



E-ZPass Virginia and VDOT Violations Processing Privacy Policy

Summary:

VDOT has implemented and regularly reviews a strong privacy policy that is guided by the law and provides a high-level of protection against the use of toll customer personal data for purposes other than toll collection.

Overview:

E-ZPass

In 1996, VDOT implemented an electronic system for paying tolls – E-ZPass – which has enjoyed increasing popularity over the years. VDOT currently processes millions of electronic transactions per month, and the number of customers and percentage of tolls paid using E-ZPass continues to grow daily. In order to establish an E-ZPass account, a customer provides certain personal data to VDOT: name, driver’s license number, address, phone numbers, email address, make and model of car, license plate number, credit card number, etc. As the customer uses E-ZPass to pay tolls, more personal data is accumulated by VDOT in the form of times, dates and locations of travel through various toll locations.

Violation Enforcement Processing

With the advent of video/photo enforcement systems, an additional component is added – i.e. a picture of the vehicle if the toll is not paid with E-ZPass or other method at the time of travel on the toll facility.

Privacy protection

At various times, VDOT has been asked by outside entities for various types of E-ZPass data for widely divergent purposes. Some examples include:

- Marketing firms – to identify and solicit names and addresses of specifically targeted populations.
- Investigative firms – in the course of investigating individuals, businesses and political figures.
- Law enforcement agencies – during criminal investigations.
- Individual customers – checking on their personal account activity.

Requests for violation related data are less frequent but could include similar entities to those requesting E-ZPass data.

VDOT has also received inquiries from customers requesting reassurance that access to their personal data is restricted. Some are concerned about marketers. Some have concerns about access to financial information (such as credit card numbers). Some have concerns about the possibility of their travel being “tracked” via E-ZPass. Recognizing the sensitivity of much of this information, VDOT obtained an exemption from the Virginia’s Freedom of Information Act that covers E-ZPass and violation enforcement data:

§ 2.2-3705.7. Exclusions to application of chapter; records of specific public bodies and certain other limited exclusions.

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

...

17. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

In addition to the exemption from the Virginia’s Freedom of Information Act, HOT lanes and other toll facility operators are required to maintain certain violation information confidential and to use that information only for tolling purposes:

§ 33.2-504. Release of personal information to or by HOT lanes operators; penalty.

A. The HOT lanes operator may enter into an agreement with the Department of Motor Vehicles, in accordance with the provisions of subdivision B 21 of § 46.2-208, to obtain vehicle owner information regarding the owners of vehicles that use HOT lanes and with the Department of Transportation to obtain any information that is necessary to conduct electronic toll collection and otherwise operate HOT lanes. Such agreement may include any information that may be obtained by the Department of Motor Vehicles in accordance with any agreement entered into pursuant to § 46.2-819.9. No HOT lanes operator shall disclose or release any personal information received from the Department of Motor Vehicles or the Department of Transportation to any third party, except in the issuance of a summons and institution of court proceedings in accordance with § 33.2-503. Information in the possession of a HOT lanes operator under this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. Information collected by a photo-enforcement system shall be limited exclusively to that information that is necessary for the collection of unpaid tolls. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other data collected by a photo-enforcement system shall be used exclusively for the collection of unpaid tolls and shall not be (i) open to the public; (ii) sold or used for sales, solicitation, or marketing purposes; (iii) disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll; or (iv) used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of § 33.2-503 or upon order from a court of competent jurisdiction. Information collected under this section shall be purged and not retained later than 30 days after the collection and reconciliation of any unpaid tolls, administrative fees, or civil penalties. Any entity operating a photo-enforcement system shall annually certify

compliance with this section and make all records pertaining to such system available for inspection and audit by the Commissioner of Highways or the Commissioner of the Department of Motor Vehicles or their designee. Any violation of this subsection constitutes a Class 1 misdemeanor. In addition to any fines or other penalties provided for by law, any money or other thing of value obtained as a result of a violation of this section shall be forfeited to the Commonwealth.

Similar language, applying to other types of toll facilities, can be found in §§ 46.2-819.1, 46.2-819.3:1, and 46.2-819.5 of the Code of Virginia.

Current Privacy Policy:

Access to E-ZPass and violation information is limited to VDOT, its agents and toll facility employees who need this access in order to perform their jobs in operating the toll collection systems and providing customer service. Access by outside parties is not routinely allowed. In some instances, however, we allow the sharing of customer information:

- To law enforcement agencies conducting criminal investigations in accordance with subpoenas, court orders or amber alerts.
- In summary form (i.e. combined and summarized data that does not include any information specific to an individual customer) to individuals or organizations conducting research.

Subpoenas and court orders are reviewed and, if questionable, are forwarded to the Office of the Attorney General prior to responding. All specific or summary requests are reviewed by VDOT management to ensure the request is consistent with these privacy policies.

Privacy Policy Statement:

The Virginia Department of Transportation respects the privacy of customers who have provided personal information in order to establish E-ZPass accounts. This statement describes VDOT's current policy and procedures and should not be interpreted as a contractual agreement. VDOT is subject to Federal and State statutory requirements and may amend its privacy policy at any time without notice.

What we do with information we obtain from E-ZPass customers:

We use the data we obtain from you to:

- Establish your E-ZPass account.
- Maintain your account balance.
- Process toll payments and any administrative fees electronically.
- Notify you of changes in your account status.
- Provide you with periodic statements about activity in your account.

The name and address of E-ZPass customers who have no funds in their E-ZPass accounts are shared with toll facilities to enable the mailing of an invoice or notice to a customer who has used a toll facility without payment.

We also provide information in response to subpoenas and court orders and for violation enforcement. The information provided is limited to that specifically requested.

What we do **not** use customer information for:

We do not provide information about your account to individuals that are not identified on your account or are unable to pass identity validation checks. We do not sell data about our customers to marketing firms. We do not provide specific customer account or activity data to other organizations except as required by law and for violation enforcement.

How we protect your privacy:

We use encryption on our web site to help prevent interception by unauthorized parties. We release information about account activity only to individuals who provide authorizing identification.

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