

STATE OF NEW YORK

3801

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

Introduced by M. of A. ABINANTI, WEPRIN, WILLIAMS, CRUZ, MORINELLO, SMULLEN, REILLY, McDONOUGH, EPSTEIN, PICHARDO -- Multi-Sponsored by -- M. of A. DE LA ROSA, ENGLEBRIGHT, GRIFFIN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to enacting the "toll payer protection act"; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "toll payer
2 protection act".

3 § 2. Section 2985 of the public authorities law is designated to title
4 11-A of article 9 of such law.

5 § 3. Article 9 of the public authorities law is amended by adding a
6 new title 11-A to read as follows:

TITLE 11-A

TOLL COLLECTIONS

7
8
9 Section 2985. Owner liability for failure of operator to comply with
10 toll collection regulations.

11 2985-a. Tolls by mail.

12 § 2985-a. Tolls by mail. 1. Applicability. This section shall apply to
13 the tolls by mail program and shall not apply to the payment of tolls by
14 means of an electronic toll device that transmits information through an
15 electronic toll collection system as defined in subdivision twelve of
16 section twenty-nine hundred eighty-five of this title.

17 2. Definitions. For purposes of this section, the following terms
18 shall have the following meanings:

19 (a) "Cashless tolling facility" shall mean a toll highway, bridge or
20 tunnel facility that does not provide for the immediate on-site payment
21 in cash of a toll owed for the use of such facility.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD02113-01-1

1 (b) "Cashless tolling monitoring system" shall mean a vehicle sensor
2 which automatically produces a recorded image of a vehicle and license
3 plate at the time it is used or operated at a cashless tolling facility
4 and whose owner has incurred an obligation to pay a toll through the
5 cashless tolling program.

6 (c) "Debt collection agency" shall mean a person, firm or corporation
7 engaged in business, the principal purpose of which is to regularly
8 collect or attempt to collect debts owed or due or asserted to be owed
9 or due to another and shall also include a buyer of delinquent debt who
10 seeks to collect such debt either directly or through the services of
11 another by, including but not limited to, initiating or using legal
12 processes or other means to collect or attempt to collect such debt.

13 (d) "Electronic means of communication" shall include but not be
14 limited to electronic mail and text messaging.

15 (e) "Electronic toll collection system" shall mean a system of
16 collecting tolls or charges which is capable of charging an account
17 holder the appropriate toll or charge by transmission of information
18 from an operable electronic device on a motor vehicle to the toll lane,
19 which information is used to charge the account the appropriate toll or
20 charge.

21 (f) "Lessee" shall mean any person, corporation, firm, partnership,
22 agency, association, or organization that rents, leases or contracts for
23 the use of one or more vehicles and has exclusive use thereof for any
24 period of time.

25 (g) "Lessor" shall mean any person, corporation, firm, partnership,
26 agency, association, or organization engaged in the business of renting
27 or leasing vehicles to any lessee under a rental agreement, lease or
28 otherwise wherein such lessee has the exclusive use of such vehicle for
29 any period of time.

30 (h) "Notice of violation" shall mean a notice sent to an owner notify-
31 ing such owner that a toll incurred at a cashless tolling facility by
32 the owner has not been paid at the place and time and in the manner
33 established for collection of such toll in the toll bill.

34 (i) "Operable electronic device" shall mean an electronic device that
35 successfully transmits information through an electronic toll collection
36 system.

37 (j) "Owner" shall mean any person, corporation, partnership, firm,
38 agency, association, lessor or organization who, at the time of incur-
39 ring an obligation to pay a toll at a cashless tolling facility, and
40 with respect to the vehicle identified in the notice of toll due: (i) is
41 the beneficial or equitable owner of such vehicle; or (ii) has title to
42 such vehicle; or (iii) is the registrant or co-registrant of such vehi-
43 cle which is registered with the department of motor vehicles of this
44 state or any other state, territory, district, province, nation or other
45 jurisdiction; or (iv) is subject to the limitations set forth in subdi-
46 vision ten of section twenty-nine hundred eighty-five of this title,
47 uses such vehicle in its vehicle renting and/or leasing business; or (v)
48 is a person entitled to the use and possession of a vehicle subject to a
49 security interest in another person.

