

STATE OF NEW YORK

3587--B

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sens. COMRIE, REICHLIN-MELNICK -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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. Paragraph (b) of subdivision 1 and subdivision 8 of section 402
4 of the vehicle and traffic law, paragraph (b) of subdivision 1 as
5 amended by chapter 109 of the laws of 2005, and subdivision 8 as amended
6 by chapter 61 of the laws of 1989 and as renumbered by chapter 648 of
7 the laws of 2006, are amended to read as follows:
8 (b) (i) Number plates shall be kept clean and in a condition so as to
9 be easily readable and shall not be covered by glass or any plastic
10 material~~[, and]~~.
11 (ii) Number plates shall not be knowingly covered or coated with any
12 artificial or synthetic material or substance that conceals or obscures
13 such number plates or that distorts a recorded or photographic image of
14 such number plates~~[, and the]~~.
15 (iii) The view of such number plates shall not be obstructed by any
16 part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling facility in connection
17 with electronic toll collection when such receiver-transmitter is
18 affixed to the exterior of a vehicle in accordance with mounting
19 instructions provided by the tolling facility.
20

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

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8. ~~[The]~~ A violation of this section shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars, except that a violation of subparagraph (ii) or subparagraph (iii) of paragraph (b) of subdivision one of this section shall be punishable by a fine of not less than fifty nor more than three hundred dollars.

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

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

TITLE 11-A
TOLL COLLECTIONS

Section 2985-a. Tolls by mail.

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

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

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

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

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

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

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

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

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

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

1 (i) "Operable electronic device" shall mean an electronic device that
2 successfully transmits information through an electronic toll collection
3 system.

4 (j) "Owner" shall mean any person, corporation, partnership, firm,
5 agency, association, lessor or organization who, at the time of incur-
6 ring an obligation to pay a toll at a cashless tolling facility, and
7 with respect to the vehicle identified in the notice of toll due: (i) is
8 the beneficial or equitable owner of such vehicle; or (ii) has title to
9 such vehicle; or (iii) is the registrant or co-registrant of such vehi-
10 cle which is registered with the department of motor vehicles of this
11 state or any other state, territory, district, province, nation or other
12 jurisdiction; or (iv) is subject to the limitations set forth in subdi-
13 vision ten of section twenty-nine hundred eighty-five of this title,
14 uses such vehicle in its vehicle renting and/or leasing business; or (v)
15 is a person entitled to the use and possession of a vehicle subject to a
16 security interest in another person.

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

21 (l) "Toll bill" shall mean a notice sent to an owner notifying such
22 owner that the owner's vehicle has been used or operated at a cashless
23 tolling facility, crossed a cashless tolling monitoring system without
24 an operable electronic device and has incurred an obligation to pay a
25 toll.

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

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

32 3. Authorization for cashless tolling. (a) Notwithstanding any other
33 provision of law, every public authority that operates a toll highway,
34 bridge and/or tunnel facility and is authorized pursuant to section
35 twenty-nine hundred eighty-five of this title to promulgate toll
36 collection regulations and to impose monetary liability for failure to
37 comply with such regulations is hereby authorized and empowered to oper-
38 ate a demonstration program for utilization of cashless tolling facili-
39 ties, cashless tolling monitoring systems, and a tolls by mail program
40 and to impose monetary liability on the owner of a vehicle for failure
41 to comply with the toll collection regulations of such public authority
42 so long as each public authority complies with the provisions of this
43 section. Such public authority shall promulgate regulations establishing
44 a demonstration program for the utilization of cashless tolling facili-
45 ties, cashless tolling monitoring systems, and a tolls by mail program
46 that comply with the provisions of this section. Such regulations may
47 impose monetary liability on the owner of a vehicle for failure to
48 comply with such regulations. No public authority shall own, operate or
49 otherwise facilitate a cashless tolling facility, cashless tolling moni-
50 toring system, or tolls by mail program without first promulgating regu-
51 lations pursuant to and in compliance with this section.

52 (b) Such demonstration program shall utilize necessary technologies to
53 ensure, to the extent practicable, that recorded images produced by such
54 cashless tolling monitoring systems shall not include images that iden-
55 tify the driver, the passengers, or the contents of a vehicle. However,
56 no toll bill or notice of violation issued pursuant to this section

1 shall be invalid solely because a recorded image allows for the iden-
2 tification of the contents of a vehicle, provided that such public
3 authority has made a reasonable effort to comply with the provisions of
4 this paragraph.

