

SECRETARY OF STATE TOLLING ENFORCEMENT PROGRAM

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<http://www.house.mi.gov/hfa>

House Bill 5733 as introduced

Sponsor: Rep. Tyrone Carter

Committee: Transportation, Mobility and Infrastructure

Revised 5-21-24

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 which SOS would enter into an agreement, with and at the request of public or private toll bridge or tunnel operators that use an automatic tolling system, to exchange information about unpaid tolls and to assist in collection enforcement. Among other things, the agreement would have to include dispute resolution procedures and provisions under which 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 six unpaid tolls for more than 90 days after being notified. The bill also would allow 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 SOS, upon appropriation of funds for the purpose, to implement a tolling enforcement program as described below. Under the program, at the request of an *operator*, SOS would have to negotiate with the operator and enter into a tolling enforcement agreement to aid in collecting unpaid *tolls*. The agreement would have to provide for all of the following:

- A method for determining the registered owner of a vehicle for which an individual failed to pay a toll.
- The form of a notice of unpaid toll to be sent to such an individual.
- The service fee SOS could charge the operator for providing services under the tolling enforcement 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 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.
 - 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 an 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 the registration and distribution of *toll devices*.

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.

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 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, an operator could notify SOS of the failure to pay on a form determined by SOS. Upon receiving notice, 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 (defined by the bill as the individual responsible for paying the toll).

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

- The individual pays all unpaid tolls due to the operator.
- The dispute resolution process required by the tolling enforcement agreement results in a final determination of any of the following:
 - A toll was paid in full.
 - The amount of the toll is incorrect.
 - The individual named in the notice of unpaid toll is not the individual to whom the vehicle is registered.

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 issue or transfer based on the notice of unpaid tolls.

Other enforcement agreement provisions

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

The remedies available to an 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 an operator, 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 of a *state* other than Michigan.

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 a state other than Michigan, 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 tolling entity that imposed the tolls.

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

- The state 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 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 tolling entity by mail, telephone, electronic means, or other means to invoke rights of due process without having to appear personally in the state where the nonpayment is alleged to have occurred.
- SOS may charge the state 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, 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.

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.

The Department of State reports that the Department of Transportation does not intend for the state's public toll bridges, which include the Mackinac Bridge, the Blue Water Bridge, and the Sault Ste. Marie International Bridge, to use all-automated tolling. The toll operators that the bill would apply to would then be the Ambassador Bridge and the Liberty and Independence Bridges in Bay City.

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■ 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.