

20101779D

HOUSE BILL NO. 1245

Offered January 8, 2020

Prefiled January 8, 2020

A BILL to amend and reenact §§ 33.2-503 and 46.2-819.1 of the Code of Virginia, relating to toll lane enforcement; Midtown Tunnel and Downtown Tunnel.

Patrons—Jenkins, Rasoul and Samirah; Senator: Spruill

Referred to Committee on Transportation

Be it enacted by the General Assembly of Virginia:

1. That §§ 33.2-503 and 46.2-819.1 of the Code of Virginia are amended and reenacted as follows: § 33.2-503. HOT lanes enforcement.

Any person operating a motor vehicle on designated HOT lanes shall make arrangements with the HOT lanes operator for payment of the required toll prior to entering such HOT lanes. The operator of a vehicle who enters the HOT lanes in an unauthorized vehicle, in violation of the conditions for use of such HOT lanes established pursuant to § 33.2-502, without payment of the required toll or without having made arrangements with the HOT lanes operator for payment of the required toll shall have committed a violation of this section, which may be enforced in the following manner:

1. On a form prescribed by the Supreme Court, a summons for a violation of this section may be executed by a law-enforcement officer, when such violation is observed by such officer. The form shall contain the option for the operator of the vehicle to prepay the unpaid toll and all penalties, administrative fees, and costs.

2. a. A HOT lanes operator shall install and operate, or cause to be installed or operated, a photo-enforcement system at locations where tolls are collected for the use of such HOT lanes.

b. A summons for a violation of this section may be executed when such violation is evidenced by information obtained from a photo-enforcement system as defined in this chapter. A certificate, sworn to or affirmed by a technician employed or authorized by the HOT lanes operator, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-enforcement system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this subdivision 2. Any vehicle rental or vehicle leasing company, if named in a summons, shall be released as a party to the action if it provides to the HOT lanes operator a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a summons shall be issued for the renter or lessee identified therein. Release of this information shall not be deemed a violation of any provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.).

c. On a form prescribed by the Supreme Court, a summons issued under this subdivision 2 may be executed as provided in § 19.2-76.2. Such form shall contain the option for the owner or operator to prepay the unpaid toll and all penalties, administrative fees, and costs. A summons for a violation of this section may set forth multiple violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to the address of the owner or, if the owner has named and provided a valid address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to subdivision e, such named operator of the vehicle. Such summons shall be signed either originally or by electronic signature. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3.

d. No summons may be issued by a HOT lanes operator for a violation of this section unless the HOT lanes operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable administrative fees through debt collection not less than 30 days prior to issuance of the summons and (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have elapsed since the most recent unpaid toll noticed on the summons. For purposes of this subdivision, "debt collection" means the collection of unpaid tolls and applicable administrative fees by (a) retention of a third-party debt collector or (b) collection practices undertaken by employees of a HOT lanes operator that are materially similar to a third-party debt collector.

e. The owner of such vehicle shall be given reasonable notice by way of a summons as provided in

INTRODUCED

HB1245

59 this subdivision 2 that his vehicle had been used in violation of this section, and such owner shall be
60 given notice of the time and place of the hearing and notice of the civil penalty and costs for such
61 offense.

62 It shall be prima facie evidence that the vehicle described in the summons issued pursuant to
63 subdivision 2 was operated in violation of this section. Records obtained from the Department of Motor
64 Vehicles pursuant to § 33.2-504 and certified in accordance with § 46.2-215 or from the equivalent
65 agency in another state and certified as true and correct copies by the head of such agency or his
66 designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner
67 of the vehicle is the person named in the summons.

68 Upon the filing of an affidavit with the court at least 14 days prior to the hearing date by the owner
69 of the vehicle stating that he was not the operator of the vehicle on the date of the violation and
70 providing the legal name and address of the operator of the vehicle at the time of the violation, a
71 summons will also be issued to the alleged operator of the vehicle at the time of the offense. The
72 affidavit shall constitute prima facie evidence that the person named in the affidavit was driving the
73 vehicle at all the relevant times relating to the matter named in the affidavit.

74 If the owner of the vehicle produces a certified copy of a police report showing that the vehicle had
75 been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the
76 time of the alleged offense, then the court shall dismiss the summons issued to the owner of the vehicle.

