

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

Senate Bill 1004 (Senator Stone)
Judicial Proceedings

Vehicle Laws - Penalty for Failure to Pay Electronic Toll - Limitation

This bill specifies that the combined total of civil penalties and administrative fees that may be imposed in connection with a single failure to pay a prescribed toll may not exceed \$2,000.

The bill applies retroactively and would affect all violations that occurred on or after January 1, 2006.

Fiscal Summary

State Effect: The provisions of this bill could be implemented with existing resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person may not fail or refuse to pay or attempt to evade payment of the prescribed toll at any highway or vehicular crossing. A person who commits this offense is guilty of a misdemeanor and is subject to a maximum fine of \$500. The prepayment penalty established by the District Court is \$60.

State law does not provide for a limit on the amount of civil penalties and administrative fees that may accumulate due to the singular failure to pay a prescribed toll. If the operator of a motor vehicle fails to pay the prescribed toll at any highway or vehicular

crossing where tolls are electronically collected, the registered owner of the motor vehicle is liable to the Maryland Transportation Authority (MdTA) for the payment of the toll and a civil penalty. The registered owner of a vehicle is not liable for a civil penalty if the vehicle operator has been convicted of the same violation.

MdTA or its duly authorized agent must send a citation by first-class mail within 60 days of the violation to each person alleged to be liable as a registered owner for failure to pay a toll. The citation must contain identifying information about the vehicle, the owner, pertinent information about the violation, the method of payment, and the penalty for noncompliance, as specified in statute. A person receiving the citation may pay it directly to MdTA or elect to stand trial in the District Court. If the registered owner fails to pay the toll and civil penalty, within 60 days, MdTA or its agent may collect the toll, civil penalty and administrative expenses pursuant to civil action in the District Court or MdTA may notify the Motor Vehicle Administration (MVA) of the failure to pay the toll and civil penalty. A certificate alleging that a failure to pay a toll occurred, that is sworn to or affirmed by an authorized agent of MdTA, based on inspection of images of the vehicle's license plate, is admissible as evidence. Adjudication of liability is based on a preponderance of the evidence.

A citation for failure to pay a toll is not a criminal conviction and may not be added to the registered owner's driving record or be considered in the provision of motor vehicle insurance. The MVA may not register or transfer the registration of any vehicle involved in a failure to pay a toll violation if so notified by MdTA or the District Court. The MVA may suspend the vehicle registration involved in a failure to pay violation if notified by MdTA that the violator is a chronic offender.

If the motor vehicle operator is a person who is not the registered owner, and that person is adjudicated liable for failure to pay a toll, then the registered owner may not be held liable.

State law establishes defenses that relate to when the registered owner of the motor vehicle is a lessor, dealer or transporter, if the motor vehicle had been reported stolen to a law enforcement agency at the time of the violation, or if the registered owner has substantial evidence indicating someone else was operating the vehicle at the time of the violation.

Background: The Code of Maryland Regulations establishes that after the owner of a vehicle registers a toll violation, MdTA must send a notice that requires payment within 15 days. If the owner does not respond timely or if the owner registers a second toll violation in any 12-month period, then a second notice is sent that requires payment of the tolls and imposes a \$15 administrative fee for each separate violation. Within 60 days

of the original violation, MdTA must send a citation for each outstanding toll violation to a vehicle owner that registers a third or subsequent toll violation or who fails to respond timely. Within 60 days, the person cited must pay all tolls due, a civil penalty of \$50, and an administrative fee of \$15.

State Fiscal Effect: MdTA advises that under current law a person cannot accumulate \$2,000 in fees from the single failure to pay a toll. For a two-axle passenger vehicle, the largest authorized charge that can accrue from one failure to pay a toll is \$117, assuming that the person failed to pay the most expensive toll in the system, that is, the \$5 toll that is assessed at each of the Susquehanna River crossings on I-95 and U.S. 40. The authorized charges could accumulate as follows:

- \$5 toll charge;
- \$15 administrative fee (after failing to pay for 15 days);
- \$30 flag fee assessed by the MVA (after 60 days);
- \$50 civil penalty (may be assessed after 60 days); and
- \$17 referral to the Central Collection Unit (fee is 17% of total charges accumulated).

Total maximum fee: **\$117** from the single failure to pay a toll charge.

The authorized maximum charge for a commercial vehicle would be \$169.65 from the single failure to pay the maximum toll charge of \$50 for a five-axle commercial vehicle crossing the Susquehanna at either I-95 or U.S. 40. In addition to the higher toll, the fee for referral to the Central Collection Unit (CCU) would also be higher, since the fee is based on 17% of the total charges accumulated.

MdTA advises that its policy is to charge the \$15 administrative fee once for each failure to pay a toll charge. Although authorized by State law, MdTA does not charge drivers the \$50 civil penalty for the failure to pay a toll at this time.

MdTA is authorized to report the failure to pay a toll to the MVA, and when the MVA receives that report, it must attach a flag to the driver's record. The vehicle registration may not be renewed or transferred until the \$30 flag removal fee is paid.

Generally, after 60 days, the failure to pay a toll has been reported to the MVA, and the unpaid charge is then referred for collection to CCU. Accordingly, although the maximum authorized charge for a two-axle passenger vehicle could be \$117, the maximum likely charge for the single failure to pay a toll would be \$58.50 after the charge was referred to CCU for collection (since the \$50 civil penalty is not assessed).

The \$58.50 would result from the maximum \$5 toll charge, the \$15 administrative fee, the \$30 flag fee from the MVA and a charge of \$8.50 for referral to CCU. Similarly, for a vehicle generating the largest toll (a five-axle commercial vehicle) the maximum likely charge from the single failure to pay a toll would be \$111.15.

Since the bill limits the maximum charges that may accumulate from the single failure to pay a toll to \$2,000 and MdTA advises that no drivers have accumulated fees of \$2,000 from the single failure to pay a toll charge, the provisions of this bill could be implemented within existing resources. The bill would not require any changes in MdTA procedures.

The District Court also advises that this bill would not have a significant fiscal impact.

Additional Comments: MdTA advises that some drivers have accumulated thousands of dollars in fees from the failure to pay toll charges. MdTA's total anticipated revenue from these outstanding charges is about \$14 million and results from primarily commercial drivers who fail to pay multiple toll charges. The accumulation of thousands of dollars in fees results, however, not from the single failure to pay a toll charge but from the failure to pay multiple toll charges in a 12-month period.

Additional Information

Prior Introductions: None.

Cross File: HB 1405 (Delegate Olszewski) – Environmental Matters.

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

Fiscal Note History: First Reader - March 21, 2007
ncs/ljm

Analysis by: Karen D. Morgan

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