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HOUSE BILL NO. 1962

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Transportation
on February 17, 2011)

(Patron Prior to Substitute—Delegate Rust)

A BILL to amend and reenact §§ 46.2-819.1, 46.2-819.3, and 46.2-819.3:1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 8 of Title 46.2 sections numbered 46.2-819.6 and 46.2-819.7, relating to toll violation notices.

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-819.1, 46.2-819.3, and 46.2-819.3:1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 8 of Title 46.2 sections numbered 46.2-819.6 and 46.2-819.7 as follows:

§ 46.2-819.1. Installation and use of photo-monitoring system or automatic vehicle identification system in conjunction with certain toll facilities; penalty.

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

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

The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the operator of the vehicle until after the second first unpaid toll has been documented. The operator of the vehicle shall pay the unpaid tolls toll and any administrative fee detailed in an invoice or bill for the unpaid toll issued by a toll facility operator. If paid within 30 days of notification, the administrative fee shall not exceed \$25.

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

D. Any action under this section shall be brought in the General District Court of the city or county in which the toll facility is located. Such action shall be considered a traffic infraction but shall be tried as a civil case. The attorney for the Commonwealth may represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility operator acting on behalf of a governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.

E. Proof of a violation of this section shall be evidenced by information obtained from a

60 photo-monitoring system or automatic vehicle identification system as provided in this section. A
61 certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility
62 or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on
63 inspection of photographs, microphotographs, videotapes, or other recorded images produced by a
64 photo-monitoring system, or of electronic data collected by an automatic vehicle identification system,
65 shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs,
66 videotape, or other recorded images or electronic data evidencing such a violation shall be available for
67 inspection in any proceeding to adjudicate the liability for such violation under this section. A record of
68 communication by an automatic vehicle identification device with the automatic vehicle identification
69 system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle
70 identification device was located in the vehicle registered to use such device in the records of the
71 Virginia Department of Transportation.

72 F. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to
73 subsection K of ~~this section~~ was operated in violation of this section.

74 Upon a finding by a court of competent jurisdiction that the vehicle described in the summons issued
75 pursuant to subsection K of ~~this section~~ was in violation of this section, the court shall impose a civil
76 penalty upon the registered owner or operator of such vehicle in accordance with the amounts specified
77 in subsection C of ~~this section~~, together with applicable court costs, the operator's administrative fee and
78 the toll due. Penalties assessed as the result of action initiated by the Virginia Department of
79 Transportation shall be remanded by the clerk of the court which adjudicated the action to the Virginia
80 Department of Transportation's Toll Facilities Revolving Fund Account. Penalties assessed as the result
81 of action initiated by an operator of a toll facility other than the Virginia Department of Transportation
82 shall be remanded by the clerk of the court which adjudicated the action to the treasurer or director of
83 finance of the county or city in which the violation occurred for payment to the toll facility operator.

84 The registered owner of such vehicle shall be given reasonable notice by way of a summons as
85 provided in subsection K of ~~this section~~ that his vehicle had been used in violation of this section and
86 such owner shall be given notice of the time and place of the hearing as well as the civil penalty and
87 costs for such offense. *The toll facility operator may offer to the owner an option to pay the unpaid toll
88 and fees plus a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or
89 subsequent offense, as specified on the summons, provided the owner actually pays to the toll facility
90 operator the entire amount so calculated at least 14 days prior to the hearing date specified on the
91 summons. If the owner accepts such offer and such amount is actually received by the toll facility
92 operator at least 14 days prior to the hearing date specified on the summons, the toll facility operator
93 shall move the court at least five business days prior to the date set for trial to dismiss the summons
94 issued to the registered owner of the vehicle, and the court shall dismiss upon such motion.*

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

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

105 If the registered owner of the vehicle produces for the toll facility operator or the court a certified
106 copy of a police report showing that the vehicle had been reported to the police as stolen prior to the
107 time of the alleged offense and remained stolen at the time of the alleged offense, then the toll facility
108 operator shall not pursue the owner for the unpaid toll and, if a summons has been issued, the court
109 shall dismiss the summons issued to the registered owner of the vehicle.

