

# Violation Enforcement Reciprocity

## Mid-Atlantic Regional Organizing Meeting

February 4, 2016

10:00 AM – 4:00 PM

Maryland DOT, Hanover MD

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**The meeting agenda and list of attendees is attached.**

### **\*Introductions**

Statement of Purpose: The emerging desire to deploy toll collection based on AET and/or ORT requires an assurance that virtually all tolls are collected. A critical key to implementation of true interoperability are: the advancements in technology; advancements in intergovernmental relationships to identify and collect from those who lack a toll account; and development of a preliminary goal or goals for Regional Toll Violation Enforcement. Advancing the establishment of agreements to work together regionally toward national coverage is the end goal of this meeting.

New changes between DMVs, DOTs, and tolling have made this endeavor more possible in recent years. The White Paper developed from working group between I-95, AAMVA, E-ZPass, ATI and the states outlined goals, one of which was the effort to connect these groups in small regional meetings.

All involved in the discussion should be aware of possible unintended consequences in advancement as we move forward. Working from a smaller regional basis is a beneficial format which will help others move forward as well.

### **\*Review of the New England agreement and current application:**

The New England agreement is 3 separate bi-state agreements to address any differences between the states. Massachusetts (MA) & New Hampshire (NH) began with MA already having state legislation in place. Maine (ME) had a law to suspend ME residents right to register a vehicle based on violations, but based the new legislation that law was expanded to cover the current agreement without specification of state. Disparities occur in enforcement and penalties from state to state. Manual and automated systems are used for transaction review to address accuracy in obtaining the correct plate type as the same plate number can occur on multiple vehicles. Each state receives a request for enforcement but checks for current customers so as to avoid unnecessarily initiating a renewal hold. If such customer is located, the customer is notified of an outstanding violation and allowed to resolve the matter with state in which the violation occurred. ME will initiate contact even if the violation occurred prior to the time which the individual became a customer (as long as they are a current customer). Every tolling state has a violation process, this agreement does not activate until the state has completed every step of their current violation notification and process. Effectively each bi-state agreement implements the most restrictive enforcement of the two states.

### **Q & A:**

Regarding the timeline prior to implementing suspension: Do you at any time utilize a collection agency?

A: ME does not use collection agencies at all.

Is it in the NE agreement that no state use a private collection group?

A: That is true for NH but not MA (MA has a collection process, believed to be simultaneous) It is required that info is sent from toll agency to toll agency directly to verify accuracy and for due diligence.

How many violators have been processed this way?

A: NH has a lot of violations on the books, but can only process after a certain number of violations.

ME issued 4300 suspension/hold request, 2500 are resolved – 60% success rate with a number of open items, since 2011, however hit a significant delay in state legislation. 75 pending.

Have you been challenged by a violator or has a hearing being requested?

A: All the processes must be done with the agency issuing the violation. No formal process involving ME, but is a provision if the state requires it they have to allow for additional due process in the state of occurrence, has not occurred in ME. NJ is seeing challenges on amount/info/notification being wrong, and are now going in to judicial situation to adjudicate cases. ME has provision that they handle the matter and can be taken to superior court for violating due process.

Payment has to occur in state of violation occurrence, if customer discovers suspension and contacts ME they are provided the contact info to resolve issue, toll groups communicate among themselves and when payment is made the state initiating the action will notify the holding state that the account is cleared for renewal.

Smaller agencies may be able to do this manually, but others already have volumes that would make an automatic process a requirement.

ME uses higher target values for this program as priority.

Resolution process: If an ME resident disputes toll in MA, does ME have a process to help the resident occur in ME rather than requiring the customer to return to original state?

A: Yes, there are options to resolve in state.

For dispute process - does the state have an option for dispute resolution in home state rather than require customer to travel again?

A: When the person gets note of liability with 30 day notice, when the suspension goes in DMV sends a letter and allows another 15 days, following that right of appeal is gone.

Are there any types of payment plans?

A: Not generally, fines and fees are not escalated so may collect tolls but use suspension as final penalty. No one collects for anyone else, no additional fees for out of state.

Do customers pay a registration fee to have suspension lifted?

A: Yes, whatever DMV fee exists for other holds being lifted must be paid in addition to the toll fees.

NE states appear to treat residents the same regardless of location of violation. Each person is governed by the laws of the state they live in for the NE agreement, due to disparity of the state laws.