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

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

18 4. Owner liability. (a) Within the jurisdiction of every public
19 authority which has promulgated regulations pursuant to subdivision
20 three of this section: (i) the owner shall incur an obligation to pay a
21 toll when the owner's vehicle crosses through a cashless tolling facili-
22 ty pursuant to this section if such vehicle was used or operated with
23 the permission of the owner, express or implied, and such obligation is
24 evidenced by information obtained from the cashless tolling monitoring
25 system; or (ii) the owner of a vehicle shall incur an obligation to pay
26 a toll when such vehicle crosses a cashless tolling facility without an
27 operable electronic device and is identified by a cashless tolling moni-
28 toring system.

29 (b) The owner of a vehicle shall be liable for a civil penalty imposed
30 pursuant to this section if such owner incurred an obligation to pay a
31 toll and fails to timely pay or respond to such toll in the manner set
32 forth in the toll bill in accordance with this section and shall be
33 liable for penalties in accordance with the penalties set forth herein.
34 Provided, however, no owner of a vehicle shall be liable for a penalty
35 imposed pursuant to this section where the operator of such vehicle has
36 been convicted of a violation of toll collection regulations for the
37 same incident.

38 5. Toll bills and notices of violation. (a) Toll bill. The public
39 authority shall within thirty days of an owner incurring an obligation
40 to pay a toll send a toll bill by first-class mail to such owner. (i)
41 Within thirty days of the mailing of the toll bill the owner shall (A)
42 pay the toll, without liability for any penalty, or (B) contest such
43 toll bill. (ii) The toll bill shall include: (A) the date, time,
44 location, license plate number and vehicle registration for each toll;
45 (B) the total amount of the toll due; (C) the date by which the toll
46 must be paid; (D) the address for receipt of payment and methods of
47 payment for such toll bill; (E) the procedure for contesting any toll;
48 (F) information related to the failure to timely pay or respond to a
49 toll bill; (G) the website address or hyperlink for the owner to access
50 time-stamped photographs or footage of each toll incurred; and (H) any
51 other information required by law or by the authority. If an authority
52 fails to send a toll bill as set forth in this section, the owner shall
53 not be liable for payment of the tolls, or any penalty.

54 (b) Second toll bill. If an owner fails to respond to a toll bill
55 within thirty days of the mailing of such toll bill, the public authori-
56 ty shall send a second toll bill by first-class mail within thirty days

1 of the date the owner was required to respond to such toll bill. Such
2 second toll bill may include a penalty for late payment, which shall not
3 exceed five dollars and shall include all of the information required
4 for a toll bill pursuant to paragraph (a) of this subdivision. Within
5 thirty days of the mailing of the second toll bill the owner shall (i)
6 pay the assessed toll and any penalty provided in such notice, or (ii)
7 contest toll bill.

8 (c) Notice of violation. If an owner fails to respond to a second toll
9 bill within thirty days of the mailing of such second toll bill, the
10 public authority shall send by first-class mail a notice of violation
11 within thirty days of the date the owner was required to respond to such
12 second toll bill. (i) The notice of violation shall include: (A) the
13 date, time, location, license plate number and vehicle registration for
14 each toll; (B) the assessed toll and the total amount of all outstanding
15 tolls and penalties as authorized by this section; (C) the date by which
16 payment of such amounts are due; (D) the address for receipt of payment
17 and methods of payment for the amounts due; (E) the procedure for
18 contesting any such amounts; (F) information related to the failure to
19 timely pay or respond to a notice of violation; (G) the website address
20 or hyperlink for the owner to access time-stamped photographs or footage
21 of each toll incurred; and (H) any other information required by law or
22 by the authority. The notice of violation may include a penalty which
23 shall be twenty-five dollars or two times the toll evaded, whichever is
24 greater. If the authority fails to send a timely notice of violation as
25 set forth in this section, the owner shall not be liable for payment of
26 the alleged tolls or any penalty. (ii) The owner shall have thirty days
27 from the date such notice of violation was sent to (A) pay the assessed
28 toll and penalties, or (B) contest the notice. If an owner fails to
29 respond to the notice of violation, the owner shall be liable for the
30 assessed toll and any penalty as provided in such notice.

