**South Carolina General Assembly**

122nd Session, 2017-2018

**S. 710**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Rankin, Hembree, Goldfinch, Williams and Sabb

Document Path: l:\council\bills\bbm\9678dg17.docx

Companion/Similar bill(s): 4177

Introduced in the Senate on May 8, 2017

Currently residing in the Senate Committee on **Transportation**

Summary: Toll road construction

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

5/8/2017 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h:\sj\20170508.docx))

5/8/2017 Senate Referred to Committee on **Transportation** ([Senate Journal‑page 5](file:///h:\sj\20170508.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=710&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[5/8/2017](file:///p:\pprever\2017-18\710_20170508.docx)

**A** **BILL**

TO AMEND ARTICLE 9, CHAPTER 5, TITLE 57, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TURNPIKE PROJECTS, SO AS TO INCLUDE NONTAX REVENUES MADE AVAILABLE WITHIN THE DEFINITION OF “TURNPIKE FACILITIES REVENUES”, TO PROVIDE WHICH ROADS MAY BE DESIGNATED AS A TURNPIKE FACILITY, TO ALLOW CONTRACTS WITH POLITICAL SUBDIVISIONS, TO PROVIDE THE MANNER IN WHICH TOLL AMOUNTS ARE DETERMINED, TO CLARIFY THE MANNER IN WHICH TURNPIKE BONDS MAY BE AUTHORIZED, AND TO DEFINE “ELECTRONIC TOLL COLLECTION SYSTEM”; TO AMEND SECTION 57‑3‑615, RELATING TO HIGHWAY TOLLS, SO AS TO DELETE CERTAIN PROVISIONS RELATING TO TOLL REVENUES AND TOLL PROJECTS; AND TO AMEND SECTION 12‑28‑2920, RELATING TO THE CONSTRUCTION OF TOLL ROADS, SO AS TO ALLOW TOLL REVENUES TO BE RETAINED IN A SPECIAL ACCOUNT AND TO BE USED TO MAINTAIN THE TURNPIKE FACILITIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 9, Chapter 5, Title 57 of the 1976 Code is amended to read:

“Article 9

Turnpike Projects

Section 57‑5‑1310. This article is intended to provide an additional and an alternative method for the provision of and financing of highways and appurtenant facilities to the end that such highways may be undertaken in such manner as may best be calculated to expedite relief of hazardous and congested traffic conditions on the highways in the State and provide acceptable avenues for commerce and intercommunications by vehicular traffic among the several sections of the State. In effecting this enactment, the General Assembly intends that the indebtedness herein authorized fall within the category permitted by paragraph 9 of Section 13 of Article X of the Constitution of South Carolina.

Section 57‑5‑1320. Unless the context indicates another meaning or intent:

(1) ‘Department’ means the Department of Transportation~~;~~.

(2) ‘Turnpike facility’ means any express highway or limited access highway constructed under the provisions of this article by the department, whether or not financed with turnpike bonds, including any bridge, tunnel, overpass, underpass, interchange, entrance plaza, approach, toll house, service station and administration and storage and other buildings and facilities which the department considers necessary or desirable. A turnpike facility constitutes a portion or extension of any existing or proposed highway in the state highway system~~;~~.

(3) ‘Bonds or turnpike bonds’ means revenue bonds of the State authorized under the provisions of this article and Paragraph (9), Section 13, Article X of the South Carolina Constitution~~;~~.

(4) ‘Authority’ means the State Fiscal Accountability Authority~~;~~.

(5) ‘Turnpike facility revenues’ means all revenues resulting from tolls or other charges derived from the operation of a turnpike facility, including revenues derived from concession leases or other concessionaire operated facilities, and such nontax revenues as may be made available to the department from whatever source for the purpose of operating, financing, maintaining, or any combination thereof, turnpike facilities~~;~~.

(6) ‘Bond resolution’ means the resolution or resolutions of the ~~state board~~ authority making provision for the issuance of turnpike revenue bonds~~;~~.

