

SENATE No. 161

The Commonwealth of Massachusetts

PRESENTED BY:

Eric P. Lesser

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to ensure driver privacy with electronic tolling.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>	
<i>Donald F. Humason, Jr.</i>	<i>Second Hampden and Hampshire</i>	<i>2/1/2019</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>1/28/2019</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>	<i>1/30/2019</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/12/2019</i>

SENATE No. 161

By Mr. Lesser, a petition (accompanied by bill, Senate, No. 161) of Eric P. Lesser, Donald F. Humason, Jr., Tommy Vitolo, José F. Tosado and others for legislation to ensure driver privacy with electronic tolling. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act to ensure driver privacy with electronic tolling.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 13 of Chapter 6C of the General Laws, as appearing in the 2016 Official Edition,
2 is hereby further amended by adding the following 5 subsections:-

3 (d) Any technology used for toll collection under this chapter, including radio-frequency
4 identifying transponders, shall not be used to identify the location of any vehicle for purposes
5 other than charging and collecting and, from time to time, fixing and revising tolls for transit
6 under this section.

7 (e) No data derived from any technology used for toll collection under this chapter,
8 including but not limited to the GPS coordinates, location, date and time, speed of travel,
9 photograph, license plate number or other identifying information regarding any vehicle, shall be
10 shared with or provided to any law enforcement entity or any law enforcement official without a
11 valid warrant issued pursuant to the requirements of Sections 2 to 3A, inclusive, of Chapter 276.

12 (f) Any data obtained or accessed in violation of subsection (e) shall be inadmissible in
13 any criminal or civil proceeding; provided, however, that an individual whose rights have been
14 violated by the improper transfer of or access to data derived from any technology used for toll
15 collection under this chapter, may introduce evidence concerning such data in a civil action
16 brought pursuant to subsections (h) or (i) or may grant permission to another party in a civil
17 proceeding to introduce such evidence.

18 (h) Any aggrieved person may institute a civil action in district or superior court for
19 damages resulting from a violation of subsection (e), or in superior court to restrain any such
20 violation. If in any such action a willful violation is found to have occurred, the violator shall not
21 be entitled to claim any privilege absolute or qualified, and he shall, in addition to any liability
22 for such actual damages as may be shown, be liable for exemplary damages of not less than \$100
23 and not more than \$1,000 for each violation, together with costs and reasonable attorneys' fees
24 and disbursements incurred by the person bringing the action.

25 (i) Any use of data obtained or accessed in violation of subsection (e) of this section shall
26 be a violation of Chapter 93A.

27 (j) Notwithstanding any general or special law to the contrary, a law enforcement entity
28 or official may obtain information described in subsection (e) without a warrant if it reasonably
29 believes that an emergency involving immediate danger of death or serious physical injury to any
30 person requires obtaining without delay information relating to the emergency; provided,
31 however, that the request is narrowly tailored to address the emergency and subject to the
32 following limitations: (i) the request shall document the factual basis for believing that an
33 emergency involving immediate danger of death or serious physical injury to a person requires

34 obtaining without delay of the information relating to the emergency; and (ii) not later than 48
35 hours after the government office obtains access to records, it shall file with the appropriate court
36 a signed, sworn statement of a supervisory official of a rank designated by the head of the office
37 setting forth the grounds for the emergency access.