

## INTERSTATE TOLLING PROHIBITION ACT

### Summary of the Intent and Purpose of This Act

AN ACT prohibiting the tolling of any portion or facility of the Interstate System in Washington state, repealing RCW's 47.56.080 and 47.56.090, terminating all aspects of the State's Interstate Tolling program; providing notice to the Federal government of the same and terminating any formal or informal contractual obligations between the State and the Federal government related to Interstate tolling in Washington state, requiring the Washington State Department of Transportation ("Department") to prepare and issue a certified report that accounts for its programmatic and fiscal actions related to its Interstate tolling activities, as well as details its compliance with the terms and conditions of this Act; requiring the Department to establish an information registry that discloses all publicly disclosable documents related to the State's Interstate System Tolling program and activities; and establishes a process for lifting the prohibition on Interstate System tolling - only on a case-by-case basis.

### COMPLETE TEXT

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

#### Definitions

Interstate Highway, Interstate Freeway, Interstate Facility, Interstate System are used interchangeably and refer to the same thing, the roadways, facilities and any appurtenances thereto that are a part of the national system of interstate highways known formally as the Dwight D. Eisenhower National System of Interstate and Defense Highways, and commonly called "The Interstate System."

#### Prohibition of Interstate Tolling Program in Washington State

Notwithstanding any provisions in Title 23 of the United States Code at Section 129 - *Toll roads, bridges, tunnels, and ferries* and in P.L. 112-141, *Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21)*, that make it permissible in certain circumstances for states to impose tolls on Interstate highways, after the date that this Act is approved by the voters of the state the State of Washington, Washington State Department of Transportation ("Department") and the Transportation Commission are prohibited from establishing tolls on any Interstate System highways and any appurtenances thereto that are located within the boundaries of the state of Washington and prohibited from continuing to plan, promote policies, or otherwise engage in activities intended to promote or establish tolls on the state's Interstate System roadways.

#### Repeal of RCW's 47.56.880 and RCW 47.56.884

Consistent with the above prohibition on Interstate System tolling, RCW 47.56.880 *Interstate 405 corridor — Tolls authorized — Eligible toll facility — Toll rate schedule — Capacity improvements — Performance measures — Violation*, and RCW 47.56.884 *Interstate 405 express toll lanes operations account* are hereby repealed.

## Amendment of RCW 47.56.886

Consistent with the above prohibition on Interstate System tolling, RCW 47.56.886 is amended to read as follows: [Markup Guide: ~~Strikethrough~~ = section deleted Underline = new section]

RCW 47.56.886 *State route number 167 ~~and Interstate 405~~ express toll lane system — Traffic and revenue analysis — Finance plan.*

(1)(a) The transportation commission shall retain appropriate independent experts and conduct a traffic and revenue analysis for the development of a ~~forty-mile~~ continuous express toll lane system that includes state route number 167 ~~and Interstate 405~~. The analysis must include a review of the following variables within the express toll lane system:

(i) Vehicles with two or more occupants are exempt from payment;

(ii) Vehicles with three or more occupants are exempt from payment;

(iii) A variable fee; and

(iv) A flat rate fee.

(b) The department, in consultation with the transportation commission, shall develop a corridor-wide project management plan to develop a strategy for phasing the completion of non-tolling related improvements in the Interstate 405 and completion of improvements in the state route number 167 corridor.

(2) The department, in consultation with the transportation commission, shall use the information from the traffic and revenue analysis and the corridor-wide project management plan to develop a finance plan to fund improvements in the Interstate 405 and state route number 167 corridors. The department must include the following elements in the finance plan:

(a) Current state and federal funding contributions for non-tolling related projects in the Interstate 405 corridor and federal funding contributions projects in the state route number 167 corridor;

(b) A potential future state and federal funding contribution to leverage toll revenues on non-Interstate roads;

(c) Financing mechanisms to optimize the revenue available for capacity improvements including, but not limited to, using the full faith and credit of the state;

(d) An express toll lane system operating in the ~~Interstate 405 and~~ state route number 167 corridor by 2014; and

(e) Completion of the capacity improvements in the Interstate 405 and state route number 167

corridors.

(3) The department and the transportation commission must consult with a committee consisting of local and state elected officials from the Interstate 405 and state route number 167 corridors, one each resident from each city or town that abuts Interstate 405 and state route, and representatives from the transit agencies that operate in the Interstate 405 and state route number 167 corridors while developing the performance standards, traffic and revenue analysis, and finance plan.