(7) ‘General obligation bonds’ means state highway bonds issued pursuant to Paragraph (6)(a), Section 13, Article X of the South Carolina Constitution.

(8) ‘State’ means the State of South Carolina.

(9) ‘Commission’ means the Commission of the Department of Transportation.

Section 57‑5‑1330. (1) The department may designate, establish, plan, improve, construct, maintain, operate, and regulate turnpike facilities as a part of the state highway system or any federal aid system whenever the department determines the traffic conditions, present or future, justify the facilities, except that the department may not designate as a turnpike facility any highway, road, bridge, or other transportation facility funded in whole or in part by a local option sales and use tax ~~as provided in~~ imposed pursuant to Chapter 37 of Title 4, but may designate any existing highway, road, bridge, or other transportation facility as a turnpike facility. The department may utilize funds available for the maintenance of the state highway system for the maintenance of any turnpike facility ~~financed pursuant to this article~~. The authority to designate turnpike facilities under this section shall at all times be subject to the provisions of Section 57‑3‑615.

~~2.~~(2) In every highway construction project, except federal and state secondary projects, rehabilitation and widening of federal and state primary and secondary road and bridge projects and highway safety projects, the department shall consider making all or part of the highway construction a turnpike facility and financing it by the use of turnpike bonds. It shall make an entry in the construction project file indicating whether or not it determines making all or part of the project a turnpike facility. If the department determines it is feasible to make all or part of the construction project a turnpike facility, it may engage in the preliminary estimates and studies incident to the determination of the feasibility or practicability of constructing any toll road as it from time to time considers necessary and the cost of the preliminary estimates and studies must be paid from the general highway fund and must be reimbursed from funds provided under this authority only if the studies and estimates lead to the construction of a toll road.

~~3.~~ (3) The department may acquire such lands and property including rights of access as may be needed for turnpike facilities by gift, devise, purchase, or condemnation by easement or in fee simple in the same manner as now or hereafter authorized by law for acquiring property or property rights in connection with other state highways.

~~4.~~(4) In designating, establishing, planning, abandoning, improving, constructing, maintaining and regulating turnpike facilities the department may exercise such authorizations as are granted to the department by the provisions of other statute law applicable to the state highway system, except as they may be inconsistent with the provisions included herein.

~~5.~~(a) The department may contract with any person, partnership, association or corporation desiring the use of any part of the turnpike facility, including the right‑of‑way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels and restaurants or for any other purpose, except tracks for railroad or railway use and to fix the terms, conditions, rents and rates of charges for such use provided that a sufficient number of the aforementioned facilities shall be authorized to be established in each service area along any such turnpike project to permit reasonable competition by private business in the public interest. Revenues from these contracts would be included in turnpike facility revenues.

(b) The department may contract with any political subdivision desiring to assist the department, whether financially, in kind, or otherwise, in any of the designating, establishing, planning, abandoning, financing, improving, constructing, maintaining, and regulating turnpike facilities as may be set forth in an intergovernmental agreement between the department and such political subdivision. Revenues from these contracts would be included in turnpike facility revenues. The right to receive any payments under such an intergovernmental agreement may be maintained by the department, or assigned to the trustee for the turnpike revenue bonds, as may be provided or authorized in the bond resolution. The authority to enter into such an intergovernmental agreement is concurrent, and supplementary, to those general powers granted the department in the Code of Laws of South Carolina, 1976, as amended, including, without limitation, Title 57.

Section 57‑5‑1335. The ~~Department of Transportation~~ department, before constructing a bridge or replacing an existing bridge which qualifies as a turnpike facility as defined in Section 57‑5‑1320, shall conduct the feasibility study required by Section 57‑5‑1330 and shall forward copies of the study to the Chairman of the Transportation and Finance Committees of the Senate and the Education and Public Works and Ways and Means Committees of the House of Representatives within fifteen days of the completion of the study.

