

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1873

S.P. 687

In Senate, February 15, 1994

An Act to Facilitate Collection of Tolls on the Maine Turnpike.

Submitted by the Maine Turnpike Authority pursuant to Joint Rule 24.
Reference to the Committee on Transportation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland.
Cosponsored by Senators: CONLEY of Cumberland, GOULD of Waldo, PARADIS of
Aroostook, Representatives: BAILEY of Township 27, BAILEY of Farmington, DRISCOLL of
Calais, HUSSEY of Milo, MELENDY of Rockland, OTT of York, PLOURDE of Biddeford,
RICKER of Lewiston, STROUT of Corinth.

Be it enacted by the People of the State of Maine as follows:

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4 Sec. 1. 23 MRSA §1973, sub-§3, as enacted by PL 1981, c. 595,
§3, is amended to read:

6 3. Tolls. Tolls, or the fixing of tolls, shall ~~is~~ is not be
8 considered rulemaking and shall ~~is~~ is not be subject to supervision
10 or regulation by any state commission, board or agency. Subject
12 to subsection 4, the authority may fix and revise from time to
14 time tolls for the use of the turnpike and the different parts or
16 sections ~~thereof~~ of the turnpike, and charge and collect the
tolls, and contract with any person, partnership, association or
corporation desiring the use of any part ~~thereof~~ of the turnpike,
including the right-of-way adjoining the paved portion. The
tolls shall be so fixed and adjusted as to provide a fund at
least sufficient with other revenues of the turnpike, if any, to
pay for each fiscal year:

18 A. The cost of maintaining, repairing and operating the
20 turnpike, and providing and maintaining reasonable reserves
therefor for those costs;

22 B. The bonds and the interest ~~thereon~~ on those bonds, and
24 all sinking fund requirements, and other requirements
26 provided by the resolution authorizing issuance of the bonds
or by the trust indenture or loan or a security agreement as
28 they those bonds, interest, sinking fund requirements and
other requirements shall become due;

30 C. Those sums for the purpose of maintaining, constructing
or reconstructing access roads or portions ~~thereof~~ of access
32 roads as shall have been requested by the department and as
34 in the sole discretion of the authority are from time to
time determined ~~in subsection 4~~, to warrant the expenditure
36 to of turnpike revenues; and

38 D. The cost of maintaining, constructing or reconstructing
interchanges.

40 The authority may use any method for assessing and collecting
42 tolls, including but not limited to toll tickets, barrier toll
44 facilities, billing accounts, commuter passes and electronic
46 recording or identification devices. The display of a recording
48 or identification device issued or authorized by the authority
for these purposes on or near the windshield of a motor vehicle
is not a violation of a law or rule, including but not limited to
Title 29, sections 1369, 1369-A and 1370, unless the device is
attached in a way that obstructs the driver's clear view of the
highway or an intersecting highway.

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3 **Sec. 2. 23 MRSA §1980, sub-§§2-A and 2-B** are enacted to read:

4 2-A. Toll violations. The registered owner's liability for
5 toll violations is as follows.

6 A. If an operator of a vehicle fails to pay a toll, the
7 registered owner of that vehicle is liable for payment of
8 the toll. If the registered owner fails to pay the toll,
9 the registered owner is subject to a civil penalty as
10 follows:

11 (1) Fifty dollars, except as provided in subparagraph
12 (2) or (3);

13 (2) One hundred dollars, if a failure to pay occurs
14 within 18 months of a prior failure to pay; or

15 (3) One hundred fifty dollars, if a failure to pay
16 occurs within 18 months of 2 or more prior failures to
17 pay.

18 B. As used in this subsection, unless the context otherwise
19 indicates, the following terms have the following meanings.

20 (1) "Electronic toll collection system" means a system
21 of collecting tolls or charges that is capable of
22 charging an account holder for the appropriate toll by
23 transmission of information between a device on a motor
24 vehicle and a toll collection facility.

25 (2) "Pay" means paying a toll by cash, by permitting a
26 charge against a valid account with the authority or by
27 another means of payment approved by the authority at
28 the time.

29 (3) "Photo-monitoring system" means a motor vehicle
30 sensor installed to work in conjunction with a toll
31 collection facility that automatically produces a
32 photograph, microphotograph, videotape or other
33 recorded image of a motor vehicle when the operator of
34 the motor vehicle fails to pay a toll.

35 (4) "Registered owner" means a person in whose name a
36 motor vehicle is registered under the law of a
37 jurisdiction, including a person issued a dealer or
38 transporter registration plate, except as provided in
39 paragraph E, and a person deemed to be a registered
40 owner under the provisions of paragraph E.

2 (5) "Toll" or "tolls" means tolls or charges
3 prescribed by the authority for the use of the turnpike.

4 Definitions of terms included in Title 29, section 1 apply
5 to terms used in this subsection that are not specifically
6 defined in this subsection.

8 C. The following procedures must be taken for the
9 collection of tolls and civil penalties under this
10 subsection.

12 (1) A notice of liability must be sent by first class
13 mail to a person alleged to be liable as a registered
14 owner under this subsection no later than 60 days after
15 the alleged failure to pay. A manual or automatic
16 record of the mailing prepared in the ordinary course
17 of business of the authority is prima facie evidence of
18 the mailing of the notice.