110 G. Upon a finding by a court that a person has ~~three~~ two or more unpaid tolls and such person fails
111 to pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the
112 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of
113 any applicant or the license plate issued for the vehicle driven in the commission of the offense until the
114 court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. If it is
115 proven that the vehicle owner was not the operator at the time of the offense and upon a finding by a
116 court that the person identified in an affidavit pursuant to subsection F as the operator violated this
117 section and such person fails to pay the required penalties, fees, and unpaid tolls, the court shall notify
118 the Commissioner, who shall refuse to issue or renew any vehicle registration certificate of any applicant
119 or the license plate issued for any vehicle owned or co-owned by such person until the court has
120 notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Such funds
121 representing payment of unpaid tolls and all administrative fees of the toll facility operator shall be

transferred from the court to the Virginia Department of Transportation's Toll Facilities Revolving Fund Account or, in the case of an action initiated by an operator of a toll facility other than the Virginia Department of Transportation, to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator. The Commissioner shall collect a \$40 administrative fee from the registered owner or operator of the vehicle to defray the cost of processing and removing an order to deny registration or registration renewal.

H. For purposes of this section, "operator of a toll facility other than the Virginia Department of Transportation" means any agency, political subdivision, authority, or other entity that operates a toll facility; "owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing company; "photo-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection device that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section; "automatic vehicle identification system" means an electronic vehicle identification system installed to work in conjunction with a toll collection device that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility; and "automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

I. Any vehicle rental or vehicle leasing company, if it receives an invoice or is named in a summons, shall be released as a party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of receipt of the invoice or at least 14 days prior to the date of hearing set forth in the summons. Upon receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to 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.). The toll facility operator shall allow at least 30 days from the date of such mailing before pursuing other remedies under this section. In any action against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the matter named in the summons.

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

K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be executed pursuant to § 19.2-76.2. Toll facility personnel or their agents mailing such summons shall be considered conservators of the peace for the sole and limited purpose of mailing such summons. 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 of the vehicle as shown on the records of the Department of Motor Vehicles or, if the registered 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 subsection F, such named operator of the vehicle. 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.

L. The operator of a toll facility may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision 21 of subsection B of § 46.2-208, to obtain vehicle owner information regarding the registered owners of vehicles that fail to pay tolls required for the use of toll facilities and with the Virginia Department of Transportation to obtain any information that is necessary to conduct electronic toll collection. Information provided to the operator of a toll facility shall only be used for the collection of unpaid tolls and the operator of the toll facility shall be subject to the same conditions and penalties regarding release of the information as contained in subsection B.

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

§ 46.2-819.3. Use of toll facility without payment of toll; enforcement; penalty.

A. The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the operator of the vehicle until the second on a first unpaid toll has

183 been documented unless the written promise to pay executed pursuant to subsection C remains unpaid
184 after 30 days. The owner or operator of the vehicle person who executed the written promise to pay
185 pursuant to subsection C shall pay the unpaid tolls toll and any administrative fee detailed in an invoice
186 or bill issued by a toll facility operator. If paid within 30 days of notification, the administrative fee
187 shall not exceed \$25.

188 B. If the matter proceeds to court, the owner or operator of the vehicle shall be liable for a civil
189 penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense,
190 \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any
191 subsequent offense within three years from the second offense, \$500 plus, in each case, the unpaid toll,
192 all accrued administrative fees imposed by the toll facility operator and applicable court costs if the
193 vehicle operator is found, as evidenced by information obtained from the toll facility operator, to have
194 used such a toll facility without payment of the required toll.

195 C. A written promise to pay an unpaid toll within a specified period of time executed by the driver
196 of a motor vehicle, accompanied by a certificate sworn to or affirmed by an authorized agent of the toll
197 facility that the unpaid toll was not paid within such specified period, shall be prima facie evidence of
198 the facts contained therein.

