

# HOUSE BILL 1405

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CF SB 1004

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By: **Delegate Olszewski**

Introduced and read first time: March 5, 2007

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Vehicle Laws – Penalty for Failure to Pay Electronic Toll – Limitation**

3 FOR the purpose of limiting the total amount of civil penalties and administrative fees  
4 that may be imposed by the Maryland Transportation Authority in connection  
5 with a single failure to pay an electronic toll; providing for the retroactive  
6 application of this Act; and generally relating to penalties for failure to pay an  
7 electronic toll.

8 BY repealing and reenacting, with amendments,  
9 Article – Transportation  
10 Section 21–1414  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume and 2006 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Transportation**

16 21–1414.

17 (a) (1) In this section the following words have the meanings indicated.

18 (2) “Electronic toll collection” means a system of collecting tolls or  
19 charges that is capable of charging an account holder for the appropriate toll by

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 electronic transmission of information between a device on a motor vehicle and a  
2 device in a toll lane at a toll collection facility.

3 (3) "Pay" means paying a toll by cash, by permitting a charge against  
4 a valid account with the Maryland Transportation Authority, or by another means of  
5 payment approved by the Authority at the time.

6 (4) "Video-monitoring system" means a motor vehicle sensor installed  
7 to work in conjunction with a toll collection facility that automatically produces a  
8 photograph, microphotograph, videotape, or other recorded image of the license plate  
9 of a motor vehicle when the operator of the motor vehicle fails to pay a toll.

10 (b) (1) If the operator of a motor vehicle fails to pay the prescribed toll at  
11 any highway or vehicular crossing where tolls are collected by means of electronic toll  
12 collection, the registered owner of the motor vehicle shall be liable to the Maryland  
13 Transportation Authority for payment of the toll and a civil penalty as provided for in  
14 the regulations of the Maryland Transportation Authority.

15 (2) A registered owner of a vehicle shall not be liable for a civil penalty  
16 imposed under this section if the operator of the vehicle has been convicted of failure  
17 or refusal to pay a toll under § 21-1413 of this subtitle for the same violation.

18 (3) **THE TOTAL AMOUNT OF CIVIL PENALTIES AND**  
19 **ADMINISTRATIVE FEES THAT MAY BE IMPOSED UNDER THIS SECTION IN**  
20 **CONNECTION WITH A SINGLE FAILURE TO PAY A PRESCRIBED TOLL MAY NOT**  
21 **EXCEED \$2,000.**

22 (c) (1) The Maryland Transportation Authority or its duly authorized  
23 agent shall send a citation via first-class mail, no later than 60 days after the alleged  
24 violation, to each person alleged to be liable under this section as a registered owner.

25 (2) Personal service upon the registered owner shall not be required,  
26 and a record of mailing kept in the ordinary course of business shall be admissible  
27 evidence of the mailing of the citation.

28 (3) A citation shall contain:

29 (i) The name and address of the registered owner alleged to be  
30 liable under this section;

31 (ii) The registration number of the motor vehicle involved in  
32 such violation;

- (iii) The location where such violation took place;
- (iv) The date and time of such violation;
- (v) The amount of the toll not paid;
- (vi) The amount of the civil penalty; and
- (vii) The date by which the toll and penalty must be paid.

(4) A citation shall also include:

- (i) Information advising the person liable under this section of the manner and the time in which liability alleged in the citation may be contested;
- (ii) The statutory defenses described in subsection (f) of this section; and
- (iii) A warning that failure to pay the toll and civil penalty or to contest liability in the manner and time prescribed is an admission of liability and a waiver of available defenses, and may result in the entry of a default judgment or in the refusal or suspension of the motor vehicle registration.

(5) A person receiving the citation for a violation under this section may:

- (i) Pay the toll and the civil penalty directly to the Maryland Transportation Authority; or
- (ii) Elect to stand trial for the alleged violation.

(6) If the registered owner of a motor vehicle who is liable under this section fails to pay the prescribed toll and civil penalty within 60 days after mailing of the citation, the Maryland Transportation Authority or its duly authorized agent may:

- (i) Collect the toll, the civil penalty, and administrative expenses by civil action commenced in the district court for the jurisdiction in which the alleged failure to pay a toll occurred; or
- (ii) Notify the Administration of the failure to pay the toll and civil penalty in accordance with § 27–110 of this article.

1           (d) A certificate alleging that a failure to pay a toll occurred, sworn to or  
2 affirmed by a duly authorized agent of the Maryland Transportation Authority, based  
3 upon inspection of photographs, videotape, or other electronically recorded images of  
4 the license plate of a motor vehicle produced by an electronic toll collection  
5 video-monitoring system shall be evidence of the facts contained therein and shall be  
6 admissible in any proceeding alleging a violation under this section.

7           (e) Adjudication of liability under this section:

8                   (1) Shall be based upon a preponderance of evidence;

9                   (2) May not be deemed a conviction of a registered owner of a motor  
10 vehicle under the Motor Vehicle Code;

11                   (3) May not be made part of the registered owner's motor vehicle  
12 operating record; and

13                   (4) May not be considered in the provision of motor vehicle insurance  
14 coverage.

15           (f) (1) If a person other than the registered owner of the motor vehicle is  
16 adjudicated responsible for the failure to pay the toll, then the registered owner is not  
17 liable under this section.

18                   (2) If the registered owner is a lessor of motor vehicles, and at the time  
19 of the failure to pay a toll the motor vehicle involved was in the possession of a lessee,  
20 and the lessor within 30 days of the citation provides the Maryland Transportation  
21 Authority or its duly authorized agent with a copy of the lease agreement identifying  
22 the lessee, then the lessee shall be liable under this section.

23                   (3) If the motor vehicle involved in a failure to pay a toll is operated  
24 using a dealer or transporter registration plate, and at the time of the violation the  
25 motor vehicle was under the custody and control of a person other than the dealer or  
26 transporter, and if the dealer or transporter within 30 days of the citation identifies to  
27 the Maryland Transportation Authority or its duly authorized agent the person who  
28 had custody and control over the motor vehicle at the time of the violation, then that  
29 person and not the dealer or transporter shall be liable under this section.

30                   (4) If a motor vehicle is reported to a law enforcement agency as stolen  
31 at the time of the failure to pay a toll, or within a reasonable period of time after the  
32 registered owner becomes aware of the theft, then the registered owner of the motor  
33 vehicle is not liable under this section.

1                   (5)   (i)    If within 30 days of notice of a violation, a registered owner  
2 provides to the Maryland Transportation Authority or its duly authorized agent  
3 substantial evidence of the identity of the person who was operating the motor vehicle  
4 at the time of the violation, then that person shall be subject to liability under this  
5 section and shall be sent a citation under subsection (c) of this section.

6                   (ii)   If that person subsequently admits to or is adjudicated  
7 responsible for failure to pay the toll, then the registered owner is not liable under this  
8 section.

9           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
10 construed to apply retroactively and shall be applied to and interpreted to affect  
11 violations that occurred on or after January 1, 2006.

12           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2007.