



CENTRAL TEXAS REGIONAL
MOBILITY AUTHORITY

September 26, 2018
AGENDA ITEM #8

Adopt a Habitual Violator Policy for the implementation of new toll enforcement remedies and approve corresponding amendments to the Mobility Authority Policy Code

Strategic Plan Relevance: Regional Mobility
Department: Operations
Contact: Tracie Brown, Director of Operations
Associated Costs: None
Funding Source: General Fund / Operations
Action Requested: Consider and act on draft resolution

Summary:

Chapter 372 of the Texas Transportation Code provides enforcement tools for egregious toll violators throughout Texas. This statute authorizes additional remedies for “habitual violators,” those who have accumulated 100 or more unpaid tolls in aggregate in a 12-month period and have been issued two notices of nonpayment. The remedies include publication of the toll scofflaw’s name, a vehicle registration block and a ban of the vehicle’s use of the entity’s toll facilities. Vehicle impoundment is possible for those who violate the vehicle prohibition.

The Mobility Authority seeks to modify its Policy Code to include this additional level of enforcement. Per the process, habitual violators will be provided with two notices about the habitual violator remedies. If the customer does not contact the Mobility Authority’s vendor to resolve the outstanding balance, then a final determination letter will be mailed advising the customer of their right to a hearing. Staff will bring back for the Board’s consideration a list of those who did not resolve their tolls or request a hearing for a final habitual violator determination to be made. Once this step has been completed, the name publication, vehicle ban and/or registration block remedies will be deployed.

The labor costs to support the habitual program are included Cofiroute USA's compensation. Additional costs will be incurred to support the vehicle ban remedy and will be brought to the Board for consideration after a competitive procurement process.

Staff recommends approval of this resolution.

Backup Provided: Draft Board Resolution
 Proposed Policy Code modifications
 Steps to Implement Habitual Violator Remedies

**GENERAL MEETING OF THE BOARD OF DIRECTORS
OF THE
CENTRAL TEXAS REGIONAL MOBILITY AUTHORITY**

RESOLUTION NO. 18-0XX

**AMENDING THE POLICY CODE TO ADOPT A HABITUAL VIOLATOR POLICY
FOR THE IMPLEMENTATION OF TOLL ENFORCEMENT REMEDIES**

WHEREAS, pursuant to Chapter 372, Texas Transportation Code, a toll project entity may adopt and exercise habitual violator remedies when enforcing toll violations committed by “habitual violators” as defined by Section 372.106; and

WHEREAS, the remedies as outlined in Chapter 372, Texas Transportation Code include publication of the toll habitual violator’s name, a vehicle registration block and a ban of the vehicle’s use of the entity’s toll facilities and potentially impoundment of habitual violator’s vehicle; and

WHEREAS, Mobility Authority staff and Executive Director seek to amend the Mobility Authority Policy Code to include the additional level of habitual violator enforcement as prescribed by Chapter 372, Texas Transportation Code; and

WHEREAS, the Executive Director recommends amending Chapter 3, Article 1, Subchapter B of the Mobility Authority Toll Policy Code as shown in Exhibit A to adopt and exercise habitual violator remedies.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby amends Chapter 3, Article 1, Subchapter B of the Mobility Authority Toll Policy Code to include the additional level of habitual violator enforcement as prescribed by Chapter 372, Texas Transportation Code as shown in Exhibit A attached hereto.

Adopted by the Board of Directors of the Central Texas Regional Mobility Authority on the 26th day of September 2018.

Submitted and reviewed by:

Approved:

Geoffrey Petrov, General Counsel

Ray A. Wilkerson
Chairman, Board of Directors

Exhibit A

~~Subchapter C.~~ Subchapter B. TOLL COLLECTIONS

~~301.4~~ 301.6 Purpose

This subchapter establishes practices and operations for toll collection systems on designated controlled-access toll roads operating within the turnpike system, and incorporates provisions of Section 370.177, Transportation Code, regarding failure or refusal to pay turnpike project tolls and related penalties and offenses.

~~301.5~~ 301.7 Transponder Account

A customer may establish a transponder account by contacting any interoperable agency's Customer Service Center ("CSC"). A transponder is an electronic device that records the presence of a vehicle on a toll road and is usually attached to the windshield of the vehicle. Each CSC that is interoperable with the authority's toll facilities has its own user agreement concerning requirements to open and maintain a transponder account.

