



# Bridges and Tunnels

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## Toll Violation Enforcement (Action item)



## Staff Summary

Subject	Toll Violation Enforcement
Department	Law
Department Head Name	M. Margaret Terry
Department Head Signature	<i>M. Margaret Terry</i>
Project Manager Name	

Date	October 20, 2016
Vendor Name	N/A
Contract Number	N/A
Contract Manager Name	N/A
Table of Contents Ref. #	N/A

Board Action					
Order	To	Date	Approval	Info	Other
1	B&T Committee	10/26/16			
2	Board	10/28/16			

Internal Approvals			
Order	Approval	Order	Approval
3	President <i>DJ</i>		VP Procurement
	General Counsel		VP Operations
2	Executive VP <i>MMT/JNJF</i>		VP Labor Relations
	VP Operations Support		VP & Chief Engineer

Internal Approval (cont.)							
Order	Approval	Order	Approval	Order	Approval	Order	Approval
1	Chief Financial Officer		Chief Security Officer		Chief Maintenance Officer		Other
	Chief Information Officer		Chief Health & Safety Officer		Affirmative Action		Other

**PURPOSE:** To obtain the Board's approval of a Resolution authorizing the President of the Authority or his designee to take all preliminary steps as may be necessary and desirable in order to revise the Authority's toll violation enforcement regulation to (i) add provisions prescribing the procedural protections for owners seeking to have their tolls and unpaid violation fees dismissed or transferred from vehicle rental and leasing companies to renters and lessees and warning that owners who persistently fail to pay tolls and violation fees may have their vehicle registrations suspended by the New York State Department of Motor Vehicles (DMV); (ii) increase the violation fee imposed on owners from \$50.00 to \$100.00 for toll violations at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazano-Narrows Bridges and Hugh L. Carey and Queens Midtown Tunnels, while continuing to impose a \$50.00 violation fee for toll violations at the Henry Hudson, Cross Bay Veterans Memorial or Marine Parkway-Gil Hodges Memorial Bridges; and (iii) authorizing the President of the Authority or his designee to take all such steps that may be necessary and desirable to establish, implement and permanently adopt, pursuant to law, the revised regulation.

**DISCUSSION:** The Authority has already adopted toll violation enforcement regulations that impose a \$50.00 fee per toll violation upon the owner of any vehicle crossing an Authority facility without paying the toll by means of a properly mounted and valid E-ZPass Tag or by fare media other than E-ZPass at the place and in the time and manner prescribed by the Authority for the collection of such toll. On December 16, 2015, the Board authorized the President or his designee to take preliminary steps to adopt revisions to these toll violation enforcement regulations in conjunction with DMV's adoption of regulations to suspend vehicle registrations of owners who fail to pay their tolls and violation fees or have them dismissed or transferred in relation to five toll violations within eighteen (18) months under DMV's statutory authority to

suspend registrations for habitual or persistent violators. The Notice of Rule Making, which had been filed after the Board's December 16, 2015 authorization, has been withdrawn so that the proposed regulations can be revised in response to the implementation of cashless, gantry-based Open Road Tolling (ORT) at Authority toll facilities. The Authority's newly revised regulations would increase the violation fee from \$50.00 to \$100.00 per violation for failure to pay tolls at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels, while continuing to impose the \$50.00 fee per violation upon owners for failure to pay tolls at the Henry Hudson, Cross Bay Veterans Memorial and Marine Parkway-Gil Hodges Memorial Bridges. The proposed regulations continue to (i) make it clear that owners have an opportunity to dispute their responsibility for toll violations and have them dismissed or transferred before being subject to a \$50.00 or \$100.00 violation fee per violation or, if persistent violators, the suspension of their vehicle registrations by DMV; (ii) prescribe the information required in violation notices; the process for disputing toll violations; the grounds for dismissing toll violations; the process for vehicle rental and leasing companies to transfer responsibility for tolls and violation fees to renters and lessees, as well as the required evidence; and (iii) state that owners who persistently fail to pay their tolls and violation fees or have them dismissed or transferred may have their vehicle registrations suspended by DMV.

**IMPACT ON FUNDING:** It is anticipated that increasing the violation fee to \$100.00 per violation at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels and strengthening the Authority's toll violation enforcement procedures will increase toll revenue at Authority Open Road Tolling facilities by deterring toll evasion.

**RECOMMENDATION:** It is recommended that the Board adopt and approve the attached Resolution (i) adopting the Authority's revised toll violation enforcement regulations to (a) increase the toll violation fee from \$50.00 to \$100.00 for toll violations at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels, while continuing to impose a \$50.00 violation fee for toll violations at the Henry Hudson, Cross Bay Veterans Memorial and Marine Parkway-Gil Hodges Memorial Bridges; and (b) add provisions prescribing the procedural protections for owners seeking to have their tolls and unpaid violation fees dismissed or transferred from vehicle rental and leasing companies to renters and lessees and warning that owners who persistently fail to pay tolls and violation fees may have their vehicle registrations suspended by the New York State Department of Motor Vehicles (DMV); and (iii) authorizing the President or his designee to take all steps as may be necessary and desirable to adopt the revised toll violation enforcement regulations at Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations.

