

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 611 (Delegate Carr)
Environment and Transportation

Vehicle Laws - Civil Penalty for Failure to Pay Video Toll - Limitation

This bill removes the authority of the Maryland Transportation Authority (MDTA) to set the civil penalty for failure to pay a video toll by regulation (current regulations set the civil penalty at \$50); instead, the bill sets the civil penalty at \$25.

Fiscal Summary

State Effect: MDTA nonbudgeted revenues decrease, potentially significantly, beginning in FY 2017 due to the reduced civil penalty for toll violations. This impact may be partially offset, as discussed below. MDTA nonbudgeted expenditures increase by \$25,000 in FY 2017 only, for programming costs. General fund revenues from the Central Collection Unit (CCU) of the Department of Budget and Management decrease due to the reduced civil penalty and to the extent that the bill results in fewer accounts being assigned to CCU for collection; general fund expenditures for CCU may decrease due to a decrease in workload. While the bill likely results in a decrease in caseload for the District Court, any impact on the Judiciary’s finances is not anticipated to be significant.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Current Law: Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State’s toll facilities and for financing new revenue-producing transportation projects. MDTA is governed by nine individuals appointed by the Governor, with the advice and consent of the Senate. The Secretary of

Transportation serves as MDTA's chairman. MDTA transportation facilities projects include:

- bridges, tunnels, and toll highways;
- vehicle parking facilities located in priority funding areas;
- other projects that MDTA authorizes to be acquired or constructed; and
- any authorized additions or improvements to MDTA projects.

Video Tolling and Toll Violations at MDTA Facilities

A motor vehicle incurs a video toll when the vehicle passes through an MDTA toll facility but does not pay the toll using cash or an E-ZPass. MDTA is required to send the registered owner of a motor vehicle that has incurred a video toll a notice of toll due. The owner then has 30 days to pay the toll amount. An owner who fails to pay the amount due is subject to a civil citation and civil penalty. The civil penalty must be set by MDTA through regulations and is currently \$50.

Chapter 122 of 2015 significantly altered the video tolling collection and toll violation process to allow more flexibility for motorists who incur a video toll, beginning in fiscal 2016. Among other things, Chapter 122 does not allow MDTA to assess a civil citation until 15 days after the toll violation occurs (a toll violation occurs 30 days after the notice of toll due is issued if a person does not pay the video toll by that date). Chapter 122 also authorizes MDTA to waive any portion of a video toll due or civil penalty assessed for a toll violation until the debt is referred to CCU.

Civil Citations and Penalties

A person who receives an MDTA citation for failure to pay a toll (a toll violation) must either pay the toll and penalty in the allotted timeframe or elect to go to court. If a person fails to elect to stand trial or pay the prescribed video toll and civil penalty, is adjudicated to be liable after trial, or fails to appear at a trial after having elected to stand trial, MDTA may (1) collect the video toll and the civil penalty by any means of collection as provided by law and (2) notify the Motor Vehicle Administration (MVA).

MVA must refuse or suspend the registration of any motor vehicle incurring an electronic toll violation if notified by (1) MDTA that a registered owner has been served with a citation and has failed to pay a toll and civil penalty for the toll violation or has failed to contest liability for the toll violation within the time or in the manner specified in the citation or (2) MDTA or the District Court that a person who elected to contest liability for a toll violation failed to appear for trial or was found guilty of the toll violation and failed to pay the toll and penalty costs.

The registered owner of a motor vehicle is not liable for a toll violation civil penalty if the operator of the motor vehicle has been convicted of failure or refusal to pay a toll for the same violation.

Background: Prior to the enactment of Chapter 122, a customer that did not pay his or her toll with cash or E-ZPass was sent a notice of toll due in the mail and given only 30 days to pay the video toll rate (which is 150% of the base toll rate). Any customer that did not pay within 30 days was immediately issued a citation, including the \$50 civil penalty.

MDTA advises that it set the civil penalty at \$50 in order to offset the transaction costs that are incurred for toll violators. These costs include generating license plate images, looking up vehicle owner information, issuing the citation, mailing multiple notices, processing court documents, and making court appearances.

State Fiscal Effect:

MDTA

The precise impact of the bill on MDTA's finances depends on various unknown factors, including the number of toll violators in any given year and how many of those violators go to court, pay the civil penalty, or do not pay the civil penalty. The State's video tolling process was significantly altered by Chapter 122 of 2015, so there is little data available with which to base any out-year impact. Even so, MDTA advises that in fiscal 2015, it assessed about \$85 million in civil penalties from 1.7 million toll violations and collected about \$17 million of the penalties assessed. *For illustrative purposes only*, had the bill been in effect in that year, MDTA would have only assessed \$42.5 million in civil penalties and would have only collected an estimated \$8.5 million in civil penalties.

Any such revenue loss may be partially offset to the extent that decreasing the civil penalty from \$50 to \$25 increases the total number of penalties collected in a timely manner; a toll violator may be more likely to pay a \$25 penalty than a \$50 penalty. If this occurs, MDTA nonbudgeted expenditures also decrease from no longer having to mail as many notices or, if fewer toll violators request a trial, no longer having to process as many documents for court hearings.

Department of Budget and Management – Central Collection Unit

CCU advises that it recovers its operating expenses by assessing and collecting a 17% fee in addition to and for the debts that it is assigned. CCU estimates that the average toll violation debt it is assigned for each toll violation account is approximately \$55 (\$5 toll and \$50 civil penalty) and that, under the bill, the average toll violation debt it is assigned

is approximately \$30 (\$5 toll and \$25 civil penalty). Thus, the bill decreases the revenue CCU recovers from each assessment from 17% of \$55 (\$9.35) to 17% of \$30 (\$5.10).

General fund revenues further decrease because CCU is likely assigned fewer toll violation accounts, as discussed above. General fund expenditures decrease to the extent CCU is assigned fewer accounts that must be investigated and recovered. The net impact on CCU in any given year depends on the number of toll violations that are assigned to CCU, which cannot be reliably estimated at this time due to the recent changes in the law.

Judiciary – District Court

The decrease in the civil penalty for a toll violation may result in a decrease in the number of hearings for contested toll citations brought before the District Court each year. The Judiciary advises that in calendar 2015, there were approximately 39,795 toll violations in which a defendant requested a hearing. Each of the citations is handled manually; any decrease in cases reduces the amount of time the District Court must spend processing and hearing cases. Although any decrease in caseload cannot be reliably estimated, it is assumed that the bill does not have a significant impact on the Judiciary's finances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Budget and Management, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2016
min/lgc

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510