

# Mass. lawmakers seek privacy protection for drivers' toll data

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**Traffic flowed under the new electronic tolling gantries on the Mass. Pike in October.**

By [Matt Rocheleau](#)

GLOBE STAFF MARCH 08, 2017

Massachusetts lawmakers are proposing to restrict how the state can use sensitive data collected by a

new all-electronic tolling system, including information about motorists' travel history and driving speeds.

Companion bills filed in the House and Senate would bar the state Department of Transportation, which collects and stores the tolling data, from using it for virtually anything but charging and collecting tolls and would prevent the agency from sharing the data unless required by warrant.

Representative Marjorie C. Decker, a Democrat from Cambridge who filed the [House version](#) of the legislation, said that ideally the state should not collect such detailed data on drivers at all.

If it must, she said, there should be greater privacy protections and transparency about how the data are used.



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“Many people don’t even realize that if you have an E-ZPass, it can track your whereabouts,” Decker said. “People have a right to know this is happening.”

State public safety and transportation officials declined to comment on the pending legislation.

This past fall, the transportation department faced criticism as it rolled out [all-electronic tolling](#) when it was revealed that the new system tracks and stores a [host of sensitive data](#) about vehicles, including their [speed](#) as well as [photos and brief videos](#) as they pass under the overhead gantries that collect tolls.

The system also features a controversial [“hot list”](#) feature



capable of sending law enforcement officials instant alerts when cars with specified license plates or transponders pass under the gantries.

Transportation officials have said the data the system collects are needed to ensure drivers are charged and billed properly. They have vowed that data would not be used to crack down on speeding motorists and that it would only be shared with outside entities for non-tolling purposes if the state were to be subpoenaed. Officials also [established guidelines](#) for [how long tolling data should be kept](#).

And the agency and state public safety officials [drew up rules](#) saying they would only use the hot list feature for emergencies involving an “imminent and immediate threat to the safety, health, and well-being of an individual or the public.”

Still lawmakers said they remain concerned that at least some of the state’s newly-drafted rules, guidelines, and assurances could be subject to abrupt change without oversight, if, for example, a new administration wanted to rewrite them, or if existing leaders changed their minds.

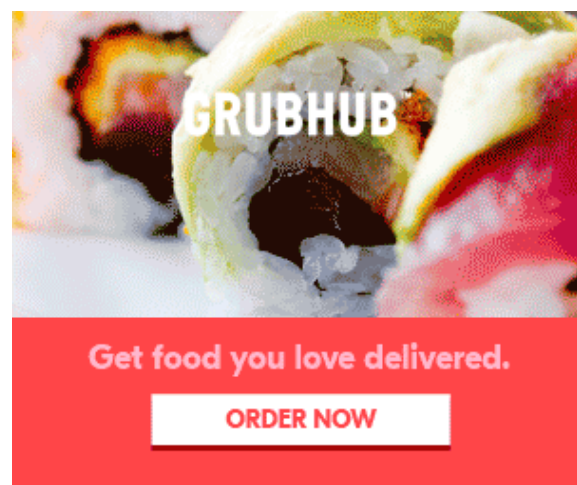
“Right now, it’s just taking [state officials’] word for it,” said Senator Eric P. Lesser, a Democrat from Longmeadow who filed the [Senate version](#) of the bill. “The goal [of the bill] is to enshrine in the law some privacy protections for drivers.”

Kade Crockford, of the American Civil Liberties Union of Massachusetts, which has criticized the state’s practices on tolling data, said her organization supports the bill.

“As we saw in November, elections can surprise, and that’s part of the reason why it’s so important to put rules like this into law and not simply rely on executive branch decision-making or rule-making,” Crockford said. “It’s very easy for executive branch officials to change those rules often with the stroke of a pen.”

Along with Decker and Lesser, nine other legislators have signed on to sponsor the bill.

But there is opposition.



Representative John C. Velis, a Democrat from Westfield, said he does not support the bill because the warrant requirement would prevent law enforcement from quickly accessing toll data in the case of an emergency, such as to use the “hot list” feature to track a vehicle involved in a child abduction case that prompts an Amber Alert.

“To require law enforcement to go before a judge in these types of time-sensitive manners is absurd. It can quite literally mean the difference between life and death,” Velis said.

He said that he hopes the bill can be re-worded to allow police to access toll data in emergencies without needing to get a warrant. Velis supports requiring police to obtain a warrant in non-emergency situations.

“Protecting people’s privacy is a good thing. But we need to be very mindful as lawmakers of the unintended consequences,” said Velis. “It’s a balance between privacy and public safety.”

Both Lesser and Crockford said they would be open to the idea of amending the bill to allow law enforcement to obtain data without first getting a warrant in the case of certain public safety emergencies. But they said that such emergencies should be clearly and narrowly defined.

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