

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1011 (Delegate Moon, *et al.*)
Environment and Transportation

Maryland Transportation Authority - Video Tolls - Notice of Toll Due

This bill requires the Maryland Transportation Authority (MDTA) to send a notice of toll due for video tolls within 14 days of when a video toll is incurred, and to include in the notice each video toll transaction that occurred during the consecutive 14-day period before a notice is sent.

Fiscal Summary

State Effect: Nonbudgeted expenditures by MDTA increase, potentially significantly, for mailing costs due to the mailing process and timeframe established by the bill, as discussed below. MDTA's nonbudgeted expenditures also increase by \$500,000 in FY 2018 only for one-time programming changes to update the automated notice mailing system used by MDTA's third-party service provider. Nonbudgeted revenues are not affected.

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

Small Business Effect: Minimal.

Analysis

Current Law: 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, tunnels, and toll highways;
- 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.

MDTA has the authority to set tolls on transportation facilities projects under its supervision. Tolls must provide funds that, when combined with bond proceeds and other available revenues, are sufficient to pay maintenance, repair, and operating costs for transportation facilities projects that are not otherwise paid for; pay the interest and principal of any outstanding bond issues; create reasonable reserves for these purposes; and provide funds for the cost of replacements, renewals, and improvements. Toll revenues are deposited into the Transportation Authority Fund, which is wholly separate from the Transportation Trust Fund.

Prior to fixing or revising tolls on any part of any transportation facilities project, MDTA must provide the Senate Budget and Taxation Committee, Senate Finance Committee, House Appropriations Committee, and House Ways and Means Committee information on the proposed toll charges, including the annual revenues generated by the toll charges, the proposed use of the revenues, and the proposed commuter discount rates.

Video Tolling and Toll Violations at Maryland Transportation Authority Facilities

A video toll transaction occurs when a motor vehicle passes through an MDTA toll facility with a video monitoring system but does not pay the toll using cash or an electronic toll payment system (E-ZPass). Statute does not define when a video toll is “incurred,” but MDTA advises that it does not consider a video toll to be incurred until the process of identifying the vehicle and assessing the toll has been completed. This process typically takes between 30 and 60 days after the transaction takes place because MDTA needs time to investigate the transaction and determine to whom to issue the video toll. The process can include trip construction on the Intercounty Connector or license plate image review and look up. MDTA is then required to send the registered owner of the vehicle a notice of toll due. Once the notice of toll due is received, the owner has 30 days to pay the toll amount. An owner who fails to pay the amount due is subject to a civil citation and civil penalty. The civil penalty must be set by MDTA through regulations and is currently \$50.

Chapter 122 of 2015 significantly altered the video tolling collection and toll violation process to allow more flexibility for motorists who incur a video toll, beginning in fiscal 2016. Among other things, Chapter 122 does not allow MDTA to assess a civil citation until 15 days after the toll violation occurs (a toll violation occurs 30 days after the notice of toll due is issued if a person does not pay the video toll by that date). Chapter 122

also authorizes MDTA to waive any portion of a video toll due or civil penalty assessed for a toll violation until the debt is referred to the State's Central Collection Unit.

Civil Citations and Penalties

A person who receives an MDTA citation for failure to pay a toll (a toll violation) must either pay the toll and penalty in the allotted timeframe or elect to go to 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, MDTA may collect the video toll and the civil penalty by any means of collection as provided by law. In addition, MDTA may 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.

The registered owner of a motor vehicle is not liable for a toll violation civil penalty if the operator of the motor vehicle has been convicted of failure or refusal to pay a toll for the same violation.

Background: Prior to the enactment of Chapter 122 of 2015, a customer that did not pay his or her toll with cash or E-ZPass was sent a notice of toll due in the mail and given only 30 days to pay the video toll rate (which is currently set at 150% of the base toll rate). Any customer that did not pay within 30 days was immediately issued a citation, including the \$50 civil penalty.

MDTA advises that it set the civil penalty at \$50 to deter people from using toll facilities without paying the appropriate tolls and to offset the transaction costs that are incurred for toll violators. These costs include generating license plate images, looking up vehicle owner information, issuing the citations, mailing multiple notices, processing court documents, and making court appearances.

State Expenditures: MDTA advises that, under its current processes, a person who uses a toll facility without paying a toll does not incur the video toll immediately. Typically, the video toll is incurred between 30 and 60 days after the video transaction occurs, which affords MDTA the time it needs to determine the owner of the motor vehicle, and how much is owed for the video toll. Once this information is determined, a notice of toll due

is sent to the owner of the motor vehicle by the third-party service provider that processes MDTA's mailings. The notices are sent using an automated system that groups notices into a single mailing when possible to reduce postage costs. This estimate assumes that MDTA adopts the bill's requirements into its existing process, meaning that MDTA is still afforded the 30 to 60 days it needs to investigate and determine to whom to issue the video toll.

Under the bill, MDTA must (1) send a notice of toll due within 14 days after a video toll is incurred and (2) include each video toll transaction that occurred during the consecutive 14-day period before a notice is sent. This requirement is logistically not possible since the notice is being sent 30 to 60 days after a video toll transaction occurs (but within 14 days of the toll being "incurred"). Thus, MDTA has less flexibility to group notices into a single mailing, resulting in additional postage costs to send the notices. MDTA advises that, in fiscal 2016, it mailed out a total of 6.5 million notices of toll due with an average mailing cost of \$1.19 per notice due to the manner in which it grouped the notices; total mailing costs were approximately \$7.7 million in that year. If each notice in fiscal 2016 had been mailed out individually, mailing costs would have been \$3.9 million higher.

MDTA's nonbudgeted expenditures increase by \$500,000 in fiscal 2018 only, to reprogram the automated notice mailing system used by MDTA's third-party service provider that processes its various mailings to send out individual notices for each video toll transaction. MDTA advises that it is currently in the process of reviewing proposals to develop and operate the third generation of its electronic toll-collection systems. Therefore, the current mailing system may not be in use after the new contract is issued.

Additional Information

Prior Introductions: None.

Cross File: SB 778 (Senator Lee) - Finance.

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

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