

SENATE No. 209

The Commonwealth of Massachusetts

PRESENTED BY:

Jacob R. Oliveira

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:

Jacob R. Oliveira

DISTRICT/ADDRESS:

Hampden, Hampshire and Worcester

SENATE No. 209

By Mr. Oliveira, a petition (accompanied by bill, Senate, No. 209) of Jacob R. Oliveira for legislation to ensure driver privacy with electronic tolling. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 214 OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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 2020 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

shared with or provided to any law enforcement entity or any law enforcement official without a valid warrant issued pursuant to the requirements of Sections 2 to 3A, inclusive, of Chapter 276.

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

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

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

(j) Notwithstanding any general or special law to the contrary, a law enforcement entity or official may obtain information described in subsection (e) without a warrant if it reasonably believes that an emergency involving immediate danger of death or serious physical injury to any person requires obtaining without delay information relating to the emergency; provided, 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.