50 (k) "Penalty" shall mean any late payment fees, charges, or monetary
51 penalties imposed by a public authority, exclusive of any toll or tolls
52 incurred at the cashless tolling facility, for failure to timely pay an
53 obligation to pay a toll.

54 (l) "Toll bill" shall mean a notice sent to an owner notifying such
55 owner that the owner's vehicle has been used or operated at a cashless
56 tolling facility, crossed a cashless tolling monitoring system without

1 an operable electronic device and has incurred an obligation to pay a
2 toll.

3 (m) "Tolls by mail program" shall mean any program operated by or on
4 behalf of a public authority to identify vehicles that cross through a
5 cashless tolling facility without an operable electronic device and to
6 send a toll bill or notice of violation to the owner of the vehicle.

7 (n) "Violation" shall mean the failure of the owner to timely respond
8 to a toll bill.

9 3. Authorization for cashless tolling. (a) Notwithstanding any other
10 provision of law, every public authority that operates a toll highway,
11 bridge and/or tunnel facility and is authorized pursuant to section
12 twenty-nine hundred eighty-five of this title to promulgate toll
13 collection regulations and to impose monetary liability for failure to
14 comply with such regulations is hereby authorized and empowered to oper-
15 ate a demonstration program for utilization of cashless tolling facili-
16 ties, cashless tolling monitoring systems, and a tolls by mail program
17 and to impose monetary liability on the owner of a vehicle for failure
18 to comply with the toll collection regulations of such public authority
19 so long as each public authority complies with the provisions of this
20 section. Such public authority shall promulgate regulations establishing
21 a demonstration program for the utilization of cashless tolling facili-
22 ties, cashless tolling monitoring systems, and a tolls by mail program
23 that comply with the provisions of this section. Such regulations may
24 impose monetary liability on the owner of a vehicle for failure to
25 comply with such regulations. No public authority shall own, operate or
26 otherwise facilitate a cashless tolling facility, cashless tolling moni-
27 toring system, or tolls by mail program without first promulgating regu-
28 lations pursuant to and in compliance with this section.

29 (b) Such demonstration program shall utilize necessary technologies to
30 ensure, to the extent practicable, that recorded images produced by such
31 cashless tolling monitoring systems shall not include images that iden-
32 tify the driver, the passengers, or the contents of a vehicle. However,
33 no toll bill or notice of violation issued pursuant to this section
34 shall be invalid solely because a recorded image allows for the iden-
35 tification of the contents of a vehicle, provided that such public
36 authority has made a reasonable effort to comply with the provisions of
37 this paragraph.

38 (c) Every public authority that operates a cashless tolling facility
39 shall undertake a public awareness campaign regarding the use of and
40 process involved with the payment of tolls at cashless tolling facili-
41 ties. Each public authority shall provide sufficient methods for owners
42 to obtain an operable electronic device for the electronic toll
43 collection system, including making such devices available at all rest
44 areas owned or operated by each authority.

45 (d) Every public authority that operates a cashless tolling facility
46 shall maintain a website and toll-free phone number for any person to
47 obtain current information on any outstanding tolls and shall implement
48 a system to notify those owners who so request by electronic means of
49 communication about tolls as they are incurred. Such website and phone
50 number shall be printed on any toll bill or notice of violation.

51 4. Owner liability. (a) Within the jurisdiction of every public
52 authority which has promulgated regulations pursuant to subdivision
53 three of this section: (i) the owner shall incur an obligation to pay a
54 toll when the owner's vehicle crosses through a cashless tolling facili-
55 ty pursuant to this section if such vehicle was used or operated with
56 the permission of the owner, express or implied, and such obligation is

1 evidenced by information obtained from the cashless tolling monitoring
2 system; or (ii) the owner of a vehicle shall incur an obligation to pay
3 a toll when such vehicle crosses a cashless tolling facility without an
4 operable electronic device and is identified by a cashless tolling moni-
5 toring system.

