

March 15, 2022

The Honorable Guy Guzzone
Chairman, Senate Budget and Taxation Committee
3 West, Miller Senate Office Building
Annapolis, MD 21401

**Re: Letter of Information – Senate Bill 947 – Transportation – Electronic Toll Collection Backlog
– Fee Prohibition**

Dear Chairman Guzzone and Committee Members:

The Maryland Department of Transportation (MDOT) and the Maryland Transportation Authority (MDTA) take no position on Senate Bill 947 but offers the following information for the Committee's consideration.

Senate Bill 947 would establish that, for any video toll in which the processing was paused or the billing deferred due to COVID-19-related or other factors for which the MDTA is responsible, the MDTA would be (1) prohibited from charging an administrative fee or civil penalty for a customer's failure to pay until 180 days after the MDTA has eliminated the toll charge backlog; and (2) required to reimburse the registered owner of a motor vehicle for any civil penalties paid by the owner. Senate Bill 947 applies retroactively to affect any video toll incurred on or after March 5, 2020.

While the legislation does not define "COVID-19 related factors" or "deferred" as it pertains to customer billings, it is assumed that any civil penalty paid for a video toll incurred on or after March 5, 2020, would be reimbursed. For civil penalties paid between March 5, 2020, to February 27, 2022, the amount of civil penalty debt to be reimbursed totals approximately \$21.4 million. This includes all civil penalty debt both in-state and out-of-state, including customer's acceptance of liability, court findings of liability, Central Collections Unit (CCU) settlements, and MDTA settlements. These costs would have to be absorbed without a counteracting balance from the civil penalty collection.

Should the intent of Senate Bill 947 be to provide MDTA customers with a 180-day grace period whereby customers would still have to pay the civil penalty, but not until 180 days after the video toll backlog is eliminated, approximately \$731.2 million in civil penalty debt owed would need to be shifted at least one fiscal year. If the intent is to mandate a civil penalty waiver period whereby no civil penalties would be assessed for applicable late toll payments until 180 days after the video toll backlog is eliminated (approximately April 29, 2023), the MDTA estimates a \$190.7 million in collected civil penalty revenue reductions.

On February 24, 2022, the MDTA Board unanimously approved a Customer Assistance Plan that includes a civil penalty waiver grace period for customers who pay their unpaid tolls by 11:59 p.m. on November 30, 2022 and has temporarily ceased referring toll bills to the Central Collection Unit (CCU) and suspensions and flags to the MDOT Motor Vehicle Administration (MDOT MVA). The MDTA will continue posting COVID-backlogged tolls into the summer of 2022. For customers who choose not to pay their Video Tolls before the due date on the notice, mailings of citations and civil penalties will continue during the grace period and will remain in effect if outstanding tolls are not paid by 11:59 p.m. on November 30, 2022.

The MDTA strives to work with customers and resolve matters on a case-by-case basis, and as a result, often waives the civil penalty amount owed. However, the civil penalty is one of the strongest tools to trigger payments on the original toll due. Since transitioning to the new tolling system in April 2021, the MDTA has already waived over 174,500 civil penalties while settling customers' outstanding tolls. The proposed legislation's blanket waiver of civil penalties until April 2023 may result in customers avoiding payments on valid tolls; the MDTA's Customer Assistance Plan addresses this by making payments of unpaid video tolls a condition of the civil penalty waiver. The MDTA is a self-sufficient non-budgeted State agency and receives no money from the State's General Fund or the Transportation Trust Fund. The MDTA is exclusively financed by toll revenues, which are reinvested into toll facility operations and maintenance.

If the intent of Senate Bill 947 is to provide MDTA customers with a 180-day grace period whereby customers would still have to pay the civil penalty once the video toll backlog is eliminated, the MDTA anticipates that the requirement to reimburse the customer for any civil penalties paid under certain circumstances will result in confusion, additional correspondence, and possible legal challenges from customers who were not afforded the same opportunity. Furthermore, the MDTA has in place a grace period mechanism through the Customer Assistance Plan.

Revenues from Transportation Facilities Projects are pledged as bondholder security to repay the MDTA's debt. If the intent of Senate Bill 947 is to provide a waiver, it may lead to insufficient revenues needed to comply with the Rate Covenant, which would cause the MDTA to default on contractual obligations with its bondholders under the Trust Agreement. Additionally, violations of the Trust Agreement may result in a downgrading of the MDTA credit rating. Other toll agencies, such as the Miami-Dade County Expressway Authority (MDX), experienced bond ratings downgrades due to legislative interventions with its toll rate setting autonomy. A downgrade of the MDTA's credit would lead to higher financing rates for capital projects.

Lastly, the emergency nature of Senate Bill 947 poses operational concerns for the MDTA. The agency is currently in the process of implementing vendor software changes associated with the Customer Assistance Plan. Senate Bill 947 would divert limited resources away from this customer service effort and jeopardize the MDTA's ability to implement the plan as scheduled. The Customer Assistance Plan has already proved effective at addressing core customer concerns and call wait times and new customer cases have vastly reduced since the plan commenced on February 24th.

The Maryland Department of Transportation and the Maryland Transportation Authority respectfully request the Committee consider this information when deliberating Senate Bill 947.

Respectfully submitted,

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