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HOUSE BILL 1590

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State of Washington                      62nd Legislature                      2011 Regular Session

By Representatives McCune, Rolfes, Shea, Zeiger, and Miloscia

Read first time 01/26/11. Referred to Committee on Transportation.

1            AN ACT Relating to regulating the use of automated traffic safety  
2 cameras; amending RCW 46.63.170; and creating a new section.

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

4            NEW SECTION.    **Sec. 1.** The purpose of law enforcement is to protect  
5 and serve, not collect and serve. Anything that corrupts this  
6 fundamental goal of guaranteeing public safety demeans and degrades the  
7 role of the law enforcement community in the eyes of the public.

8            Automated traffic safety cameras are rapidly devolving into just  
9 such a degradation. Rather than fulfilling the original purpose for  
10 which the devices were approved, these cameras are instead seen by some  
11 as an opportunity to fleece the public in the guise of improving public  
12 safety. Although the cameras may still serve a legitimate purpose,  
13 further restrictions are necessary to ensure that misuse is prevented  
14 and that the public's faith in the fairness of the system is upheld.

15            **Sec. 2.** RCW 46.63.170 and 2010 c 161 s 1127 are each amended to  
16 read as follows:

17            (1) The use of automated traffic safety cameras for issuance of  
18 notices of infraction is subject to the following requirements:

1 (a) The appropriate local legislative authority must first  
2 (~~enact~~) adopt an ordinance allowing for their use to detect one or  
3 more of the following: Stoplight, railroad crossing, or school speed  
4 zone violations. At a minimum, the local ordinance must contain the  
5 restrictions described in this section and provisions for public notice  
6 and signage. Cities and counties using automated traffic safety  
7 cameras before July 24, 2005, are subject to the restrictions described  
8 in this section, but are not required to enact an authorizing  
9 ordinance.

10 (b) A local legislative authority that adopts an ordinance allowing  
11 for the use of automated traffic safety cameras must submit the  
12 ordinance to the voters within its jurisdiction at the next general  
13 election. The ordinance must be approved by a majority of the voters  
14 before automated traffic safety cameras may be used within the  
15 jurisdiction.

16 (c) In cities and counties using automated traffic safety cameras  
17 before July 24, 2005, the local legislative authority must submit a  
18 proposition to the voters within its jurisdiction at the next general  
19 election. The proposition must ask voters to approve or reject the  
20 continued use of automated traffic safety cameras. If the proposition  
21 is not approved by a majority of the voters, automated traffic safety  
22 cameras may not be used within the jurisdiction unless the local  
23 legislative authority meets the requirements for cities and counties  
24 not using automated safety cameras before July 24, 2005.

25 (d) Use of automated traffic safety cameras is restricted to two-  
26 arterial intersections where the duration of the yellow change interval  
27 for the stoplight is at least four seconds, railroad crossings, and  
28 school speed zones only.

29 (~~(e)~~) (e) During the 2009-2011 fiscal biennium, automated traffic  
30 safety cameras may be used to detect speed violations for the purposes  
31 of section 201(2), chapter 470, Laws of 2009 if the local legislative  
32 authority first enacts an ordinance authorizing the use of cameras to  
33 detect speed violations.

34 (~~(d)~~) (f) Automated traffic safety cameras may only take pictures  
35 of the vehicle and vehicle license plate and only while an infraction  
36 is occurring. The picture must not reveal the face of the driver or of  
37 passengers in the vehicle.

1        ~~((e))~~ (g) A notice of infraction must be mailed to the registered  
2 owner of the vehicle within fourteen days of the violation, or to the  
3 renter of a vehicle within fourteen days of establishing the renter's  
4 name and address under subsection (3)(a) of this section. The law  
5 enforcement officer issuing the notice of infraction shall include with  
6 it a certificate or facsimile thereof, based upon inspection of  
7 photographs, microphotographs, or electronic images produced by an  
8 automated traffic safety camera, stating the facts supporting the  
9 notice of infraction. This certificate or facsimile is prima facie  
10 evidence of the facts contained in it and is admissible in a proceeding  
11 charging a violation under this chapter. The photographs,  
12 microphotographs, or electronic images evidencing the violation must be  
13 available for inspection and admission into evidence in a proceeding to  
14 adjudicate the liability for the infraction. A person receiving a  
15 notice of infraction based on evidence detected by an automated traffic  
16 safety camera may respond to the notice by mail.