6 (b) The owner of a vehicle shall be liable for a civil penalty imposed
7 pursuant to this section if such owner incurred an obligation to pay a
8 toll and fails to timely pay or respond to such toll in the manner set
9 forth in the toll bill in accordance with this section and shall be
10 liable for penalties in accordance with the penalties set forth herein.
11 Provided, however, no owner of a vehicle shall be liable for a penalty
12 imposed pursuant to this section where the operator of such vehicle has
13 been convicted of a violation of toll collection regulations for the
14 same incident.

15 5. Toll bills and notices of violation. (a) Toll bill. The public
16 authority shall within thirty days of an owner incurring an obligation
17 to pay a toll send a toll bill by first-class mail to such owner. (i)
18 Within thirty days of the mailing of the toll bill the owner shall (A)
19 pay the toll, without liability for any penalty, or (B) contest such
20 toll bill. (ii) The toll bill shall include: (A) the date, time,
21 location, license plate number and vehicle registration for each toll;
22 (B) the total amount of the toll due; (C) the date by which the toll
23 must be paid; (D) the address for receipt of payment and methods of
24 payment for such toll bill; (E) the procedure for contesting any toll;
25 (F) information related to the failure to timely pay or respond to a
26 toll bill; and (G) any other information required by law or by the
27 authority. If an authority fails to send a toll bill as set forth in
28 this section, the owner shall not be liable for payment of the tolls, or
29 any penalty.

30 (b) Second toll bill. If an owner fails to respond to a toll bill
31 within thirty days of the mailing of such toll bill, the public authori-
32 ty shall send a second toll bill by first-class mail within thirty days
33 of the date the owner was required to respond to such toll bill. Such
34 second toll bill may include a penalty for late payment, which shall not
35 exceed five dollars and shall include all of the information required
36 for a toll bill pursuant to paragraph (a) of this subdivision. Within
37 thirty days of the mailing of the second toll bill the owner shall (i)
38 pay the assessed toll and any penalty provided in such notice, or (ii)
39 contest toll bill.

40 (c) Notice of violation. If an owner fails to respond to a second toll
41 bill within thirty days of the mailing of such second toll bill, the
42 public authority shall send by first-class mail a notice of violation
43 within thirty days of the date the owner was required to respond to such
44 second toll bill. (i) The notice of violation shall include: (A) the
45 date, time, location, license plate number and vehicle registration for
46 each toll; (B) the assessed toll and the total amount of all outstanding
47 tolls and penalties as authorized by this section; (C) the date by which
48 payment of such amounts are due; (D) the address for receipt of payment
49 and methods of payment for the amounts due; (E) the procedure for
50 contesting any such amounts; (F) information related to the failure to
51 timely pay or respond to a notice of violation; and (G) any other infor-
52 mation required by law or by the authority. The notice of violation may
53 include a penalty which shall be no greater than twenty-five dollars. If
54 the authority fails to send a timely notice of violation as set forth in
55 this section, the owner shall not be liable for payment of the alleged
56 tolls or any penalty. (ii) The owner shall have thirty days from the

1 date such notice of violation was sent to (A) pay the assessed toll and
2 penalties, or (B) contest the notice. If an owner fails to respond to
3 the notice of violation, the owner shall be liable for the assessed toll
4 and any penalty as provided in such notice.

