



# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1623

S.P. 533

In Senate, December 20, 2011

### **An Act To Simplify Toll Discounts and Amend Certain Powers and Procedures of the Maine Turnpike Authority**

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 16, 2011. Referred to the Committee on Transportation pursuant to Joint Rule 308.2 and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator COLLINS of York.

Cosponsored by Representative PEOPLES of Westbrook and

Senator: DIAMOND of Cumberland, Representatives: CUSHING of Hampden, HOGAN of Old Orchard Beach, MAZUREK of Rockland, MOULTON of York, SARTY of Denmark.

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** electronic tolling has rendered obsolete a 1981 statute requiring the Maine  
4 Turnpike Authority to offer a specific form of commuter discount; and

5           **Whereas,** the lingering mandate severely interferes with the turnpike authority's  
6 ability to deploy modern electronic toll systems; and

7           **Whereas,** effective use of electronic tolls is essential to yield greater traffic capacity  
8 at certain congested turnpike toll plazas; and

9           **Whereas,** an immediate resolution of these issues would permit the turnpike  
10 authority to offer improved service and simpler discounts to a broader cross-section of  
11 travelers without requiring them to make quarterly advance payments which might  
12 otherwise be required before the end of the 90-day period; and

13           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
14 the meaning of the Constitution of Maine and require the following legislation as  
15 immediately necessary for the preservation of the public peace, health and safety; now,  
16 therefore,

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

18           **Sec. 1. 23 MRSA §1963,** as amended by PL 1993, c. 410, Pt. MM, §1, is further  
19 amended to read:

20           **§1963. Maine Turnpike Authority**

21           In order to carry out the purposes of this chapter, the Maine Turnpike Authority,  
22 created by Private and Special Law 1941, chapter 69, ~~shall continue~~ continues in  
23 existence with the powers and duties prescribed by this chapter until the Legislature  
24 provides for its termination and all outstanding indebtedness of the authority is repaid, or  
25 an amount sufficient to repay that indebtedness is set aside in trust. The authority shall  
26 continue to operate and maintain the turnpike from a point at or near Kittery in York  
27 County to a point at or near Augusta in Kennebec County, ~~together with connecting~~  
28 tunnels, bridges, overpasses, underpasses, interchanges and toll facilities. The authority  
29 may operate and maintain other property and assets as are necessary or convenient for the  
30 construction, operation or maintenance of the turnpike, including, but not limited to,  
31 connecting tunnels, bridges, overpasses, underpasses, interchanges, toll facilities and  
32 parking lots.

33           **Sec. 2. 23 MRSA §1973, sub-§4,** as amended by PL 1995, c. 410, §§1 and 2, is  
34 repealed and the following enacted in its place:

35           **4. Rates.** The rate of toll at each toll facility may be revised from time to time. A  
36 reduction in the rates of fees, fares and tolls may be provided to any class of vehicle  
37 based upon volume of use.

1           **Sec. 3. 23 MRSA §1980, sub-§2-A, ¶C**, as repealed and replaced by PL 2003, c.  
2 591, §2, is amended to read:

3           C. The following procedures must be followed for the collection of tolls,  
4 administrative fees and civil penalties under this subsection.

5           (1) The authority shall send a notice of liability by ~~certified~~ first class mail,  
6 ~~return receipt requested~~, to a person alleged to be liable as a registered owner  
7 under this subsection. The notice must be sent to the address of the registered  
8 owner on record with the authority if the registered owner is an electronic toll  
9 collection patron of the authority or, if no such record exists, the address of the  
10 registered owner on record with the Secretary of State. ~~A record of the certified~~  
11 ~~mailing~~ written statement by the authority that the notice of liability has been  
12 mailed is prima facie evidence of the mailing of the notice.

