

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1375

(Chair, Environmental Matters Committee)(By Request -
Departmental - Transportation)

Environmental Matters

Vehicle Laws - Maryland Transportation Authority - Payment of Tolls

This departmental bill clarifies and alters Maryland Transportation Authority (MDTA) procedures concerning the collection of unpaid electronic tolls through issuance of a notice and a citation for unpaid toll violations. MDTA is authorized to enter into an agreement with another jurisdiction for reciprocal enforcement of toll violations between the State and the other jurisdiction.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: Because the bill is generally consistent with current practice, it is not anticipated to materially affect State finances. However, Transportation Trust Fund revenues and expenditures may increase minimally due to an increase in vehicle registration suspensions and placement (and removal) of administrative flags. Alternatively, if the bill is *not* enacted and current law is ultimately enforced, penalty revenues and District Court operating expenditures increase significantly in FY 2013 and future years.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: The Maryland Department of Transportation has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Bill Summary: “Electronic toll collection” is a system in a toll collection facility that is capable of collecting information from a motor vehicle for use in charging tolls. “Notice of toll due” or “notice” is a written administrative notice of an unpaid toll transaction. A “recorded image” is an image recorded by a video monitoring system of a motor vehicle passing through a toll collection facility (1) on one or more photographs, micrographs, or electronic images; videotape; or any other medium; and (2) showing either the front or rear of a motor vehicle, on at least one image or portion of tape, clearly identifying the license plate number and state of the motor vehicle. A “registered owner” is the person or persons designated as the registered owner in the records of the state agency responsible for motor vehicle registration.

A “toll collection facility” is any point on an MDTA highway where a toll is incurred and is required to be paid. A “toll violation” is the failure to pay an unpaid toll transaction within the time prescribed by MDTA in a notice. An “unpaid toll transaction” is any transaction in which a motor vehicle does not pay a toll at the time of passage through a toll collection facility. A “video monitoring system” is a motor vehicle device installed to work in conjunction with a toll collection facility that produces a recorded image of the license plate number and state of a motor vehicle when an unpaid toll transaction occurs.

Collection and Impact of Unpaid Electronic Tolls

The bill requires MDTA to send the registered owner of a motor vehicle that has incurred an unpaid toll transaction a notice. The owner has 30 days to pay the toll amount due. Generally, an owner who fails to pay the amount due on time is subject to civil citation and civil penalty. If a person fails to elect to stand trial or to pay the prescribed toll and civil penalty within 60 days after it was mailed, or is adjudicated to be liable after trial, MDTA may collect the toll and the civil penalty by any means of collection as provided by law and notify the Motor Vehicle Administration (MVA). An additional hearing or proceeding is not required before MVA suspends the owner’s vehicle registration.

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 failed to pay a toll and civil penalty for a citation or has failed to contest liability for the toll violation; or (2) 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. The bill repeals MVA’s authority to suspend the registration of a vehicle involved in a toll violation if notified by MDTA that the violator is a chronic offender.

Citation and Violations

The bill expands the information that must be contained in a citation to include (1) the license plate number and state of registration of the motor vehicle; (2) the date the unpaid toll was due; (3) a copy of the recorded image; and (4) a statement that the toll was not paid on time. The bill also clarifies that a citation must contain a warning that failure to pay the toll and civil penalty, to contest liability in the manner and time prescribed, or to appear at a trial requested is an admission of liability and a waiver of available defenses, and may result in the refusal or suspension of the motor vehicle registration and referral for collection.

Evidence of a violation includes a certificate alleging that a toll violation has occurred, that is affirmed by MDTA and based on inspection of a recorded image, toll collection records, and records of the state agency responsible for motor vehicle registration. A citation, including the certificate, constitutes *prima facie* evidence of liability for the toll violation and penalty.

The bill clarifies that, if the District Court finds that an unpaid toll was incurred when a vehicle was operated by specified individuals other than the registered owner and under specified circumstances, the registered owner is not liable.

Reciprocal Enforcement

MDTA, in consultation with the administrator of MVA, is authorized to enter into an agreement with another jurisdiction for reciprocal enforcement of toll violations between the State and the other jurisdiction. The agreement must require that drivers and vehicles licensed in the State, while operating on the highways of another jurisdiction, receive benefits, privileges, and exemptions similar to those given drivers and vehicles from the other jurisdiction. A reciprocal agreement may authorize enforcement of toll violations by refusal or suspension of the registration of a motor vehicle in accordance with specified provisions of the Transportation Article.

Current Law: If a motor vehicle operator fails to pay a prescribed toll at any MDTA highway where tolls are collected electronically, the registered owner of the motor vehicle is liable for payment of the toll and a civil penalty. MDTA must send a citation via first-class mail, no later than 60 days after the alleged violation, to each person alleged to be liable as a registered owner. A citation must contain specified information.