Section 57‑5‑1340. In addition to the powers listed above, the South Carolina Department of Transportation may:

~~1.~~(1) ~~Request~~ request the issuance of turnpike bonds for the purpose of paying all or any part of the cost of any one or more turnpike projects;

~~2.~~(2) ~~Fix~~ fix and revise from time to time and charge and collect a program of tolls for transit over each turnpike facility constructed by it and each program may provide for uniformity in tolling or may take into account the weight and class of certain vehicles, planned usage, proximity of residence to the turnpike facility, and any other factors deemed appropriate by the department;

~~3.~~(3) ~~Combine~~ combine, for the purposes of financing ~~the~~ of any turnpike facilities, any two or more turnpike facilities;

~~4.~~(4) ~~Control~~ control access to turnpike facilities;

~~5.~~(5) ~~To~~ to the extent permitted by a bond resolution, expend turnpike facility or facilities revenues in advertising the turnpike facilities and services of the turnpike facility or facilities to the traveling public;

~~6.~~(6) ~~Receive~~ receive and accept from any federal agency grants for or in the aid of the construction of any turnpike facility;

~~7.~~(7) ~~Establish~~ establish a separate division to administer turnpike facilities and a separate turnpike facility account~~.~~;

~~8.~~(8) ~~Do~~ do all acts and things necessary or convenient to carry out the powers expressly granted in this article.

Section 57‑5‑1350. Whenever it becomes necessary that monies be raised for a turnpike facility, the commission may make request to the ~~State Fiscal Accountability Authority~~ authority for the issuance of turnpike bonds. The request may be in the form of a resolution adopted at any regular or special meeting of the commission. The request shall set forth on the face thereof or by schedule attached thereto:

~~1.~~(1) the turnpike facility proposed to be constructed;

~~2.~~(2) the amount required for feasibility studies, planning, design, right‑of‑way acquisition, and construction of the turnpike facility;

~~3.~~(3) a tentative time schedule setting forth the period of time for which the sum request must be expended;

~~4.~~(4) a debt service table showing the estimated annual principal and interest requirements for the requested turnpike bonds;

~~5.~~(5) any feasibility study obtained by the commission relating to the proposed turnpike facility;

~~6.~~(6) the commission’s recommendations relating to any covenant to be made in the bond resolution of the ~~State Fiscal Accountability Authority~~ authority respecting competition between the proposed turnpike facility and possible future highways whose construction would have an adverse effect upon the turnpike facility revenues which would otherwise be derived by the proposed turnpike facility.

Section 57‑5‑1360. Following the receipt of a request pursuant to Section 57‑5‑1350, the ~~State Fiscal Accountability Authority~~ authority shall review the request and, to the extent that it approves the request, it may effect, by resolution duly adopted, the issuance of turnpike bonds, or pending their issuance, may effect the issuance of bond anticipation notes ~~pursuant to Title 11~~ using the provisions of Chapter 17, Title 11. If and when the authorizations of Chapter 17, Title 11 are utilized, the provisions of this article shall control in the event of conflict between this chapter and Chapter 17, Title 11. A resolution approving any proposed turnpike bonds may not be adopted unless before approval the ~~state board~~ authority conducts, after not less than ten days’ published notice, a public hearing in the City of Columbia.

Section 57‑5‑1370. Turnpike bonds may be issued from time to time under the conditions prescribed by this article.

Section 57‑5‑1380. For the payment of the principal of and interest on all turnpike bonds, there is irrevocably pledged ~~all turnpike revenues derived from the~~ such turnpike facility ~~financed by the bonds~~ revenues, to the extent and in the manner prescribed by the bond resolution. Any interest earned on turnpike facility account balances must be credited to the turnpike facility account as prescribed in the bond resolution.