31 (d) Electronic notice. Any toll bill required by this section to be
32 sent by first-class mail may instead be sent by electronic means of
33 communication upon the affirmative consent of the owner in a form
34 prescribed by the authority. Provided that, notwithstanding this subdi-
35 vision, a toll bill sent by electronic means of communication shall be
36 sent within seventy-two hours of an owner incurring an obligation to pay
37 a toll. Any notice of violation required by this section to be sent by
38 first-class mail may in addition to first-class mail be sent by elec-
39 tronic means of communication upon the affirmative consent of the owner
40 in a form prescribed by the authority. A manual or automatic record of
41 electronic communications prepared in the ordinary course of business
42 shall be sufficient record of electronic notice. Any affirmative consent
43 to receive a toll bill or notice of violation by electronic means shall
44 be revocable by the owner at any time with notice to the public authori-
45 ty or its agent and shall automatically be deemed revoked if the author-
46 ity or its agent is unable to deliver two consecutive notices by elec-
47 tronic means of communication.

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

54 (b) Every toll bill and notice of violation shall on its face advise
55 the owner of the manner and the time in which to contest the toll or any
56 violation and also contain a warning that failure to contest in the

1 manner and time provided shall be deemed an admission of liability and
2 that a default judgment may be entered thereon.

3 7. Adjudication of liability. Adjudication of an owner's liability
4 shall be by the entity having jurisdiction over the cashless tolling
5 facility or, where authorized, by an administrative tribunal; and all
6 such liability determinations shall be heard and determined either: (a)
7 in the county in which the obligation to pay a toll through the cashless
8 tolling program was alleged to occur, or (b) where the toll is alleged
9 to have been incurred in New York city and, upon the consent of both
10 parties, in any county within New York city in which the public authori-
11 ty operates or maintains a cashless tolling facility. Such adjudications
12 shall be heard and determined in the same manner as charges of other
13 regulatory violations of such public authority or pursuant to the rules
14 and regulations of such administrative tribunal as the case may be.

15 8. Evidence of obligation to pay a toll or violation. (a) A certif-
16 icate sworn to or affirmed by an agent of the public authority which
17 charged that a liability for an obligation to pay a toll or a violation
18 has been incurred, or a facsimile thereof based upon inspection of
19 recorded images produced by a cashless tolling monitoring system shall
20 be prima facie evidence of the facts contained therein and shall be
21 admissible in any proceeding charging a liability for a toll or a
22 violation pursuant to this section.

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

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

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

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

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

34 (c) the recipient of a toll bill or notice of violation was not the
35 owner of the vehicle at the time the obligation to pay the toll
36 occurred;

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

43 (e) the vehicle had been leased at the time the obligation was
44 incurred. For the purpose of asserting this defense, it shall be suffi-
45 cient that a copy of the rental lease or other contract document cover-
46 ing the vehicle on the date and time the toll was incurred is submitted
47 to the public authority, court or other entity having jurisdiction with-
48 in thirty days of the lessor receiving the original toll bill or notice
49 of violation. Such document shall include the name and address of the
50 lessee. Failure to timely submit such information shall constitute a
51 waiver of this defense. Where the lessor complies with the provisions of
52 this section, the lessee shall be deemed to be the owner of the vehicle
53 for purposes of this section and shall be subject to liability pursuant
54 to this section, provided that the authority mails a toll bill to the
55 lessee within ten days after the court or other entity having jurisdic-
56 tion, deems the lessee to be the owner.

1 10. Finding of violation. (a) Any liability imposed pursuant to this
2 section shall not be deemed a conviction as an operator and shall not be
3 made part of the motor vehicle operating record, maintained by the
4 commissioner of motor vehicles pursuant to the vehicle and traffic law,
5 of the person upon whom such liability is imposed nor shall it be used
6 for insurance purposes in the provision of motor vehicle insurance
7 coverage.

8 (b) Notwithstanding the provisions of any other law, order, rule or
9 regulation to the contrary, no registration of any non-commercial motor
10 vehicle may be suspended, revoked or denied renewal resulting from an
11 obligation to pay a toll at a cashless tolling facility as described in
12 this section and the commissioner of motor vehicles shall not suspend,
13 revoke or deny renewal of the registration of a non-commercial motor
14 vehicle resulting from an obligation to pay a toll at a cashless tolling
15 facility as described in this section unless such owner is found liable
16 for failure to pay or respond to five or more notices of unrelated toll
17 bills or is liable for no less than one hundred fifty dollars in
18 outstanding toll bills within an eighteen month period.