199 D. The operator of a toll facility may send an invoice or bill to the driver of a motor vehicle using a
200 toll facility without payment of the specified toll as part of an electronic or manual toll collection
201 process prior to seeking remedies under this section. Any action under this section shall be brought in
202 the general district court of the city or county in which the toll facility is located. *Such an action shall*
203 *be considered a traffic infraction but shall be tried as a civil case. The attorney for the Commonwealth*
204 *may represent the interests of the toll facility operator. Any authorized agent or employee of a toll*
205 *facility operator acting on behalf of a governmental entity shall be allowed the privileges accorded by*
206 *§ 16.1-88.03 in such cases.*

207 E. Upon a finding by a court of competent jurisdiction that the driver of a motor vehicle identified in
208 the summons issued pursuant to subsection I was in violation of this section, the court shall impose a
209 civil penalty upon the driver of a motor vehicle in accordance with the amounts specified in subsection
210 B, together with applicable court costs, the operator's administrative fee, and the toll due. Penalties
211 assessed as the result of action initiated by the Virginia Department of Transportation shall be remanded
212 by the clerk of the court which adjudicated the action to the Virginia Department of Transportation's
213 Toll Facilities Revolving Fund Account. Penalties assessed as the result of action initiated by an operator
214 of a toll facility other than the Virginia Department of Transportation shall be remanded by the clerk of
215 the court which adjudicated the action to the treasurer or director of finance of the county or city in
216 which the violation occurred for payment to the toll facility operator.

217 F. *The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a*
218 *reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent*
219 *offense, as specified on the summons, provided the owner actually pays to the toll facility operator the*
220 *entire amount so calculated at least 14 days prior to the hearing date specified on the summons. If the*
221 *owner accepts such offer and such amount is actually received by the toll facility operator at least 14*
222 *days prior to the hearing date specified on the summons, the toll facility operator shall move the court*
223 *at least five business days prior to the date set for trial to dismiss the summons issued to the registered*
224 *owner of the vehicle, and the court shall dismiss upon such motion.*

225 G. Upon a finding by a court that a person has three or more unpaid tolls and such person fails to
226 pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner of the
227 Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of
228 any applicant or the license plate issued for any vehicle owned or co-owned by the offender. The
229 Commissioner shall collect a \$40 administrative fee from the owner or operator of the vehicle to defray
230 the cost of processing and removing an order to deny registration or registration renewal.

231 GH. For purposes of this section, "operator of a toll facility other than the Virginia Department of
232 Transportation" means any agency, political subdivision, authority, or other entity that operates a toll
233 facility.

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

239 IJ. A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Toll facility
240 personnel or their agents mailing such summons shall be considered conservators of the peace for the
241 sole and limited purpose of mailing such summons. Notwithstanding the provisions of § 19.2-76, a
242 summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to
243 the address of the driver of a motor vehicle as shown on the *written promise to pay executed pursuant*
244 *to subsection C* or records of the Department of Motor Vehicles. 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.

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

§ 46.2-819.3:1. Installation and use of video-monitoring system and automatic vehicle identification system in conjunction with certain toll facilities; penalty.

A. The operator of any toll facility or the locality within which such toll facility is located may install and operate or cause to be installed and operated a video-monitoring system in conjunction with an automatic vehicle identification system on facilities for which tolls are collected for the use of such toll facility and that do not offer manual toll collection. A video-monitoring system shall include, but not be limited to, electronic systems that monitor and capture images of vehicles using a toll facility to enable toll collection for vehicles that do not pay using a toll collection device. The operator of a toll facility shall send an invoice ~~or bill~~ for unpaid tolls *in accordance with the requirements of § 46.2-819.6* to the registered owner of a vehicle as part of a video-monitoring toll collection process, prior to seeking remedies under this section.

B. Information collected by a video-monitoring system in conjunction with an automatic vehicle identification system installed and operated pursuant to subsection A shall be limited exclusively to that information that is necessary for the collection of unpaid tolls and establishing when violations occur, including use in any proceeding to determine whether a violation occurred. Notwithstanding any other provision of law, all images or other data collected by a video-monitoring system in conjunction with an automatic vehicle identification system shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used exclusively for the collection of unpaid tolls and for efforts to pursue violators of this section and shall not (i) be open to the public; (ii) be sold and/or used for sales, solicitation, or marketing purposes other than those of the toll facility operator to facilitate toll payment; (iii) be disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll; and/or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or upon order from a court of competent jurisdiction. Except as provided above, information collected under this section shall be purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties. Any entity operating a video-monitoring system in conjunction with an automatic vehicle identification system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection shall constitute a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other thing of value obtained as a result of a violation of this section shall be forfeited to the Commonwealth.