The turnpike bonds authorized by this article are special limited obligations of the State. The principal and interest are payable solely out of the turnpike facility revenues. The turnpike bonds issued do not constitute an indebtedness of the State, authority, or department within the meaning of any state constitutional provision or statutory limitation. They are an indebtedness payable solely from a revenue producing source or from a special source that does not include revenues from any tax within the meaning of Paragraph (9), Section 13, Article X of the South Carolina Constitution. The bonds do not constitute nor give rise to a pecuniary liability of the State, authority, or the department or a charge against the general credit of the State, authority, or department, or taxing powers of the State. The full faith, credit, and taxing powers of the State, authority, or department are not pledged to the payment of the turnpike bonds and this fact must be plainly stated on the face of each turnpike bond. The authority and the department each lack taxing power.

Section 57‑5‑1390. Turnpike bonds shall bear interest, payable on occasions prescribed by the ~~State Fiscal Accountability Authority~~ authority, at a rate not exceeding the maximum prescribed ~~by Section 11‑9‑350~~ in the bond resolution. Each issue of turnpike bonds shall mature on the occasion, or in the manner, prescribed by the ~~State Fiscal Accountability Authority~~ authority in the bond resolution, not exceeding forty years from the date the bonds bear. Turnpike bonds may, in the discretion of the ~~State Fiscal Accountability Authority~~ authority, be made subject to redemption at par and accrued interest, ~~plus~~ and with such redemption features or premium as it ~~approves and on occasions and under conditions it prescribes~~ authorizes. Turnpike bonds are not redeemable before maturity unless they contain a statement to that effect.

Section 57‑5‑1400. Turnpike bonds must be sold at private or public sale under such conditions as may be prescribed by the ~~State Fiscal Accountability Authority~~ authority in the bond resolution. For the purpose of bringing about successful sales of the bonds, the ~~State Fiscal Accountability Authority~~ authority may do, or cause to be done, all things ordinarily and customarily done in connection with the sale of state or municipal bonds. All expenses incident to the sales of the turnpike bonds must be paid from the proceeds of the sale of the turnpike bonds or turnpike facility revenues.

Section 57‑5‑1410. All turnpike bonds must be executed in the name of and on behalf of the State ~~of South Carolina~~ and must be signed by the Governor and the State Treasurer. The Great Seal of the State must be affixed to, impressed, or reproduced upon each of them and they must be attested by the Secretary of State. If approved by the ~~State Fiscal Accountability Authority~~ authority, ~~any one or two of~~ the officers may, in lieu of manually signing, employ the use of the facsimile of their signatures in executing any turnpike bonds.

Section 57‑5‑1420. The proceeds derived from the sale of turnpike bonds must be applied only to the purposes ~~for which bonds are issued~~ authorized by this article and provided in the bond resolution.

Section 57‑5‑1430. Turnpike bonds must each be in the denomination of one thousand or five thousand dollars or some multiple thereof.

Section 57‑5‑1440. Turnpike bonds issued pursuant to this article may be in the form of negotiable coupon bonds, payable to bearer, with the privilege to the holder of having them registered in his name on the books of the State Treasurer as to principal only, or as to both principal and interest, and the principal or both principal and interest, as the case may be, thus made payable to the registered holder, subject to conditions the ~~State Fiscal Accountability Authority~~ authority prescribes. Turnpike bonds so registered as to principal in the name of the holder may thereafter be registered as payable to bearer and made payable accordingly.

Turnpike bonds may also be issued as fully registered bonds with both principal and interest made payable only to the registered holder. The fully registered bonds are subject to transfer under conditions the ~~State Fiscal Accountability Authority~~ authority prescribes. The fully registered bonds may, if the proceedings authorizing their issuance so provide, be convertible into negotiable coupon bonds with the attributes set forth in the first paragraph of this section.