~~301.6~~ **Unauthorized Transfer of Transponder**

~~A transponder that is interoperable with the authority's toll facilities is for use with one vehicle per transponder, and should not be transferred to another vehicle once the transponder is attached to the original vehicle's windshield. Transfer of a transponder to a vehicle other than the original vehicle is against authority policy. If a transponder is transferred to another vehicle in violation of this section, the authority may refuse to recognize an electronic toll transaction incurred with respect to an unauthorized vehicle.~~

301.8 Video Billing

(a) The authority offers video billing as a courtesy payment option for customers that use the authority's toll facilities without a transponder account. The authority, through its third-party vendor ~~Violations Process and Toll Collection Provider (the "Collections~~ the Contractor"), will use the license plate information of a vehicle that does not have a valid toll transponder but travels on the authority's toll facilities to determine the registered owner of such a vehicle via an interface with the state of Texas Vehicle Title & Registration database or a similar institution.

~~(b) The Collections Contractor will send an invoice to the registered owner of the vehicle and accept payment on behalf of the authority. The Contractor will add a mail administrative fee for each invoice. All toll bills/invoices require payment by the invoice due date. The Collections Contractor will add a \$1.00 handling fee for each invoice. The Collections Contractor will retain the additional toll surcharge and handling fee to cover their cost and forward the toll payments to the authority. All toll bills/invoices require payment within 30 days of the date thereof.~~

~~(e)(b)~~

301.9 Establishment of Video Billing Administrative Fees ~~for Unpaid Tolls~~

(a) Section 370.177, Transportation Code, authorizes the assessment and collection of an administrative fee to recover the authority's cost of collecting unpaid tolls. An administrative fee may not exceed \$100.00 per unpaid toll. The authority has determined that such fees may vary depending on how far in the collection process a delinquent account proceeds.

~~(b) The administrative fees for each billing stage and other related charges shall be published on the authority website. The current administrative fee shall be applied at each phase of the collection process. This means that upon issuance of a notice of non-payment, a \$15.00 administrative fee shall be collected in addition to the unpaid toll and any other fees that are due.~~

~~(c) If payment is not received in connection with the first notice of non-payment, and a second notice of non-payment is sent, an additional \$15.00 administrative fee shall become due. Therefore, full payment of a second notice of non-payment will require payment of \$30.00 in administrative fees, in addition to all other amounts due.~~

~~(d) If payment is not received in connection with either the first or second notice of non-payment, the unpaid account shall be considered for collection, an additional \$30.00 administrative fee shall become due, and the cumulative administrative fee due shall be \$60.00.~~

~~(e)(c)~~ The board recognizes that the amount of the administrative fee should be subject to periodic change when collection costs and associated matters are considered. Therefore, the board delegates the authority to revise the administrative fee, or any aspect thereof, to the executive director, in consultation with the director of operations, and the executive director may revise an administrative fee by written amendment. The executive director shall give notice to the board of any such revision at the next regularly scheduled board meeting after the revision is put into effect.

301.10 ~~Customer Service and Violation~~ Enforcement Policies

(a) A tolerant and customer-friendly approach will be employed towards customers who use the road without paying the required toll. While it is understood that the objective of the authority is to collect revenue and minimize toll violation abuse, the authority believes that a moderate approach towards customers who did not pay the toll ultimately will allow for a period of adjustment as customers begin using the toll roads, and will create new toll customers for the authority.

~~(b)~~ The authority will establish a "Violation Processing Center (VPC)" process where vehicle images captured at the toll collection point and for which no toll was paid will be reviewed and processed according to authority policies in accordance with the toll enforcement process established by state law. Repeat offenders will be issued notices of nonpayment and will be given

the opportunity to make outstanding toll and administrative payments.

(c) Failure to respond to the established customer contact process and to satisfy outstanding, unpaid toll amounts will result in ~~the issuance of citation and prosecution in accordance with state law~~ additional collection activities and/or legal action.