(4) The transportation commission must provide the traffic and revenue analysis plan, and the department must simultaneously provide the finance plan, to the governor, ~~and~~ the legislature, to the King County Executives, to the State's major media outlets, and to the people of Washington State through every outlet and forum and in every form commonly used to credibly and wholly inform the public at the time of the report's release by January 2012 2014.

¶The department shall provide technical and other support as requested by any of the individuals from the public-at-large that were selected above in Section 3, and as requested by the transportation commission to review and/or to complete the plans identified in this subsection. Funds from the Interstate 405 capital project appropriations may be used by the transportation commission through an interagency agreement with the department to cover the cost of the plans identified in this subsection.

(5) The department shall conduct ongoing education and outreach to ensure public awareness of the express toll lane system, and establish and make available within 120 days after the passage of this Act an information registry, indexed, readily accessible by the public through the Internet via the Department's website that includes all disclosable documents (in accordance with RCW 42.56 Public Records Act) of every kind held by the Department and all related to the Department's express lane tolling system and related plans, activities, and tolling ambitions related thereto for Washington state.

#### **Repeal of RCW's 47.56.890, 47.56.892, and 47.56.894**

Consistent with the above prohibition RCW 47.56.890 *Columbia river crossing project — Eligible toll facility — Tolls authorized — Toll, revenue, and cost limitation*, RCW 47.56.892 *Columbia river crossing project — Agreements with the Oregon state transportation commission*, and RCW 47.56.894 *Columbia river crossing project account — Deposits* are hereby repealed.

#### **Termination of Washington State's Interstate Tolling Program and Any Related Activities**

Any Washington State Department of Transportation's toll planning activities related to continuing, inaugurating and/or furthering any Interstate tolls or tolling program for any portion or facility of the Interstate System in Washington state, including but not limited to those toll planning activities related to the Interstate 5 Columbia River Crossing Project and related to the Interstate 90 Corridor, are hereby suspended and barred for the life of this Act.

#### **Notice to the Federal Government Regarding Washington's Prohibition on Interstate Tolling and Related Activities**

Pursuant to the above suspension and prohibition of the State's Interstate tolling program and related activities of every kind in pursuit of a comprehensive Interstate System tolling program, the Washington

State Department of Transportation is directed to write a letter, sent postage prepaid, certified mail, return receipt requested, to each of the following persons and the department or agency they head, to the Secretary of the U.S. Department of Transportation, to the Federal Highway Administration administrator, to the administrator for the Federal Highway Administration – Washington Division, and to any other Federal official who should receive the same notice from the Department, informing each of them that the voters of Washington state have barred the State from planning for or engaging in any activities related to tolling or establishing tolling on any portion or facility of the Interstate System in Washington state.

The above designated federal officials and their departments or agencies shall be unequivocally informed by the Department that no additional actions or activities in furtherance of Interstate tolling will be undertaken by the Washington State Department of Transportation, that any and all funding or resources of every kind pledged, held, or otherwise committed by the U.S. Department of Transportation or the Federal Highway Administration to support or sustain Washington State's, the Washington State Department of Transportation's programs or ambitions for an Interstate tolling program in Washington state should be withdrawn, terminated, or otherwise rescinded by the aforementioned federal governmental entities, and that any memorandum(s) or letter(s) of understanding, agreements or contracts of every kind, and any other formal or informal agreements or understandings between the State of Washington and the U.S. Department of Transportation and/or the Federal Highway Administration, whereby the State of Washington through its department of transportation expressed an interest in and/or committed in any manner to establishing an Interstate tolling program are now null and void or are to be terminated as promptly and expeditiously as possible.

#### **Notice to the State of Oregon Regarding Washington's Prohibition on Interstate Tolling and Related Activities**

Pursuant to the above suspension and prohibition of the State's Interstate tolling program and related activities of every kind in pursuit of a comprehensive Interstate System tolling program, the Washington State Department of Transportation is directed to write a letter, sent postage prepaid, certified mail, return receipt requested, to each of the following persons and the department or agency they head, to the Governor of the State of Oregon and to the Oregon State Department of Transportation, and to any other Oregon State official who should receive the same notice from the Department, informing each of them that the voters of Washington state have barred the State from planning for or engaging in any activities related to tolling or establishing tolling on any portion or facility of the Interstate System in Washington state.