Section 57‑5‑1450. (A) The ~~State Fiscal Accountability Authority~~ authority, by resolution duly adopted, may make provision for the issuance of turnpike bonds. In the resolution, the ~~State Fiscal Accountability Authority~~ authority may prescribe:

(1) the amount, denomination, and numbering of turnpike bonds to be issued;

(2) the ~~date as of which they must be issued~~ method or manner of dating the turnpike bonds;

(3) the estimated maturity schedule for the retirement of the turnpike bonds and a pro‑forma table of the anticipated principal and interest payments for such turnpike bonds;

(4) the form or forms of the turnpike bonds of the particular issue;

(5) the redemption provisions, if any, applicable to the turnpike bonds;

(6) the maximum rate or rates of interest the turnpike bonds shall bear;

(7) the specific purposes for which the turnpike bonds must be issued;

(8) the purposes for which the proceeds of the turnpike bonds must be expended, in the discretion of the ~~State Fiscal Accountability Authority~~ authority, a portion of the proceeds may be used as capitalized interest during the period of construction and initial operation and for the creation of appropriate debt service ~~reserves~~ reserve funds and such other accounts and funds as the authority deems necessary or expedient for the turnpike bonds and the proper operation and maintenance of the turnpike facilities;

(9) the method and conditions by which turnpike facility revenues ~~from the turnpike facility so financed~~ must be collected and utilized;

(10) the extent to which and the conditions under which additional parity turnpike bonds may be issued;

(11) any covenant considered necessary protecting the turnpike facility so financed from possible future competition from other highways or comparable facilities;

(12) the authorized method or methods by which the turnpike bonds ~~must~~ may be sold and such other matters as may be considered necessary in order to effect the sale, issuance, and delivery of the bonds; and

(13) the ability to issue current or advance refunding turnpike bonds under the provisions of state law, including, but not limited to, Chapter 21, Title 11, and conditions under which such refunding turnpike bonds may be issued.

(B) Except as otherwise provided in this article, all expenses incurred in carrying out the provisions of this article are payable solely from funds provided under the authority of this article or from any funds provided by the federal government or from other special sources and no liability or obligation may be incurred by the department beyond the extent to which ~~money~~ authorization has been provided under the provisions of this article.

(C) The resolution shall set forth further a finding on the part of the ~~State Fiscal Accountability Authority~~ authority that the estimate of turnpike facility revenues made by the commission and approved by the ~~State Fiscal Accountability Authority~~ authority indicates that collection from turnpike facility revenues for applicable fiscal years is not less than that required for annual debt service requirements of the requested turnpike bonds. In making such finding, the department and the authority may rely in whole or in part on the work product of third‑party professionals engaged to provide feasibility or practicability studies related to the turnpike facilities and the financing thereof through turnpike bonds.

(D) The requirements of this section may be satisfied by the adoption of one or more resolutions by the authority from time to time and nothing shall prevent turnpike bonds from being secured by a trust indenture if so provided in the bond resolution authorizing the issuance of turnpike bonds.

Section 57‑5‑1460. If following presentation of a certified copy of the bond resolution it appears to the satisfaction of the Governor and the State Treasurer that the estimated collection from the ~~sources of revenue~~ turnpike facility revenues in applicable future fiscal years are not less than that required for annual debt service requirements for the requested turnpike bonds, the Governor and State Treasurer may effect the sale and delivery of bonds in accordance with, and pursuant to any delegations provided in, the bond resolution.

Section 57‑5‑1470. All turnpike bonds issued under this article, and the interest thereon, are exempt from all state, county, municipal, school district, and other taxes or assessment, direct or indirect, general or special, imposed by the State of South Carolina, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, or transfer taxes. Each turnpike facility constitutes a portion of the state highway system and as such is not subject to ad valorem or other forms of taxation by the State or any of its political subdivisions.

Section 57‑5‑1480. It is lawful for all executors, administrators, guardians, and other fiduciaries and all sinking fund commissions, including the ~~State Fiscal Accountability Authority~~ Retirement System Investment Commission and Public Employee Benefit Authority in their capacities as cotrustees of the funds of the South Carolina Retirement System, and the authority as manager and administrator of other state sinking funds, to invest any monies in their hands in turnpike bonds.

