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Senate Bill 1151 (as introduced 9-7-22)
Sponsor: Senator Wayne A. Schmidt
Committee: Transportation and Infrastructure

Date Completed: 9-27-22

CONTENT

The bill would amend the Michigan Vehicle Code to do the following:

- **Require the Secretary of State (SOS) to refuse the issuance or transfer of a registration if the SOS had received a notice from an operator of a toll bridge or tunnel that the applicant had failed to pay three tolls and that certain conditions were met as provided by the bill.**
- **Require the SOS to enter into an agreement at the request of an operator of a toll bridge or tunnel that satisfied the requirements to exchange data to aid in the enforcement of collecting unpaid tolls and prescribe requirements to the contents and uses of that data.**
- **Allow the operator of a toll bridge or tunnel to mail an individual a notice of unpaid toll that contained certain information if the individual failed to pay a toll.**
- **Allow an individual who received a notice of unpaid toll to dispute the alleged failure to pay the toll by sending a notice of dispute to the operator within 30 days after receiving the notice.**
- **Require an operator to decide on the disputed toll and send the individual who sent the notice of dispute a copy of the decision within 30 days after receiving the notice.**
- **Require the SOS to appoint a dispute arbitrator to decide appeals of an operator's decision on a dispute.**
- **Allow an operator to notify the SOS of an individual's failure to pay if the individual failed to pay three tolls to operate a vehicle on a toll bridge or tunnel in the State and the three tolls remained unpaid for more than 90 days after the individual received a notice of the three unpaid tolls.**
- **Require an operator to notify the SOS if an individual paid one of the three tolls or it was determined that the individual was not responsible for paying one or more of them.**

Data Exchange Agreement

Under the bill, at the request of an operator of a toll bridge or tunnel, the SOS would have to enter into an agreement that satisfied the requirements to exchange data to aid in the enforcement of collecting unpaid tolls. The agreement would have to provide that the operator would have to use any data shared by the SOS solely for the purpose of collecting tolls and that the operator would have to destroy the data 90 days after a claim of an unpaid toll was resolved. The data exchanged would have to include the names and addresses of individuals who allegedly failed to pay a toll and photographs of vehicles and registration plates.

"Operator" would mean the owner or operator of a publicly or privately owned toll bridge or tunnel in the State that uses an automatic tolling system that identifies an individual responsible for paying a toll by photographing the individual's vehicle registration plate or 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, including a transponder system, that is linked to an account for which an individual must register.

An agreement would have to provide that tolls, administration fees, and interest collected by or on behalf of the operator were the property of the operator and provide that an operator could do any of the following:

- Establish, collect, and enforce the payment of tolls.
- Establish, collect, and enforce administration fees based on criteria that the operator considered appropriate, including administration fees related to a dispute or appeal under the bill.
- Establish interest rates to be charged on unpaid tolls and administration fees and collect interest charged at those rates.
- Exempt any vehicle or class of vehicles from the payment of tolls, administration fees, or interest.
- Determine the methods of payment of tolls, administration fees, and interest.
- Establish terms and conditions for the registration and distribution of toll devices.
- Require security for the provision of any toll device.

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

Notice of Failure to Pay to an Individual

Under the bill, if an individual failed to pay a toll, the operator of the toll bridge or tunnel could mail the individual a notice of unpaid toll that would have to contain all the following information:

- The amount of the toll.
- A statement that the individual could dispute the toll on the grounds provided below, and that the individual would have to send a notice of dispute to the operator within 30 days after reviewing the notice and prove the grounds for disputing the toll.
- That the toll was considered paid in full if the operator failed to respond to the notice of dispute within 30 days after receiving the notice of dispute.
- The number of unpaid tolls that the individual had.
- A statement that the SOS would have to refuse to issue or transfer registration if three tolls remained unpaid for more than 90 days after the date that notice of three unpaid tolls was sent.

An individual who received a notice of unpaid toll could dispute the alleged failure to pay the toll by sending a notice of dispute to the operator within 30 days after receiving the notice of unpaid toll. The notice of dispute would have to contain information proving one of the following grounds for disputing the toll:

- The toll was paid in full.
- The amount of the toll was 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 was not the individual responsible for paying the toll.

