

SECRETARY OF STATE TOLLING ENFORCEMENT PROGRAM

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 1151 (S-1) as passed by the Senate

Sponsor: Sen. Wayne Schmidt

House Committee: Transportation

Senate Committee: Transportation and Infrastructure

Complete to 12-7-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 1151 would amend the Michigan Vehicle Code to require the secretary of state (SOS), upon appropriation, to implement a tolling enforcement program under which SOS would enter into an agreement at the request of a public or private toll bridge or tunnel operator to exchange information about unpaid tolls and assist in collection enforcement. Among other things, SOS would provide toll operators with the names and addresses of individuals who failed to pay a toll, based on their license plate numbers. In addition, SOS would have to refuse to issue or transfer a vehicle registration upon receiving notice from a toll operator that the registered owner of the vehicle had three unpaid tolls. The bill also would provide for toll dispute and arbitration procedures.

Tolling enforcement agreement

The bill would require SOS, upon appropriation, to implement a tolling enforcement program as described below. Under the program, at the request of an operator of a toll bridge or tunnel, SOS would have to negotiate with the *operator* and enter into an agreement to aid in collecting unpaid *tolls* that provides for all of the following:

- A method for identifying an individual who failed to pay a toll as the registered owner of a vehicle.
- The form for sending a notice of unpaid toll to such an individual.
- The service fee SOS could charge the operator for providing services under the agreement.
- A process for disputing a notice of unpaid toll.
- Standards for transmitting and retaining information and for a data breach, including that the operator must use any information shared by SOS solely for the purpose of collecting tolls.
- That the shared information must include both of the following:
 - The names and addresses of individuals who allegedly failed to pay a toll.
 - Photographs of vehicles and registration plates.

Operator would mean the owner or operator of a publicly or privately owned toll bridge or tunnel in Michigan that uses an automatic tolling system that identifies an individual responsible for paying a toll by doing either of the following:

- Photographing the individual's vehicle registration plate.
- Detecting a *toll device*.

Toll would mean a toll for operating a vehicle on a toll bridge or tunnel and any related fees.

Toll device would mean an electronic device used to identify a vehicle, such as a transponder system, that is linked to an account for which an individual must register.

The agreement would have to provide that tolls and administration fees collected by or on behalf of the operator are the property of the operator and also provide that an operator may do any of the following:

- Establish, collect, and enforce the payment of tolls.
- Establish, collect, and enforce administration fees based on criteria the operator considers appropriate, including those related to any of the following:
 - The SOS service fee charged to the operator for providing services to the operator under the agreement.
 - A dispute.
 - An appeal.
- Exempt any vehicle or class of vehicles from the payment of tolls and administration fees.
- Determine the methods of payment of tolls and administration fees.
- Establish terms and conditions for the registration and distribution of toll devices.
- Require security for the provision of any toll device

Notices to SOS

If an individual fails to pay three tolls that remain unpaid for more than 90 days after the individual receives a notice as described below, an operator could notify SOS of the failure to pay on a form containing information required by SOS. (The operator would have to notify the individual that this notice was given to SOS.) Except as described below, upon receiving notice, SOS would have to refuse to issue or transfer a vehicle registration issued to the ***individual responsible for paying the toll.***

Under the bill, an ***individual responsible for paying a toll*** would be either the individual to whom a toll device affixed to the vehicle is registered or, if none, the individual to whom the vehicle is registered.

The operator would have to immediately notify SOS if any of the following occur regarding an individual about whom notice was sent to SOS as described above:

- The individual files a notice of dispute.
- The individual files a notice of appeal.
- The individual pays one or more of the three unpaid tolls.
- The operator or a dispute arbitrator determines that the individual is not responsible for paying one or more of the three unpaid tolls.

Upon receiving the above notice or learning that the described conditions apply, SOS would have to issue or transfer any registration it had refused to transfer or issue based on the notice of unpaid tolls.