77 3. a. The HOT lanes operator may impose and collect an administrative fee in addition to the unpaid
78 toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be
79 reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. The
80 operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in a notice or
81 invoice issued by a HOT lanes operator. If paid within 60 days of notification, the administrative fee
82 shall not exceed \$25. The HOT lanes operator shall notify the owner of the vehicle of any unpaid tolls
83 and administrative fees by mailing an invoice pursuant to § 46.2-819.6.

84 b. Upon a finding by a court of competent jurisdiction that the operator of the vehicle observed by a
85 law-enforcement officer under subdivision 1 or the vehicle described in the summons for a violation
86 issued pursuant to evidence obtained by a photo-enforcement system under subdivision 2 was in
87 violation of this section, the court shall impose a civil penalty upon the operator of such vehicle issued
88 a summons under subdivision 1, or upon the operator or owner of such vehicle issued a summons under
89 subdivision 2, payable to the HOT lanes operator as follows: for a first offense, \$50; for a second
90 offense, \$100; for a third offense within a period of two years of the second offense, \$250; and for a
91 fourth and subsequent offense within a period of three years of the second offense, \$500, together with,
92 in each case, the unpaid toll, all accrued administrative fees imposed by the HOT lanes operator as
93 authorized by this section, and applicable court costs. The court shall remand penalties, the unpaid toll,
94 and administrative fees assessed for violation of this section to the treasurer or director of finance of the
95 county or city in which the violation occurred for payment to the HOT lanes operator for expenses
96 associated with operation of the HOT lanes and payments against any bonds or other liens issued as a
97 result of the construction of the HOT lanes. No person shall be subject to prosecution under both
98 subdivisions 1 and 2 for actions arising out of the same transaction or occurrence.

99 c. Notwithstanding subdivisions a and b, for a first conviction of an operator or owner of a vehicle
100 under this section, the total amount for the first conviction shall not exceed \$2,200, including civil
101 penalties and administrative fees regardless of the total number of offenses the operator or owner of a
102 vehicle is convicted of on that date.

103 d. (1) Upon a finding by a court that a resident of the Commonwealth has violated this section, in
104 the event such person fails to pay the required penalties, fees, and costs, the court shall notify the
105 Commissioner of the Department of Motor Vehicles, who shall suspend all of the registration certificates
106 and license plates issued for any motor vehicles registered solely in the name of such person and shall
107 not issue any registration certificate or license plate for any other vehicle that such person seeks to
108 register solely in his name until the court has notified the Commissioner of the Department of Motor
109 Vehicles that such penalties, fees, and costs have been paid. Upon a finding by a court that a
110 nonresident of the Commonwealth has violated this section, in the event that such person fails to pay the
111 required penalties, fees, and costs, the court shall notify the Commissioner of the Department of Motor
112 Vehicles, who shall, when the vehicle is registered in a state with which the Commonwealth has entered
113 into an agreement to enforce tolling violations pursuant to § 46.2-819.9, provide to the entity authorized
114 to issue vehicle registration certificates or license plates in the state in which the vehicle is registered
115 sufficient evidence of the court's finding to take action against the vehicle registration certificate or
116 license plates in accordance with the terms of the agreement, until the court has notified the
117 Commissioner of the Department of Motor Vehicles that such penalties, fees, and costs have been paid.
118 Upon receipt of such notification from the court, the Commissioner of the Department of Motor
119 Vehicles shall notify the state where the vehicle is registered of such payment. The HOT lanes operator
120 and the Commissioner of the Department of Motor Vehicles may enter into an agreement whereby the

121 HOT lanes operator may reimburse the Department of Motor Vehicles for its reasonable costs to
122 develop, implement, and maintain this enforcement mechanism, and that specifies that the Commissioner
123 of the Department of Motor Vehicles shall have an obligation to suspend such registration certificates or
124 to provide notice to such entities in other states so long as the HOT lanes operator makes the required
125 reimbursements in a timely manner in accordance with the agreement. *Any notice sent to the Department
126 of Motor Vehicles pursuant to this subdivision shall include the name of the toll facility at which the
127 violation of this section occurred.*