**\* State Presentations of their current enforcement programs:**

**Maryland (MD) process** – For tolls not paid with cash or E-ZPass MD operates a video toll process. MD conducts a lookup process with the DMV. Once a video toll is posted, a notice of toll due is issued to the vehicle registered owner. The customer is sent a photo and list of available dispute processes on notice. Payment is due 30 days from mailing/receipt assumption. The video toll rate is 50% higher than regular rate due to incurred costs to the agency. The observed minimum premium is \$1.00 and the maximum is \$15.00. If the notice is not paid within 45 days, the video toll becomes a toll violation.

Each toll violation becomes a civil citation, and each incurs a penalty of \$50.00 per transaction. These citations are delivered by first class mail to the violator. Each citation received and additional manual image review, which is included in the citation. Each citation contains warnings that failure to pay will result in penalties. This process follows the same rules for parking and red light violations. The customer may dispute in first 45 days with the tolling agency. Citation contesting must be disputed in person in court by customer. The customer has 30 days to pay, contest or ignore a citation before it moves to the MVA.

After moving to the MVA there is a period of 15 days waiting, after which the MVA will request a registration hold if the citation is up to \$1000.00. If the citation is over \$1000.00 the MVA will request a registration suspension. The MVA adds a \$30.00 admin fee to the citation for additional costs incurred. The customer receives notification of holds or suspensions immediately, prior to registration expiration. The standard threshold of \$1,000.00 was developed for consistency with other types of violations.

A request for a hold or a suspension is made one time regardless of the number of violations; All violations are submitted for enforcement at one time. The violation is incurred per license plate, not per driver. Any administrative flag does incur a fee no matter the severity. MDDOT covers this process with 2 different agencies – tolling makes determination, MVA processes request.

In a year's time MD may have around 3000 holds and 850 suspensions. Following the citation the matter goes to law enforcement. Once the matter is transferred to law enforcement, the customer has 15 more days to pay on the registration hold before being referred to a central collection unit (CCU). The central collection unit can utilize garnishment, tax refund garnishment, federal refunds etc.

Out of state violations represent 25% of the total. Collections from out of state (OOS) violators are a little less effective at this point. Since fall of 2015 about 250,000 have been sent to collections. CCU consolidates the violations and fees due on their side. CCU can establish a payment plan and communicate for release of suspension or communicate a default in payment to re-establish the suspension. CCU pays 100% of amount to the agency while leveraging its own 17% additional fee to customer. Requests for holds or suspension releases can take up to 5 calendar days to execute. Credit Card fees are always absorbed by the agency. Prior to implementation of the current process, payment rate was approximately 65%. Under the current system, this rate has risen to approximately 75% payment rate.

All MD toll locations are owned & operated by a single entity which feeds 8 facilities. The customer may initiate a court response by requesting. CCU can initiate a court process for recompense. Violations do not affect any additional tags of same owner. The process is not attached to a driver license so the vehicle could be transferred –but no actions regarding plate or registration may occur. There is a transfer of liability option for the case of another driver, borrowed, or stolen vehicle.