5 (d) Electronic notice. Any toll bill required by this section to be
6 sent by first-class mail may instead be sent by electronic means of
7 communication upon the affirmative consent of the owner in a form
8 prescribed by the authority. Any notice of violation required by this
9 section to be sent by first-class mail may in addition to first-class
10 mail be sent by electronic means of communication upon the affirmative
11 consent of the owner in a form prescribed by the authority. A manual or
12 automatic record of electronic communications prepared in the ordinary
13 course of business shall be sufficient record of electronic notice. Any
14 affirmative consent to receive a toll bill or notice of violation by
15 electronic means shall be revocable by the owner at any time with notice
16 to the public authority or its agent and shall automatically be deemed
17 revoked if the authority or its agent is unable to deliver two consec-
18 utive notices by electronic means of communication.

19 6. Procedure to contest. (a) Every public authority that operates a
20 cashless tolling facility, cashless tolling monitoring system, and tolls
21 by mail program shall promulgate regulations establishing a procedure by
22 which a person alleged to be liable for the payment of a toll or a
23 violation may (i) contest such alleged liability, (ii) submit the
24 contest to a hearing, and (iii) have the right to appeal.

25 (b) Every toll bill and notice of violation shall on its face advise
26 the owner of the manner and the time in which to contest the toll or any
27 violation and also contain a warning that failure to contest in the
28 manner and time provided shall be deemed an admission of liability and
29 that a default judgment may be entered thereon.

30 7. Adjudication of liability. Adjudication of an owner's liability
31 shall be by the entity having jurisdiction over the cashless tolling
32 facility or, where authorized, by an administrative tribunal; and all
33 such liability determinations shall be heard and determined either: (a)
34 in the county in which the obligation to pay a toll through the cashless
35 tolling program was alleged to occur, or (b) where the toll is alleged
36 to have been incurred in New York city and, upon the consent of both
37 parties, in any county within New York city in which the public authori-
38 ty operates or maintains a cashless tolling facility. Such adjudications
39 shall be heard and determined in the same manner as charges of other
40 regulatory violations of such public authority or pursuant to the rules
41 and regulations of such administrative tribunal as the case may be.

42 8. Evidence of obligation to pay a toll or violation. (a) A certifi-
43 cate sworn to or affirmed by an agent of the public authority which
44 charged that a liability for an obligation to pay a toll or a violation
45 has been incurred, or a facsimile thereof based upon inspection of
46 recorded images produced by a cashless tolling monitoring system shall
47 be prima facie evidence of the facts contained therein and shall be
48 admissible in any proceeding charging a liability for a toll or a
49 violation pursuant to this section.

50 (b) Any such recorded images and certificate evidencing such liability
51 shall be available to the owner upon request for inspection and admis-
52 sion into evidence in any proceeding to adjudicate such liability.

53 (c) Any liability imposed pursuant to this section shall be based upon
54 a preponderance of evidence as submitted.

55 9. Defenses. It shall be a valid defense to an allegation of liability
56 for a toll and/or violation that:

1 (a) the vehicle was not used or operated in violation of this section
2 or the regulations promulgated hereunder;

3 (b) the vehicle was used or operated without the permission of the
4 owner, express or implied;

5 (c) the recipient of a toll bill or notice of violation was not the
6 owner of the vehicle at the time the obligation to pay the toll
7 occurred;

8 (d) the vehicle had been stolen prior to the time the obligation was
9 incurred and was not in the possession of the owner at the time the
10 obligation was incurred. For the purposes of asserting this defense, it
11 shall be sufficient that a certified copy of the police report on the
12 stolen vehicle is submitted to the public authority, court or other
13 entity having jurisdiction;

14 (e) the vehicle had been leased at the time the obligation was
15 incurred. For the purpose of asserting this defense, it shall be suffi-
16 cient that a copy of the rental lease or other contract document cover-
17 ing the vehicle on the date and time the toll was incurred is submitted
18 to the public authority, court or other entity having jurisdiction with-
19 in thirty days of the lessor receiving the original toll bill or notice
20 of violation. Such document shall include the name and address of the
21 lessee. Failure to timely submit such information shall constitute a
22 waiver of this defense. Where the lessor complies with the provisions of
23 this section, the lessee shall be deemed to be the owner of the vehicle
24 for purposes of this section and shall be subject to liability pursuant
25 to this section, provided that the authority mails a toll bill to the
26 lessee within ten days after the court or other entity having jurisdic-
27 tion, deems the lessee to be the owner.