128 (2) *The Department of Motor Vehicles shall not suspend the registration certificates or license plates
129 or notify any entity authorized to issue vehicle registration certificates or license plates in another state
130 pursuant to subdivision (1) when the violation of this section occurred at the Midtown Tunnel or
131 Downtown Tunnel connecting the Cities of Norfolk and Portsmouth.*

132 e. An action brought under subdivision 1 or 2 shall be commenced within two years of the
133 commission of the offense and shall be considered a traffic infraction. Except as provided in
134 subdivisions 4 and 5, imposition of a civil penalty pursuant to this section shall not be deemed a
135 conviction as an operator of a motor vehicle under Title 46.2 and shall not be made part of the driving
136 record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance
137 purposes in the provision of motor vehicle insurance coverage. The provisions of § 46.2-395 shall not be
138 applicable to any civil penalty, fee, unpaid toll, fine, or cost imposed or ordered paid under this section
139 for a violation of subdivision 1 or 2.

140 4. a. The HOT lanes operator may restrict the usage of the HOT lanes to designated vehicle
141 classifications pursuant to an interim or final comprehensive agreement executed pursuant to § 33.2-1808
142 or 33.2-1809. Notice of any such vehicle classification restrictions shall be provided through the
143 placement of signs or other markers prior to and at all HOT lanes entrances.

144 b. Any person driving an unauthorized vehicle on the designated HOT lanes is guilty of a traffic
145 infraction, which shall not be a moving violation, and shall be punishable as follows: for a first offense,
146 by a fine of \$125; for a second offense within a period of five years from a first offense, by a fine of
147 \$250; for a third offense within a period of five years from a first offense, by a fine of \$500; and for a
148 fourth and subsequent offense within a period of five years from a first offense, by a fine of \$1,000. No
149 person shall be subject to prosecution under both this subdivision and subdivision 1 or 2 for actions
150 arising out of the same transaction or occurrence.

151 Upon a conviction under this subdivision, the court shall furnish to the Commissioner of the
152 Department of Motor Vehicles, in accordance with § 46.2-383, an abstract of the record of such
153 conviction, which shall become a part of the person's driving record. Notwithstanding the provisions of
154 § 46.2-492, no driver demerit points shall be assessed for any violation of this subdivision, except that
155 persons convicted of a second, third, fourth, or subsequent violation within five years of a first offense
156 shall be assessed three demerit points for each such violation.

157 5. The operator of a vehicle who enters the HOT lanes by crossing through any barrier, buffer, or
158 other area separating the HOT lanes from other lanes of travel is guilty of a violation of § 46.2-852,
159 unless the vehicle is a state or local law-enforcement vehicle, firefighting truck, or emergency medical
160 services vehicle used in the performance of its official duties. No person shall be subject to prosecution
161 both under this subdivision and under subdivision 1, 2, or 4 for actions arising out of the same
162 transaction or occurrence.

163 Upon a conviction under this subdivision, the court shall furnish to the Commissioner of the
164 Department of Motor Vehicles in accordance with § 46.2-383 an abstract of the record of such
165 conviction, which shall become a part of the convicted person's driving record.

166 6. No person shall be subject to prosecution both under this section and under § 33.2-501, 46.2-819,
167 or 46.2-819.1 for actions arising out of the same transaction or occurrence.

168 7. Any action under this section shall be brought in the general district court of the county or city in
169 which the violation occurred.

170 **§ 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification**
171 **system in conjunction with electronic or manual toll facilities; penalty.**

172 A. For purposes of this section:

173 "Automatic vehicle identification device" means an electronic device that communicates by wireless
174 transmission with an automatic vehicle identification system.

175 "Automatic vehicle identification system" means an electronic vehicle identification system installed
176 to work in conjunction with a toll collection device that automatically produces an electronic record of
177 each vehicle equipped with an automatic vehicle identification device that uses a toll facility.

178 "Debt collection" means the collection of unpaid tolls and applicable administrative fees by (i)
179 retention of a third-party debt collector or (ii) collection practices undertaken by employees of a toll
180 facility operator that are materially similar to a third-party debt collector.

