

**Maryland General Assembly
Department of Legislative Services**

**Emergency/Proposed Regulations
Department of Transportation
(DLS Control No. 20-035)**

Overview and Legal and Fiscal Impact

These regulations generally establish standards for Pay-By-Plate tolling at Maryland Transportation Authority (MDTA) facilities, authorize MDTA to establish a discount for video toll transactions paid prior to mailing a Notice of Toll Due statement issued for nonpayment of a toll, and reduce, from \$50 to \$25, the civil penalty included in a citation for a toll violation. Additionally, the regulations make corresponding technical changes and add certain terms.

The regulations present no legal issues of concern.

Nonbudgeted revenues decrease by approximately \$7.4 million annually. Nonbudgeted expenditures are not affected.

Regulations of COMAR Affected

Department of Transportation:

Maryland Transportation Authority: Electronic Toll Collection and Toll Violation Enforcement: COMAR 11.07.07.02, .06, and .09

Legal Analysis

Background

Typically, if a driver uses an MDTA facility without paying the required toll, a Notice of Toll Due is issued to the registered owner of the vehicle. This notice is not a toll violation, but does require the vehicle owner to pay the toll amount owed, plus additional administrative costs. The total price of a video toll is currently set at 150% of the cash rate for the toll facility used. If the individual fails to pay the video toll within 45 days, a civil penalty of \$50 is assessed for each unpaid transaction.

MDTA is in the process of transitioning to its Third Generation Electronic Toll Collection system, which allows new methods of tolling vehicles at MDTA's facilities and supports the authority's move to all-electronic, cashless tolling. These include prepayment of past-due tolls without notice from MDTA and Pay-By-Plate, or a payment method whereby a customer provides their vehicle license plate information and a valid electronic payment method to MDTA prior to travel for processing toll payments. In a Pay-By-Plate system, an image is taken of the vehicle as

it passes through the tolled facility, and the account information is billed once the vehicle in the image is identified. This is distinct from the third party E-ZPass system currently in use by MDTA. The regulations establish a process to implement Pay-By-Plate tolling, and clarify that Pay-By-Plate tolling is distinct from traditional video tolling. Additionally, the regulations authorize MDTA to implement a certain discount and reduces the civil penalty for a toll violation.

Summary of Regulations

The regulations primarily establish standards for Pay-By-Plate tolling. More specifically, the regulations:

- define “Pay-By-Plate” to mean a payment method whereby customer provides their vehicle license plate information and a valid electronic payment method to the authority prior to travel for processing toll payments at authority facilities;
- establish guidelines for Pay-By-Plate tolling, including the vehicle information that must be provided to MDTA and liability of a Pay-By-Plate user for failing to maintain and update a user’s vehicle and electronic payment information;
- establish that the Pay-By-Plate tolling established under the regulations is only valid for use with MDTA’s electronic toll collection system;
- authorize MDTA to establish a discount for video tolls paid prior to the mailing of a Notice of Toll Due (NOTD); and
- reduce the civil penalty included in a citation for a toll violation from \$50 to \$25.

Legal Issues

The regulations present no legal issues of concern.

Statutory Authority and Legislative Intent

MDTA cites §§ 4-205, 4-312, 21-1414, 21-1415, 26-401, and 27-110 of the Transportation Article and §§ 7-301 and 7-302 of the Courts and Judicial Proceedings Article as statutory authority for the regulations.

More specifically, § 4-205(f) of the Transportation Article provides MDTA with broad authority to adopt rules and regulations to carry out the provisions of Title 4 of the Transportation Article, which pertains to the responsibilities and authority of MDTA. Section 4-312(a)(2)(i) authorizes MDTA to “fix, revise, charge, and collect rentals, rates, fees, tolls, and other charges and revenues” for use of a transportation facilities project, which includes its toll facilities. Finally, § 21-1414(b) and (c) of the Transportation Article establish the liability of a registered owner of a motor vehicle to pay both a video toll and civil penalty for failure to pay a toll at the time of use, “as provided for in the regulations of the Authority.” At a minimum, this implies that MDTA has

the authority to establish regulations for the payment of video tolls and the establishment of civil citations and penalties for nonpayment.

The remaining cited statutory authority is not relevant to these regulations. MDTA should note that § 27-110 of the Transportation Article was amended into § 21-1414 of the Transportation Article by Ch. 55 of the Acts of the General Assembly of 2017.

The relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Emergency Status

MDTA requests emergency status beginning June 30, 2020 and expiring December 26, 2020. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. MDTA indicates the emergency status is necessary to implement provisions of MDTA's new Third Generation Electronic Toll Collection system on July 1, 2020. MDTA, notes that any delay is ill-advised due to the financial cost of change orders to reverse system enhancements ordered by MDTA to implement these provisions of the Third Generation Electronic Toll Collection system. Further, MDTA notes that any delay implementing these regulations will delay the roll-out of new tolling methods and reduced civil penalties for toll violators, thereby increasing costs for toll road users.

Fiscal Analysis

Nonbudgeted revenues decrease by approximately \$7.4 million annually. Nonbudgeted expenditures are not affected.

Agency Estimate of Projected Fiscal Impact

MDTA initially advised, in its Estimate of Economic Impact that accompanies the regulations, that the regulations have no impact on State or local governments. However, after discussions with the Department of Legislative Services, MDTA now advises that the regulations decrease its nonbudgeted revenues by approximately \$7.4 million annually due to the reduction of the toll violation civil penalty from \$50 to \$25. MDTA further advises that doing so more closely aligns its revenues with its current and projected costs and, therefore, the reduction is not anticipated to affect its nonbudgeted expenditures. The Department of Legislative Services concurs with the updated estimate and notes that nonbudgeted revenues decrease by an additional, unquantifiable amount due to the early payment discount.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

MDTA advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

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