13           (2) A notice of liability must include the name and address of the person alleged  
14 to be liable as a registered owner for the failure to pay a toll under this  
15 subsection, the amount of the toll not paid, the registration number of the vehicle  
16 involved, the toll collection facility at which the failure occurred and the date and  
17 the approximate time of the failure. The notice must also include the name,  
18 address and telephone number of the violation clerk responsible for enforcing the  
19 penalty for the failure to pay.

20           (3) A notice of liability must include information advising the person liable  
21 under this subsection of the manner and time in which the liability alleged in the  
22 notice may be contested and the statutory defenses described in paragraph E. The  
23 notice must also include a warning that failure to contest in the manner and time  
24 provided is an admission of liability and a waiver of available defenses and may  
25 result in revocation of the registration certificate and plates issued for the vehicle.

26           (4) Within 30 calendar days after the date of the issuance of the notice of  
27 liability, the registered owner to whom the notice is issued must:

28           (a) Pay the amount of the toll for which the person is liable, the civil penalty  
29 or penalties provided for in paragraph A and an administrative fee of \$20 for  
30 each toll for which the person is liable but has not paid;

31           (b) Send a written dispute by mail to the violation clerk named in the notice,  
32 as provided by paragraph I; or

33           (c) Request a hearing with the violation clerk named in the notice as  
34 provided by paragraph J.

35           **Sec. 4. 23 MRSA §1980, sub-§2-A, ¶G**, as amended by PL 2011, c. 302, §17, is  
36 further amended to read:

37           G. The authority shall notify the Secretary of State, who shall, in accordance with  
38 Title 29-A, section 154, subsection 6, suspend the registration certificate and plates  
39 issued for the vehicle involved in the alleged failure to pay if a registered owner:

40           (1) Does not dispute a notice of liability ~~and~~ or pay the tolls, administrative fees  
41 and civil penalties as required by paragraph C, subparagraph (4);

- 1 (2) Does not pay the required tolls, administrative fees and civil penalties within  
2 30 days of a final decision of a violation clerk as provided in paragraphs I and J;
- 3 (3) Does not pay the required tolls, administrative fees and civil penalties within  
4 30 days of final adjudication of liability under paragraph K; or
- 5 (4) Does not pay the required tolls, administrative fees or civil penalties within  
6 30 days of final adjudication of liability by an away agency with whom the  
7 authority has a reciprocal collection arrangement under subsection 2-C.

8 When notifying the Secretary of State under this paragraph, the authority shall send a  
9 notice by ~~certified first class mail, return receipt requested~~, informing the registered  
10 owner of the pending suspension.

11 **Sec. 5. 23 MRSA §1980, sub-§2-A, ¶H**, as repealed and replaced by PL 2003, c.  
12 591, §2, is repealed.

13 **Emergency clause.** In view of the emergency cited in the preamble, this  
14 legislation takes effect when approved.

15 **SUMMARY**

16 This bill amends the Maine Turnpike Authority enabling law by distinguishing  
17 between assets that the authority is required to maintain as part of its core mission and  
18 those that it is merely permitted to maintain as necessary or convenient to that mission.

19 This bill eliminates a requirement that the authority provide a commuter discount and  
20 eliminates a prohibition on imposing variable pricing based on the time of day. Instead,  
21 the authority is allowed to provide a reduction in the rates of fees, fares and tolls to any  
22 class of vehicle based upon volume of use.

23 The bill removes a requirement that the authority use certified mail in lieu of regular  
24 mail to send notices of toll liability, which will provide a cost savings of more than \$5 per  
25 notice. A written statement from the authority will constitute evidence of the mailing.

26 The bill removes a prohibition against assessing an administrative fee for a violation  
27 by a tractor-trailer combination. This restriction was imposed at a time when the  
28 authority lacked capacity to take video images of the front license plate to determine the  
29 owner of the truck. Because the authority now takes video images of the front and rear of  
30 all vehicles, it is able to identify the registered owners of both the truck and trailer and  
31 charge an administrative fee to the appropriate party.