Notice of unpaid tolls

An operator that has entered into an agreement with SOS could send to an individual who fails to pay a toll a notice of unpaid toll that contains the following information:

- The amount of the toll, including any administration fees charged to the individual as authorized under the agreement.

- A statement that the individual may dispute the toll as described below and must do both of the following to dispute a toll:
 - Send a notice of dispute to the operator within 30 days after receiving the notice of unpaid toll.
 - Prove the grounds for disputing the toll.
- That the toll is considered paid in full if the operator fails to respond to the notice of dispute within 30 days.
- The number of unpaid tolls that the individual has.
- A statement that SOS must refuse to issue or transfer registration if the following apply:
 - Three tolls remain unpaid more than 90 days after notice of three unpaid tolls is sent.
 - There is no pending dispute or pending appeal.

Process of dispute

An individual who receives a notice of unpaid toll may dispute the alleged failure to pay the toll by sending a notice of dispute to the operator no later than 30 days after receiving the notice of unpaid toll. The notice of dispute must contain information proving one of the following grounds for disputing the toll:

- The toll was paid in full.
- The amount of the toll is incorrect.
- The vehicle, the registration plate, or the toll device registered to the individual was lost or stolen at the time the toll was incurred.
- The individual named in the notice of unpaid toll is not the individual responsible for paying the toll.

The payment of a toll would not prejudice the right of an individual who receives a notice of unpaid toll to dispute the toll. If the individual pays the toll, the operator would have to return the amount paid if either of the following occurs:

- The operator or the dispute arbitrator described below subsequently decides that the individual is not responsible for paying the toll.
- The toll is considered to be paid in full.

No later than 30 days after receiving a notice of dispute, an operator would have to render a decision on the disputed toll and send the individual and SOS a copy of the decision, which could, but would not have to, provide the reasons for the decision. If the operator fails to timely respond to a notice of dispute, the disputed toll would be considered paid in full. If the operator decides the individual is responsible for paying the toll, the operator's decision must include a statement describing the individual's right to appeal the decision to a dispute arbitrator as described below and the address of the dispute arbitrator.

Process of arbitration

Upon appropriation, and if SOS implements a tolling enforcement program as above, SOS would have to appoint a dispute arbitrator to decide appeals of an operator's decision on a dispute.

An individual could appeal an operator's decision by sending a notice of appeal, setting out the grounds for disputing the toll, to the dispute arbitrator and the operator no later than 30 days after receiving the operator's decision.

No later than 15 days after receiving a notice of appeal, the operator could send a written submission to the dispute arbitrator, with a copy to the individual appealing.

The dispute arbitrator would have to review a notice of appeal and any written submission made by an operator and either decide the appeal on that basis or hold a hearing before deciding the appeal.

The dispute arbitrator would have to send the individual, the operator, and SOS a copy of the decision no later than 120 days after receiving the notice of appeal. If the dispute arbitrator fails to timely send a copy of the decision, the individual or operator could seek an order from a court of competent jurisdiction compelling the dispute arbitrator to render and send a copy of the decision.

If the dispute arbitrator finds that the individual is not responsible for paying the toll, the dispute arbitrator could order the operator to pay the individual the reasonable out-of-pocket expenses incurred in connection with the dispute or appeal. If the dispute arbitrator finds that the individual is responsible for paying the toll, the dispute operator could order the individual to pay those reasonable out-of-pocket expenses of the operator.

The decision of the dispute arbitrator would be final and not subject to further appeal.

Other provisions

The bill would not authorize an operator to charge and collect tolls on a bridge or tunnel if not otherwise authorized by law.

Actions taken by an operator under the bill would be in addition to any other methods of enforcement and collection available under the law.

MCL 257.219 and proposed MCL 257.820a, 257/820b, and 257.820c

FISCAL IMPACT:

A fiscal analysis is in progress.

Legislative Analyst: E. Best
Fiscal Analyst: Michael Crossen

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.