20 (2) A notice of liability must include the name and
21 address of the person alleged to be liable as a
22 registered owner for the failure to pay a toll under
23 this subsection, the amount of the toll not paid, the
24 registration number of the vehicle involved, the toll
25 collection facility at which the failure occurred, the
26 date and time of the failure.

28 (3) A notice of liability must include information
29 advising the person liable under this subsection of the
30 manner and the time in which the liability alleged in
31 the notice may be contested and the statutory defenses
32 described in paragraph E. The notice must also include
33 a warning that failure to contest in the manner and
34 time provided is an admission of liability and a waiver
35 of available defenses, resulting in the entry of a
36 default judgment of liability for the failure to pay
37 and revocation of the registration certificate and
38 plates issued for the vehicle.

40 (4) The authority may collect a toll and a civil
41 penalty that is not paid by a registered owner who is
42 liable under this subsection within 120 days after
43 mailing the notice of liability by civil action
44 commenced in the District Court or Superior Court in
45 the county in which the alleged failure to pay
46 occurred. Adjudication of liability under this
47 subsection is based upon a preponderance of the
48 evidence.

2 D. Except as provided in paragraph E, it is not a defense
4 to liability under this subsection that a registered owner
6 was not operating the motor vehicle at the time of the
8 failure to pay.

10 E. Defenses to liability under this subsection are as
12 follows.

14 (1) If a person other than the registered owner of the
16 motor vehicle is adjudicated criminally or civilly
18 responsible for the failure to pay an authority toll,
20 then the registered owner is not liable under this
22 subsection.

24 (2) If the registered owner is the lessor of motor
26 vehicles and at the time of the failure to pay an
28 authority toll the motor vehicle was in the possession
30 of a lessee and the lessor provides the authority with
32 a copy of the lease agreement containing the
34 information required by Title 29, section 901, then the
36 lessee, and not the lessor, is liable under this
38 subsection.

40 (3) If the motor vehicle is operated using a dealer or
42 transporter registration plate and at the time of the
44 failure to pay the motor vehicle was under the custody
46 or control of a person other than the dealer or
48 transporter, and if the dealer or transporter provides
50 the authority with the name and address of the person
who had custody or control over the motor vehicle at
the time of the failure to pay, then that person and
not the dealer or transporter is liable under this
subsection.

(4) If a report that the motor vehicle was stolen is
given to a law enforcement officer or agency before the
failure to pay occurs or within a reasonable time after
the registered owner becomes aware of the theft, then
the registered owner is not liable under this
subsection.

F. Nothing in this subsection may be construed to limit the
liability of an operator of a motor vehicle for a failure to
pay an authority toll. If a person who is liable for a
failure to pay under this subsection was not the operator of
the motor vehicle at the time of the failure to pay, that
person may maintain an action for indemnification against
the operator to recover all tolls and civil forfeitures or
penalties under this subsection paid by that person.

2 G. If a registered owner does not satisfy a liability under
4 this subsection within 30 days after final adjudication of
6 liability under paragraph C, the authority, in addition to
8 any other method for enforcing the judgment, may immediately
10 notify the Secretary of State. The Secretary of State shall
12 proceed in accordance with Title 29, section 55-B to mail
14 the required 10-day notice and suspend the registration
16 certificate and plates issued for the vehicle involved in
18 the failure to pay. A notice under this paragraph is not
20 effective with respect to a vehicle described in paragraph
22 E, subparagraphs (1) to (4).

24 2-B. Admissibility of photo-monitoring evidence. A
26 photograph, microphotograph, videotape or other recorded image
28 produced by a photo-monitoring device is admissible in a
30 proceeding to collect a toll or other charge of the authority, to
32 collect civil penalties imposed under subsection 2-A or to impose
34 civil or criminal liability for a failure to pay the toll or
36 charge.

38 A. An original or facsimile of a certificate, sworn to or
40 affirmed by an agent of the authority that states that a
42 failure to pay has occurred and states that it is based upon
44 a personal inspection of a photograph, microphotograph,
46 videotape or other recorded image produced by a
48 photo-monitoring system, as defined in subsection 2-A, is
50 prima facie evidence of the facts contained in the
certificate.

B. Notwithstanding any other provision of law, a
photograph, micro-photograph, videotape or other recorded
image prepared for enforcement of authority tolls is for the
exclusive use of the authority in the discharge of its
duties under this section. The material is not available to
the public and, except as provided in this subsection or as
may be necessary to prove a claim for indemnification under
subsection 2-A, paragraph H, may not be used in a court in
an action or proceeding.

Sec. 3. 29 MRSA §55-B, as amended by PL 1989, c. 866, Pt. A,
§1 and Pt. B, §26, is further amended by inserting at the end a
new paragraph to read:

Upon receipt of a notification from the Maine Turnpike
Authority in accordance with Title 23, section 1980, subsection
2-A, the Secretary of State shall promptly mail a notice to the
person liable under that subsection for unpaid turnpike tolls
warning the person that if the amount due to the turnpike
authority is not paid within 10 days from the date of mailing the
notice, suspension of the registration certificate and plates

2 issued for the vehicle in question will result. If the person
3 fails to pay the required amount within 10 days after mailing of
4 the notice, the Secretary of State shall suspend, pursuant to
5 chapter 17, the registration certificate and plates issued for
6 the vehicle in question.

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STATEMENT OF FACT

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This bill will enable the Maine Turnpike Authority to
implement new technologies for the collection of tolls.

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This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.

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