The above designated Oregon State officials and their departments or agencies shall be unequivocally informed by the Department that no additional actions or activities in furtherance of Interstate tolling will be undertaken by the Washington State Department of Transportation, that any and all funding or resources of every kind pledged, held, or otherwise committed by the State of Oregon to support or sustain Washington State's, the Washington State Department of Transportation's programs or ambitions for an Interstate tolling program in Washington state should be withdrawn, terminated, or otherwise rescinded by the aforementioned state governmental entities, and that any memorandum(s) or letter(s) of understanding, agreements or contracts of every kind, and any other formal or informal agreements or understandings between the State of Washington and the State of Oregon, whereby the State of Washington through its department of transportation expressed an interest in and/or

committed in any manner to establishing an Interstate tolling program are now null and void or are to be terminated as promptly and expeditiously as possible.

### **Compliance and Accountability Requirements for the Washington State Department of Transportation**

180 days after the passage of this Act, the Washington State Department of Transportation shall issue a report that provides an accounting of the Department's activities since the passage of this Act that details the actions the Department has taken to comply with the terms, conditions, and even intent/spirit of this Act; and also to be included therein a financial accounting for the years 2009, 2010, 2011, 2012, 2013 to even date of the report the expenditures made by the Washington State Department of Transportation in furtherance of an Interstate tolling program.

The report shall be certified to by both the Secretary of Transportation and the Under Secretary of Transportation as to its thoroughness and veracity, and released *simultaneously* to the Governor of Washington, to all members of the Legislature, to the executives of every Washington state county, to the State's major media outlets, and to the people of Washington State through every outlet and forum and in every form commonly used to credibly and wholly inform the public at the time of the report's release.

### **Public Disclosure by the Washington State Department of Transportation**

In addition, the Washington State Department of Transportation shall also establish and make available within 180 days after the passage of this initiative an information registry, indexed, readily accessible by the public through the Internet via the Department's website that includes all disclosable documents (in accordance with RCW 42.56 Public Records Act) of every kind held by the Department and all related to the Department's Interstate tolling plans, activities, and tolling ambitions for the Interstate system in Washington state.

### **Procedure for Lifting the Interstate Tolling Prohibition**

The prohibition against tolling any portion or facility of the Interstate System in Washington state may be lifted only on a case by case basis. This shall be accomplished by the State referring a ballot measure to the state's voters, asking a majority of the voters to approve each instance when the tolling of a portion of the Interstate System or a particular facility of the Interstate System (a bridge for example) is desired by the State.

Prior to submitting that measure to the voters however the Washington State Department of Transportation shall first hold at least one public hearing in each and every county in the state, presenting its case for the desired proposed Interstate tolling action ("proposed action").

Notice of the proposed action shall be published in the newspaper of largest circulation in each county, by one or more of the following methods: Display ad; legal notice; or any other appropriate printed format, as determined by the Department.

Notice of the proposed action shall be also disseminated by the Department by mail to any other news media, information outlet, or local governmental entity that the Department determines to be appropriate. The Department may consider how a medium or outlet compares with the newspaper of largest circulation in terms of: Audience reached; timeliness; adequacy in conveying the particular

information in the notice; cost; or other relevant factors for deciding which outlet should be selected to inform the public about the proposed action and the required public hearing related thereto.

All public notices shall indicate the public comment period on the proposed action. A 30 day written comment period for the public shall begin concurrently with the public meeting date established for each county. The department may extend the public comment period, as appropriate.

At the conclusion of the mandated public hearings the Department shall compile a summary for each of those hearings and include written copies of transcripts of all public testimony at the hearings and a copy of all written comments of the public it has received, and present these items in a petition to the legislature during its regularly held session, requesting authorization to put such a measure before the voters.

### **CONSTRUCTION CLAUSE**

The provisions of this Act are to be liberally construed to effectuate the intent, policies, and purposes of this Act.

### **SEVERABILITY CLAUSE**

If any provision of this Act or its application to any person or circumstance is held invalid, the remainder of the Act or the application of the provision to other persons or circumstances is not affected.

### **MISCELLANEOUS**

This Act is known and may be cited as the "Interstate Tolling Prohibition Act"

**Should this measure be enacted into law? Yes [ ] No [ ]**

### **Initiative Sponsor Information:**

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