17        ~~((f))~~ (h) The registered owner of a vehicle is responsible for an  
18 infraction under RCW 46.63.030(1)(e) unless the registered owner  
19 overcomes the presumption in RCW 46.63.075, or, in the case of a rental  
20 car business, satisfies the conditions under subsection (3) of this  
21 section. If appropriate under the circumstances, a renter identified  
22 under subsection (3)(a) of this section is responsible for an  
23 infraction.

24        ~~((g))~~ (i) Notwithstanding any other provision of law, all  
25 photographs, microphotographs, or electronic images prepared under this  
26 section are for the exclusive use of law enforcement in the discharge  
27 of duties under this section and are not open to the public and may not  
28 be used in a court in a pending action or proceeding unless the action  
29 or proceeding relates to a violation under this section. No  
30 photograph, microphotograph, or electronic image may be used for any  
31 purpose other than enforcement of violations under this section nor  
32 retained longer than necessary to enforce this section.

33        ~~((h))~~ (j) All locations where an automated traffic safety camera  
34 is used must be clearly marked by placing signs in locations that  
35 clearly indicate to a driver that he or she is entering a zone where  
36 traffic laws are enforced by an automated traffic safety camera.

37        ~~((i))~~ (k) If a county or city has established an authorized  
38 automated traffic safety camera program under this section, the

1 compensation paid to the manufacturer or vendor of the equipment used  
2 must be based only upon the value of the equipment and services  
3 provided or rendered in support of the system, and may not be based  
4 upon a portion of the fine or civil penalty imposed or the revenue  
5 generated by the equipment.

6 (2) Infractions detected through the use of automated traffic  
7 safety cameras are not part of the registered owner's driving record  
8 under RCW 46.52.101 and 46.52.120. Additionally, infractions generated  
9 by the use of automated traffic safety cameras under this section shall  
10 be processed in the same manner as parking infractions, including for  
11 the purposes of RCW 3.50.100, 35.20.220, 46.16A.120, and 46.20.270(3).  
12 However, the amount of the fine issued for an infraction generated  
13 through the use of an automated traffic safety camera shall not exceed  
14 the lesser of the amount of a fine issued for other parking infractions  
15 within the jurisdiction or fifty dollars.

16 (3) If the registered owner of the vehicle is a rental car  
17 business, the law enforcement agency shall, before a notice of  
18 infraction being issued under this section, provide a written notice to  
19 the rental car business that a notice of infraction may be issued to  
20 the rental car business if the rental car business does not, within  
21 eighteen days of receiving the written notice, provide to the issuing  
22 agency by return mail:

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

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

31 (c) In lieu of identifying the vehicle operator, the rental car  
32 business may pay the applicable penalty.

33 Timely mailing of this statement to the issuing law enforcement  
34 agency relieves a rental car business of any liability under this  
35 chapter for the notice of infraction.

36 (4) Nothing in this section prohibits a law enforcement officer  
37 from issuing a notice of traffic infraction to a person in control of

1 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),  
2 (b), or (c).

3 (5) For the purposes of this section, "automated traffic safety  
4 camera" means a device that uses a vehicle sensor installed to work in  
5 conjunction with an intersection traffic control system, a railroad  
6 grade crossing control system, or a speed measuring device, and a  
7 camera synchronized to automatically record one or more sequenced  
8 photographs, microphotographs, or electronic images of the rear of a  
9 motor vehicle at the time the vehicle fails to stop when facing a  
10 steady red traffic control signal or an activated railroad grade  
11 crossing control signal, or exceeds a speed limit in a school speed  
12 zone as detected by a speed measuring device. During the 2009-2011  
13 fiscal biennium, an automated traffic safety camera includes a camera  
14 used to detect speed violations for the purposes of section 201(2),  
15 chapter 470, Laws of 2009.

16 (6) During the 2009-2011 fiscal biennium, this section does not  
17 apply to automated traffic safety cameras for the purposes of section  
18 218(2), chapter 470, Laws of 2009.

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