

1413

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT -- read once and referred to the Committee
on Governmental Operations

AN ACT to amend the civil rights law, in relation to the privacy of
electronic toll records

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The civil rights law is amended by adding a new section
2 50-f to read as follows:
3 S 50-F. PRIVACY OF ELECTRONIC TOLL AND FARE RECORDS. 1. DEFINITIONS.
4 AS USED IN THIS SECTION:
5 A. "ELECTRONIC TOLL INFORMATION" SHALL MEAN RECORDS CREATED OR MAIN-
6 TAINED BY A PUBLIC ENTITY OR BY A CONTRACTOR ON BEHALF OF A PUBLIC ENTI-
7 TY CONCERNING A MOTORIST OR MOTOR VEHICLE REGARDING THE USE OF ANY HIGH-
8 WAY, BRIDGE, TUNNEL OR OTHER THOROUGHFARE, INCLUDING BUT NOT LIMITED TO
9 E-Z PASS RECORDS, WHICH CONTAIN INFORMATION SUCH AS (BUT NOT LIMITED TO)
10 THE NAME AND ADDRESS OF THE REGISTERED VEHICLE OWNER OR ACCOUNT HOLDER,
11 A DESCRIPTION AND/OR LICENSE PLATE NUMBER OF THE VEHICLE, THE DATE, TIME
12 AND LOCATION OF THE PASSAGE OF A VEHICLE THROUGH A TOLL COLLECTION
13 LOCATION, AND THE STATEMENTS OF ACCOUNT ADDITIONS AND/OR DEDUCTIONS
14 PREPARED FOR OR SENT TO THE ACCOUNT HOLDER.
15 B. "PUBLIC ENTITY" SHALL MEAN AND INCLUDE ANY STATE OR LOCAL DEPART-
16 MENT, AGENCY, BOARD, BUREAU, DIVISION, COMMISSION, PUBLIC AUTHORITY,
17 PUBLIC BENEFIT CORPORATION OR OFFICE OF THE STATE OR A POLITICAL SUBDI-
18 VISION OF THE STATE, OR ANY OTHER ENTITY PERFORMING A GOVERNMENTAL OR
19 PROPRIETARY FUNCTION FOR THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.
20 C. "CONTRACTOR" SHALL MEAN ANY ENTITY ENGAGED IN PERFORMING CUSTOMER
21 SERVICE FUNCTIONS, INCLUDING VIOLATIONS PROCESSING, UNDER CONTRACT WITH
22 A PUBLIC ENTITY.
23 2. CONFIDENTIALITY OF RECORDS. ELECTRONIC TOLL INFORMATION IS CONFI-
24 DENTIAL INFORMATION. NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW,

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

LBD00180-01-9

1 SUCH INFORMATION SHALL NOT BE OPEN TO THE PUBLIC, NOR SUBJECT TO CIVIL
2 OR CRIMINAL PROCESS OR DISCOVERY, NOR SUBJECT TO DISCLOSURE UNDER THE
3 FREEDOM OF INFORMATION LAW, NOR USED BY ANY COURT OR ADMINISTRATIVE OR
4 ADJUDICATORY BODY IN ANY ACTION OR PROCEEDING THEREIN, AND NO PUBLIC
5 ENTITY OR EMPLOYEE, OFFICER OR AGENT THEREOF SHALL DISCLOSE SUCH INFOR-
6 MATION, EXCEPT THAT SUCH INFORMATION:

7 A. SHALL BE AVAILABLE FOR INSPECTION AND COPYING AND USE BY THE
8 ACCOUNT HOLDER FOR SO LONG AS SUCH INFORMATION IS MAINTAINED BY SUCH
9 PUBLIC ENTITY, EMPLOYEE, OFFICER OR AGENT; AND

10 B. MAY BE OBTAINED AND, IF OTHERWISE ADMISSIBLE, BE USED IN A CIVIL
11 COURT OR OTHER CIVIL ADMINISTRATIVE OR ADJUDICATORY BODY IN ANY ACTION
12 OR PROCEEDING PENDING THEREIN WHEN SUCH ACTION OR PROCEEDING RELATES
13 DIRECTLY TO THE COLLECTION OF TOLL REVENUES AND IT IS ALLEGED:

14 (I) BY THE PROVIDER OF SUCH SERVICES THAT TOLLS PROPERLY CHARGED TO
15 THE ACCOUNT HOLDER REMAIN UNPAID; OR

16 (II) BY THE ACCOUNT HOLDER THAT TOLLS WERE IMPROPERLY CHARGED TO SUCH
17 HOLDER'S ACCOUNT; AND

18 C. MAY BE USED BY SUCH PUBLIC ENTITY OR A CONTRACTOR ON BEHALF OF A
19 PUBLIC ENTITY FOR COMMUNICATIONS WITH THE ACCOUNT HOLDER, INCLUDING
20 MONTHLY STATEMENTS, ANNOUNCEMENTS AND NOTIFICATION OF ALLEGED
21 VIOLATIONS; AND

22 D. MAY BE USED BY SUCH PUBLIC ENTITY OR A CONTRACTOR ON BEHALF OF A
23 PUBLIC ENTITY FOR CUSTOMER SERVICE CENTER TO CUSTOMER SERVICE CENTER
24 COMMUNICATIONS IN CONNECTION WITH THE ADMINISTRATION OF SUCH ELECTRONIC
25 TOLL INFORMATION SYSTEM.

26 3. INFORMATION. NOTHING IN THIS SECTION SHALL PRECLUDE THE USE OF
27 AGGREGATE ELECTRONIC TOLL INFORMATION WHICH DOES NOT IDENTIFY ANY INDIVIDUAL
28 ACCOUNT HOLDER IN AN ACTION OR PROCEEDING INVOLVING SUCH PUBLIC
29 ENTITY, NOR PRECLUDE THE USE, SALE OR DISTRIBUTION OF INFORMATION
30 COMPILED FROM ELECTRONIC TOLL OR FARE INFORMATION, WHERE SUCH COMPILED
31 INFORMATION DOES NOT IDENTIFY ANY INDIVIDUAL ACCOUNT HOLDER.

32 4. NOTICE. EVERY PUBLIC ENTITY THAT COLLECTS ELECTRONIC TOLL INFORMATION
33 SHALL PROVIDE REGULAR AND CONSPICUOUS NOTICE, IN WRITING, TO APPLICANTS
34 AND ACCOUNT HOLDERS CONCERNING THE PROVISIONS OF THIS SECTION,
35 WHICH NOTICE SHALL ALSO DESCRIBE THE MEANS BY WHICH ACCOUNT HOLDERS MAY
36 OBTAIN COPIES OF THEIR INDIVIDUAL ACCOUNT RECORDS.

37 5. VIOLATIONS. ANY PERSON WHO KNOWINGLY RELEASES OR PERMITS THE
38 RELEASE OF ELECTRONIC TOLL INFORMATION THAT IS CONFIDENTIAL UNDER THIS
39 SECTION TO A PERSON OR ENTITY NOT ENTITLED TO RECEIVE SUCH INFORMATION
40 SHALL BE SUBJECT TO A CIVIL PENALTY OF UP TO FIVE THOUSAND DOLLARS.

41 S 2. This act shall take effect immediately.