

ALLOW STATE TO ENFORCE COLLECTION OF TOLLS FOR INTERNATIONAL CROSSINGS

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House Bill 5733 as passed by the House
Sponsor: Rep. Tyrone Carter
Committee: Transportation, Mobility and Infrastructure
Complete to 7-8-24

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

SUMMARY:

House Bill 5733 would amend the Michigan Vehicle Code to require the secretary of state (SOS), upon appropriation, to implement a tolling enforcement program. Under the program, SOS would have to enter into an agreement, at the request of a public or private international toll bridge or tunnel operator that uses an automatic tolling system, to exchange information about unpaid tolls and assist in collection enforcement for that operator. Among other things, the agreement would have to include dispute resolution procedures and provisions for the SOS to provide the toll operator with the names and addresses of individuals who failed to pay a toll, based on their license plate numbers. The SOS also would have to refuse to issue or transfer a vehicle registration upon receiving notice from the toll operator that the registered owner of the vehicle had six unpaid tolls for more than 90 days after being notified. The bill would allow the SOS to enter into a reciprocity agreement with another state or a Canadian province for the enforcement and collection of tolls and related fees.

Tolling enforcement agreement

The bill would require the SOS, upon appropriation, to implement the tolling enforcement program described below. Under the program, at the request of an *operator*, the SOS would have to negotiate with the operator and enter into a tolling enforcement agreement to help it collect unpaid *tolls*. The agreement would have to provide for all of the following:

- A method for determining the registered owner of a vehicle an individual failed to pay a toll for.
- The form of a notice of unpaid toll to be sent to such an individual.
- The fee the SOS can charge the operator for providing services under the agreement.
- A dispute resolution process for an individual to dispute a notice of unpaid toll.
- Standards for transmitting, retaining, and using information, and for a data breach, including that the operator cannot use information shared by SOS for any purpose other than collecting tolls.
- That the shared information must include both of the following:
 - The names and addresses of individuals alleged to have failed to pay a toll.
 - Toll transaction details of the vehicles and registration plates.
- A statement that the tolls and *related fees* collected by or on behalf of the operator are the operator's property and that the operator may do any of the following:
 - Establish, collect, and enforce the payment of tolls.
 - Exempt any vehicle or class of vehicles from the payment of tolls.
 - Determine the methods of payment of tolls.
 - Establish terms and conditions for registering and distributing *toll devices*.

Operator would mean the owner or operator of a publicly or privately owned international toll bridge or tunnel that is wholly or partially located in Michigan and that uses an automatic tolling system to identify an individual responsible for paying a toll by detecting a toll device, photographing the individual's license plate, or both.

Toll would mean a toll for operating a vehicle on part of an international toll bridge or tunnel located in Michigan and any related fees.

Related fee would mean any fee or charge, including interest, allowed by law for creating, maintaining, administering, billing, and collecting an account.

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.

Notices to the SOS

If an individual fails to pay six tolls that remain unpaid for more than 90 days after the individual receives a notice as described below, the operator could notify the SOS of the failure to pay on a form determined by the SOS. Upon receiving notice, the SOS would have to refuse to issue a vehicle registration to, or transfer a vehicle registration issued to, the individual the vehicle is registered to (who the bill defines as the individual responsible for paying the toll).

The operator would have to immediately notify the SOS (on a form determined by the SOS) if any of the following occur regarding an individual described above:

- The individual pays all unpaid tolls due to the operator.
- The dispute resolution process results in a final determination that a toll was paid in full, the amount of the toll is incorrect, or the individual named in the notice is not the individual the vehicle is registered to.

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

Other enforcement agreement provisions

The above provisions would not authorize the operator to charge and collect tolls on a bridge or tunnel if not otherwise authorized by law. The remedies available to the operator as described above would be in addition to any other methods of enforcement and collection available under law.

Reciprocity agreements

Upon the written request of the operator, the SOS could enter into a reciprocity agreement with the duly authorized representative of a *state* or *tolling entity* for the enforcement and collection of tolls.

State would mean any of the following:

- A state, territory, or possession of the United States.
- The District of Columbia.
- A province of Canada.

Tolling entity would mean an entity authorized to impose and collect tolls under the laws of Michigan or another *state* (defined as above).

A reciprocity agreement would have to provide that if the issuance or a transfer of registration of a motor vehicle would be refused under the bill, or under a comparable law or regulation of another state or province, because the vehicle's registrant failed to pay applicable tolls, then the state issuing the registration will likewise refuse the issuance or transfer until the registrant has paid the tolls and otherwise complied with the rules and regulations of the state or province or tolling entity that imposed the tolls.

Before entering into a reciprocity agreement, the SOS would have to confirm all of the following, as applicable, and include them in the reciprocity agreement:

- The state or province or tolling entity has its own effective reciprocal procedure for collecting tolls and agrees to collect tolls by employing sanctions for nonpayment that include denial of the issuance or transfer of registration of a motor vehicle.
- The state or province or tolling entity provides adequate notice, due process, and appeal protections to avoid the likelihood of a false, mistaken, or unjustified claim of nonpayment.
- The registered owner of a motor vehicle registered in Michigan may present evidence to the state or province or tolling entity by mail, telephone, electronic means, or other means to invoke rights of due process without having to appear personally in the state or province where the nonpayment is alleged to have occurred.
- The SOS may charge the state or province or tolling entity a fee sufficient to cover the costs of collection services.
- Additional terms and procedures as are necessary and proper to facilitate the administration of the reciprocity agreement.

Notwithstanding any law to the contrary, the SOS could release registration information and take other actions reasonably necessary to effectuate the enforcement or collection of tolls under a reciprocity agreement.

These provisions would not limit the enforcement or collection of a toll by any means available under the law.

The SOS could promulgate rules necessary to implement these provisions under the Administrative Procedures Act.

MCL 257.219 and proposed MCL 257.820a and 257.820b

FISCAL IMPACT:

The bill would result in one-time implementation costs to the Department of State as well as potential ongoing annual costs. Annual costs would depend on the extent to which any new revenue the department collects from charging fees, as authorized by the bill, would cover implementation costs of the bill.

Initial one-time implementation costs would include information technology costs, for hardware and software, to enable the department to exchange data on vehicle and drivers as

required by the bill. Actual hardware and programming costs are not yet determined. The average cost of a state information technology project is approximately \$300,000.

Ongoing costs would be related to providing a due process system to arbitrate disputes of toll operators' claims and would presumably be covered by department service fees charged to toll operators.

POSITIONS:

Representatives of the Ambassador Bridge testified in support of the bill. (5-21-24)

The following organizations indicated support for the bill (5-21-24):

- Michigan Infrastructure and Transportation Association
- Michigan Teamsters JC 43

Representatives of the Department of State testified in opposition to the bill. (5-21-24)

Legislative Analyst: E. Best
Fiscal Analyst: Michael Cnossen

■ 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.