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

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

30 (b) The authority, including any subsidiary or contractor involved in
31 implementing or operating an electronic toll collection system or tolls
32 by mail program, shall not sell, distribute or make available in any
33 way, the names and addresses of any owner that participates in the tolls
34 by mail program, provided that the foregoing restriction shall not be
35 deemed to preclude the exchange of such information between any entities
36 with jurisdiction over or operating of a cashless tolling facility for
37 the purpose of administering such tolls by mail program.

38 13. Display of toll charges. Any toll that will be charged for the
39 usage of any bridge, tunnel, road, or any other entity by a passenger
40 motor vehicle shall be displayed conspicuously and prominently on
41 signage of a reasonable size in a manner reasonably calculated to
42 provide ample and adequate notice.

43 14. Debt collection. (a) On or after the effective date of this
44 section, no public authority which operates a cashless tolling facility
45 shall sell or transfer any debt owed to the public authority by an owner
46 for a violation of toll collection regulations to a debt collection
47 agency unless one year has passed from the date the owner was found
48 liable for the violation of toll collection regulations associated with
49 such debt, or the owner has a total debt owed to the public authority of
50 five hundred dollars or more. The authority shall not sell or transfer
51 any debt to a debt collection agency unless such authority has first
52 obtained a default judgment in a court or administrative tribunal with
53 jurisdiction over the assessed toll.

54 (b) A notice shall be sent by first-class mail advising the owner that
55 the debt described in paragraph (a) of this subdivision shall be sold or

1 transferred by the authority to a debt collection agency on a specified
2 date no less than thirty days prior to such sale or transfer.

3 15. Installment payment plan. Every public authority that operates a
4 cashless tolling facility, cashless tolling monitoring system, and tolls
5 by mail program shall promulgate rules and regulations that establish an
6 installment payment plan for the payment of any toll and penalty
7 incurred at a cashless tolling facility. Information related to such
8 plan shall be included in any toll bill and any notice of violation and
9 shall be displayed conspicuously on the authorities' websites. Each
10 owner, at his or her election, may participate in such plan. The public
11 authority shall not charge any additional fees or penalties for enroll-
12 ment in a payment plan.

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

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

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

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

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

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

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

35 (g) the number of owners that were charged a penalty, the amount of
36 the penalty charged to owners and the aggregate amount of penalties
37 collected by the authority;

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

41 (i) the number of owners that disputed the notice of violation and the
42 number of owners that successfully disputed such notice of violation;

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

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

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

48 (m) the number of tolls adjudicated by every public authority and
49 court, including any appeal of such adjudications, and the results of
50 all adjudications including breakdowns of dispositions made for tolls
51 recorded by such systems;

52 (n) the total amount of revenue realized by such authority from such
53 adjudications;

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

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

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

3 § 5. a. Within 90 days of the effective date of this act, the Tribor-
4 ough Bridge and Tunnel Authority organized pursuant to section 552 of
5 the public authorities law shall implement an amnesty program for all
6 persons who, with respect to any toll obligation incurred on or after
7 November 1, 2016 at a cashless tolling facility operated by the authori-
8 ty, (1) owe tolls, fines, fees, or penalties; (2) have been referred to
9 a debt collection agency; or (3) have had their vehicle registration
10 suspended. Such amnesty program shall be at least eight weeks in dura-
11 tion and shall provide that upon an owner's payment or contesting the
12 outstanding toll balance during the amnesty period (1) the authority
13 shall waive all fees, fines, and penalties associated with the outstand-
14 ing toll balance, and (2) the authority shall advise the commissioner of
15 motor vehicles, in such form and manner that such commissioner shall
16 have prescribed, that such person has responded and any registration
17 suspension shall be rescinded.

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

26 § 6. This act shall take effect on the one hundred twentieth day after
27 it shall have become a law; provided, however that sections three, four
28 and five of this act shall expire 5 years after such effective date when
29 upon such date such provisions of such sections shall be deemed
30 repealed. Effective immediately, the addition, amendment and/or repeal
31 of any rule or regulation necessary for the implementation of this act
32 on its effective date are authorized to be made and completed on or
33 before such effective date.