**Virginia (VA) process** - Virginia has 11-12 tolling facilities, most run by local governments and private entities. VA is looking at a number of upcoming legislative bills, many regarding the current fee structure. VDOT does not own all the VA facilities, but owns 2 and processes transactions for 2 additional facilities. 2 facilities in VA are gated and do not process violations. There are different sets of laws which cover a variety of items such as HOT lanes, tolling, AET, fines, fees, and holds. The VA processes are similar to those of Maryland. The first step is uploading a violation package which includes a photo of the vehicle. There are many front end checks in place to attempt to tie the vehicle to a valid E-ZPass account. VDOT processes all E-ZPass transactions within the State. The agency will re-try to process the charge if an E-ZPass account is insufficient, and will attempt to collect multiple times from an account that has insufficient funds in case the payment funds are replenished. Image review is manual in order to verify plate type as there are over 350 types in VA with some number duplication. A request is sent to the VADMV for registration information, and then sent out to the other state DMV. This is followed with another attempt to match in house. If no match is found, owner information then rolls into a first violation notice. Violations begin at \$12.50 per violation and up to a total of \$25.00 for any additional violations if the customer pays within 30 days. Final violation notice is sent out at 30 days, at this time the agency is allowed to apply administrative fees up to \$25.00 per violation. If the customer remains unpaid, the violation is then deemed an eligible transaction to pursue in court. There is presently no collections process in the state of VA. The court provides a calendar date and issues a summons to the violator. Fourteen days prior to the court date, the customer has the option to a reduced civil penalty if they opt to pay. In court, all information is again reviewed, and the courts may escalate the case. The first offense carries a \$50.00 penalty and so on until the fourth offense is reached at which point penalties may exceed \$500.00 each. Upon rendering of judgement, payment is arranged through the court and eventually returned to toll facility. If the violation is not paid, the court contacts VADMV for a registration hold on the vehicle. HOT lanes penalties are double this amount. A violation is defined as a trip, not by gantry. Notices to customers include photo, transaction data, etc. The court does not have the ability to use anything less than full force, however the agency may determine how many transactions to include (agency is not required to ask for all transactions to be awarded), and may establish a cap prior to escalating to the court. AET facilities use a video tolling process with the option to pay prior to incurring violation status and may also request holds prior to engaging the court process. HOT lanes are not considered AET and must follow the court process, similar to non-AET. HOT lanes travelers without E-ZPass tags are immediately classified as violators. Notices from agencies include a warning about potential civil penalties. This has been perceived as a threat because until the court assessment these penalties are not active fees. The status of current legislation: There are two bills in the general assembly, a general tolling policy and one for reciprocity. Both have passed out of committee and been referred to another house committee. The proposed tolling policy bill is looking to require electronic notifications within a few days of the initial violation and extends the payment deadline prior to administrative fee application. The bill reduces administrative fees by approximately fifty percent. At a violator's first court appearance, fees are capped at \$2200.00. There is no cap on continued violations. An additional grace period may be extended where the tolling facility attempts to negotiate payments without fees or penalties being added. Details are still fluid in the legislation currently under consideration. The grace period intent is to require retries on a transaction. One of the goals is to develop formalized processes for fairness and consistency among facilities. The new bills are designed to promote informal, faster resolution in order to decrease costs.

## **Questions**

AET, HOT & other – does legislation address different sections?

- A. The pending legislation addresses the different sections of tolling such as AET, HOT and other facilities but does not alter the different applications or co-sections of the laws as they now exist. They are not combined at this point.

Reciprocity bill – VA will go through the process and have an arbitrator validate prior to out of state reciprocity or enforcement. The VADMV process is similar to MD with regards to notifications. If a driver is not the owner of the vehicle, VA will put a hold on all vehicles held by driver (following driver court convictions) – the violation is moved to the driver from the vehicle and extended to cover all vehicle holdings. If the driver is not the owner of the vehicle, the process only effects the violation vehicle.

**Delaware (DE) process** – Please see DE presentation for details and breakdown.

Fees are assessed per violation in Delaware. A collection agency is used for out of state violations. A violation may remain in-house for up to 2 months as the agency works to try to resolve the matter. DE uses registration holds without immediate notification; violators are notified at time of renewal. Administrative holds are automated in all present agreements, and payment plans are available. Since 2011 DELDOT and DMV have issued approximately 1200 holds. Delaware would most benefit from regional agreements with VA, PA and MD. DE has no option to transfer responsibility and the violation is tied to the vehicle in question. Administrator review is conducted throughout the entire process.

**Pennsylvania (PA)** – Please see PA presentation for details and breakdown.

PA has multiple agencies similar to VA. There is only one tolling point that is operating as toll by plate and the majority of facilities are non-gated cash or E-ZPass payment facilities.

A violation in PA does incur administration fees but does not incur civil penalties. Upon the 3<sup>rd</sup> notice to the violator, the transaction moves to a private collection agency. The process prior to collections takes approximately six months. There is an option for civil penalties available in the case of deliberate payment evasion, which has not been used to date.

PA is presently looking for more enforcement options such as registration suspension for in-state violations in addition to reciprocity with other jurisdictions. This process is under development and was first submitted to the legislature 2013. There appears to be some manner of opposition to reciprocity agreements.

The parking authority takes responsibility for payment on all agencies' behalf. PA would most benefit from agreements with NJ, OH, NY and MD. OOS violations represent approximately one-third of the violations.

The legislation currently under consideration has a threshold on fees (non-toll amounts) that another state could impose on a PA resident. Another matter currently under consideration is the question of registration holds verses registration suspensions. At present, registration violations do not go to collections.