28 10. Finding of violation. (a) Any liability imposed pursuant to this
29 section shall not be deemed a conviction as an operator and shall not be
30 made part of the motor vehicle operating record, maintained by the
31 commissioner of motor vehicles pursuant to the vehicle and traffic law,
32 of the person upon whom such liability is imposed nor shall it be used
33 for insurance purposes in the provision of motor vehicle insurance
34 coverage.

35 (b) Notwithstanding the provisions of any other law, order, rule or
36 regulation to the contrary, no registration of any motor vehicle may be
37 suspended, revoked or denied renewal resulting from an obligation to pay
38 a toll at a cashless tolling facility as described in this section and
39 the commissioner of motor vehicles shall not suspend, revoke or deny
40 renewal of the registration of a motor vehicle resulting from an obli-
41 gation to pay a toll at a cashless tolling facility as described in this
42 section.

43 11. Indemnification. Any owner who is found liable pursuant to this
44 section who was not the operator of the vehicle at the time the obli-
45 gation to pay the toll was incurred may maintain an action for indemni-
46 fication against the operator.

47 12. Data protection. (a) Notwithstanding any other provision of law,
48 all images, videos and other recorded images collected by the authority
49 pursuant to this section shall be for the exclusive use of such authori-
50 ty in the discharge of its duties under this section and shall not be
51 open to the public nor be used in any court in any action or proceeding
52 pending therein unless such action or proceeding relates to the imposi-
53 tion of or indemnification for liability pursuant to this section.

54 (b) The authority shall not sell, distribute or make available in any
55 way, the names and addresses of any owner that participates in the tolls
56 by mail program, without such owner's consent, to any entity that will

1 use such information for any commercial purpose provided that the fore-
2 going restriction shall not be deemed to preclude the exchange of such
3 information between any entities with jurisdiction over or operating of
4 a cashless tolling facility for the purpose of administering such tolls
5 by mail program.

6 13. Display of toll charges. Any toll that will be charged for the
7 usage of any bridge, tunnel, road, or any other entity shall be
8 displayed conspicuously and prominently on signage of a reasonable size
9 in a manner reasonably calculated to provide ample and adequate notice.

10 14. Debt collection. (a) On or after the effective date of this
11 section, no public authority which operates a cashless tolling facility
12 shall sell or transfer any debt owed to the public authority by an owner
13 for a violation of toll collection regulations to a debt collection
14 agency unless one year has passed from the date the owner was found
15 liable for the violation of toll collection regulations associated with
16 such debt, or the owner has a total debt owed to the public authority of
17 one thousand dollars or more. The authority shall not sell or transfer
18 any debt to a debt collection agency unless such authority has first
19 obtained a default judgment in a court or administrative tribunal with
20 jurisdiction over the assessed toll.

21 (b) A notice shall be sent by first-class mail advising the owner that
22 the debt described in paragraph (a) of this subdivision shall be sold or
23 transferred by the authority to a debt collection agency on a specified
24 date no less than thirty days prior to such sale or transfer.

25 15. Installment payment plan. Every public authority that operates a
26 cashless tolling facility, cashless tolling monitoring system, and tolls
27 by mail program shall promulgate rules and regulations that establish an
28 installment payment plan for the payment of any toll and penalty
29 incurred at a cashless tolling facility. Information related to such
30 plan shall be included in any toll bill and any notice of violation and
31 shall be displayed conspicuously on the authorities' websites. Each
32 owner, at his or her election, may participate in such plan. The public
33 authority shall not charge any additional fees or penalties for enroll-
34 ment in a payment plan.

