



May 6, 2025

Testimony of Sean Paulhus, Maine Turnpike Authority
Before the 132nd Legislature, Joint Standing Committee on Transportation

Neither For Nor Against LD 1809
An Act to Further Stabilize Highway Fund Revenue

Senator Nangle, Representative Crafts, and distinguished members of the Joint Standing Committee on Transportation, my name is Sean Paulhus, and I serve as the Government Relations and Planning Manager for the Maine Turnpike Authority. I appreciate the opportunity to appear before you today and thank you for your commitment to Maine's transportation system.

Maine Turnpike Authority is Neither For Nor Against LD 1809, as MTA receives no State or Federal funding, however, we believe one aspect of the bill presents constitutional issues that should be reviewed.

At the heart of our concern is the bill's proposed surcharge on out of state vehicles. While the intent may be to generate revenue from those who use our roads but don't live here, such a provision raises significant concerns under the Commerce Clause of the U.S. Constitution. The Supreme Court has long interpreted the commerce clause broadly, to include all transportation of people or goods.

In the 1964 case, *Heart of Atlanta Motel Inc v. United States*, the court said that when in determining whether this clause applied, it does not "make any difference whether the transportation is commercial in character." We mention this to point out that the bill's provision that it only applies to "noncommercial, passenger vehicles" may not be enough to shield it from challenge.

When a statute imposes a fee structure that explicitly targets non-residents—as would be the case with an out-of-state vehicle surcharge—it is very likely to invite legal challenge and be declared unconstitutional. A relevant precedent from Maine's own judicial system occurred in 1981, when the Maine Supreme Judicial Court struck down a law that imposed additional fees on out-of-state trucks (*American Trucking Associations, Inc. v. Quinn*). The legal parallels to LD 1809 are notable.

Toll discount programs have frequently been challenged under the commerce clause and when those programs are equally accessible to all users, regardless of residency, they have usually been upheld, even if membership in the programs, and access to the discount, is overwhelmingly in-state. The surcharge in this bill, however, explicitly target non-residents and will be subject to a much higher level of scrutiny if challenged.

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On a practical level we have concerns and questions about how this could be implemented. In a 100 percent cash collection system this would be relatively straightforward because human beings interact with every vehicle.

With our electronic system, however, there would be many logistical and programming issues to address. For instance, we would have to retain an image of every transaction, whereas now the system only retains images of toll violators. This would create challenges with storage and bandwidth. We would also have to implement an automated plate recognition system that could distinguish with a high degree of accuracy between states and between commercial and non-commercial vehicles. This is something that would have to be developed, tested and implemented. Even then, there would have to be additional staffing in order to audit the results. We fully recognize the importance of addressing Maine's transportation funding needs. While we do not take a position on the bill itself, we thought it necessary to provide this information for you as you begin deliberations.

I'd be happy to answer any questions you have at this time.