

# STATE OF NEW YORK

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2021-2022 Regular Sessions

## IN SENATE

January 30, 2021

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Introduced by Sens. COMRIE, BIAGGI, 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 -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- 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. 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

##### Section 2985-a. Tolls by mail.

10 § 2985-a. Tolls by mail. 1. Applicability. This section shall apply to  
11 the tolls by mail program and shall not apply to the payment of tolls by  
12 means of an electronic toll device that transmits information through an  
13 electronic toll collection system as defined in subdivision twelve of  
14 section twenty-nine hundred eighty-five of this title.

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

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

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

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

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

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

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

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

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

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

37 (i) "Operable electronic device" shall mean an electronic device that  
38 successfully transmits information through an electronic toll collection  
39 system.

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

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

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

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

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

3. Authorization for cashless tolling. (a) Notwithstanding any other provision of law, every public authority that operates a toll highway, bridge and/or tunnel facility and is authorized pursuant to section twenty-nine hundred eighty-five of this title to promulgate toll collection regulations and to impose monetary liability for failure to comply with such regulations is hereby authorized and empowered to operate a demonstration program for utilization of cashless tolling facilities, cashless tolling monitoring systems, and a tolls by mail program and to impose monetary liability on the owner of a vehicle for failure to comply with the toll collection regulations of such public authority so long as each public authority complies with the provisions of this section. Such public authority shall promulgate regulations establishing a demonstration program for the utilization of cashless tolling facilities, cashless tolling monitoring systems, and a tolls by mail program that comply with the provisions of this section. Such regulations may impose monetary liability on the owner of a vehicle for failure to comply with such regulations. No public authority shall own, operate or otherwise facilitate a cashless tolling facility, cashless tolling monitoring system, or tolls by mail program without first promulgating regulations pursuant to and in compliance with this section.

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

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

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

4. Owner liability. (a) Within the jurisdiction of every public authority which has promulgated regulations pursuant to subdivision three of this section: (i) the owner shall incur an obligation to pay a

1 toll when the owner's vehicle crosses through a cashless tolling facili-  
2 ty pursuant to this section if such vehicle was used or operated with  
3 the permission of the owner, express or implied, and such obligation is  
4 evidenced by information obtained from the cashless tolling monitoring  
5 system; or (ii) the owner of a vehicle shall incur an obligation to pay  
6 a toll when such vehicle crosses a cashless tolling facility without an  
7 operable electronic device and is identified by a cashless tolling moni-  
8 toring system.

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

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

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

44 (c) Notice of violation. If an owner fails to respond to a second toll  
45 bill within thirty days of the mailing of such second toll bill, the  
46 public authority shall send by first-class mail a notice of violation  
47 within thirty days of the date the owner was required to respond to such  
48 second toll bill. (i) The notice of violation shall include: (A) the  
49 date, time, location, license plate number and vehicle registration for  
50 each toll; (B) the assessed toll and the total amount of all outstanding  
51 tolls and penalties as authorized by this section; (C) the date by which  
52 payment of such amounts are due; (D) the address for receipt of payment  
53 and methods of payment for the amounts due; (E) the procedure for  
54 contesting any such amounts; (F) information related to the failure to  
55 timely pay or respond to a notice of violation; (G) the website address  
56 or hyperlink for the owner to access time-stamped photographs or footage

1 of each toll incurred; and (H) any other information required by law or  
2 by the authority. The notice of violation may include a penalty which  
3 shall be twenty-five dollars or two times the toll evaded, whichever is  
4 greater. If the authority fails to send a timely notice of violation as  
5 set forth in this section, the owner shall not be liable for payment of  
6 the alleged tolls or any penalty. (ii) The owner shall have thirty days  
7 from the date such notice of violation was sent to (A) pay the assessed  
8 toll and penalties, or (B) contest the notice. If an owner fails to  
9 respond to the notice of violation, the owner shall be liable for the  
10 assessed toll and any penalty as provided in such notice.

11 (d) Electronic notice. Any toll bill required by this section to be  
12 sent by first-class mail may instead be sent by electronic means of  
13 communication upon the affirmative consent of the owner in a form  
14 prescribed by the authority. Provided that, notwithstanding this subdi-  
15 vision, a toll bill sent by electronic means of communication shall be  
16 sent within seventy-two hours of an owner incurring an obligation to pay  
17 a toll. Any notice of violation required by this section to be sent by  
18 first-class mail may in addition to first-class mail be sent by elec-  
19 tronic means of communication upon the affirmative consent of the owner  
20 in a form prescribed by the authority. A manual or automatic record of  
21 electronic communications prepared in the ordinary course of business  
22 shall be sufficient record of electronic notice. Any affirmative consent  
23 to receive a toll bill or notice of violation by electronic means shall  
24 be revocable by the owner at any time with notice to the public authori-  
25 ty or its agent and shall automatically be deemed revoked if the author-  
26 ity or its agent is unable to deliver two consecutive notices by elec-  
27 tronic means of communication.

