

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1705

S.P. 637

In Senate, December 17, 2003

An Act To Simplify the Maine Turnpike Authority's Enforcement Procedures for Toll Violations

Submitted by the Maine Turnpike Authority pursuant to Joint Rule 204.

Received by the Secretary of the Senate on December 16, 2003. Referred to the Committee on Transportation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator HATCH of Somerset.

Be it enacted by the People of the State of Maine as follows:

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Sec. 1. 23 MRSA §1965, sub-§1, ¶V, as enacted by PL 2003, c. 311, §3, is amended to read:

V. Develop programs whereby a patron of the turnpike who uses the authority's electronic toll collection system, as defined in section 1980, subsection 1 2-A, paragraph B, may elect to use the patron's electronic toll collection system device to pay for services other than tolls for the use of the turnpike, whether those services are provided by the authority itself or 3rd parties, and allow the patron to participate in similar programs developed by other tolling authorities.

Sec. 2. 23 MRSA §1980, sub-§2-A, as amended by PL 2001, c. 154, §§1 to 4, is repealed and the following enacted in its place:

2-A. Toll violations. In addition to potential criminal liability under subsection 1-A, the registered owner of a vehicle may be liable for civil penalties for failure to pay a toll as set out in this subsection.

A. If an operator of a vehicle fails to pay a toll, the registered owner of that vehicle is liable for payment of the toll and is subject to a civil penalty of:

- (1) Fifty dollars, except as provided in subparagraph (2) or (3);
- (2) One hundred dollars, if a failure to pay a toll occurs within 18 months of a prior failure to pay; or
- (3) One hundred fifty dollars, if a failure to pay a toll occurs within 18 months of 2 or more prior failures to pay.

B. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Administrative fee" means the fee imposed pursuant to paragraph C, subparagraph (4).
- (2) "Electronic toll collection system" means a system of collecting tolls or other charges that is capable of charging an account holder the appropriate amount by transmission of information between a device on a motor vehicle and a toll collection facility.

2 (3) "Pay" means paying a toll by cash, by permitting a
4 charge against a valid account with the authority or by
 any other means of payment approved by the authority at
 the time.

6 (4) "Photo-monitoring system" means a motor vehicle
8 sensor installed to work in conjunction with a toll
10 collection facility that automatically produces a
 photograph, microphotograph, videotape or other
 recorded image of a motor vehicle when the operator of
 the motor vehicle fails to pay a toll.

12 (5) "Registered owner" means a person in whose name a
14 motor vehicle is registered under the law of a
16 jurisdiction, including a person issued a dealer or
 transporter registration plate.

18 (6) "Toll" or "tolls" means tolls or other charges
20 prescribed by the authority for use of the turnpike or
 for other services provided to a turnpike patron under
 section 1965, subsection 1, paragraph V.

22 (7) "Violation clerk" means an employee of the
24 authority designated by the authority to enforce
26 violations and adjudicate appeals relating to those
 violations under this subsection.

28 C. The following procedures must be followed for the
30 collection of tolls, administrative fees and civil penalties
 under this subsection.

32 (1) The authority shall send a notice of liability by
34 first-class mail to a person alleged to be liable as a
36 registered owner under this subsection. The notice
38 must be sent to the address of the registered owner on
40 record with the authority if the registered owner is an
42 electronic toll collection patron of the authority or,
 if no such record exists, the address of the registered
 owner on record with the Secretary of State. A manual
 or automatic record of the mailing prepared in the
 ordinary course of business of the authority is prima
 facie evidence of the mailing of the notice.

44 (2) A notice of liability must include the name and
46 address of the person alleged to be liable as a
48 registered owner for the failure to pay a toll under
50 this subsection, the amount of the toll not paid, the
 registration number of the vehicle involved, the toll
 collection facility at which the failure occurred and
 the date and the approximate time of the failure. The

2 notice must also include the name, address and
3 telephone number of the violation clerk responsible for
4 enforcing the penalty for the failure to pay.

6 (3) A notice of liability must include information
7 advising the person liable under this subsection of the
8 manner and time in which the liability alleged in the
9 notice may be contested and the statutory defenses
10 described in paragraph E. The notice must also include
11 a warning that failure to contest in the manner and
12 time provided is an admission of liability and a waiver
13 of available defenses and may result in revocation of
14 the registration certificate and plates issued for the
15 vehicle.

16 (4) Within 30 calendar days after the date of the
17 issuance of the notice of liability, the registered
18 owner to whom the notice is issued must:

20 (a) Pay the amount of the toll for which the
21 person is liable, the civil penalty or penalties
22 provided for in paragraph A and an administrative
23 fee of \$20 for each toll for which the person is
24 liable but has not paid;

26 (b) Send a written dispute by mail to the
27 violation clerk named in the notice, as provided
28 by paragraph I; or

30 (c) Request a hearing with the violation clerk
31 named in the notice as provided by paragraph J.

