

4120

2015-2016 Regular Sessions

I N A S S E M B L Y

January 29, 2015

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,
25 SUCH INFORMATION SHALL NOT BE OPEN TO THE PUBLIC, NOR SUBJECT TO CIVIL

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

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1 OR CRIMINAL PROCESS OR DISCOVERY, NOR SUBJECT TO DISCLOSURE UNDER THE
2 FREEDOM OF INFORMATION LAW, NOR USED BY ANY COURT OR ADMINISTRATIVE OR
3 ADJUDICATORY BODY IN ANY ACTION OR PROCEEDING THEREIN, AND NO PUBLIC
4 ENTITY OR EMPLOYEE, OFFICER OR AGENT THEREOF SHALL DISCLOSE SUCH INFOR-
5 MATION, EXCEPT THAT SUCH INFORMATION:

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

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

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

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

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

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

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

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

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

40 S 2. This act shall take effect immediately.