

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 420

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

Environmental Matters

Finance

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, subsequently, 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 applies to any previously incurred toll that remains unpaid on July 1, 2013. MDTA must adopt implementing regulations by July 1, 2013.

The bill takes effect July 1, 2013, except for a provision requiring the development of implementing regulations, which takes effect June 1, 2013.

Fiscal Summary

State Effect: Because the bill is generally consistent with current practice, it is not anticipated to significantly affect State finances. However, Transportation Trust Fund (TTF) revenues and expenditures increase minimally due to an increase in vehicle registration suspensions and placement (and removal) of administrative flags. In addition, special fund revenues decrease due to a District Court surcharge not being levied. Alternatively, if the bill is *not* enacted and current law is ultimately enforced, penalty revenues and District Court operating expenditures increase significantly in FY 2014 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). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Definitions

“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 an administrative notice of a video toll transaction. A “person alleged to be liable” is the registered owner of a motor vehicle involved in a video toll transaction or a person to whom a registered owner of a motor vehicle has transferred liability for a video toll transaction in accordance with statute and regulations. A “recorded image” is an image of a motor vehicle passing through a toll collection facility recorded by a video monitoring system (1) on one or more photographs, micrographs, or electronic images, videotape, or any other medium and (2) showing either the front or rear of the motor vehicle on at least one image or portion of tape and 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 a video toll within the time prescribed by MDTA in a notice of toll due. A “video monitoring system” is a device installed to work in conjunction with a toll collection facility that produces a recorded image when a video toll transaction occurs. A “video toll” is the amount assessed by MDTA when a video toll transaction occurs. A “video toll transaction” is any transaction in which a motor vehicle does not or did not pay a toll at the time of passage through a toll collection facility with a video monitoring system.

Collection and Impact of Unpaid Tolls

The bill requires MDTA to send the registered owner of a motor vehicle that has incurred a video toll a notice of toll due. The owner has 30 days to pay the toll amount. Generally, an owner who fails to pay the amount due on time is subject to a civil citation and civil penalty.

A person who then receives an MDTA citation for failure to pay a toll has 30 days to either pay the toll and civil penalty or elect to go to court. If a person fails to elect to stand trial or to pay the prescribed video toll and civil penalty within 30 days after it was mailed, or is adjudicated to be liable after trial, or fails to appear at a trial after having elected to stand trial, MDTA may (1) collect the video toll and the civil penalty by any means of collection as provided by law and (2) notify the Motor Vehicle Administration (MVA).

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 been served with a citation and has failed to pay a toll and civil penalty for the toll violation or has failed to contest liability for the toll violation within the time or in the manner specified in the citation or (2) MDTA or 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 and failed to pay the toll and penalty costs. Thus, the bill repeals MVA's current *authority* to suspend the registration of a vehicle involved in a toll violation if notified by MDTA that the violator is a chronic offender. MVA may apply specified motor vehicle registration suspension provisions to enforcement of reciprocal agreements entered into by the State and another jurisdiction.

Citations and Violations

The bill clarifies that court cases involving payment of MDTA electronic tolls are subject to existing District Court costs, but it specifies that a \$7.50 surcharge does not apply to such cases.

The bill expands the information that must to be contained in a citation to include (1) the license plate number and state of registration of the motor vehicle involved in the video toll transaction; (2) the date the unpaid video toll was due; (3) a copy of the recorded image; and (4) a statement that the video toll was not paid on time. The bill also clarifies that a citation must contain a warning that failure to pay the video 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 it may result in the refusal or suspension of the motor vehicle registration and referral for collection.

Evidence of a toll violation includes a certificate alleging that a toll violation has occurred, which is affirmed by MDTA and based on inspection of a recorded image and electronic toll collection records produced by a specified system. A citation, including the certificate, constitutes *prima facie* evidence of liability for the toll violation and penalty.

The bill clarifies that, if a video toll transaction occurs when a vehicle is 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 with 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 and tunnels (*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; and Francis Scott Key Bridge);
- roadways (*e.g.*, the Intercounty Connector (ICC) roadway and John F. Kennedy Memorial Highway);
- 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 immediately pay an electronic 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. Generally, 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 facilitates efforts to collect unpaid video toll transactions from customers by providing a clear framework for collecting unpaid tolls and 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 generated a total of \$1.5 billion in toll revenue during the fiscal 2008 through 2012 period and \$19.3 million of this total amount was from video tolls. MDTA advises that approximately 65% of video tolls charged have been paid and 35% are outstanding.

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 and significant changes are required in order for MDTA to comply with current law, 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 2014 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 up to 48,000 annual requests for District Court trials. This would have a significant impact on the District Court's operations and finances. A \$7.50 District Court surcharge could not be collected under the bill.

TTF revenues and expenditures increase minimally due to an increase in vehicle registration suspensions and placement (and removal) of administrative flags.

Additional Information

Prior Introductions: A similar bill, HB 1375 of 2012, received a hearing in the House Environmental Matters Committee, but no further action was taken.

Cross File: None.

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

Fiscal Note History: First Reader - February 8, 2013
mlm/ljm Revised - House Third Reader - March 29, 2013
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Vehicle Laws – Maryland Transportation Authority – Payment of Certain Tolls and Related Fees for Vehicle Operating on Toll Facilities

BILL NUMBER: HB 420

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 owner of a vehicle using video tolling on an Authority highway and who has failed to pay that toll to the Authority within 30 days of being issued a Notice of Toll Due. Some vehicles could be owned by businesses in Maryland. Prompt payment of the monies due to the Authority would eliminate any impact of this bill on the owner of the vehicle.