

1 HB421
2 183754-1
3 By Representatives McMillan and Davis
4 RFD: Transportation, Utilities and Infrastructure
5 First Read: 16-MAR-17

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8 SYNOPSIS: This bill would provide for electronic
9 assessment and collection of tolls. The tolls would
10 be assessed either to an account holder with the
11 toll entity or through the transmission of license
12 plate information by a photo-monitoring system. The
13 registered vehicle owner or an operator could be
14 assessed with payment for a toll violation plus
15 administrative fees which would increase if the
16 toll is not paid. If a judgment is rendered, the
17 registered owner's driver's license and motor
18 vehicle registration would be suspended.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to toll roads and bridges; to add Article 6
25 to Chapter 2 of Title 23, Code of Alabama 1975, to provide for
26 the use of electronic systems for the assessment and
27 collection of tolls; to provide for the assessment of a toll

1 violation against the operator and the registered owner of
2 vehicles; to provide for judgments; to provide for the
3 suspension of a registered owner's driver's license or motor
4 vehicle registration under certain conditions; and to repeal
5 Section 23-2-163, Code of Alabama 1975.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Article 6 is added to Chapter 2 of Title
8 23, Code of Alabama 1975, to read as follows:

9 Chapter 2.

10 Article 6. Electronic Toll Collection Act.

11 §23-2-165. Short title.

12 This article shall be known as the Electronic Toll
13 Collection Act.

14 §23-2-166. Intent and purpose of Article.

15 The purpose of this article is to facilitate
16 vehicular traffic and safety in the state by providing for the
17 electronic collection of tolls.

18 §23-2-167. Definitions

19 As used in this article, the following words shall
20 have the following meanings:

21 (1) AUTHORITY. The Alabama Toll Road, Bridge and
22 Tunnel Authority, as defined in Section 23-2-142.

23 (2) DEPARTMENT. The Department of Transportation.

24 (3) ELECTRONIC TOLL COLLECTION. A method of
25 collecting tolls or charges which is capable of charging an
26 account holder the appropriate toll or charge including, but
27 not limited to, either of the following:

1 a. The transmission of information from an
2 electronic device on a motor vehicle to the toll system, which
3 information is used to charge the account the appropriate toll
4 or charge.

5 b. The transmission of license plate information
6 from a photo-monitoring system to the toll system, which
7 information is used to charge the account the appropriate toll
8 or charge.

9 (4) ELECTRONIC TRANSMISSION. Any process of
10 communication not directly involving the physical transfer of
11 paper that is suitable for the retention, retrieval, and
12 reproduction of information by the recipient.

13 (5) LESSOR. Any person, corporation, firm,
14 partnership, agency, association, or organization renting or
15 leasing vehicles to a lessee under a rental agreement, lease,
16 or otherwise wherein the lessee has the exclusive use of the
17 vehicle for any period of time.

18 (6) LESSEE. Any person, corporation, firm,
19 partnership, agency, association, or organization that rents,
20 leases, or contracts for the use of one or more vehicles and
21 has exclusive use of the vehicles for any period of time.

22 (7) OPERATOR. Any person who is or was driving a
23 vehicle that is or was the subject of a toll violation, but
24 who is not the owner of the vehicle.

25 (8) OWNER. Any person or entity who, at the time of
26 a toll violation and with respect to the vehicle involved in
27 the violation, is the registrant or coregistrant of the

1 vehicle with the Motor Vehicle Division, of the Department of
2 Revenue, or with another state, territory, district, province,
3 nation, or jurisdiction.

4 (9) PAYMENT. Paying a toll by cash, by permitting a
5 charge against a valid account with the authority, department,
6 or private toll entity, or by any other means of payment
7 approved by the authority, department, or private toll entity.

8 (10) PHOTO-MONITORING SYSTEM. A vehicle sensor
9 installed to work in conjunction with a toll collection
10 facility which automatically produces one or more photographs,
11 one or more microphotographs, a videotape, or other recorded
12 images of a vehicle at the time it passes through a toll
13 collection point. Information obtained by a photo-monitoring
14 system may be used to charge the account of an account holder
15 or to identify violations of toll collection regulations.

16 (11) PRIVATE TOLL ENTITY. An individual, group of
17 individuals, partnership, corporation, limited liability
18 company, association, or any other legal entity licensed
19 pursuant to Section 23-1-81 or Section 23-2-144(12), to
20 operate toll collection facilities.

21 (12) TOLL. Charges prescribed by the authority,
22 department, or private toll entity for the use of any toll
23 road, bridge, causeway or tunnel under the jurisdiction of the
24 authority or department or under the ownership or operation of
25 a private toll entity.