The payment of a toll would not prejudice the right of an individual who received a notice of unpaid toll to dispute the toll. If the individual paid the toll, the operator would have to return to the individual the amount paid if the operator or the dispute arbitrator subsequently decided that the individual was not responsible for paying the toll or the toll was considered to be paid in full as described below.

Under the bill, within 30 days after receiving a notice of dispute, an operator would have to render a decision on the disputed toll and send the individual who sent the notice of dispute a copy of the decision that stated the operator's reasons for its decision. If the operator failed to respond to a notice of dispute within 30 days after the notice of dispute was received, the disputed toll would be considered paid in full. If the operator decided the individual was responsible for paying the toll, the operator's decision would have to include a statement describing the individual's right to appeal the decision to a dispute arbitrator as provided by the bill and the address of the dispute arbitrator.

Notice of Failure to Pay to the SOS

If an individual failed to pay three tolls to operate a vehicle on a toll bridge or tunnel in the State and the three tolls remain unpaid for more than 90 days after the individual received a notice of the three unpaid tolls, an operator could notify the SOS of the failure to pay on a form determined by the secretary of state containing information required by the SOS. If the operator notified the SOS, the operator would have to inform the individual who received the notice of three unpaid tolls that notice was given to the SOS.

If the SOS received a notice, the SOS would have to refuse to issue a registration to or transfer a registration issued to the individual responsible for paying the toll until the conditions described below were met. The SOS would have to refuse the issuance or transfer even if there were an ongoing dispute of the toll as provided by the bill.

If notice had been given to the SOS and one or more of the three tolls was subsequently paid or the operator or dispute arbitrator, as provided by the bill, determined that the individual was not responsible for paying one or more of the three tolls, the operator would have to notify immediately the SOS. If the SOS received a notice, it would have to issue or transfer any registration it refused to issue or transfer for the individual named in the notice.

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

Party Responsible for Toll Payment

Under the bill, the individual responsible for paying a toll would be either of the following:

- If a toll device were not affixed to the vehicle, the individual to whom the vehicle was registered.
- If a toll device were affixed to the vehicle, the individual to whom the toll device was registered.

Dispute Arbitrator

The 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 sending a notice of appeal,

setting out the grounds for disputing the toll, to the dispute arbitrator and to the operator within 30 days after receiving the operator's decision. Within 15 days after receiving a notice of appeal, the operator could send a written submission to the dispute arbitrator. If the operator sent a written submission to the dispute arbitrator, the operator also would have to send 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 based on the notice of appeal and written submission or hold a hearing before deciding the appeal. If the dispute arbitrator found that the individual was not responsible for paying the toll, the dispute arbitrator could order the operator to pay the individual the amount of the individual's reasonable out-of-pocket expenses incurred in connection with the dispute or appeal.

The dispute arbitrator would have to send the individual, the operator, and the SOS a copy of the decision within 120 days after receiving the notice of appeal. If the dispute arbitrator failed to send a copy of the decision within 120 days after receiving the notice of appeal, the individual or the operator could seek an order from a court of competent jurisdiction compelling the dispute arbitrator to render and send a copy of the decision.

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

MCL 257.219 et al.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill would have an indeterminate negative fiscal impact on the Department of State. The bill's requirement for the Department to create agreements with toll bridge and tunnel operators in Michigan to exchange data would create significant information technology (IT) costs. The Department's current data collection framework for vehicle information data does not have the ability to comply with this requirement and would require additional hardware and software updates, which could be costly. That cost is indeterminate and would depend on the amount of IT that would need to be purchased or updated.

The bill also would require the SOS to withhold the registration or transfer of registration for any vehicle that had been flagged as having outstanding unpaid bridge or tunnel tolls until those tolls were paid in full. Any withheld registration or transfer of registration fees would have a negative impact on the Department's revenue. Based on fiscal year 2020-21 data, the Department completed 9,771,600 vehicle registration transactions that raised \$1,445,569,300 in revenue for an average transaction cost of \$148 per registration. If the Department withheld registrations as specified under the bill, the cost to the Department would be \$148 per transaction, on average.

Finally, the bill would require the Department to hire a dispute arbitrator to decide appeals of an operator's decision on a disputed toll. Based on the Department's current salary scale, the cost for hiring a dispute arbitrator would be an estimated \$200,000 per year.

Fiscal Analyst: Joe Carrasco, Jr.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.