Section 57‑5‑1490. Any person who uses any turnpike ~~project~~ facility and fails or refuses to pay ~~the~~ any toll ~~provided therefor~~ then due shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than two hundred dollars or by imprisonment for not more than thirty days, and in addition thereto the Department shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof.

Section 57‑5‑1495. (A) As used in this section:

(1) ‘Electronic toll collection system’ means a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by ~~transmission of information from an~~ electronic ~~device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge~~ means.

(2) ‘Lessor’ means any person, corporation, firm, partnership, agency, association, or organization renting or leasing vehicles to a lessee under a rental agreement, lease, or otherwise wherein the said lessee has the exclusive use of the vehicle for any period of time.

(3) ‘Lessee’ means any person, corporation, firm, partnership, agency, association, or organization that rents, leases, or contracts for the use of one or more vehicles and has exclusive use of the vehicles for any period of time.

(4) ‘Owner’ means a person or an entity who, at the time of a toll violation and with respect to the vehicle involved in the violation, is the registrant or co‑registrant of the vehicle with the Department of Motor Vehicles of this State or another state, territory, district, province, nation, or jurisdiction.

(5) ‘Photo‑monitoring system’ means a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of a vehicle at the time it is used or operated in violation of toll collection regulations.

(6) ‘Toll violation’ means the passage of a vehicle through a toll collection point without payment of the required toll.

(7) ‘Vehicle’ means a device in, upon, or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

(B) Notwithstanding another provision of law, when a vehicle is driven through a turnpike facility without payment of the required toll, the owner and operator of the vehicle is jointly and severally liable to the ~~Department of Transportation~~ department to pay the required toll, administrative fees, and civil penalty as provided in this section. The department or its authorized agent may enforce collection of the required toll as provided for in this section.

(C) A certificate, sworn to or affirmed by an agent of the department, or a facsimile of it, that a toll violation has occurred, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a photo‑monitoring system, is prima facie evidence of the violation and is admissible in any proceeding charging a toll violation pursuant to this section. A photograph, microphotograph, videotape, ~~or~~ other recorded image, or records of electronic means, evidencing a violation must be available for inspection by the party charged and is admissible into evidence in a proceeding to adjudicate liability for a violation.

(D) The department or its authorized agent may assess and collect administrative fees of:

(1) not more than ten dollars for the first toll violation within a period of one year;

(2) not more than twenty‑five dollars for each subsequent toll violation within a period of one year.

(E) Upon failure to pay the required toll and administrative fees to the department within thirty days of the notice, the owner or operator may be cited for failure to pay a toll pursuant to this subsection and, upon an adjudication of liability, is subject to a civil penalty not to exceed fifty dollars for each violation as contained in subsection (F). Upon an adjudication of liability, a judgment must be entered against the owner or operator, and the court must mail a copy of the judgment to the owner or operator. Upon failure to satisfy the judgment within thirty days, the court shall notify the Department of Motor Vehicles and the authorized agent, and the department shall suspend the registration of the vehicle that was operated when the toll was not paid and deny the vehicle’s registration or reregistration pursuant to Section 56‑3‑1335. The suspension shall remain in effect until the judgment is satisfied and evidence of its satisfaction has been presented to the Department of Motor Vehicles and the authorized agent. An owner or operator who has been convicted of a violation of Section 57‑5‑1490 is not liable for the penalty imposed by this subsection.

(F) If a magistrate or municipal judge determines that the person or entity charged with liability under this section is liable, the magistrate or municipal judge shall collect the unpaid tolls and administrative fee and forward them to the department or its authorized agent. The magistrate or municipal judge also may impose a civil penalty of up to fifty dollars for each violation, plus court costs and attorney’s fees. The civil penalty must be distributed in the same manner as other fines and penalties collected by the magistrate. Notwithstanding another provision of law:

(1) adjudication of liability pursuant to this section must be made by the magistrate’s court of the county in which the toll facility is located or the municipal court of the city in which the toll facility is located; and

(2) an imposition of liability pursuant to this section must be based upon a preponderance of evidence submitted and is not a conviction as an operator pursuant to Section 57‑5‑1490.