1 (13) TOLL VIOLATION. The passage of a vehicle
2 through a toll collection point without payment of the
3 required toll.

4 (14) VEHICLE. Any motor-propelled device in, upon,
5 or by which any person or property is transported or drawn
6 upon a road or highway, except devices used exclusively upon
7 stationary rails or tracks.

8 §23-2-168. Electronic toll collection.

9 (a) The authority, department, private toll entity,
10 or their agent or representative may collect a toll fee by
11 utilizing a system of collection that is capable of charging
12 an account holder the required toll fee by transmission of
13 information from an electronic toll collection device on a
14 motor vehicle. In addition, for any motor vehicle that does
15 not use an electronic toll collection device, the authority,
16 department, private toll entity, or their agent or
17 representative may utilize a photo-monitoring or other
18 electronic system for toll fee collection.

19 (b) Any person or entity desiring to pay tolls
20 electronically shall apply to the authority, department,
21 private toll entity, or their agent or representative to
22 become an account holder. The authority, department, private
23 toll entity, or their agent or representative, in their
24 discretion, may deny the application of a person or entity.
25 The denial and reason therefor shall be sent to the applicant
26 by first-class mail or electronic transmission.

1 (c) A person or entity whose application is accepted
2 shall execute an account holder's agreement. The terms of the
3 account holder's agreement shall be established by the
4 authority, department, private toll entity, or their agent or
5 representative.

6 (d) If a motor vehicle passes through a toll
7 collection point and the toll fee is not paid through an
8 electronic toll collection device or otherwise, the authority,
9 department, private toll entity, or their agent or
10 representative shall first use the photo-monitoring or other
11 electronic system for the toll road, bridge, causeway, or
12 tunnel to determine if the registered owner of the motor
13 vehicle has established an account for the payment of the
14 toll. If an account has been established, the authority,
15 department, private toll entity, or their agent or
16 representative shall charge the account holder the required
17 toll fee. If an established account cannot be located, or if
18 an established account cannot be charged the required toll,
19 the authority, department, private toll entity, or agent or
20 representative may attempt to collect the toll as provided in
21 Section 23-2-169.

22 §23-2-169. Use of toll collection facility without
23 payment; collection.

24 (a) The owner and operator of a vehicle driven on a
25 toll road, bridge, causeway, or tunnel and through a toll
26 collection point without payment of the required toll is
27 jointly and severally liable to the authority, department, or

1 private toll entity to pay the required toll, administrative
2 fees, and civil penalty as provided in this article. The
3 authority, department, or private toll entity or their agent
4 or representative may pursue collection of the required toll
5 as provided for in this article.

6 (b) A certified written report or a facsimile
7 thereof, sworn to or affirmed by the authority, department,
8 private toll entity, or their agent or representative that a
9 toll violation has occurred, based upon inspection of
10 photographs, microphotographs, videotape, or other recorded
11 images produced by a photo or other monitoring system, is
12 prima facie evidence of the violation and is admissible as
13 evidence in any proceeding charging a toll violation pursuant
14 to this article.

15 (c) Upon receipt of a certified written statement
16 from the department, authority, or private toll entity
17 referencing the license plate registration number of a vehicle
18 involved in a toll violation, the Motor Vehicle Division of
19 the Department of Revenue, shall provide the authority,
20 department, or private toll entity with the name and address
21 of the registered owner of the subject vehicle.

22 (d) If a vehicle passes through a toll collection
23 point without payment of the required toll and no account is
24 available to which a charge may be applied, the authority,
25 department, private toll entity, or their agent or
26 representative shall send by first-class mail or electronic
27 transmission:

1 (1) A "First Notice to Pay Toll" to the registered
2 owner of a vehicle which is identified as having been involved
3 in a toll violation. The first notice shall require payment to
4 the authority, department, or private toll entity of the
5 required toll plus an administrative fee not to exceed
6 twenty-five dollars (\$25) as set by the authority, department,
7 or private toll entity within 30 days of the mailing or
8 electronic transmission of the notice.

9 (2) A "Second Notice to Pay Toll" to the registered
10 owner of a vehicle who has failed to respond to a "First
11 Notice to Pay Toll" within the required time period. The
12 second notice shall require payment to the authority,
13 department, or private toll entity of the required toll, plus
14 an administrative fee not to exceed fifty dollars (\$50) as set
15 by the authority, department, or private toll entity within 30
16 days of the mailing or electronic transmission of the notice.