If a person fails to pay the prescribed toll and civil penalty within 60 days after a citation is mailed, MDTA may (1) collect the toll, the civil penalty, and administrative expenses by civil action commenced in the District Court; or (2) notify MVA of the failure to pay the toll and civil penalty in accordance specified provisions of the Transportation Article.

A certificate alleging that a failure to pay a toll occurred, sworn to or affirmed by a duly authorized agent of MDTA, based upon inspection of photographs, videotape, or other electronically recorded images of the license plate of a motor vehicle produced by an electronic toll collection video-monitoring system is evidence of the facts and is admissible in any proceeding alleging a violation. A registered owner of a vehicle that fails to pay a toll is not liable in specified circumstances.

MVA may not register or transfer the registration of any vehicle involved in a failure to pay an electronic toll violation if notified by (1) MDTA that a registered owner who has received a notice of violation has failed to pay the toll and the civil penalty or file a notice of intention to contest liability; or (2) the District Court that the person failed to appear for trial. Generally, MVA may suspend the registration of a vehicle involved in a failure to pay a toll violation if notified by MDTA that the violator is a chronic offender.

Background: 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 is governed by nine individuals appointed by the Governor, with the advice and consent of the Senate. The Secretary of Transportation serves as MDTA's chairman. MDTA transportation facilities projects include:

- bridges (*e.g.*, Susquehanna River Bridge; Harry W. Nice Memorial Potomac River Bridge; William Preston Lane, Jr. Memorial Chesapeake Bay Bridge and parallel Chesapeake Bay Bridge; Baltimore Harbor Tunnel; Fort McHenry Tunnel; Francis Scott Key Bridge; and John F. Kennedy Memorial Highway);
- the InterCounty Connector (ICC) roadway;
- 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.

While MDTA facilities currently allow users to pay tolls electronically with an E-ZPass, the ICC also has video tolling capability. The E-ZPass system is used across the Northeast as a method for collecting tolls, and any valid E-ZPass account works on MDTA facilities. Individuals invest in an E-ZPass transponder, and the toll assessment amount is deducted electronically in accordance with their use of facilities. With the ICC's video tolling capability, a photograph is taken of vehicles that go through a toll lane without a valid E-ZPass, and MDTA sends a bill to the vehicle's registered owner. MDTA advises that video tolling is becoming increasingly popular and an industry standard.

In accordance with current law, MDTA is required to issue a citation and \$50 civil penalty when an individual does not pay a toll. This approach was developed when a

customer's failure to immediately pay a toll was generally regarded as a deliberate act to disregard the toll. This approach was established prior to open-road electronic tolling and does not accommodate the latest toll collection methods. Due to the introduction of all electronic and open-road tolling methods, including video tolling, MDTA must develop processes for ensuring that people who do not pay cash or use an E-ZPass are not immediately considered a violator. Currently, MDTA attempts to collect unpaid tolls without implementing a citation until after sending the person a failure to pay notice. A person is not considered a violator until after failing to pay the toll 30 days after receiving the notice of toll due. Thus, current law is inconsistent with MDTA's current practices.

MDTA advises that the bill (1) improves its ability to collect unpaid toll transactions from customers that use the video tolling payment method by providing a clear framework for collecting unpaid tolls; and (2) prevents Maryland residents from subsidizing the tolls of out-of-state violators by authorizing the use of similar enforcement for the collection of video tolls that are unpaid by out-of-state customers. MDTA further advises that having reciprocity agreements with other states will permit more effective processes for collecting unpaid tolls.

MDTA has been advised by legal counsel and the District Court that, if it does not start considering the registered owner of a vehicle as a violator the moment the vehicle passes through a toll collection point, MDTA will not be in compliance with current statute.

State Fiscal Effect: Because the bill is generally consistent with current practice, this analysis assumes that it does not have a significant impact on State finances. Any impact associated with vehicle registration suspensions is assumed to be minimal. However, if the bill is *not* enacted and current law is enforced, penalty revenues and District Court operating expenditures increase, potentially significantly, in fiscal 2013 and future years due to additional penalty revenue and processing citations and cases and conducting trials.

MDTA advises that if it complies with current law, it may result in approximately \$27 million in new annual civil penalty revenue and potentially 20,610 requests for District Court trials in fiscal 2013. This would have a significant impact on the District Court's operations and finances.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 15, 2012
ncs/lgc

Analysis by: Amanda Mock

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

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Vehicle Laws – Maryland Transportation Authority – Payment of Tolls

BILL NUMBER: HB 1375

PREPARED BY: Maryland Department of Transportation

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS

This legislation affects the owners of vehicles using video tolling on Maryland Transportation Authority (MDTA) toll facilities and who have failed to pay those tolls to the MDTA within 30 days of a Notice of Toll Due issued to them. Some vehicles could be owned by businesses in Maryland. Prompt payment of the monies due to the MDTA would eliminate any impact of this bill on the owners of the vehicles.