



Mayor

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April 12, 2021

Senator Thomas J. Umberg
Chair, Senate Judiciary Committee
Room 2187, State Capitol
Sacramento, CA 95814

RE: SB 623 (Newman) – SUPPORT

Dear Chair Umberg:

The City of Newport Beach kindly urges your support of SB 623 (Newman), which clarifies existing law to ensure toll operators statewide can perform the necessary operations to enforce toll policies, provide emergency road alerts to accountholders and fulfill interoperability for seamless cross-agency billing around the state, while strengthening privacy protections.

SB 623 makes clear, consistent with the original legislative intent, that toll facilities are permitted to share necessary information pertaining to their customers with the Department of Motor Vehicles and other agencies to pursue toll collection and enforcement, and to share such information with other toll facilities to carry out the state mandate for interoperability (allowing one toll facility's customers to use any other toll facility within the state). SB 623 also provides necessary amendments to permit California toll agencies to carry out the federal mandate for interoperability (allowing one toll facility's customer to seamlessly use toll facilities in other states).

Currently, toll agencies throughout the state have been subjected to litigation alleging that they are violating legislation passed in 2010 (SB 1268, Simitian) related to the sharing of personally identifiable information (which the law defines to include a license plate number) even though the use of this information is essential for toll operators to perform necessary functions. For example, toll agencies need to utilize license plate and/or toll transaction or vehicle owner information in various circumstances, including:

- Communication with the Department of Motor Vehicles to find appropriate contact information to process toll violations and toll invoices.
- Sending toll notices through the United States Postal Service.
- Communication with other toll agencies in California to ensure they're properly billing customers for intrastate interoperability transactions.
- Communication with the Franchise Tax Board to enforce payment of unpaid tolls or penalties.

Further, given ambiguous language in the Streets and Highways Code, it is possible that a court could interpret the language to prohibit toll operators from sharing information with their customers about fire or flood hazards, road closures and road repairs. Because of this ambiguity, toll agencies are forced to weigh providing emergency alerts against potential lawsuits alleging billions in statutory damages.

SB 623 also preserves and enhances privacy protections that prohibit the sale or other disclosure of personal information except for essential operating functions of toll facilities and transit fare payment systems. The bill retains the \$2,500 per violation penalty in current law and adds the requirement that a transportation agency describe in a "clear manner" within its privacy policy the process for providing opt-in consent and for revoking that consent.

SB 1268 included explicit language indicating that the limitations imposed by the bill were not intended to impede the ability of toll operators to manage and operate their toll collection systems. However, without the passage of SB 623, the operation of toll facilities could continue to be severely hindered by class action lawsuits that distort the Legislature's intent and have already cost public toll agencies tens of millions in legal expenses.

For these reasons, the City of Newport Beach respectfully requests your support for SB 623.

Sincerely,



Brad Avery
Mayor