

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1718 (Delegate Carr, *et al.*)
Environment and Transportation

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

This bill limits the maximum civil penalty that may be set by the Maryland Transportation Authority (MDTA) for failure to pay a video toll to \$25. (The current penalty, which is established by regulation, is \$50).

Fiscal Summary

State Effect: MDTA nonbudgeted revenues decrease significantly beginning in FY 2019 due to the reduced penalty. MDTA nonbudgeted expenditures increase by \$25,000 in FY 2019 for programming costs, but could decrease to the extent tolls are paid in a more timely manner. Special fund revenues and expenditures for the Central Collection Unit (CCU) decrease due to the reduced penalty and to the extent that the bill results in fewer accounts assigned to CCU. General fund revenues from reversions from CCU decrease.

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 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 Maryland Transportation Authority 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 of 2015, a customer who did not pay his or her toll with cash or an 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 currently set at 150% of the base toll rate). Any customer who did not pay within 30 days was immediately issued a citation, including the \$50 civil penalty. MDTA collected \$6.9 million in civil penalty revenue in fiscal 2014, \$16.5 million in fiscal 2015, \$18.3 million in fiscal 2016, and \$41.7 million in fiscal 2017. The significant increase in penalty revenue collected in fiscal 2017 is the result of a tax intercept program that MDTA began to use in that year.

MDTA advises that it set the civil penalty at \$50 to deter people from using toll facilities without paying the appropriate tolls and 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 citations, mailing multiple notices, processing court documents, and making court appearances.

MDTA reports that it recently increased the timeframe before it refers customers to CCU from 30 days after a vehicle is flagged for owing up to \$1,000 in tolls to 60 days following the expiration of a customer's vehicle registration. MDTA advises that this change affords a customer more than two years to resolve his/her delinquent account directly with MDTA before the account is referred to CCU. To the extent that customers take advantage of this extended timeframe, fewer accounts are likely referred to CCU.

State Fiscal Effect:

Maryland Transportation Authority

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. MDTA advises that in fiscal 2017, it assessed \$109.8 million in civil penalties and collected \$41.7 million. *For illustrative purposes only*, had the bill been in effect in that year, MDTA would have only assessed \$54.9 million in civil penalties and would have only collected an estimated \$20.9 million in civil penalties, assuming the collection rate remains the same.

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 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 debt it is assigned for each toll violation account is approximately \$55 (\$5 toll and \$50 penalty) and that, under the bill, the average debt it is assigned is approximately \$30 (\$5 toll and \$25 penalty). Thus, the bill decreases the special fund revenue CCU recovers from each assessment from 17% of \$55 (\$9.35) to 17% of \$30 (\$5.10). Special fund revenues further decrease because CCU is likely assigned fewer toll violation accounts, as noted above. In addition, CCU advises that it does not generally collect individual debts that are \$30 or less because the cost to collect the debt exceeds the fee charged. Special fund expenditures decrease to the extent CCU is assigned fewer accounts that must be investigated and recovered.

At the end of each fiscal year, CCU reverts to the general fund any balance in the Central Collection Fund in excess of 15% of its actual operating expenses for that fiscal year. Thus, by reducing its collections, general fund revenues from reversions decrease.

Judiciary – District Court

The decrease in the civil penalty 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 2017, there were approximately 35,998 toll violations in which a defendant requested a hearing. 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: HB 611 of 2016, a similar bill, received an unfavorable report from the House Environment and Transportation Committee.

Cross File: None.

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

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