181 "Operator of a toll facility other than the Department of Transportation" means any agency, political

182 subdivision, authority, or other entity that operates a toll facility.

183 "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles
184 or with the equivalent agency in another state. "Owner" does not include a vehicle rental or vehicle
185 leasing company.

186 "Photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll
187 collection device that automatically produces one or more photographs, one or more microphotographs, a
188 videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this
189 section.

190 B. The operator of any toll facility or the locality within which such toll facility is located may
191 install and operate or cause to be installed and operated a photo-monitoring system or automatic vehicle
192 identification system, or both, at locations where tolls are collected for the use of such toll facility. The
193 operator of a toll facility shall send an invoice or bill for unpaid tolls to the owner of a vehicle as part
194 of an electronic or manual toll collection process pursuant to § 46.2-819.6 prior to seeking remedies
195 under this section.

196 C. Information collected by a photo-monitoring system or automatic vehicle identification system
197 installed and operated pursuant to subsection B shall be limited exclusively to that information that is
198 necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs,
199 microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic
200 vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not (i)
201 be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes; (iii) be
202 disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle
203 owner or operator as part of a challenge to the imposition of a toll; and (iv) be used in a court in a
204 pending action or proceeding unless the action or proceeding relates to a violation of this section or
205 upon order from a court of competent jurisdiction. Information collected under this section shall be
206 purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls,
207 administrative fees, and/or civil penalties. Any entity operating a photo-monitoring system or automatic
208 vehicle identification system shall annually certify compliance with this section and make all records
209 pertaining to such system available for inspection and audit by the Commissioner of Highways or the
210 Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection
211 shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law,
212 any money or other thing of value obtained as a result of a violation of this section shall be forfeited to
213 the Commonwealth.

214 The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll
215 so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably
216 related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee may
217 be levied upon the operator of the vehicle after the first unpaid toll has been documented. The operator
218 of the vehicle shall pay the unpaid toll and any administrative fee detailed in an invoice for the unpaid
219 toll issued by a toll facility operator. If paid within 60 days of notification, the administrative fee shall
220 not exceed \$25.

221 D. If the matter proceeds to court, the owner or operator of a vehicle shall be liable for a civil
222 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,
223 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any
224 subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll,
225 all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the
226 vehicle is found, as evidenced by information obtained from a photo-monitoring system or automatic
227 vehicle identification system as provided in this section, to have used such a toll facility without
228 payment of the required toll.

229 E. Notwithstanding subsections C and D, for a first conviction of an operator or owner of a vehicle
230 under this section, the total amount for the first conviction shall not exceed \$2,200, including civil
231 penalties and administrative fees regardless of the total number of offenses the operator or owner of a
232 vehicle is convicted of on that date.

233 F. No summons may be issued by a toll facility operator for a violation of this section unless the toll
234 facility operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable
235 administrative fees through debt collection not less than 30 days prior to issuance of the summons and
236 (ii) 120 days have elapsed since the unpaid toll or, in a summons for multiple violations, 120 days have
237 elapsed since the most recent unpaid toll noticed on the summons.

238 G. Any action under this section shall be brought in the general district court of the county or city in
239 which the toll facility is located and shall be commenced within two years of the commission of the
240 offense. Such action shall be considered a traffic infraction. The attorney for the Commonwealth may
241 represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility
242 operator acting on behalf of a governmental entity shall be allowed the privileges accorded by
243 § 16.1-88.03 in such cases.

244 H. Proof of a violation of this section shall be evidenced by information obtained from a
 245 photo-monitoring system or automatic vehicle identification system as provided in this section. A
 246 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility
 247 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on
 248 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a
 249 photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,
 250 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,
 251 videotape, or other recorded images or electronic data evidencing such a violation shall be available for
 252 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of
 253 communication by an automatic vehicle identification device with the automatic vehicle identification
 254 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle
 255 identification device was located in the vehicle registered to use such device in the records of the
 256 Department of Transportation.

