

**Board Report**

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**File #:** 2019-0628, **File Type:** Motion / Motion Response

**Agenda Number:** 27.

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**OPERATIONS, SAFETY, AND CUSTOMER EXPERIENCE COMMITTEE  
NOVEMBER 21, 2019**

**SUBJECT: ORDINANCE FOR ENFORCEMENT OF TOLL VIOLATIONS FOR THE METRO EXPRESSLANES**

**ACTION: APPROVE RECOMMENDATIONS**

**RECOMMENDATION**

APPROVE amendment to Title 7 of the Ordinance for Enforcement of Toll Violations (Attachment A). The ordinance will become effective January 5, 2020.

**ISSUE**

Toll evasion penalties are regulated by the California Vehicle Code (CVC) Section 40258. In order for appropriate penalties to be enforced, the Metro Board must adopt an ordinance establishing the administrative procedures, processing fees, and penalties to ensure compliance with statute.

**BACKGROUND**

As a requirement for implementing the I-10 and I-110 ExpressLanes, the Metro Board initially adopted the Ordinance to Establish the LACMTA Administration of Tolls and Enforcement of Toll Violations for the Metro ExpressLanes in April 2012. This original ordinance established administrative procedures and penalties associated with ExpressLanes violations. Per the California Vehicle Code, changes affecting violations on the ExpressLanes must be reflected in an ordinance adopted by the operating agency. As a result, in order to incorporate the changes required to deploy the Board adopted Occupancy Detection System and the Pay as You Go program, the Board must adopt the updated Ordinance for Enforcement of Toll Violation provided as Attachment A. Changes from the original ordinance are shown in Attachment A as blue-strikeout text (i.e., deletions) and as red-bolded text (i.e., additions).

The Occupancy Detection System is a proof of concept that would allow the toll system to verify the number of occupants declared in the vehicle at the time of travel and compare it to the system's observed occupancy. The registered owner of the vehicle would be responsible for the correct toll amount plus a \$4 processing fee.

The Pay as You Go pilot program allows drivers to use the Metro ExpressLanes without a FasTrak transponder which has been a program requirement to date. The registered owner of the vehicle would be charged the toll and a \$4 processing fee.

## **DISCUSSION**

An update to the Ordinance for Enforcement of Toll Violation for Metro ExpressLanes is required to allow implementation of the Occupancy Detection System and Pay as You Go program. Both programs follow the same violation process once the transaction is flagged. This ordinance update also includes several minor language changes throughout, for added clarity, consistency, and precision of meaning.

The following outlines the steps associated with the Occupancy Detection System process:

1. If the system detects the number of occupants declared in the vehicle was less than the number verified by the system the transaction is flagged as a violation.
2. An "Occupancy Correction Notice of Toll Evasion Violation" will be mailed to the registered owner of the vehicle within 21 days of the transaction. The first notice will include the correct toll amount plus a \$4 processing fee.
3. If payment is not received within 30 days, there will be an additional \$21 penalty added to the total and a "Past Due Notice of Toll Evasion Violation" will be mailed.
4. If payment is not received within 30 days after the second notice, a third notice, "Delinquent Notice of Toll Evasion Violation" is mailed out with an additional \$30 penalty.
5. If payment is not received 30 days after the third notice a hold may be placed on the vehicle's registration and/or the violation will be sent to collections.

The following steps illustrate the Pay as You Go process:

1. If a vehicle drives through the I-10 and I-110 ExpressLanes without a transponder the transaction is flagged as a violation.
2. A "Pay as You Go Notice of Toll Evasion Violation" will be mailed to the registered owner of the vehicle within 21 days of the transaction. The first notice will include the correct toll amount plus a \$4 processing fee.
3. If payment is not received within 30 days, there will be an additional \$21 penalty added to the total and a "Past Due Notice of Toll Evasion Violation" will be mailed.
4. If payment is not received within 30 days after the second notice, a third notice, "Delinquent Notice of Toll Evasion Violation" is mailed out with an additional \$30 penalty.
5. If payment is not received 30 days after the third notice a hold may be placed on the vehicle's registration and/or the violation will be sent to collections.

For both types of toll evasion violations, customers will be provided two levels of review for contesting these notices: an Investigative Review and/or an Administrative Hearing. A customer may request an Investigative Review at any time during the violation escalation process provided the violation has not been placed on DMV Hold or sent to collections. Administrative Hearings can be requested after an Investigative Review has been completed and are held before an impartial Hearing Officer who will render a decision based on the facts of the case and applicable laws. The Administrative Hearing process utilizes the same procedures as the Metro Transit Court, and gives the appellant an opportunity to present evidence, witness statements, and arguments as to the reason(s) a particular violation should be dismissed. Violations that are deemed invalid either by the system or through the contest processes will be dismissed.

Metro staff is following a tailored outreach strategy and educational campaign for both the Occupancy Detection System and the Pay as You Go program. For the Occupancy Detection System, customers were sent initial notification of the upcoming changes through mailed statement inserts and e-mail on October 1, 2019, and the Metro ExpressLanes web site was simultaneously updated with new information about the system. Customers will be sent additional correspondence with more information about the Occupancy Detection System one month in advance of its activation. Furthermore, for the first two months of operation (i.e., the “grace period”), informational notices will be mailed in place of actual toll evasion violations to any customers found to be mis-representing their vehicle occupancies.

Outreach for the Pay as You Go program will similarly include notifications sent to existing ExpressLanes account-holders through mailed statement inserts and e-mail, along with updates to the Metro ExpressLanes web site. Furthermore, because much of the target audience for the Pay as You Go program is non-customers traveling on the I-10 and I-110 ExpressLanes corridors, outreach will also include a series of portable Changeable Message Signs placed in the freeway shoulders near ExpressLanes access points to notify corridor users of the change in policy for drivers accessing the ExpressLanes without transponders. Specific locations for these portable Changeable Message Signs are being determined in coordination with Caltrans and are subject to final Caltrans approval. Outreach for the Pay as You Go program will occur after the program has become active, to prevent customer confusion regarding which access options are currently available and which take effect at a future date.

### **FINANCIAL IMPACT**

There is no cost related to the adoption of this ordinance. Staff will continue to monitor the performance of the ExpressLanes to make sure the program goals are achieved.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendation supports strategic plan Goal 1: Provide high-quality mobility options that enable people to spend less time traveling. ExpressLanes provides drivers with the option of a more reliable trip while improving the overall operational efficiency of the freeway network.

### **ALTERNATIVES CONSIDERED**

The Board may elect not to adopt an ordinance establishing an updated toll evasion process and penalties for the program. This alternative is not recommended because without adoption of the changes identified in the ordinance, Metro is precluded from implementing the Occupancy Detection System and Pay as You Go program.

### **NEXT STEPS**

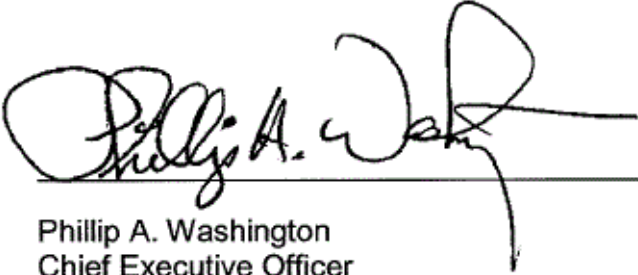
Upon Board approval, staff will take the necessary steps to implement the new ordinance and continue performing the marketing/outreach plans for the Occupancy Detection System and Pay as You Go program as described above.

**ATTACHMENTS**

Attachment A - Ordinance for Enforcement of Toll Violations

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