**New Jersey (NJTA)** – New Jersey conducts a manual review process of an image, followed by a customer check & an IAG check. If these do not match, the plate sent to the DMV for lookup. Once the DMV information is obtained, it is matched against customer accounts and transfer to that posting. There is a double check on the status of an away agency result. If there is no customer on file, a notice is generated for the customer. The notice is sent after thirty days and may contain up to four violations on one notice. The NJ Turnpike fees are based on a per-transaction basis at \$50.00 each. After an additional ten days for mailing allowances, a second notice is generated. Escalation of violations occurs without escalation of fees. Following the third notice, a new process of credit

reporting takes place, and is referred to a collection agency via Xerox. In order for the DMV to issue a suspension, they require a copy of every violation notice in order, a summary sheet, a certified copy of mailing, and an attesting document verifying the information is correct.

In 2012, a pilot program was conducted with registration suspension. The DMV acted on behalf of the agency for violations which had more than \$1,000.00 in outstanding violations and fees. There is presently no automatic interface. Under the current internal agreement, the agency processes no more than 350 violations per month. Selections are made at random from a qualifying list of violators, selecting randomly across zip codes for registration suspension process. There is a thirty day challenge period which requires legal grounds for contention. The DMV rules on contentions. DMV issues the final suspension of registration, presently suspending the plates in violation and the individual registration rights. On a commercial basis, only the plates are suspended.

In two years, the NJTA has requested approximately 770 registrations. Presently, the agency is working with the DMV for guidance in improving the collections rate. One matter under consideration is adding a mixture of smaller violations and suspensions. Xerox has a range of options for collections and settlement, and manages all negotiations of administrative fees and payment options. Out of state violations presently uses the collection agency, and are trying to use credit reporting as well. Xerox believes this can be done across the board.

There is presently no legislation for reciprocity for OOS violators. The DMV has expressed more interest in AET enforcement, but registration suspension for OOS transactions is more of a legislative issue. Legislation would be needed for regional agreements. It is estimated that NJ would most benefit from agreements with NY, DE, MD and PA, in addition to the trucking industry.

**New York and New Jersey (PANYNJ)** – Regulatory authorities rather than legislature have published the DMV right to suspend registrations, which results in the process being very different. Hearings are conducted by the DMV, looking for a limited amount of evidence with high responsibilities. The first suspensions from all three agencies will begin in April. A customer that is notified of a potential suspension will have an increased likelihood of payment. There is presently no ability for the DMV to have reciprocity agreements. It is hoped that with success of this program the agency will be able to leverage legislation with reciprocity for other states in fairness for residents. It is estimated that PANYNJ would most benefit from agreements with CT, PA, MD, and MA.

Additional note: Surrounding states and commercial vehicles are the prime target for diminishing OOS violations.

**North Carolina (NC)** – NC presently has legislation passed which would allow the agency to enter into any agreement at any time as long as the penalties are similar. NC does not have violators, only unpaid customers, who can pay by plate or transponder. Registration holds are issued after 12 unpaid invoices, and then the matter is sent to collections. The state is looking to change the current process and send the matter to a registration hold after 4 unpaid invoices. A violation incurs a \$25.00 civil penalty, a \$20.00 processing fees, and the toll amount (approximately a \$50.00 threshold). It can take 2 years to collect a \$2.00 toll with hundreds of fines & fees which is a growing issue. NC issues registration holds but not suspensions.

**\*Dialogue, Discussion and Questions:**

There was agreement that a series of questions should be placed into a matrix for the agencies to complete showing the current state of enforcement and projecting potential activity levels and costs. The matrix is attached.

Equal protection matter – language seems to go beyond tolling in an effort to ensure fairness for the driver. It is recognized that OOS violations cannot be handled if it is not clearly established that the vehicle in question violated at a given location on a given date. Further, the owner probably has the right to some form of hearing or review before a license or registration hold can be placed on their DMV accounts. Can this be applied to a case where a driver is being treated differently because of state of origin or must each agency apply the same rules to in-state and out-of-state license plates? Can states agree that the driver is subject to the OOS occurrence violation and penalties?

Q: In the New England agreement, is the violation amount based in terms of state of occurrence (facility) or state of origin (registration)?

A: If MA requests a suspension ME will comply based on the information received, therefore the amount is based in state of occurrence (facility) if that is the highest threshold for violations prior to action.

\*What are the differences in reciprocity from DMVs to tolling?

A DMV moving violations treated as if they occurred in home state (penalties).

\*Some states cannot build the number of variations into existing systems to handle multiple agreements. The cost and bandwidth of adding auto processing to existing systems for administrative holds, suspensions, etc, plus the addition of the court and DMV systems which may handle the matters would be overwhelming.

