

**Department of Planning and Budget
2025 General Assembly Session
State Fiscal Impact Statement**

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ORIGINAL

Bill Number: HB2368

Patron: Mundon King

Bill Title: Toll relief; maximum charges.

Bill Summary: Limits to \$200 per month the tolls charged to residents of the Commonwealth via electronic toll collection devices for the use of toll bridges, toll ferries, toll tunnels, or toll roads in the Commonwealth. The bill prohibits misusing, sharing, or transferring an electronic toll collection device for the purpose of (i) generating tolls to reach the toll charges limit or (ii) obtaining toll-free use of toll facilities in the Commonwealth. The bill authorizes the free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth for drivers who are recipients of Temporary Assistance for Needy Families (TANF) benefits.

Budget Amendment Necessary: No

Items Impacted: N/A

Explanation: Anticipated reductions in revenue can be reflected in future budgets when specific impacts are more definite.

Fiscal Summary: It is estimated that this legislation could reduce revenues for tolling facilities across the Commonwealth by at least \$110.4 million annually; however, the distribution of this impact between private and VDOT toll facilities is unknown. Such reduction in revenues may negatively impact private toll facilities, jeopardizing concession payments; result in potential breach of contract for HOT/HOV lanes with the Federal Highway Administration (FHWA); impact the ability of VDOT or private operators to make obligated debt service payments; and increase toll charges to all users. Any fraud or abuse of the program would result in further reduced revenues. It may also result in indeterminate costs to the Virginia Department of Transportation (VDOT) to identify or address fraud and abuse, identify and maintain a listing of TANF recipients, and provide additional transponders. The impact to the Department of Social Services is indeterminate.

Fiscal Analysis: This legislation would limit the total toll charges per month for residents of Virginia to \$200 and allow for the free use of toll facilities for individuals who are recipients of Temporary Assistance for Needy Families (TANF) benefits. Both of these provisions would be expected to reduce the toll revenue currently collected by the Virginia Department of Transportation (VDOT). Overall, reductions in toll revenues would impact both VDOT and private toll facilities. There are 17 toll facilities in the Commonwealth, five of which are operated by private concessionaires pursuant to a Comprehensive Agreement with VDOT.

Private Toll Roads

The legislation risks a significant impact to these private investments and, due to the terms of the operating agreements, would likely result in the suspension of millions of dollars in transit funding payments for Northern Virginia and subsequent loss of revenue sharing opportunities between the concessionaires and VDOT that support transportation investment in the Commonwealth.

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Moreover, one or more concessionaires may attempt to claim a compensation event under its agreement with the Commonwealth seeking monetary recovery from the Commonwealth in response to this legislation. If a court decided in favor of a concessionaire on this issue, there could be financial costs to VDOT to compensate the concessionaire. Any amount of compensation payments cannot be estimated at this point.

The monthly cap would apply to all toll facilities. As a result, there would likely be a negative impact on future interest by the transportation industry in investing and building large scale projects in Virginia.

High Occupancy Toll (HOT) Facilities

The revenue limiting provisions of the legislation would also impact High Occupancy Toll (HOT) Facility operators and their ability to control congestion to meet federal throughput guidelines by creating a larger volume of price insensitive travelers with no incentive to meet high occupancy requirements. Federal law permits tolls to be levied on interstates only under specified circumstances. Further, federal law also specifies those vehicles permitted to use high occupancy vehicle (HOV) lanes (or HOT lanes) without meeting the high occupancy requirement. In order to finance the construction of HOT lane facilities and impose tolls on interstates, VDOT has entered into various agreements with the Federal Highway Administration (FHWA) attesting that the subject facility would meet all tolling eligibility requirements set forth in federal law. This also includes the management of any HOT lane facility to ensure that its use is not degraded by congestion, as measured by federal law. VDOT must submit annual reports to FHWA certifying compliance with these provisions. This legislation could cause VDOT to breach these agreements and act in conflict with federal regulation. If FHWA finds that the Commonwealth violated or failed to comply with federal laws or the regulations, the FHWA may withhold payment of federal funds until compliance or remedial action has been accomplished.

