

ROAD TOLLS PROVISIONS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies provisions related to the imposition and collection of tolls on certain roads.

Highlighted Provisions:

This bill:

- ▶ allows the Department of Transportation to:
 - mail correspondence to inform the primary owner of a motor vehicle of an unpaid toll or penalty for failing to pay a toll;
 - impose a penalty for failure to pay a toll;
 - use camera and video technology to monitor a tollway; and
 - request a hold on the registration of a motor vehicle if the primary owner has failed to pay a toll or penalty associated with the motor vehicle;
 - ▶ requires the Department of Transportation and the Division of Motor Vehicles to share information pertinent to registration and toll enforcement;
 - ▶ requires the Department of Transportation to make rules related to tollways and the amount of a penalty for failure to pay a toll;
 - ▶ allows the retention of license plate data for toll and penalty collection purposes;
- and
- ▶ makes technical changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **41-1a-203**, as last amended by Laws of Utah 2017, Chapter 406

34 **41-6a-2004**, as last amended by Laws of Utah 2014, Chapter 276

35 **72-6-118**, as last amended by Laws of Utah 2010, Chapter 278



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **41-1a-203** is amended to read:

39 **41-1a-203. Prerequisites for registration, transfer of ownership, or registration**
40 **renewal.**

41 (1) Except as otherwise provided, before registration of a vehicle, an owner shall:

42 (a) obtain an identification number inspection under Section **41-1a-204**;

43 (b) obtain a certificate of emissions inspection, if required in the current year, as
44 provided under Section **41-6a-1642**;

45 (c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section
46 **41-1a-206** or **41-1a-207**;

47 (d) pay the automobile driver education tax required by Section **41-1a-208**;

48 (e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;

49 (f) pay the uninsured motorist identification fee under Section **41-1a-1218**, if
50 applicable;

51 (g) pay the motor carrier fee under Section **41-1a-1219**, if applicable;

52 (h) pay any applicable local emissions compliance fee under Section **41-1a-1223**; and

53 (i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act.

54 (2) In addition to the requirements in Subsection (1), an owner of a vehicle that has not
55 been previously registered or that is currently registered under a previous owner's name shall
56 apply for a valid certificate of title in the owner's name before registration.

57 (3) The division may not issue a new registration, transfer of ownership, or registration
58 renewal under Section **73-18-7** for a vessel or outboard motor that is subject to this chapter

59 unless a certificate of title has been or is in the process of being issued in the same owner's
60 name.

61 (4) The division may not issue a new registration, transfer of ownership, or registration
62 renewal under Section [41-22-3](#) for an off-highway vehicle that is subject to this chapter unless
63 a certificate of title has been or is in the process of being issued in the same owner's name.

64 (5) The division may not issue a registration renewal for a motor vehicle if the owner
65 of the motor vehicle has failed to pay a toll or penalty imposed under Section [72-6-118](#)
66 involving the motor vehicle for which a registration renewal has been requested.

67 Section 2. Section **41-6a-2004** is amended to read:

68 **41-6a-2004. Captured plate data -- Preservation and disclosure.**

69 (1) Captured plate data obtained for the purposes described in Section [41-6a-2003](#):

70 (a) in accordance with Section [63G-2-305](#), is a protected record under Title 63G,
71 Chapter 2, Government Records Access and Management Act, if the captured plate data is
72 maintained by a governmental entity;

73 (b) may not be used or shared for any purpose other than the purposes described in
74 Section [41-6a-2003](#);

75 (c) except as provided in Subsection (3), may not be preserved for more than nine
76 months by a governmental entity except pursuant to:

77 (i) a preservation request under Section [41-6a-2005](#);

78 (ii) a disclosure order under Subsection [41-6a-2005\(2\)](#); or

79 (iii) a warrant issued under the Utah Rules of Criminal Procedure or an equivalent
80 federal warrant; and

81 (d) may only be disclosed:

82 (i) in accordance with the disclosure requirements for a protected record under Section
83 [63G-2-202](#);

84 (ii) pursuant to a disclosure order under Subsection [41-6a-2005\(2\)](#); or

85 (iii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
86 equivalent federal warrant.

87 (2) (a) A governmental entity that is authorized to use an automatic license plate reader
88 system under this part may not sell captured plate data for any purpose.