(d) ~~The Executive Director may determine a customer with 100 or more events of nonpayment within a period of one year and who have received at least two written notices of nonpayment is considered to be a habitual violator under Section 372.106, Transportation Code. An event of non-payment is considered to be one unpaid toll transaction.~~

(e) ~~The two written notices of nonpayment must state the full amount owed for the 100 or more events of nonpayment and must also include a warning that the failure to pay the amounts specified in the notices may result in the toll project entity's exercise of habitual violator remedies.~~

(f) ~~For those potential habitual violators who have "not paid in full the total amount due for tolls and administrative fees under those notices", notice will be sent to the potential habitual violator that complies with State law and affords the potential violator with an opportunity to dispute the finding.~~

(g) ~~The board must take action to deem an individual as a habitual violator before name publication, vehicle bans and/or vehicle registration blocks can be used.~~

~~(b)~~(h) ~~The habitual violator process shall be published on the authority website.~~

301.11 Procedures for Disputing Toll Violations

(a) A customer may dispute an alleged failure to pay a toll on the authority's web site or by contacting the CSC where a valid transponder account has been established.

(b) A customer who has contacted a CSC or the authority's collection contractor and has been unable to satisfactorily resolve a dispute regarding a toll violation may submit a written appeal to the authority. Such appeal shall be for the purposes of the customer providing the authority with the information upon which they base their appeal. The authority may or may not determine that there is any merit to such appeal and is not required to undertake any formal proceedings to make such determination.

Steps to Implement Habitual Violator Remedies under SB 1792

1. Identify all potential habitual violators, registered vehicle owners who have “100 or more events of nonpayment within a period of one year.”
2. Send two written notices of nonpayment to each potential habitual violator. The notice must state the full amount owed for the “100 or more events of nonpayment” and must also include “a warning that the failure to pay the amounts specified in the notices may result in the toll project entity's exercise of habitual violator remedies.”
3. For those potential habitual violators who have “not paid in full the total amount due for tolls and administrative fees under those notices” described in #2 above, send notice to the potential habitual violator. The notice must:
 - a. be sent by first class mail and is presumed received on the fifth day after the date the notice is mailed; and
 - b. state:
 - (A) the total number of events of nonpayment and the total amount due for tolls and administrative fees;
 - (B) the date of the determination under Subsection (a);
 - (C) the right of the person to request a hearing on the determination; and
 - (D) the procedure for requesting a hearing, including the period during which the request must be made.
4. If the Mobility Authority receives a written request from a potential habitual violator for a hearing no later than 35 days after the determination notice under #3 is mailed, then “a hearing shall be held as provided by Section 372.107.” The hearing is conducted before a Justice of the Peace (JP).
5. If the potential habitual violator does not timely request a hearing, requests a hearing but fails to appear, or the JP affirms the determination, then the Mobility Authority’s preliminary determination that the person is a habitual violator becomes final and is not subject to appeal.
6. BY ORDER OF ITS GOVERNING BODY, the Mobility Authority “may prohibit the operation of a motor vehicle on a toll project of the toll project entity if:
 - a. the registered owner of the vehicle has been finally determined to be a habitual violator; and
 - b. the toll project entity has provided notice of the prohibition order to the registered owner.”
7. After the habitual violator has received the notice of the prohibition order, the Mobility Authority may pursue the following remedies:
 - a. Publication of non-paying vehicle information that includes only the persons’ names and, for each person listed: (1) the city and state of the person’s residence; (2) the total number of events of nonpayment; and (3) the total amount due for the tolls and administrative fees; and

- b. the operator of a vehicle operated on a toll project in violation of the order commits a Class C misdemeanor; and
 - c. “the toll project entity may report the determination to a county assessor-collector or the Texas Department of Motor Vehicles in order to cause the denial of vehicle registration as provided by Section 502.011.” That section provides:
 - (A) Sec. 502.011. REFUSAL TO REGISTER VEHICLE FOR NONPAYMENT OF TOLL OR ADMINISTRATIVE FEE. (a) A county assessor-collector or the department may refuse to register or renew the registration of a motor vehicle if it has received written notice from a toll project entity that the owner of the vehicle has been finally determined to be a habitual violator under Subchapter C, Chapter 372.
8. A peace officer may impound a vehicle operated in violation of the prohibition order a second time, subject to detailed notice and other procedures established by SB 1792.