If a vehicle uses a toll facility without paying the toll, the owner or operator shall be in violation of this section if he refuses to pay the toll within 30 days of notification. The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the owner or operator of the vehicle unless the toll has not been paid by the owner or operator within 30 days after receipt of the invoice for the unpaid ~~tolls~~ toll, which nonpayment for 30 days shall constitute the violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in the invoice ~~or bill~~ for the unpaid toll issued by a toll facility operator. If paid within 30 days of the toll violation, the administrative fee shall not exceed \$25.

The toll facility operator may levy charges for the direct cost of use of and processing for a video-monitoring system and to cover the cost of the invoice, which are in addition to the toll and may not exceed double the amount of the base toll, provided that potential toll facility users are provided notice before entering the facility by conspicuous signs that clearly indicate that the toll for use of the facility could be tripled for any vehicle that does not have an active, functioning automatic vehicle identification device registered for and in use in the vehicle using the toll facility, and such signs are posted at a location where the driver can still choose to avoid the use of the toll facility if he chooses not to pay the toll.

A person receiving an invoice for an unpaid toll under this section may (a) pay the toll and administrative fees directly to the toll facility operator or (b) file with the toll facility operator a notice, on a form provided by the toll facility operator as required under subsection B of § 46.2-819.6, to contest liability for a toll violation. The notice to contest liability for a toll violation may be filed by any person receiving an invoice for an unpaid toll by mailing or delivering the notice to the toll facility

operator within 60 days of receiving such invoice for unpaid toll. Upon receipt of such notice, the toll facility operator may issue a summons pursuant to subsection K and may not seek withholding of registration or renewal thereof under subsection G until a court of competent jurisdiction has found the alleged violator liable for tolls under this section.

C. If the matter proceeds to court, the registered owner or operator of a vehicle shall be liable for a civil penalty as follows: for a first offense, \$50; for a second offense within one year from the first offense, \$100; for a third offense within two years from the second offense, \$250; and for a fourth and any subsequent offense within three years from the second offense, \$500; plus, in each case, the unpaid toll, all accrued administrative fees imposed by the toll facility operator, and applicable court costs if the vehicle is found, as evidenced by information obtained from a video-monitoring system in conjunction with an automatic vehicle identification system as provided in this section, to have used such a toll facility without payment of the required toll within 30 days of receipt of the invoice for the toll.

D. Any action under this section shall be brought in the general district court of the city or county in which the toll facility is located; ~~and the prerequisites for such action and the procedures and requirements for such action shall be as set out in subsections E through M of § 46.2-819.1, the provisions of which shall apply, mutatis mutandis.~~ Such action shall be considered a traffic infraction but shall be tried as a civil case. The attorney for the Commonwealth may represent the interests of the toll facility operator. Any authorized agent or employee of a toll facility operator acting on behalf of a governmental entity shall be allowed the privileges accorded by § 16.1-88.03 in such cases.

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

F. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to subsection K was operated in violation of this section.

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

The registered owner of such vehicle shall be given reasonable notice by way of a summons as provided in subsection K that his vehicle had been used in violation of this section, and such owner shall be given notice of the time and place of the hearing as well as the civil penalty and costs for such offense.

Upon the filing of an affidavit by the registered owner of the vehicle with the toll facility operator within 14 days of receipt of an invoice for unpaid toll or a summons stating that such owner was not the driver of the vehicle on the date of the violation and providing the legal name and address of the operator of the vehicle at the time of the violation, an invoice for unpaid toll or summons, whichever the case may be, will also be issued to the alleged operator of the vehicle at the time of the offense.

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

If the registered owner of the vehicle produces for the toll facility operator or the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator shall not pursue the owner for the unpaid toll contained in the invoice for unpaid toll or the court shall dismiss the summons issued to the registered owner of the vehicle.

