
March 5, 2020

The Honorable Kumar Barve
Chairman, House Environment & Transportation Committee
251 House Office Building
Annapolis MD 21401

Re: Letter of Opposition – House Bill 1220 – Public-Private Partnerships – Highway and Bridge Toll Facilities – Rates (No Lexus Lane Act)

Dear Chairman Barve and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes House Bill 1220 and offers the following information for the Committee's consideration.

House Bill 1220 modifies Public Private Partnership (P3) law and prohibits toll rates from exceeding \$0.10 per mile for P3 projects involving road, highway, or bridge assets, unless otherwise approved by the Board of Public Works.

The Maryland Transportation Authority (MDTA) was created by the legislature in 1971 to own, operate, and maintain the State's toll roads, bridges, and tunnels, including setting policy and establishing toll rates. Maryland law outlines the process for establishing new vehicle classifications, payment methods, toll rates, and discounts. The process for conducting the public hearings and recording the comments from the public are specified in Transportation Article, §4-312, Annotated Code of Maryland and provide a number of opportunities to solicit public input across all media:

- Hearing materials and supporting documents are properly advertised and posted on the MDTA website at least ten business days prior to the first scheduled public hearing.
- MDTA provides an opportunity for public review and comment on the proposed changes at one or more meetings held at a time and place of convenience to the public in each county in which the change is proposed to be implemented.
- After the completion of the last public hearing, MDTA continues to accept written comments from the public for at least an additional ten business days.
- Following the public hearings, a recommendation is presented to the MDTA Board and to the public via the MDTA website. Prior to the MDTA Board vote on the recommendation, MDTA provides an additional opportunity for public review and written comment on the final recommendation.
- MDTA then accepts written comments for at least ten additional business days.
- At the completion of the second public comment period, a summary and analysis of the public comments received is posted to the MDTA website and presented to the MDTA Board Members.
- Only at this point, the MDTA Board may vote on the recommendation; however, before voting, the MDTA Board provides another opportunity for public comment.

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As drafted, the current legislation would result in a significant deviation from current practice by applying the same rate to all vehicle classifications irrespective of the number of vehicle axles. The MDTA's toll setting policy differentiates the vehicle's classification and payment method. Generally, vehicles with a greater number of axles are heavier and as a result will pay a higher toll rate to account for the additional wear and tear on the State's roads. This is the case at each of the State's toll facilities. Similarly, toll rates are established based on MDTA's administrative cost to service accounts and collect tolls. Thus, E-ZPass® rates provide the lowest rate (base rate), and video toll rates are set at 1.5 times the E-ZPass® rate. Without the ability to offset the additional cost of collecting video tolls, the toll operator would incur significant additional costs.

Public-private partnerships for major infrastructure projects are becoming increasingly popular worldwide. These agreements delicately and appropriately balance risk and investment between the public and private sectors. Maryland's success under its P3 law has become a national model for a comprehensive statutory framework that other states are striving to emulate so that the private sector is provided certainty and transparency in the process that will be followed.

Changes to the P3 process in the middle of an active procurement create an uncertain environment for the private sector, increase political risk to investors, will stifle competition, and increase project costs. For the project at hand, passage would jeopardize the ability of the State to engage local, national, and international expertise and labor to deliver congestion relief to the greater Washington Metropolitan Area to greatly improve the quality of life for many Marylanders.

The Maryland Department of Transportation respectfully requests the Committee grant House Bill 1220 an unfavorable report.

Respectfully submitted,

Jeff Tosi
Director of Government Affairs
Maryland Department of Transportation
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