Most states impose fees for suspension reinstatement, hold fees vary by state.

There is additional complexity to be considered based on compliance of requirements for registration holds based on each state's laws. Some of these include suspension vs non-renewal and fee amounts. Smaller differences in these matters are easier to absorb. Differences in fees can be a challenge when the numbers are vastly different.

States must determine where they come together: If it is to help the other states collect their fees or to protect their own customers?

Extreme differences could jeopardize agreements for imposing significant differences on customers. A potential solution could be to look at registration holds vs fees. It will also need to be determined what the standing penalties are and what will be done when the penalties are significantly different.

Legislative language that allows reciprocity of "Similar kind to a similar degree" could become a point of debate. If one violates in VA does another state treat one as they would be treated in VA? Is every customer treated the same regardless of where they live?

Definition point on fees and penalties – the cost above the toll

\*State Reviews of their use of Motor Vehicle penalties for enforcing toll violations and the potential to apply similar penalties to their residents for out-of-state violations will be needed.

\*Discussion of threshold of violations before regional reciprocity would be considered.

In discussion it seems to be highest of the states' thresholds that act as the trigger. A state can move to enforcement based on the higher but not the lesser.

New England has a legislative cap on fees that can be collected but it is not expected to be reached. It was built into the process that if a violator exceeds the fee cap they may get permission from the

home state to waive the cap (with exception for statutory regulations). This places the burden on the customer to pull trigger on the fee cap. ME had a small concern because they were trying to hold non-residents accountable in the same manner as residents.

Can we accept the differences that come from higher level of fees imposed by a court (in VA)? If an agency is applying administrative fees locally, out of state residents would not be able to have their day in court to illustrate that they did not receive their due diligence (paying) and should be prosecuted only on the court level. The addition of the court process is an added layer of complication.

VA imposes high fees through a court process which can be helpful from the viewpoint of other states whose customers may face said fees. How are states helping each other collect what they believe is due to them through enforcement? In looking for fair and equal treatment of customers, fees may incur a cap. There will also be an additional complication across differing types of facilities and standing contracts.

Would each toll agency need an agreement or does state legislation cover all types of facilities?

Enforcement reciprocity would be up to the DMV then parsed out to the toll agencies. This would require DMVs to communicate the necessary information between DMVs as well as toll agencies. Toll agencies will need to be party to the agreement for financial settlement matters.

\*What constitutes enforcement? Fees, notifications, processes? Definition is needed.

\*Unintended consequences

If customers must be treated equally could this be extended into discount programs? If equal treatment is referenced to enforcement of collections in present legislation it only pertains to those that have not paid. Use plus enforcement may come up in future legislative discussions.

\*Maximums on non-toll fees: If the facility drives non-toll fees and these are not limited or capped it may become an issue in the future.

Additional consideration is needed in time for payment which will need to be defined and enforced in rules, technical solutions, manual and automatic processes for releases of registration holds and suspensions. Eventually this will need to be an automated exchange. Are DMVs able to accept a single input source or does each have such a unique system that will require special inputting and data elements? Does a tolling agency need to navigate all the potential protocols and interfaces? In the short term this will be handled similarly to lookups which are sent in the form of the requesting DMV.

Will the toll agency or DMV be requesting holds or suspensions? It is generally accepted that a home toll agency will send the requests to the home DMV which would then submit the requests to the away DMV.

**\*Primary focus and end goal with an eye on expansion to developing toll states:**

If agreements are such that toll agencies deal with other toll agencies the process could be done but with many variances. If each tolling agency were to deal only with their DMV and record files (with

translation file) that might be a viable interim step. With consideration of all the factors, a system capable of this would potentially be a large build which would need to be capable of navigating between DMVs and toll agencies. An additional consideration is the mechanism of notification on the origin of data to the customers as well. This will also add an additional verification processes.

If you know a universal system will eventually be needed, starting with interim solutions will not be as productive as working to the end goal. Present systems will need to add to the system to be able to accept the new data, however the structure is already there. On a side note many agencies at this time are not prepared to accept an auto-feed and would need to convert this to manual process.

It is a possibility that a 3<sup>rd</sup> party could build to interface to the respective DMVs with AAMVA as a portal.

Consideration of such a system would require definitions of current requirements for holds and steps in order to identify what the system needs to be built to do.

**\*Helpful exchanges (Matrix):**

See the attached matrix.