G. 1. Upon a finding by a court that a person has two or more unpaid tolls and such person fails to pay the required penalties, fees, and unpaid tolls, then the court or toll facility operator shall notify the Commissioner of the Department of Motor Vehicles, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for the vehicle driven in the commission of the offense until the court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. If it is proven that the vehicle owner was not the operator at the time of the offense and upon a finding by a court that the person identified in an affidavit pursuant to subsection F as the operator violated this section and such person fails to pay the required penalties, fees, and unpaid tolls, the court shall notify the Commissioner, who shall refuse to issue or renew any vehicle registration certificate of any applicant or the license plate issued for any vehicle owned or co-owned by such person until the court has notified the Commissioner that such penalties, fees, and unpaid tolls have been paid. Such funds representing payment of unpaid tolls and all administrative fees of the toll facility operator shall be transferred from the court to the Virginia Department of Transportation's Toll Facilities Revolving Account or, in the case of an action initiated by an operator of a toll facility other than the Virginia Department of Transportation, to the treasurer or director of finance of the county or city in which the violation occurred for payment to the toll facility operator. The Commissioner shall collect a \$40 administrative fee from the registered owner or operator of the vehicle to defray the cost of processing and removing an order to deny registration or registration renewal.

2. If an owner of a vehicle has received at least one invoice for two or more unpaid tolls in accordance with § 46.2-819.6 by certified mail and has (i) failed to pay the unpaid tolls and administrative fees and (ii) failed to file a notice to contest liability for a toll violation, then the toll facility operator may notify the Commissioner, who shall, if no form contesting liability has been timely filed with the toll facility operator pursuant to this section, refuse to issue or renew the vehicle registration certificate of any applicant therefor or the license plate issued for any vehicle driven in the commission of the offense until the toll facility operator has notified the Commissioner that such fees and unpaid tolls have been paid.

If the vehicle owner was not the operator at the time of the offense and the person identified in an affidavit pursuant to subsection F as the operator has received at least one invoice for two or more unpaid tolls in accordance with § 46.2-819.6 by certified mail and such person has (i) failed to pay the unpaid tolls and administrative fees and (ii) failed to file a notice to contest liability for a toll violation, then the toll facility operator may notify the Commissioner, who shall, if no form contesting liability has been timely filed with the toll facility operator pursuant to this section, refuse to issue or renew any vehicle registration certificate of any applicant therefor or the license plate issued for any vehicle owned or co-owned by such person until the toll facility operator has notified the Commissioner that such fees and unpaid tolls have been paid.

The Commissioner may only refuse to issue or renew any vehicle registration pursuant to this subsection upon the request of a toll facility operator if such toll facility operator has entered into an agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes unpaid tolls and administrative fees to the toll facility operator. The toll facility operator seeking to collect unpaid tolls and administrative fees through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the violator whose registration or renewal is to be denied. The Commissioner shall charge a \$40 fee to defray the cost of processing and withholding the registration or registration renewal, and the toll facility operator may add this fee to the amount of the unpaid tolls and administrative fees. Any agreement entered into pursuant to the provisions of this subsection shall provide for the Department to send the violator notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration and such notice shall include a form, as required under subsection B of § 46.2-819.6, to contest liability of the underlying toll violation. The notice provided by the Commissioner shall include instructions for filing the form to contest liability with the toll facility operator within 21 days after the date of mailing of the Commissioner's notice. Upon timely receipt of the form, the toll facility operator shall notify the Commissioner, who shall refrain from withholding the registration or renewal thereof, after which the toll facility operator may proceed to issue a summons for unpaid toll. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department shall be deemed sufficient.

H. For purposes of this section, "operator" means a person who was driving a vehicle that was the subject of a toll violation but who is not the owner of the vehicle; "operator of a toll facility other than the Virginia Department of Transportation" means any agency, political subdivision, authority, or other entity that operates a toll facility; "owner" means the registered owner of a vehicle on record with the

429 Department or, in the case of a vehicle where the owner of the vehicle is a vehicle leasing entity, the
430 lessee. For purposes of this section, "owner" does not mean a vehicle rental or vehicle leasing
431 company; "video-monitoring system" means a vehicle sensor installed to work in conjunction with a toll
432 collection device that automatically produces one or more photographs, one or more microphotographs,
433 a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of
434 this section; "automatic vehicle identification system" means an electronic vehicle identification system
435 installed to work in conjunction with a toll collection device that automatically produces an electronic
436 record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility;
437 and "automatic vehicle identification device" means an electronic device that communicates by wireless
438 transmission with an automatic vehicle identification system.