(G) The department or its authorized agent shall send:

(1) a ‘First Notice to Pay Toll’ to the owner or operator of a vehicle which, on one occasion in any twelve‑month period, is identified as having been involved in a toll violation. The first notice must require payment to the department of the required toll, plus an administrative fee as provided for in subsection (D), within thirty days of the mailing of the notice;

(2) a ‘Second Notice to Pay Toll’ to the owner or operator of a vehicle which is identified as having been involved in a second toll violation in a twelve‑month period, or who has failed to respond to a ‘First Notice to Pay Toll’ within the required time period. The second notice must require payment to the department of the required tolls, plus an administrative fee as provided for in subsection (D) for each violation within thirty days of the mailing of the notice;

(3) a ‘Failure to Pay a Toll’ citation to the owner or operator of a vehicle which is identified as having been involved in a third toll violation in a twelve‑month period, or who has failed to respond to the second notice within the required time period. The citation requires payment to the department of the unpaid tolls, plus an administrative fee of not more than twenty‑five dollars for each violation, within thirty days, or the recipient’s appearance in magistrate’s court of the county in which the violation occurred or the municipal court of the city in which the violation has occurred to contest the citation. A ‘Failure to Pay a Toll’ citation constitutes the summons and complaint for an action to recover the toll and all applicable fees allowed pursuant to this section; and

(4) notwithstanding another provision of law, the notices and citation required by subsection (G) by first‑class mail to the owner or operator of the vehicle identified as being involved in the toll violation. If a vehicle is registered in two or more names, the notices or citation must be mailed to the first name listed on the registration records. Notwithstanding another provision of law, personal delivery of the notices and citation is not required. A manual or automatic record of the mailing of the notices or citation prepared in the ordinary course of business is prima facie evidence of the mailing of the notices or citation;

(5) the notices and citation required by this subsection must contain the following information:

(a) the name and address of the person or entity alleged to be liable for a failure to pay a toll pursuant to this section;

(b) the registration number of the vehicle involved in the toll violation;

(c) the location where the toll violation took place;

(d) the date and time of the toll violation;

(e) the identification number of the photo‑monitoring system or other electronic system which recorded the violation or other document locator number;

(f) information advising of the manner and time in which liability may be contested;

(g) warning advising that failure to contest liability in the manner and time provided in this section is an admission of liability; and

(h) information advising that failure to pay a toll may result in the suspension of vehicle registration.

(H) If a vehicle owner receives a notice or citation pursuant to this section for a period during which the vehicle involved in the toll violation was:

(1) reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a failure to pay a toll is that the vehicle had been reported to a law enforcement division as stolen before the time the violation occurred and had not been recovered by the time of the violation. If an owner receives a notice or citation pursuant to this section for a violation which occurred during a time period in which the vehicle was stolen, but which had not been reported to a law enforcement division as having been stolen, a valid defense to an allegation of liability for a toll violation pursuant to this section is that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subitem, a certified copy of the police report on the stolen vehicle, sent by first‑class mail to the department, its agent, or the magistrate’s court or the municipal court having jurisdiction of the citation within thirty days after receipt of the notices or citation, is sufficient;

(2) leased to another person or entity, the lessor is not liable for the violation if the lessor sends to the department or to the court having jurisdiction over the citation a copy of the rental, lease, or another contract document covering the vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the notices or citation. Failure to send the information within the thirty‑day period renders the lessor liable for the unpaid tolls and any administrative fees or penalties assessed pursuant to this section. If the lessor complies with the provisions of this subitem, the lessee of the vehicle on the date of the violation is subject to liability for the failure to pay the toll if the department or its agent mails a notice of liability to the lessee within thirty days after receipt of a copy of the rental, lease, or other contract document.

