



Legislative Testimony
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**Written Testimony Expressing Privacy Concerns
Regarding House Bill 7202, An Act Concerning the Sustainability of
Connecticut's Transportation Infrastructure and House Bill 7280, An Act
Concerning Support for Transportation Infrastructure and the Creation of the
Connecticut Transportation Finance Authority**

Senator Leone, Representative Lemar, and distinguished members of the Transportation Committee:

My name is David McGuire, and I am the executive director of the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify on the ACLU-CT's privacy concerns regarding the electronic tolling proposed in House Bills 7202 and 7280. Though these bills are directed at different components of the establishment and operation of an electronic tolling system, the ACLU-CT would like to testify on the issue of privacy regarding a potential statewide electronic tolling system in general, because each bill implicates serious privacy issues. We believe these bills must include privacy provisions for the state to follow should Connecticut establish and implement an electronic tolling system.

As an organization that believes that people should not have to choose between moving freely in public spaces and protecting their civil liberties, the ACLU-CT has serious concerns that the implementation of electronic tolling system technology in our state will unjustly invade the privacy of those who travel within and through Connecticut. Should an electronic tolling system be developed in our state, it will most likely use many automatic license plate reader (ALPR) systems, which are cameras used by electronic tolling systems that can scan and record thousands of license plates a minute. When an ALPR system captures an image of a license plate, it also tags each file with the time, date, and GPS location of the photograph. These ALPR systems will most likely be used at each of the 53 tolling gantries proposed by Governor Lamont.

Under a statewide tolling system based on ALPR scans, Connecticut tolls would therefore capture sensitive information about millions of drivers — things like date and time of travel, GPS location, and vehicle speed — and store it in a central database. Without rules to restrict how the government stores, collects, shares, sells, or keeps this information, it could be used to hurt millions of innocent people who travel through our state.

ALPR systems can enable the government to track where someone has gone, where they are going, and who visits certain locations, raising serious First Amendment and Fourth Amendment concerns. ALPR systems have the ability to record and archive someone's travel habits for months or even years. Allowing the retention of data gathered by ALPR systems opens the door to retroactive surveillance of innocent people without a warrant, without probable cause, and without any form of judicial oversight. In addition, ALPR databases could be ripe for abuse by the federal government. Last year, Vigilant Solutions, the company that the Connecticut Capitol Area Police Association contracted with to provide the region's license plate reader database, announced that it had signed an agency-wide contract to provide Immigration and Customs Enforcement (ICE) with access to its full database of license plate reader scans, leaving immigrants in Connecticut vulnerable to surveillance and targeting by ICE.

However, there are components that, if added to these bills, could protect people's privacy as they travel in the state. These amendments would ensure that Connecticut would use its electronic tolling system primarily for charging and collecting toll use fees, and that the government only collects and shares people's information when there is a reason for doing so, such as in a missing person case. We strongly urge the committee to add these provisions, which we believe are necessary to neutralize the very real privacy concerns involved in implementing an electronic tolling system in Connecticut. Inclusion of the following provisions is necessary to protect motorists' and passengers' privacy:

- **Privacy Policy and Protocol:** The first additional provision would require the Department of Transportation (DOT) to develop and implement a privacy policy and protocol relating to toll customer information and other data that is collected, received, maintained, archived, accessed, and disclosed by the department to a toll operator. Though the ACLU-CT appreciates the intent of Section 8 of House Bill 7280, which would require the Transportation Commissioner to adopt regulations, the language does not

require the adoption of privacy regulations. Rather, the language allows the regulations to include provisions to protect and limit access to toll customer information and other data. It is necessary to include a requirement for a privacy policy and protocol to ensure that motorists' privacy is protected. The additional provision would also require DOT to conduct a random annual audit of the system to ensure compliance with the privacy provisions included in the act and require the department to report annually on its ALPR practices and usage to the state.

- **Sharing and Sale of Information:** The second additional provision would prohibit, with some exceptions, the sharing or sale of toll customer information and exempt toll customer information from the Freedom of Information Act except under specific circumstances. It would prohibit using or sharing captured plate data for purposes other than the DOT's operation of the electronic tolling system and prohibit preserving the data for more than forty-eight hours, unless there is a request by law enforcement to preserve the data for longer.
- **Disclosure of Information to Law Enforcement without a Warrant:** The third provision would allow law enforcement to have access to toll customer information in certain situations, including when there is a missing person report. It would require the DOT to preserve data when a law enforcement officer swears under oath to a statement demonstrating a reasonable and articulable suspicion that a crime has been or is being committed or that a person is believed to be missing, and that such captured plate data is relevant and material to the criminal or missing persons investigation described in the sworn statement.
- **Disclosure of Information to Law Enforcement with a Warrant:** The fourth provision would allow a law enforcement agency to obtain toll customer data by warrant.
- **Customer Notification:** The fifth provision would require that the DOT notify a customer ten days prior to the release of their data in response to compulsory process.

Adding these components to the bills regarding an electronic tolling system would protect the privacy of people traveling in our state. We encourage the committee to replace Section 5 of House Bill 7202 and Section 6 of House Bill 7280 with these components to strengthen the bills' privacy protections.

We would be happy to work with the committee on language for the additional privacy protections. We strongly encourage the committee to make the aforementioned changes to the bills to protect the privacy of people traveling in Connecticut.