439 I. Any vehicle rental or vehicle leasing company, if it receives an invoice for unpaid toll or is named
440 in a summons, shall be released as a party to the action if it provides the operator of the toll facility a
441 copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30
442 days of receipt of the invoice or summons. Upon receipt of such rental agreement, lease, or affidavit, an
443 invoice for unpaid toll shall be mailed to the renter or lessee identified therein. Release of this
444 information shall not be deemed a violation of any provision of the Government Data Collection and
445 Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection
446 Act (§ 38.2-600 et seq.). The toll facility operator shall allow at least 30 days from the date of such
447 mailing before pursuing other remedies under this section. In any action against the vehicle operator, a
448 copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the vehicle at
449 the time of the violation is prima facie evidence that the person named in the rental agreement, lease,
450 or affidavit was operating the vehicle at all the relevant times relating to the matter named in the
451 summons.

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

457 K. On a form prescribed by the Supreme Court, a summons for a violation of this section may be
458 executed pursuant to § 19.2-76.2. Toll facility personnel or their agents mailing such summons shall be
459 considered conservators of the peace for the sole and limited purpose of mailing such summons.
460 Notwithstanding the provisions of § 19.2-76, a summons or summonses for a violation of unpaid tolls
461 may be executed by mailing by first-class mail a copy thereof to the address of the owner of the vehicle
462 as shown on the records of the Department or, if the registered owner has named and provided a valid
463 address for the operator of the vehicle at the time of the violation in an affidavit executed pursuant to
464 subsection F, such named operator of the vehicle. If the summoned person fails to appear on the date of
465 return set out in the summons mailed pursuant to this section, the summons shall be executed in the
466 manner set out in § 19.2-76.3.

467 L. The toll facility operator may offer to the owner an option to pay the unpaid toll and fees plus a
468 reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth, or subsequent
469 offense, as specified on the summons, provided the owner actually pays to the toll facility operator the
470 entire amount so calculated at least 14 days prior to the hearing date specified on the summons. If the
471 owner accepts such offer and such amount is actually received by the toll facility operator at least 14
472 days prior to the hearing date specified on the summons, the toll facility operator shall move the court
473 at least five business days prior to the date set for trial to dismiss the summons issued to the registered
474 owner of the vehicle, and the court shall dismiss upon such motion.

475 M. The operator of a toll facility may enter into an agreement with the Department, in accordance
476 with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the
477 registered owners of vehicles that fail to pay tolls required for the use of toll facilities and with the
478 Virginia Department of Transportation to obtain any information that is necessary to conduct electronic
479 toll collection. Information provided to the operator of a toll facility shall be used only for the collection
480 of unpaid tolls, and the operator of the toll facility shall be subject to the same conditions and penalties
481 regarding release of the information as contained in subsection B.

482 N. No person shall be subject to both the provisions of this section and to prosecution under
483 § 46.2-819 for actions arising out of the same transaction or occurrence.

484 § 46.2-819.6. Invoice for unpaid toll.

485 A. The operator of a toll facility shall send an invoice for the unpaid toll pursuant to § 46.2-819.7 to
486 the registered owner of the vehicle. An invoice for the unpaid toll shall contain the following:

487 1. The name and address of the registered owner alleged to be liable under this section;

488 2. The registration number of the motor vehicle involved in such violation or information obtained
489 from an automatic vehicle identification system if the vehicle is identified by an automatic vehicle
490 identification system for the purpose of violation detection;

- 491 3. The location where such violation took place;
492 4. The date and time of such violation;
493 5. The amount of the toll not paid;
494 6. The amount of the administrative fee;
495 7. The date by which the toll and administrative fee must be paid;
496 8. The statutory defenses available under this chapter;
497 9. A warning describing the penalties for nonpayment of the invoice for the unpaid toll or failure to
498 file a notice to contest liability for the toll violation; and
499 10. The procedures and time limits for filing a notice to contest liability for a toll violation as
500 provided in subsection B of § 46.2-819.3:1.
501 B. The toll facility operator shall include with the invoice a form to be used by the registered owner
502 or operator of the vehicle to contest liability for a toll violation. This form shall include the mailing
503 address to which it should be sent.
504 § 46.2-819.7. Mailing of invoice for unpaid toll.
505 Whenever an invoice for an unpaid toll is to be provided to any person by the toll facility operator,
506 it may be executed by mailing by first-class mail a copy of the invoice to the address of the owner of
507 the vehicle as shown on the records of the Department.