17 (3) A "Failure to Pay a Toll" citation to the owner
18 or operator of a vehicle who has failed to respond to the
19 second notice within the required time period. The citation
20 shall require payment to the authority, department, or private
21 toll entity of the required toll, plus an administrative fee
22 not to exceed one hundred dollars (\$100) as set by the
23 authority, department, or private toll entity within 30 days
24 of the mailing or electronic transmission of the notice of
25 citation. The owner or operator shall be notified that failure
26 to pay the citation within the required time period may result
27 in the authority, department, private toll entity, or their

1 agent or representative filing a civil suit in the municipal
2 court of the city in which the violation has occurred or
3 district court of the county in which the violation occurred
4 to collect the toll and all applicable fees and penalties
5 allowed pursuant to this article.

6 (e) Administrative fees assessed under subsection
7 (d) are not cumulative. The maximum aggregate administrative
8 fee allowed increases from twenty-five dollars (\$25) to fifty
9 dollars (\$50) to one hundred dollars (\$100) with each notice
10 issued.

11 (f) The notices and citation required by this
12 subsection shall also contain the following information:

13 (1) The name and address of the person or entity
14 alleged to be liable for a failure to pay a toll pursuant to
15 this section.

16 (2) The license plate registration number of the
17 vehicle involved in the toll violation.

18 (3) The location where the toll violation occurred.

19 (4) The date and time of the toll violation.

20 (5) The identification of the photo or other
21 monitoring system which recorded the violation or other
22 document locator.

23 (6) Information advising of the manner and time in
24 which liability may be contested.

25 (7) Notice that failure to contest liability in the
26 manner and time provided in this section is an admission of
27 liability.

1 (8) Notice that failure to pay a toll and any
2 applicable fees may result in the suspension of driver's
3 license and vehicle registration.

4 (g) A manual, automatic, or electronic record of the
5 mailing or transmission of the notices or citation prepared in
6 the ordinary course of business is prima facie evidence of the
7 mailing or transmission of the notices or citation.

8 §23-2-170. Civil liability for toll violations.

9 (a) The authority, department, private toll entity,
10 or their agent or representative may file a civil suit in the
11 municipal court of the city in which the violation has
12 occurred or district court of the county in which the
13 violation occurred to collect the toll and all applicable fees
14 after a citation has been issued and the required time period
15 for response has elapsed, without the payment of filing fees.
16 The action shall be governed by the Alabama Rules of Civil
17 Procedure except as otherwise set out in this article.

18 (b) Actions brought pursuant to this article shall
19 be commenced within six years.

20 (c) Imposition of liability pursuant to this section
21 shall be based upon a preponderance of evidence submitted.

22 (d) Adjudication of liability shall not be made a
23 part of the driving record of the person upon whom liability
24 is imposed, nor shall it be considered in any manner for
25 insurance purposes in the provision of motor vehicle insurance
26 coverage.

27 §23-2-171. Defense against liability.

1 The owner of the motor vehicle involved in the
2 violation is responsible and liable for payment of a citation
3 issued for failure to pay a toll, unless:

4 (1) The owner can establish that the motor vehicle
5 was stolen at the time of the violation. In order to establish
6 such facts, the owner of the motor vehicle is required to
7 furnish the court with a police report indicating that the
8 vehicle was stolen at the time of the alleged violation.

9 (2) If the motor vehicle involved in the violation
10 is leased to another person or entity, the lessor is not
11 liable for the violation if the lessor sends to the authority,
12 department, private toll entity, or their agent or
13 representative, within the time provided for response by the
14 notice or citation, as applicable, a copy of the rental,
15 lease, or another contract document covering the vehicle on
16 the date of the violation, with the name and address of the
17 lessee clearly legible, within the time provided for response
18 by the notice or citation. Failure to send the information
19 within the time provided renders the lessor liable for the
20 unpaid tolls and any administrative fees or penalties assessed
21 pursuant to and in the manner as provided in this article. If
22 the lessor complies with the provisions of this section, the
23 lessee of the vehicle on the date of the violation is subject
24 to liability for the failure to pay the toll if the authority,
25 department, private toll entity, or their agent or
26 representative mails a notice of liability to the lessee as

1 provided in this article after receipt of a copy of the
2 rental, lease, or other contract document.

3 §23-2-172. Enforcement of judgments.

4 (a) If a municipal or district court determines that
5 the person or entity charged with liability under this article
6 is liable, the court shall enter a judgment against the person
7 or entity and mail a copy of the judgment thereto. The court
8 shall collect the unpaid tolls and administrative fee. The
9 court may impose court costs and a civil penalty of up to one
10 hundred dollars (\$100) for each violation. Tolls, fees, and
11 penalties shall be forwarded to the entity administering the
12 tolls at the facility where the violation occurred.