35 16. Annual report. Every public authority that adopts a demonstration
36 program pursuant to subdivision two of this section shall submit an
37 annual report on the tolls by mail program to the governor, the tempo-
38 rary president of the senate and the speaker of the assembly and post on
39 its website on or before the first day of June succeeding the effective
40 date of this section and on the same date in each succeeding year in
41 which the demonstration program is operable. Such report shall include,
42 but not be limited to:

43 (a) the locations where vehicle sensors for cashless tolling monitor-
44 ing systems were used;

45 (b) the aggregate number of tolls paid at the locations where cashless
46 tolling facilities were used, including both through the use of an oper-
47 able electronic device and through the tolls by mail program;

48 (c) the number of owners that paid their toll through the tolls by
49 mail program;

50 (d) the number of owners that paid their toll upon receipt of the
51 first toll bill;

52 (e) the number of owners that paid their toll upon receipt of the
53 second toll bill;

54 (f) the number of owners that were charged a five dollar fee for late
55 payment and the aggregate amount of fees for late payment collected by
56 the authority;

1 (g) the number of owners that were charged a penalty, the amount of
2 the penalty charged to owners and the aggregate amount of penalties
3 collected by the authority;

4 (h) the number of owners that disputed the toll bill, the number of
5 owners that successfully disputed such toll bill and an itemized break-
6 down of the reasons for successfully disputed tolls;

7 (i) the number of owners that disputed the notice of violation and the
8 number of owners that successfully disputed such notice of violation;

9 (j) the number of owners that paid their toll upon receipt of the
10 notice of violation;

11 (k) the aggregate amount of penalties charged to owners;

12 (l) a copy of all regulations the reporting authority promulgated
13 pursuant to this section;

14 (m) the number of tolls adjudicated by every public authority and
15 court, including any appeal of such adjudications, and the results of
16 all adjudications including breakdowns of dispositions made for tolls
17 recorded by such systems;

18 (n) the total amount of revenue realized by such authority from such
19 adjudications;

20 (o) expenses incurred by such authority in connection with the tolls
21 by mail program;

22 (p) the nature of the adjudication process and its results; and

23 (q) the number of owners whose toll bills and violation notices were
24 returned to the public authority as undeliverable.

25 § 4. a. Within 90 days of the effective date of this act, the Tribor-
26 ough Bridge and Tunnel Authority organized pursuant to section 552 of
27 the public authorities law shall implement an amnesty program for all
28 persons who, with respect to any toll obligation incurred on or after
29 November 1, 2016 at a cashless tolling facility operated by the authori-
30 ty, (1) owe tolls, fines, fees, or penalties; (2) have been referred to
31 a debt collection agency; or (3) have had their vehicle registration
32 suspended. Such amnesty program shall be at least five weeks in duration
33 and shall provide that upon an owner's payment or contesting the
34 outstanding toll balance during the amnesty period (1) the authority
35 shall waive all fees, fines, and penalties associated with the outstand-
36 ing toll balance, and (2) the authority shall advise the commissioner of
37 motor vehicles, in such form and manner that such commissioner shall
38 have prescribed, that such person has responded and any registration
39 suspension shall be rescinded.

40 b. The Triborough Bridge and Tunnel Authority shall undertake a public
41 awareness campaign for such amnesty program, maintain a public website
42 for any person to obtain information on any outstanding tolls and no
43 later than 30 days preceding the commencement of the amnesty period,
44 notify by first-class mail all persons with outstanding toll balances of
45 their eligibility for the amnesty program. The authority shall provide
46 for sufficient methods to pay the outstanding toll balances, including
47 but not limited to, by phone, by mail, or through the internet.

48 § 5. This act shall take effect on the one hundred twentieth day after
49 it shall have become a law; provided, however that sections three and
50 four of this act shall expire 5 years after such effective date when
51 upon such date such provisions of this act shall be deemed repealed.
52 Effective immediately, the addition, amendment and/or repeal of any rule
53 or regulation necessary for the implementation of this act on its effec-
54 tive date are authorized to be made on or before such date.