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

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

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

51 8. Evidence of obligation to pay a toll or violation. (a) A certifi-  
52 cate sworn to or affirmed by an agent of the public authority which  
53 charged that a liability for an obligation to pay a toll or a violation  
54 has been incurred, or a facsimile thereof based upon inspection of  
55 recorded images produced by a cashless tolling monitoring system shall  
56 be prima facie evidence of the facts contained therein and shall be



1 admissible in any proceeding charging a liability for a toll or a  
2 violation pursuant to this section.

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

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

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

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

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

14 (c) the recipient of a toll bill or notice of violation was not the  
15 owner of the vehicle at the time the obligation to pay the toll  
16 occurred;

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

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

37 10. Finding of violation. (a) Any liability imposed pursuant to this  
38 section shall not be deemed a conviction as an operator and shall not be  
39 made part of the motor vehicle operating record, maintained by the  
40 commissioner of motor vehicles pursuant to the vehicle and traffic law,  
41 of the person upon whom such liability is imposed nor shall it be used  
42 for insurance purposes in the provision of motor vehicle insurance  
43 coverage.

44 (b) Notwithstanding the provisions of any other law, order, rule or  
45 regulation to the contrary, no registration of any non-commercial motor  
46 vehicle may be suspended, revoked or denied renewal resulting from an  
47 obligation to pay a toll at a cashless tolling facility as described in  
48 this section and the commissioner of motor vehicles shall not suspend,  
49 revoke or deny renewal of the registration of a non-commercial motor  
50 vehicle resulting from an obligation to pay a toll at a cashless tolling  
51 facility as described in this section unless such owner is found liable  
52 for failure to pay or respond to five or more notices of unrelated toll  
53 bills or is liable for no less than one hundred fifty dollars in  
54 outstanding toll bills within an eighteen month period.

55 11. Indemnification. Any owner who is found liable pursuant to this  
56 section who was not the operator of the vehicle at the time the obli-

1 gation to pay the toll was incurred may maintain an action for indemni-  
2 fication against the operator.

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

10 (b) The authority, including any subsidiary or contractor involved in  
11 implementing or operating an electronic toll collection system or tolls  
12 by mail program, shall not sell, distribute or make available in any  
13 way, the names and addresses of any owner that participates in the tolls  
14 by mail program, provided that the foregoing restriction shall not be  
15 deemed to preclude the exchange of such information between any entities  
16 with jurisdiction over or operating of a cashless tolling facility for  
17 the purpose of administering such tolls by mail program.

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

23 14. Debt collection. (a) On or after the effective date of this  
24 section, no public authority which operates a cashless tolling facility  
25 shall sell or transfer any debt owed to the public authority by an owner  
26 for a violation of toll collection regulations to a debt collection  
27 agency unless one year has passed from the date the owner was found  
28 liable for the violation of toll collection regulations associated with  
29 such debt, or the owner has a total debt owed to the public authority of  
30 five hundred dollars or more. The authority shall not sell or transfer  
31 any debt to a debt collection agency unless such authority has first  
32 obtained a default judgment in a court or administrative tribunal with  
33 jurisdiction over the assessed toll.

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

38 15. Installment payment plan. Every public authority that operates a  
39 cashless tolling facility, cashless tolling monitoring system, and tolls  
40 by mail program shall promulgate rules and regulations that establish an  
41 installment payment plan for the payment of any toll and penalty  
42 incurred at a cashless tolling facility. Information related to such  
43 plan shall be included in any toll bill and any notice of violation and  
44 shall be displayed conspicuously on the authorities' websites. Each  
45 owner, at his or her election, may participate in such plan. The public  
46 authority shall not charge any additional fees or penalties for enroll-  
47 ment in a payment plan.

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

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

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

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

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

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

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

15 (g) the number of owners that were charged a penalty, the amount of  
16 the penalty charged to owners and the aggregate amount of penalties  
17 collected by the authority;

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

21 (i) the number of owners that disputed the notice of violation and the  
22 number of owners that successfully disputed such notice of violation;

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

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

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

28 (m) the number of tolls adjudicated by every public authority and  
29 court, including any appeal of such adjudications, and the results of  
30 all adjudications including breakdowns of dispositions made for tolls  
31 recorded by such systems;

32 (n) the total amount of revenue realized by such authority from such  
33 adjudications;

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

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

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

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

54 b. The Triborough Bridge and Tunnel Authority shall undertake a public  
55 awareness campaign for such amnesty program, maintain a public website  
56 for any person to obtain information on any outstanding tolls and no



1 later than 30 days preceding the commencement of the amnesty period,  
2 notify by first-class mail all persons with outstanding toll balances of  
3 their eligibility for the amnesty program. The authority shall provide  
4 for sufficient methods to pay the outstanding toll balances, including  
5 but not limited to, by phone, by mail, or through the internet.

6 § 5. This act shall take effect on the one hundred twentieth day after  
7 it shall have become a law; provided, however that sections two, three  
8 and four of this act shall expire 5 years after such effective date when  
9 upon such date such provisions of such sections shall be deemed  
10 repealed. Effective immediately, the addition, amendment and/or repeal  
11 of any rule or regulation necessary for the implementation of this act  
12 on its effective date are authorized to be made and completed on or  
13 before such effective date.