

January 21, 2021

The Honorable Kumar Barve
Chairman, Environment and Transportation Committee
251 House Office Building
Annapolis MD 21401

**Re: Letter of Information – House Bill 291 –Vehicle Laws –Failure to Pay Video Toll –
Outstanding Fines**

Dear Chairman Barve and Committee Members:

The Maryland Department of Transportation (MDOT) and the Maryland Transportation Authority (MDTA) take no position on House Bill 291 but offers the following information for the committee's consideration. House Bill 291 proposes to retroactively reduce the civil penalty assessed to \$25 for each outstanding civil citation assessed on or before July 1, 2021.

The MDTA does not receive funds from the Transportation Trust Fund or General Fund. The MDTA operates the toll facilities in Maryland, with tolls being collected through a combination of *E-ZPass*® toll collection and video toll collection. When a customer passes through a toll facility and fails to pay a toll with *E-ZPass*, images are captured of the vehicle license plate. The images are reviewed so that the vehicle is either matched with an existing *E-ZPass* account or the registered owner is mailed a video toll invoice (Notice of Toll Due or NOTD) at the address on file with MDOT Motor Vehicle Administration (MDOT MVA). This is not a fine or citation, but rather another way for non-*E-ZPass* customers who choose to use MDTA's facilities to pay a toll.

Existing statute provides three measures designed for recouping past due tolls: civil penalties, flagging or suspending vehicle registrations, and referrals to Central Collection Unit (CCU). A motorist will only receive a civil penalty if they choose not to pay a NOTD within the allotted 45 days. A motorist must pay the citation (the toll and penalty) in the allotted timeframe or contest the toll in court. If a person (1) fails to elect to stand trial or pay the prescribed video toll and civil penalty, (2) is adjudicated to be liable after trial, or (3) fails to appear at a trial after having elected to stand trial, the MDTA may refer the case to the MDOT MVA for suspension of or refusal to renew the vehicle's registration.

The MDTA is committed to responding to customers and resolving any outstanding concerns. Over the last few years, the MDTA has taken significant steps to improve its customer service, especially in assisting customers with resolving their toll debt. In the past, the legislature has proposed numerous proposals to lower the civil penalty. To support Governor Hogan's mission to provide excellent customer service and experience, the MDTA Board has reduced tolls, monthly maintenance fees, and civil penalties as a result of the anticipated operational savings associated with the transition to the new Third Generation Electronic Toll Collection (3G ETC) system and to align civil penalties with administrative costs.

In March 2020, the MDTA Board unanimously voted to lower the civil penalty for all toll violations to \$25, which took effect on July 1, 2020. The civil penalty amount is used to offset the additional transaction costs that are incurred for toll violators such as certifying the citation and license plate image, working with other State MVA's for out-of-state toll users, issuance of citation, multiple required mailings, and court processing and appearances. The reduced civil penalty aligns closely with current and anticipated costs.

Previously, in 2018, MDOT and MDTA supported legislation that granted the MDTA Board authority to recall a delinquent account from CCU. The General Assembly also passed legislation that allows the MDTA to contract with a private debt collector to assist in collecting tolls and civil fines owed by individuals who do not reside in Maryland. A Request for Proposal (RFP) is expected in 2021 to move that effort forward.

Before the MDTA began transitioning to the new 3G ETC system, the costs associated with collecting unpaid tolls from toll violators were higher. The retroactive civil penalty reduction is not only inequitable for responsible customers who pay their tolls and civil penalties as required, but would also prevent the MDTA from recouping the higher collection costs incurred (including out-of-state users) for unpaid toll violations that occurred before the civil penalty was reduced on July 1, 2020. As of December 31, 2020, outstanding unpaid civil penalty revenues totaled \$324.0 million. This amount reflects unpaid civil penalties from FY 2014 through FY 2020. Based on House Bill 291, the MDTA would reduce outstanding civil penalty debt owed to the MDTA by \$162.0 million resulting in the MDTA forgiving \$162.0 million in civil penalty revenue, which includes out-of-state residents.

Since 1971, the MDTA has been responsible for constructing, managing, operating and improving the State's toll facilities, as well as for financing new transportation projects under its purview (such as the Governor Harry W. Nice/Senator Thomas "Mac" Middleton Bridge in Charles County). The agency is entirely reliant on tolls collected from its users as the MDTA does not receive any state General Fund or Transportation Trust Fund dollars. In accordance with the MDTA's Trust Agreement with bondholders, toll revenues are first pledged to pay operating expenses, including debt service for bonds that are used to fund major transportation projects at existing and new facilities. Similarly, Maryland statute provides the Legislature with notification, not approval of toll rates and fees. The approval of toll rates and fees falls within the jurisdiction of MDTA Board and requires adherence to a clearly defined public hearing process.

Furthermore, the passage of this bill would likely erode the MDTA's statutory independence and may have a negative effect on its credit worthiness resulting in ratings downgrades and higher financing rates. Fitch Ratings (April 30, 2020) highlighted the MDTA's independence in its rationale for the assigned AA rating. Standard & Poor's (June 8, 2020) cited the "minimal restrictions on pricing power" as a key strength. According to Moody's Toll Sector methodology, an agency's independence from the interference of general government and a degree of insulation from political interference impacts its rating scorecard by 15%.

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Other toll agencies, such as the Miami-Dade County Expressway Authority (MDX), experienced bond ratings downgrades due to legislative interventions that interfered with its toll rate setting autonomy. A downgrade of MDTA's credit would lead to lower credit worthiness as well as higher financing rates for capital projects.

The Maryland Department of Transportation respectfully requests that the Committee consider this information as it deliberates on House Bill 291.

Respectfully submitted,

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