(I) If a person or entity receives a notice or citation pursuant to this section, it is a valid defense to liability that the person or entity that receives the notice was not the owner of the vehicle at the time of the toll violation.

(J) If an owner who pays the required tolls, fees, or penalties, or all of them pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

(K) An owner of a vehicle is not liable for a penalty imposed pursuant to this section if the operator of the vehicle has been convicted of a violation of Section 57‑5‑1490 for the same incident.

(L) On turnpike facilities where electronic toll collection systems are utilized:

(1) a person who wants to make payment of tolls electronically must apply to the department or its authorized agent to become an account holder. The department or its authorized agent, in its discretion, may deny the application of a person. A person whose application is accepted must execute an account holder’s agreement. The terms of the account holder’s agreement must be established by the department;

(2) the department shall ensure that adequate and timely notice is given to all electronic toll collection system account holders to inform them when their accounts are delinquent. The owner of a vehicle who is an account holder under the electronic toll collection system is not liable for a failure to pay a toll pursuant to the provisions of this section unless the department or its authorized agent has first sent a notice of delinquency to the account holder and the account holder was delinquent at the time of the violation;

(3) the department shall not sell, distribute, or make available the names and addresses of electronic toll collection system account holders, without the account holder’s consent, to any entity that uses the information for commercial purposes. However, this restriction does not preclude the exchange of this information between entities with jurisdiction over or operating a toll highway bridge or tunnel;

(4) information or data collected by the department or its authorized agent for the purpose of establishing and monitoring electronic toll collection accounts is not subject to disclosure under the Freedom of Information Act;

(5) notwithstanding another provision of law, all information, data, photographs, microphotographs, videotape, or other recorded images prepared pursuant to this section must be for the exclusive use of the department or its authorized agent in the discharge of its duties under this section and must not be open to the public, subject to the disclosure under the Freedom of Information Act, nor used in a court in an action or a proceeding pending unless the action or proceeding relates to the imposition of or indemnification for liability pursuant to this section.

(M) Notwithstanding any other provision of law, school buses transporting school children for a school event, shall be exempt from the payment of any tolls.”

SECTION 2. Section 57‑3‑615 of the 1976 Code is amended to read:

“Section 57‑3‑615. ~~If a toll is administered on a project by the Department of Transportation, the toll must be used to pay for the construction, maintenance costs, and other expenses for only that project. A toll project that is in excess of one hundred fifty million dollars may only be initiated as provided in Chapter 37 of Title 4.~~

No toll may be imposed on passage of any vehicle on federal interstate highways in this State which were in existence as of January 1, 1997, unless the imposition is otherwise affirmatively approved by the General Assembly in separate legislation enacted solely for that purpose.”

SECTION 3. Section 12‑28‑2920 of the 1976 Code is amended to read:

“Section 12‑28‑2920. The ~~department~~ Department of Transportation shall review projects for the possibility of constructing toll roads to defray the cost of these projects pursuant to the authority granted the ~~department~~ Department of Transportation in Section 57‑5‑1330. No project may be funded by means of imposing a toll on the users of the project unless in conjunction with ~~federal~~ other funds authorized for use on such toll roads, if any, it is determined to be substantially feasible by the ~~department~~ Department of Transportation. The funds derived from tolls must be:

(1) credited to the State Highway Fund or retained in special funds and applied by the entity or entities, including the Department of Transportation, developing the toll road pursuant to an agreement authorized under Section 57‑3‑200 for the purpose of funding the cost of construction, financing, operation, and maintenance of the toll project; or

(2) used to service bonded indebtedness for highway transportation purposes incurred pursuant to Paragraph 9, Section 13, Article X of the South Carolina Constitution.

Upon repayment of the cost of construction and financing and unless used for maintenance and operation of turnpike facilities designed by the Department of Transportation pursuant to Section 57‑5‑1330, toll charges shall cease.”

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