89 (b) A governmental entity that is authorized to use an automatic license plate reader

90 system under this part may not share captured plate data for a purpose not authorized under
91 Subsection [41-6a-2003\(2\)](#).

92 (c) Notwithstanding the provisions of this section, a governmental entity may preserve
93 and disclose aggregate captured plate data for planning and statistical purposes if the
94 information identifying a specific license plate is not preserved or disclosed.

95 (3) Plate data collected in accordance with Section [72-6-118](#) may be preserved so long
96 as necessary to collect the payment of a toll or penalty imposed in accordance with Section
97 [72-6-118](#) and the nine-month preservation limitation described in Subsection (1)(c) shall not
98 apply.

99 Section 3. Section **72-6-118** is amended to read:

100 **72-6-118. Definitions -- Establishment and operation of tollways -- Imposition**
101 **and collection of tolls -- Amount of tolls -- Rulemaking.**

102 (1) As used in this section:

103 (a) "High occupancy toll lane" means a high occupancy vehicle lane designated under
104 Section [41-6a-702](#) that may be used by an operator of a vehicle carrying less than the number
105 of persons specified for the high occupancy vehicle lane if the operator of the vehicle pays a
106 toll or fee.

107 (b) "Toll" means any tax, fee, or charge assessed for the specific use of a tollway.

108 (c) "Toll lane" means a designated new highway or additional lane capacity that is
109 constructed, operated, or maintained for which a toll is charged for its use.

110 (d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way
111 designed and used as a transportation route that is constructed, operated, or maintained through
112 the use of toll revenues.

113 (ii) "Tollway" includes a high occupancy toll lane and a toll lane.

114 (e) "Tollway development agreement" has the same meaning as defined in Section
115 [72-6-202](#).

116 (2) Subject to the provisions of Subsection (3), the department may:

117 (a) establish, expand, and operate tollways and related facilities for the purpose of
118 funding in whole or in part the acquisition of right-of-way and the design, construction,
119 reconstruction, operation, enforcement, and maintenance of or impacts from a transportation
120 route for use by the public;

121 (b) enter into contracts, agreements, licenses, franchises, tollway development
122 agreements, or other arrangements to implement this section;

123 (c) impose and collect tolls on any tollway established under this section, including
124 collection of past due payment of a toll or penalty; [~~and~~]

125 (d) grant exclusive or nonexclusive rights to a private entity to impose and collect tolls
126 pursuant to the terms and conditions of a tollway development agreement[-];

127 (e) use technology to automatically monitor a tollway and collect payment of a toll,
128 including:

129 (i) license plate reading technology; and
130 (ii) photographic or video recording technology; and
131 (f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny
132 a request for registration of a motor vehicle if the primary owner has failed to pay a toll or
133 penalty imposed for a tollway violation involving the motor vehicle for which registration
134 renewal has been requested.

135 (3) (a) Except as provided under Subsection (3)(d), the department or other entity may
136 not establish or operate a tollway on an existing state highway, except as approved by the
137 commission and the Legislature.

138 (b) Between sessions of the Legislature, a state tollway may be designated or deleted if:
139 (i) approved by the commission in accordance with the standards made under this
140 section; and
141 (ii) the tollways are submitted to the Legislature in the next year for legislative
142 approval or disapproval.

143 (c) In conjunction with a proposal submitted under Subsection (3)(b)(ii), the
144 department shall provide a description of the tollway project, projected traffic, the anticipated
145 amount of tolls to be charged, and projected toll revenue.

146 (d) If approved by the commission, the department may:
147 (i) establish high occupancy toll lanes on existing state highways; and
148 (ii) establish tollways on new state highways or additional capacity lanes.

149 (4) (a) For a tollway established under this section, the department may:
150 (i) according to the terms of each tollway, impose the toll upon the primary owner of a
151 motor vehicle using the tollway in violation of the terms of the tollway;

152 (ii) send correspondence to the primary owner of the motor vehicle to inform the
153 primary owner of the unpaid toll;

154 (iii) require that the primary owner of the motor vehicle pay the toll within 30 days of
155 the date when the department sends written notice of the violation to the primary owner; and

156 (iv) impose a penalty for failure to pay a toll timely.