Debt Obligations, Toll Rates, and Maintenance

Capping toll revenue would also result in facilities being unable to collect anticipated revenues, thus impacting the ability of operators to meet long-term debt obligations. Toll facility debt service is supported by projected revenues and a reduction in those revenues may impact the ability of VDOT or private operators to make the obligated payments. Default on any debt would likely have a significant negative fiscal impact to the Commonwealth's ability and costs to finance transportation projects. The likelihood of any default is indeterminate at this time.

Toll rates could be expected to increase, while the life of tolling facilities could be extended for an indeterminate time, in order to address remaining debt payments. The cap would also likely alter traffic patterns and encourage changes in commercial traffic in a manner that increases utilization of toll facilities which would also increase the cost to maintain the infrastructure. Toll facility maintenance is supported by the revenue generated; as a result, this may cause further pressure to increase toll rates for impacted facilities. Any potential increase in toll rates is indeterminate.

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Estimate of Impact

VDOT reviewed transaction data from October 2024 to estimate the potential impact to toll facilities. In the data reviewed, there were approximately 45,900 unique transponders with toll transactions totaling over \$200 for facilities in Virginia. The sum of all revenue in excess of \$200 per transponder for the toll facilities was \$9.2 million in this month. Using this estimate, the annual impact would be \$110.4 million statewide. This does not account for residency or changes in driver behavior because of the legislation. This analysis also does not account for the distribution of the impact between private and VDOT toll facilities.

An estimate on the current use of toll facilities by individuals receiving TANF benefits is not possible. According to the Department of Social Services (DSS), which manages TANF in Virginia, the average number of monthly TANF recipients is approximately 13,000. However, current and projected use of toll facilities by those recipients is unknown. The provisions allowing for the free use of toll facilities for such individuals would be expected to further reduce tolling revenues for all facilities in the Commonwealth.

The bill does not provide an alternative source of revenue to support toll facilities for any projected revenue reductions. In general, revenues to support transportation operations in the Commonwealth are statutorily allocated to various funds and programs across the transportation agencies and authorities in Virginia. Neither VDOT nor the Commonwealth Transportation Board have the authority to allocate existing funding to other uses. Without a dedicated source of funding to backfill any potential reductions in revenue, the fiscal impacts described above would be expected.

Fraud and Abuse

While the legislation does contain provisions prohibiting the misuse, share, or transfer of transponders to reach the limit on toll charges or obtaining toll-free use of toll facilities, it does not provide for any specific criteria on what would be considered fraud or misuse of a device. The bill also does not provide for any civil or criminal penalties for any violation of the prohibition. Given the large number of transponders and annual trips taken on toll facilities in the Commonwealth, it is anticipated that current infrastructure would not support or have the means to identify or address potential fraud at this scale. VDOT's limited ability to identify or prevent misuse of this program, in addition to the lack of specific penalties for any fraud or abuse, is likely to result in some amount of fraudulent or abusive actions by individuals. Any fraud or abuse of this program to generate additional toll-free use of the facilities would further reduce projected toll revenue, however the impact on generated revenues from fraud or abuse is indeterminate. Any VDOT staff or other resources that may need to be utilized to identify or address fraud or abuse is indeterminate and would need to be redirected from other activities.

Other operational impacts

The proposal to provide toll-free usage for TANF recipients would create a need for the development of an interface or process between DSS and VDOT. At VDOT, the initial or ongoing costs of any interface or staffing to manage eligibility are indeterminate and would need to be redirected from other activities. The bill does not require any action by DSS; however, it is anticipated that assistance from DSS would be needed for

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VDOT to verify and enroll TANF recipients in the toll-free program. Any costs to DSS to assist VDOT in this program are indeterminate.

Implementation of this legislation would be accomplished through the use of electronic identification devices (e.g., transponders) and would likely lead to a significant increase in transponders requests. Transponders are state assets, and such a surge would result in increased costs to meet demand. Any such costs are indeterminate.

Other: SB1463 also addresses tolling charges.