs and the payment of principal and interest  
21 on bonds issued for any particular toll bridge or toll bridges(~~(; and~~  
22 ~~(c) Repay the motor vehicle fund under RCW 47.46.110, 47.56.165,~~  
23 ~~and 47.46.140)~~).

24 (4) The bond principal and interest payments(~~(, including~~  
25 ~~repayment of the motor vehicle fund for amounts transferred from that~~  
26 ~~fund to provide for such principal and interest payments,)~~)  
27 constitute a first direct and exclusive charge and lien on all tolls  
28 and other revenues from the toll bridge concerned, subject to  
29 operating and maintenance expenses.

30 **Sec. 3.** RCW 47.46.110 and 2002 c 114 s 8 are each amended to  
31 read as follows:

32 (1) The commission shall retain toll charges on any existing and  
33 future facilities constructed under this chapter and financed  
34 primarily by bonds issued by the state until(~~(;~~

35 ~~(a) All costs of investigation, financing, acquisition of~~  
36 ~~property, and construction advanced from the motor vehicle fund have~~  
37 ~~been fully repaid, except as provided in subsection (2)(b) of this~~  
38 ~~section;~~

1       ~~(b))~~ bond and deferred sales tax obligations incurred in  
2 constructing that facility have been fully paid(~~(; and~~  
3 ~~(c) The motor vehicle fund is fully repaid under RCW 47.46.140~~)).

4       (2) This section does not:

5       (a) Prohibit the use of toll revenues to fund maintenance,  
6 operations, or management of facilities constructed under this  
7 chapter except as prohibited by RCW 47.56.245;

8       (b) Require repayment of funds specifically appropriated as a  
9 nonreimbursable state financial contribution to a project.

10       (3) Notwithstanding the provisions of subsection (2)(a) of this  
11 section, upon satisfaction of the conditions enumerated in subsection  
12 (1) of this section:

13       (a) The facility must be operated as a toll-free facility; and

14       (b) The operation, maintenance, upkeep, and repair of the  
15 facility must be paid from funds appropriated for the use of the  
16 department for the construction and maintenance of the primary state  
17 highways of the state of Washington.

18       **Sec. 4.** RCW 47.46.130 and 2002 c 114 s 10 are each amended to  
19 read as follows:

20       Proceeds of the sale of bonds issued by the state for projects  
21 constructed under this chapter must be deposited in the state  
22 treasury to the credit of a special account designated for those  
23 purposes. Those proceeds must be expended only for the purposes  
24 enumerated in this chapter(~~(;)~~) and for payment of the expense  
25 incurred in the issuance and sale of any such bonds(~~(, and to repay~~  
26 ~~the motor vehicle fund for any sums advanced to pay the cost of~~  
27 ~~surveys, location, design, development, right-of-way, and other~~  
28 ~~activities related to the financing and construction of the bridge~~  
29 ~~and its approaches~~)).

30       **Sec. 5.** RCW 47.56.165 and 2009 c 567 s 1 are each amended to  
31 read as follows:

32       A special account to be known as the Tacoma Narrows toll bridge  
33 account is created in the motor vehicle fund in the state treasury.

34       (1) Deposits to the account must include:

35       (a) All proceeds of bonds issued for construction of the Tacoma  
36 Narrows public-private initiative project, including any capitalized  
37 interest;



1 (b) All of the toll charges and other revenues received from the  
2 operation of the Tacoma Narrows bridge as a toll facility, to be  
3 deposited at least monthly;

4 (c) Any interest that may be earned from the deposit or  
5 investment of those revenues;

6 (d) Notwithstanding RCW 47.12.063, proceeds from the sale of any  
7 surplus real property acquired for the purpose of building the second  
8 Tacoma Narrows bridge; and

9 (e) All liquidated damages collected under any contract involving  
10 the construction of the second Tacoma Narrows bridge.

11 (2) Proceeds of bonds shall be used consistent with RCW  
12 47.46.130, including the reimbursement of expenses and fees incurred  
13 under agreements entered into under RCW 47.46.040 as required by  
14 those agreements.

15 (3) Toll charges, other revenues, and interest may only be used  
16 to((+

17 ~~(a))~~ pay required costs that contribute directly to the  
18 financing, operation, maintenance, management, and necessary repairs  
19 of the tolled facility, as determined by rule by the transportation  
20 commission(~~(+and~~

21 ~~(b) Repay amounts to the motor vehicle fund as required under RCW~~  
22 ~~47.46.140)).~~

23 (4) Toll charges, other revenues, and interest may not be used to  
24 pay for costs that do not contribute directly to the financing,  
25 operation, maintenance, management, and necessary repairs of the  
26 tolled facility, as determined by rule by the transportation  
27 commission.

28 (5) The department shall make detailed quarterly expenditure  
29 reports available to the transportation commission and to the public  
30 on the department's web site using current department resources.

31 ~~((When repaying the motor vehicle fund under RCW 47.46.140,~~  
32 ~~the state treasurer shall transfer funds from the Tacoma Narrows toll~~  
33 ~~bridge account to the motor vehicle fund on or before each debt~~  
34 ~~service date for bonds issued for the Tacoma Narrows public private~~  
35 ~~initiative project in an amount sufficient to repay the motor vehicle~~  
36 ~~fund for amounts transferred from that fund to the highway bond~~  
37 ~~retirement fund to provide for any bond principal and interest due on~~  
38 ~~that date.))~~ The state treasurer may establish subaccounts for the  
39 purpose of segregating toll charges, bond sale proceeds, and other  
40 revenues.

1        NEW SECTION.    **Sec. 6.**    RCW 47.46.140 (Repayment of motor vehicle  
2 fund from toll charges) and 2002 c 114 s 12 are each repealed.

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