257 I. On a form prescribed by the Supreme Court, a summons for a violation of this section may be
 258 executed as provided in § 19.2-76.2. A summons for a violation of this section may set forth multiple
 259 violations occurring within one jurisdiction. Notwithstanding the provisions of § 19.2-76, a summons for
 260 a violation of this section may be executed by mailing by first-class mail a copy thereof to the address
 261 of the owner or, if the owner has named and provided a valid address for the operator of the vehicle at
 262 the time of the violation in an affidavit executed pursuant to this subsection, such named operator of the
 263 vehicle. Such summons shall be signed either originally or by electronic signature. If the summoned
 264 person fails to appear on the date of return set out in the summons mailed pursuant to this section, the
 265 summons shall be executed in the manner set out in § 19.2-76.3.

266 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued
 267 pursuant to this subsection was in violation of this section, the court shall impose a civil penalty upon
 268 the owner or operator of such vehicle in accordance with the amounts specified in subsection D,
 269 together with applicable court costs, the operator's administrative fee, and the toll due. Penalties assessed
 270 as the result of action initiated by the Department of Transportation shall be remanded by the clerk of
 271 the court that adjudicated the action to the Department of Transportation's Toll Facilities Revolving
 272 Account. Penalties assessed as the result of action initiated by an operator of a toll facility other than the
 273 Department of Transportation shall be remanded by the clerk of the court that adjudicated the action to
 274 the treasurer or director of finance of the county or city in which the violation occurred for payment to
 275 the toll facility operator.

276 The owner of such vehicle shall be given reasonable notice by way of a summons as provided in this
 277 subsection that his vehicle had been used in violation of this section, and such owner shall be given
 278 notice of the time and place of the hearing as well as the civil penalty and costs for such offense. The
 279 toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a reduced
 280 civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent offense, as
 281 specified on the summons, provided the owner actually pays to the toll facility operator the entire
 282 amount so calculated at least 14 days prior to the hearing date specified on the summons. If the owner
 283 accepts such offer and such amount is actually received by the toll facility operator at least 14 days
 284 prior to the hearing date specified on the summons, the toll facility operator shall move the court at least
 285 five business days prior to the date set for trial to dismiss the summons issued to the owner of the
 286 vehicle, and the court shall dismiss upon such motion.

287 It shall be prima facie evidence that the vehicle described in the summons issued pursuant to this
 288 subsection was operated in violation of this section. Records obtained from the Department of Motor
 289 Vehicles pursuant to § 46.2-208 and certified in accordance with § 46.2-215 or from the equivalent
 290 agency in another state and certified as true and correct copies by the head of such agency or his
 291 designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner
 292 of the vehicle is the person named in the summons.

293 Upon either (i) the filing of an affidavit with the toll facility operator within 14 days of receipt of an
 294 invoice for an unpaid toll from the toll facility operator or (ii) the filing of an affidavit with the court at
 295 least 14 days prior to the hearing date by the owner of the vehicle stating that he was not the operator
 296 of the vehicle on the date of the violation and providing the legal name and address of the operator of
 297 the vehicle at the time of the violation, an invoice and/or summons, as appropriate, will also be issued
 298 to the alleged operator of the vehicle at the time of the offense.

299 In any action against a vehicle operator, an affidavit made by the owner providing the name and
 300 address of the vehicle operator at the time of the violation shall constitute prima facie evidence that the
 301 person named in the affidavit was operating the vehicle at all the relevant times relating to the matter
 302 named in the affidavit.

303 If the owner of the vehicle produces for the toll facility operator or the court a certified copy of a
 304 police report showing that the vehicle had been reported to the police as stolen prior to the time of the

305 alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator
306 shall not pursue the owner for the unpaid toll and, if a summons has been issued, the court shall dismiss
307 the summons issued to the owner of the vehicle.

