

## SB0071S01 compared with SB0071

{deleted text} shows text that was in SB0071 but was deleted in SB0071S01.

Inserted text shows text that was not in SB0071 but was inserted into SB0071S01.

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Senator Wayne L. Niederhauser proposes the following substitute bill:

### ROAD TOLLS PROVISIONS

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne L. Niederhauser**

House Sponsor: \_\_\_\_\_

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#### 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;

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- ▶ 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:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

- (1) Except as otherwise provided, before registration of a vehicle, an owner shall:
- (a) obtain an identification number inspection under Section 41-1a-204;
  - (b) obtain a certificate of emissions inspection, if required in the current year, as provided under Section 41-6a-1642;
  - (c) pay property taxes, the in lieu fee, or receive a property tax clearance under Section 41-1a-206 or 41-1a-207;
  - (d) pay the automobile driver education tax required by Section 41-1a-208;
  - (e) pay the applicable registration fee under Part 12, Fee and Tax Requirements;
  - (f) pay the uninsured motorist identification fee under Section 41-1a-1218, if applicable;

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- (g) pay the motor carrier fee under Section 41-1a-1219, if applicable;
- (h) pay any applicable local emissions compliance fee under Section 41-1a-1223; and
- (i) pay the taxes applicable under Title 59, Chapter 12, Sales and Use Tax Act.

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

(3) The division may not issue a new registration, transfer of ownership, or registration renewal under Section 73-18-7 for a vessel or outboard motor that is subject to this chapter unless a certificate of title has been or is in the process of being issued in the same owner's name.

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

(5) The division may not issue a registration renewal for a motor vehicle if the ~~owner of the motor vehicle has failed to pay a toll or penalty imposed under~~ division has received a hold request as described in Section 72-6-118 involving the motor vehicle for which a registration renewal has been requested.

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

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

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

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

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

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

(i) a preservation request under Section 41-6a-2005;

(ii) a disclosure order under Subsection 41-6a-2005(2); or

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

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(d) may only be disclosed:

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

(ii) pursuant to a disclosure order under Subsection 41-6a-2005(2); or

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

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

(b) A governmental entity that is authorized to use an automatic license plate reader system under this part may not share captured plate data for a purpose not authorized under Subsection 41-6a-2003(2).

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

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

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

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

(1) As used in this section:

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

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

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

(d) (i) "Tollway" means a highway, highway lane, bridge, path, tunnel, or right-of-way designed and used as a transportation route that is constructed, operated, or maintained through

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the use of toll revenues.

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

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

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

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

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

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

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

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

(i) license plate reading technology; and

(ii) photographic or video recording technology; and

(f) in accordance with Subsection (5), request that the Division of Motor Vehicles deny a request for registration of a motor vehicle if the {primary}motor vehicle owner has failed to pay a toll or penalty imposed for usage of a tollway{violation} involving the motor vehicle for which registration renewal has been requested.

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

(b) Between sessions of the Legislature, a state tollway may be designated or deleted if:

(i) approved by the commission in accordance with the standards made under this section; and

(ii) the tollways are submitted to the Legislature in the next year for legislative approval or disapproval.

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

(d) If approved by the commission, the department may:

- (i) establish high occupancy toll lanes on existing state highways; and
- (ii) establish tollways on new state highways or additional capacity lanes.

(4) (a) For a tollway established under this section, the department may:

(i) according to the terms of each tollway, impose the toll upon the {primary} owner of a motor vehicle using the tollway ~~{in violation of}~~ according to the terms of the tollway;

(ii) send correspondence to the {primary} owner of the motor vehicle to inform the {primary} owner of ~~{ the unpaid toll};~~

(A) an unpaid toll and the amount of the toll;

(B) the possibility of a penalty for failure to pay the toll timely; and

(C) the possibility of a hold being placed on the owner's registration for the motor vehicle if the toll and penalty are not paid timely;

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

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

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

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

(i) registration and ownership information pertaining to a motor vehicle; ~~{ and}~~

(ii) information regarding the failure of a {primary} motor vehicle owner to timely pay a toll or penalty imposed under this section ~~{.};~~ and

(iii) the status of a request for a hold on the registration of a motor vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, if the {primary} owner of the motor vehicle has failed to

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pay a toll or penalty imposed under this section for ~~usage of~~ a tollway ~~(violation)~~ involving the motor vehicle for which registration renewal has been requested ~~until the department withdraws the hold request.~~

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

- (i) set the amount of any toll imposed or collected on a tollway on a state highway; and
- (ii) for tolls established under Subsection ~~[(4)] (6)~~(b), set:

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

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

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

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

- (i) necessary to establish and operate tollways on state highways; ~~[and]~~
- (ii) that establish standards and specifications for automatic tolling systems and

automatic tollway monitoring technology; and

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

(b) The rules shall:

- (i) include minimum criteria for having a tollway; and
- (ii) conform to regional and national standards for automatic tolling.

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

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

~~[(7)] (9)~~ (a) Except as provided in Subsection ~~[(7)] (9)~~(b), all revenue generated from a tollway on a state highway shall be deposited into the Tollway Special Revenue Fund created in Section 72-2-120 and used for acquisition of right-of-way and the design, construction,

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reconstruction, operation, maintenance, enforcement of transportation facilities, and other facilities used exclusively for the operation of a tollway facility within the corridor served by the tollway.

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

(i) the revenue is to a private entity through the tollway development agreement; or  
(ii) the revenue is identified for a different purpose under the tollway development agreement.

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

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

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

(c) may only be preserved:

(i) so long as necessary to collect the payment of a toll or penalty imposed in accordance with this section; or

(ii) pursuant to a warrant issued under the Utah Rules of Criminal Procedure or an equivalent federal warrant; and

(d) may only be disclosed:

(i) in accordance with the disclosure requirements for a protected record under Section 63G-2-202; or

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

(11) (a) The department may not sell for any purpose photographic or video data captured under Subsection (2)(e)(ii).

(b) The department may not share captured photographic or video data for a purpose not authorized under this section.

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~