13 (b) Upon failure to satisfy a judgment within 60
14 days of its entry and upon the written request of the
15 authority, department, private toll entity, or their agent or
16 representative, it shall be the duty of the clerk of the
17 court, or of the judge of a court which has no clerk in which
18 the judgment is rendered within this state, to forward a
19 certified copy of the judgment to the Secretary of the Alabama
20 State Law Enforcement Agency or his or her designee after the
21 expiration of the 60 days.

22 (c) The Secretary of the Alabama State Law
23 Enforcement Agency or his or her designee, upon the receipt of
24 a certified copy of a judgment, shall suspend the license and
25 vehicle registration of any resident and the operating
26 privilege, as defined in section 32-7-2(6) of any nonresident,
27 against whom judgment was rendered.

1 (d) The resident's license and vehicle registration,
2 and the nonresident's operating privilege shall remain
3 suspended until the judgment is satisfied and evidence of its
4 satisfaction has been presented to the Alabama State Law
5 Enforcement Agency and the Motor Vehicle Division of the
6 Department of Revenue.

7 (e) When a nonresident's operating privilege is
8 suspended pursuant to this section, the Secretary of the
9 Alabama State Law Enforcement Agency or his or her designee
10 shall transmit a certified copy of the record of such action
11 to the official in charge of the issuance of licenses and
12 registration certificates in the state in which such
13 nonresident resides, if the law of such other state provides
14 for action in relation thereto similar to that provided for in
15 this section.

16 (f) Any person seeking reinstatement of a driving
17 license suspended pursuant to this section shall also comply
18 with the requirements provided in Section 32-6-17.

19 §23-2-173. Reciprocal agreements - Other states or
20 jurisdictions.

21 (a) The Department of Transportation is hereby
22 empowered to enter into agreements, when not in conflict with
23 law, with other states or jurisdictions for reciprocal
24 enforcement of toll violations.

25 (b) An agreement made under this section shall
26 provide that drivers and vehicles licensed in the state, while
27 operating on the highways of another jurisdiction, shall

1 receive benefits, privileges, and exemptions of a similar kind
2 with regard to toll enforcement as are extended to drivers and
3 vehicles licensed or registered in the other jurisdiction
4 while operated in the state.

5 (c) A reciprocal agreement under this section may
6 provide for enforcement of toll violations by refusal or
7 suspension of the license or registration of a motor vehicle
8 in accordance with Section 23-2-172.

9 (d) The reciprocal violation enforcement agreement
10 between the department and the governmental entity of another
11 state or jurisdiction shall agree upon fees and costs
12 associated with collecting unpaid tolls and placing vehicle
13 registration holds in their respective jurisdictions.

14 §23-2-174. Privacy.

15 (a) The authority, department, private toll entity,
16 or their agent or representative shall not sell, distribute,
17 or make available the names and addresses of electronic toll
18 collection system account holders, without the account
19 holder's consent, to any entity that uses the information for
20 commercial purposes. However, this restriction does not
21 preclude the exchange of this information between entities
22 with jurisdiction of or operating a toll road, bridge,
23 causeway, or tunnel, or entities with which there exists a
24 reciprocal toll enforcement agreement.

25 (b) Records identifying a specific instance of
26 travel by a specific person or vehicle shall be used only as
27 required to ensure payment and enforcement of tolls, except

1 that such information may be used by state, county, or
2 municipal law enforcement agencies for the comparison of
3 captured license plate data with data held by the Department
4 of Revenue, the Alabama Criminal Justice Information Center,
5 the National Crime Information Center, and the Federal Bureau
6 of Investigation Kidnappings and Missing Persons list, for the
7 purpose of identifying any of the following:

8 (1) A stolen vehicle or stolen license plate.

9 (2) A vehicle registered to an individual for whom
10 there is an outstanding default or arrest warrant for felony
11 charges appearing in the Alabama Warrant Management System, or
12 outstanding warrants for felony charges issued in another
13 jurisdiction.

14 (3) A vehicle associated with a missing person.

15 (c) Information or data collected by the authority,
16 department, private toll entity, or their agent or
17 representative, for the purpose of establishing and monitoring
18 electronic toll collection accounts, is not subject to
19 disclosure under the Open Records Act, Section 36-12-40.

20 §23-2-175. Exemptions.

21 The following vehicles are exempt from paying tolls
22 imposed pursuant to this article:

23 (1) School buses transporting school children for a
24 school event.

25 (2) Emergency and law enforcement vehicles while
26 actively engaged.

1 (3) Vehicles deemed exempt for a specific toll
2 facility by the entity administering tolls.

3 Section 2. All laws or parts of laws which conflict
4 with this act are repealed, including but not limited to,
5 Section 23-2-163.

6 Section 3. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.