32 D. Except as provided in paragraph E, it is not a defense
33 to liability under this subsection that a registered owner
34 was not operating the motor vehicle at the time of the
35 failure to pay.

38 E. Defenses to liability under this subsection are as set
39 out in this paragraph.

40 (1) If a person other than the registered owner of the
41 motor vehicle is adjudicated criminally or civilly
42 responsible for the failure to pay a toll, then the
43 registered owner is not liable under this subsection.

46 (2) If the registered owner of the motor vehicle is
47 the lessor of motor vehicles and at the time of the
48 failure to pay an authority toll the motor vehicle was
49 in the possession of a lessee and the lessor provides
50 the authority with a copy of the lease agreement

2 containing the information required by Title 29-A,
section 254, then the lessee, and not the lessor, is
4 liable under this subsection.

6 (3) If the motor vehicle is operated using a dealer or
transporter registration plate and at the time of the
8 failure to pay the motor vehicle was under the custody
or control of a person other than the dealer or
10 transporter, and if the dealer or transporter provides
the authority with the name and address of the person
12 who had custody or control over the motor vehicle at
the time of the failure to pay, then that person and
14 not the dealer or transporter is liable under this
subsection.

16 (4) If a report that the motor vehicle was stolen is
18 given to a law enforcement officer or agency before the
failure to pay occurs or within a reasonable time after
20 the registered owner becomes aware of the theft, then
the registered owner is not liable under this
22 subsection.

24 F. Nothing in this subsection may be construed to limit the
liability of an operator of a motor vehicle for a failure to
26 pay an authority toll. If a person who is liable for a
failure to pay under this subsection was not the operator of
28 the motor vehicle at the time of the failure to pay, that
person may maintain an action for indemnification against
30 the operator to recover all tolls, administrative fees and
civil penalties paid by that person under this subsection.

32 G. If a registered owner does not dispute a notice of
liability or pay the tolls, administrative fees and civil
34 penalties as required by paragraph C, subparagraph (4), or
if the registered owner does not pay the tolls,
36 administrative fees and civil penalties required by a final
decision of a violation clerk as provided in paragraphs I
38 and J, then the authority shall notify the Secretary of
State, who shall, in accordance with Title 29-A, section
40 154, subsection 6, suspend the registration certificate and
plates issued for the vehicle involved in the alleged
42 failure to pay.

44 H. Combinations of vehicles involving a motor vehicle and
one or more trailers or semitrailers equipped with a total
46 of 3 or more axles, including motor vehicles with 6 or more
tires towing a trailer, but not including motor vehicles
48 with 4 tires or fewer towing a trailer, are not subject to
an administrative fee under this subsection.
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2 I. The registered owner may, without waiving the right to a
4 hearing before a violation clerk as provided by paragraph J
6 and also without waiving the right to judicial review as
8 provided by Title 5, chapter 375, subchapter 7, appeal a
10 notice of liability as provided by paragraph C, subparagraph
12 (4) and receive a review and disposition of the violation
14 from a violation clerk by mail. The appeal by mail must
16 contain a signed statement from the registered owner
18 explaining the basis for the appeal. The signed statement
20 may be accompanied by signed statements from witnesses,
22 police officers, government officials or other relevant
24 parties or photographs, diagrams, maps or other relevant
26 documents that the registered owner determines appropriate
28 to submit. Statements or materials sent to a violation
30 clerk for review must have attached to them the name and
32 address of the registered owner as well as the number of the
34 notice of liability and the date of the violation. All
36 information submitted by the registered owner becomes part
38 of the violation record. The violation clerk shall, within
40 60 days of receipt of such material, review the material and
42 dismiss or uphold the violation and notify the registered
44 owner of the disposition of the hearing in writing by mail.
46 If the appeal by mail is denied, the violation clerk shall
48 explain the reasons for the determination. The review and
disposition handled by mail is informal, the rules of
evidence do not apply and the decision is final, subject to
the hearing provisions of paragraph J.

30 J. As provided by paragraph C, subparagraph (4) or within
32 30 days of the issuance of a decision by a violation clerk
34 under paragraph I, a registered owner may make a written
36 request for an appeal hearing before a violation clerk
38 designated by the authority. The violation clerk shall then
40 notify the registered owner in writing by first-class mail
42 of the date, time and place of the hearing. The hearing is
44 informal, the rules of evidence do not apply and the
46 decision of the violation clerk is final. The violation
48 clerk shall notify the parties in person or by mail of the
decision following the hearing. Each written appeal
decision must contain a statement of reasons for the
decision including a determination of each issue of fact
necessary to the decision. Failure to appear at the date,
time and place specified on the hearing notice automatically
results in the denial of the appeal.

46 K. Any decision by a violation clerk under this section is
48 subject to judicial review of final agency action in the
manner provided by Title 5, chapter 375, subchapter 7.