308 J. 1. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to
309 pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the
310 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of
311 any applicant or the license plate issued for the vehicle driven in the commission of the offense or,
312 when the vehicle is registered in a state with which the Commonwealth has entered into an agreement to
313 enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity authorized to issue
314 vehicle registration certificates or license plates in the state in which the vehicle is registered sufficient
315 evidence of the court's finding to take action against the vehicle registration certificate or license plates
316 in accordance with the terms of the agreement, until the court has notified the Commissioner that such
317 penalties, fees, and unpaid tolls have been paid. Upon receipt of such notification from the court, the
318 Commissioner of the Department of Motor Vehicles shall notify the state where the vehicle is registered
319 of such payment. If it is proven that the vehicle owner was not the operator at the time of the offense
320 and upon a finding by a court that the person identified in an affidavit pursuant to subsection I as the
321 operator violated this section and such person fails to pay the required penalties, fees, and unpaid tolls,
322 the court shall notify the Commissioner, who shall refuse to issue or renew any vehicle registration
323 certificate of any applicant or the license plate issued for any vehicle owned or co-owned by such
324 person or, when such vehicle is registered in a state with which the Commonwealth has entered into an
325 agreement to enforce tolling violations pursuant to § 46.2-819.9, who shall provide to the entity
326 authorized to issue vehicle registration certificates or license plates in the state in which the vehicle is
327 registered sufficient evidence of the court's finding to take action against the vehicle registration
328 certificate or license plates in accordance with the terms of the agreement, until the court has notified
329 the Commissioner that such penalties, fees, and unpaid tolls have been paid. Upon receipt of such
330 notification from the court, the Commissioner of the Department of Motor Vehicles shall notify the state
331 where the vehicle is registered of such payment. Such funds representing payment of unpaid tolls and all
332 administrative fees of the toll facility operator shall be transferred from the court to the Department of
333 Transportation's Toll Facilities Revolving Account or, in the case of an action initiated by an operator of
334 a toll facility other than the Department of Transportation, to the treasurer or director of finance of the
335 county or city in which the violation occurred for payment to the toll facility operator. The
336 Commissioner shall collect a \$40 administrative fee from the owner or operator of the vehicle to defray
337 the cost of processing and removing an order to deny registration or registration renewal. *Any notice*
338 *sent to the Department of Motor Vehicles pursuant to this subdivision shall include the name of each*
339 *toll facility at which the violation of this section occurred.*

340 2. *The Department of Motor Vehicles shall not suspend the registration certificates or license plates*
341 *or notify any entity authorized to issue vehicle registration certificates or license plates in another state*
342 *pursuant to subdivision 1 when the notice sent by the court to the Department of Motor Vehicles*
343 *indicates that such violations occurred at the Midtown Tunnel or Downtown Tunnel connecting the*
344 *Cities of Norfolk and Portsmouth.*

345 K. Any vehicle rental or vehicle leasing company, if it receives an invoice or is named in a
346 summons, shall be released as a party to the action if it provides the operator of the toll facility a copy
347 of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of
348 receipt of the invoice or at least 14 days prior to the date of hearing set forth in the summons. Upon
349 receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the renter or lessee
350 identified therein. Release of this information shall not be deemed a violation of any provision of the
351 Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance
352 Information and Privacy Protection Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least
353 30 days from the date of such mailing before pursuing other remedies under this section. In any action
354 against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the
355 renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named
356 in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to
357 the matter named in the summons.

358 L. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an
359 operator and shall not be made part of the driving record of the person upon whom such civil penalty is
360 imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance
361 coverage. The provisions of § 46.2-395 shall not be applicable to any civil penalty, fee, unpaid toll, fine,
362 or cost imposed or ordered paid under this section for a violation of this section.

363 M. The operator of a toll facility may enter into an agreement with the Department of Motor
364 Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner
365 information regarding the owners of vehicles that fail to pay tolls required for the use of toll facilities
366 and with the Department of Transportation to obtain any information that is necessary to conduct

367 electronic toll collection. Such agreement may include any information that may be obtained by the
368 Department of Motor Vehicles in accordance with any agreement entered into pursuant to § 46.2-819.9.
369 Information provided to the operator of a toll facility shall only be used for the collection of unpaid tolls
370 and the operator of the toll facility shall be subject to the same conditions and penalties regarding
371 release of the information as contained in subsection C.

372 N. No person shall be subject to both the provisions of this section and to prosecution under
373 § 46.2-819 for actions arising out of the same transaction or occurrence.

374 **2. That the Governor or his designee shall, by January 1, 2021, amend or withdraw from any**
375 **agreements entered into pursuant to § 46.2-819.9 of the Code of Virginia that do not comply with**
376 **the provisions of this act.**

INTRODUCED

HB1245