157 (b) The department shall mail the correspondence and notice described in Subsection
158 (4)(a) to primary owner of the motor vehicle operated in violation of the terms of a tollway.

159 (5) (a) The Division of Motor Vehicles and the department shall share and provide
160 access to information pertaining to a motor vehicle and tollway enforcement including:

161 (i) registration and ownership information pertaining to a motor vehicle; and

162 (ii) information regarding the failure of a primary motor vehicle owner to timely pay a
163 toll or penalty imposed under this section.

164 (b) If the department requests a hold on registration in accordance with this section, the
165 Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41,
166 Chapter 1a, Part 2, Registration, if the primary owner of the motor vehicle has failed to pay a
167 toll or penalty imposed under this section for a tollway violation involving the motor vehicle
168 for which registration renewal has been requested.

169 ~~[(4)]~~ (6) (a) Except as provided in Subsection ~~[(4)]~~ (6)(b), in accordance with Title
170 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall:

171 (i) set the amount of any toll imposed or collected on a tollway on a state highway; and

172 (ii) for tolls established under Subsection ~~[(4)]~~ (6)(b), set:

173 (A) an increase in a toll rate or user fee above an increase specified in a tollway
174 development agreement; or

175 (B) an increase in a toll rate or user fee above a maximum toll rate specified in a
176 tollway development agreement.

177 (b) A toll or user fee and an increase to a toll or user fee imposed or collected on a
178 tollway on a state highway that is the subject of a tollway development agreement shall be set
179 in the tollway development agreement.

180 ~~[(5)]~~ (7) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
181 Act, the department shall make rules:

182 (i) necessary to establish and operate tollways on state highways; ~~[and]~~

183 (ii) that establish standards and specifications for automatic tolling systems and
184 automatic tollway monitoring technology; and

185 (iii) to set the amount of a penalty for failure to pay a toll under this section.

186 (b) The rules shall:

187 (i) include minimum criteria for having a tollway; and

188 (ii) conform to regional and national standards for automatic tolling.

189 ~~[(6)]~~ (8) (a) The commission may provide funds for public or private tollway pilot
190 projects or high occupancy toll lanes from General Fund money appropriated by the Legislature
191 to the commission for that purpose.

192 (b) The commission may determine priorities and funding levels for tollways
193 designated under this section.

194 ~~[(7)]~~ (9) (a) Except as provided in Subsection ~~[(7)]~~ (9)(b), all revenue generated from a
195 tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created
196 in Section [72-2-120](#) and used for acquisition of right-of-way and the design, construction,
197 reconstruction, operation, maintenance, enforcement of transportation facilities, and other
198 facilities used exclusively for the operation of a tollway facility within the corridor served by
199 the tollway.

200 (b) Revenue generated from a tollway that is the subject of a tollway development
201 agreement shall be deposited into the Tollway Special Revenue Fund and used in accordance
202 with Subsection ~~[(7)]~~ (9)(a) unless:

203 (i) the revenue is to a private entity through the tollway development agreement; or

204 (ii) the revenue is identified for a different purpose under the tollway development
205 agreement.

206 (10) Photographic or video data described in Subsection (2)(e)(ii) obtained for the
207 purposes of this section:

208 (a) in accordance with Section [63G-2-305](#), is a protected record under Title 63G,
209 Chapter 2, Government Records Access and Management Act, if the photographic or video
210 data is maintained by a governmental entity;

211 (b) may not be used or shared for any purpose other than the purposes described in this
212 section;

213 (c) may only be preserved:

- 214 (i) so long as necessary to collect the payment of a toll or penalty imposed in
- 215 accordance with this section; or
- 216 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
- 217 equivalent federal warrant; and
- 218 (d) may only be disclosed:
- 219 (i) in accordance with the disclosure requirements for a protected record under Section
- 220 [63G-2-202](#); or
- 221 (ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an
- 222 equivalent federal warrant.
- 223 (11) (a) The department may not sell for any purpose photographic or video data
- 224 captured under Subsection (2)(e)(ii).
- 225 (b) The department may not share captured photographic or video data for a purpose
- 226 not authorized under this section.

Legislative Review Note
Office of Legislative Research and General Counsel