## RESOLUTION

**WHEREAS**, the Triborough Bridge and Tunnel Authority has been given the statutory right and duty to make rules and regulations for establishment and collection of tolls on its bridges and tunnels; and

**WHEREAS**, the Authority has already adopted toll violation enforcement regulations that impose a \$50.00 fee per toll violation upon the owner of any vehicle crossing an Authority facility without paying the toll by means of a properly mounted and valid E-ZPass Tag or by fare media other than E-ZPass at the place and in the time and manner prescribed by the Authority for the collection of such toll; and

**WHEREAS**, the Authority proposes to revise its toll violation enforcement regulations to increase the violation fee from \$50.00 to \$100.00 per violation for failure to pay tolls at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels, while continuing to impose a \$50.00 fee per violation upon owners for failure to pay tolls at the Henry Hudson, Cross Bay Veterans Memorial and Marine Parkway-Gil Hodges Memorial Bridges; and

**WHEREAS**, the Authority proposes to revise its toll violation enforcement regulations to add provisions setting forth the procedural protections for owners seeking to have their tolls and unpaid violation fees dismissed or transferred from vehicle rental and leasing companies to renters and lessees and warning owners who persistently fail to pay tolls and violation fees that their vehicle registrations may be suspended or revoked by the New York State Department of Motor Vehicles (DMV); and

**WHEREAS**, increasing the violation fee to \$100.00 per violation at the Bronx-Whitestone, Robert F. Kennedy, Throgs Neck and Verrazano-Narrows Bridges and the Hugh L. Carey and Queens Midtown Tunnels and strengthening the Authority's toll violation enforcement regulations by adding these due process protections is expected to increase toll revenue by deterring toll evasion at the Authority's cashless Open Road Tolling facilities.

### **NOW, THEREFORE, IT IS:**

**RESOLVED**, that the prior Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations shall be and hereby is repealed and the new Toll Violation Enforcement regulations as set forth in the attachment to this resolution, shall be and hereby is adopted; and be it further,

**RESOLVED**, that the President of the Authority or his designee is hereby fully authorized and directed to take such steps as may be necessary or desirable to repeal the prior Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations and establish, implement and adopt the proposed Toll Violation Enforcement regulations, annexed hereto, in the new Part 1021.3 of Title 21 of the New York Codes, Rules and Regulations, pursuant to law.

October 28, 2016  
New York, New York

## Attachment 1

## TBTA TOLL VIOLATION ENFORCEMENT REGULATIONS

### Part 1021.3 Toll Violation Enforcement

1. The owner, as defined in Public Authorities Law § 2985(3), of any vehicle crossing a bridge or tunnel without paying the crossing charge prescribed by the Triborough Bridge and Tunnel Authority ("Authority") at the place and time and in the manner established for the collection of such crossing charge commits a violation of toll collection regulations.
  - (a) Payment of crossing charges by E-ZPass shall be made by means of a properly mounted E-ZPass tag of the proper class that is classified as valid at the time of the toll transaction. For each such violation, the owner shall be charged the full undiscounted crossing charge for fare media other than E-ZPass. Nothing in this section shall be construed to limit the violation of an E-ZPass account holder for administrative violation fees established and imposed by the E-ZPass agreement for failure to pay crossing charges by means of a properly mounted E-ZPass Tag of the proper class that is classified as valid at the time of the transaction.
  - (b) Payment of crossing charges by fare media other than E-ZPass shall be made at the place and time and in the manner established for the collection of such crossing charge. Nothing in this section shall be construed to limit the violation of a video account holder for administrative violation fees established and imposed by the applicable video account agreement for failure to pay the crossing charges at the place and time and in the manner established for the collection of such crossing charges.
2. The owner of any vehicle which violates toll collection regulations by crossing a bridge or tunnel without paying the crossing charge prescribed by the Authority at the place and time and in the manner established for the collection of such crossing charge shall be liable to the Authority for an administrative fee, known as the toll violation fee. The fee shall be in the amount of \$50.00, for each such violation arising from crossing the Henry Hudson Bridge, the Cross Bay Veterans Memorial Bridge and the Marine Parkway-Gil Hodges Memorial Bridge; and, \$100.00 for each such violation arising from crossing the Bronx-Whitestone Bridge, the Hugh L. Carey Tunnel, the Queens Midtown Tunnel, the Robert F. Kennedy Bridge, the Throgs Neck Bridge and the Verrazano-Narrows Bridge. The toll violation fee shall be in addition to the applicable crossing charge and any fines and penalties otherwise prescribed by law or by agreement.
3. A Notice of Violation shall be sent by the Authority's authorized agent ("Authorized Agent") to the individual or business alleged to be liable for the toll violation as owner and shall contain:
  - (a) the name and address of the individual or business alleged to be liable for the toll violation as owner;
  - (b) the registration number and state of the vehicle alleged to have been involved in the violation;
  - (c) the location, date and time of each use of the facility that forms the basis of such violation;
  - (d) the amount of the assessed toll and toll violation fee; and
  - (e) an image of the license plate of the vehicle being used or operated on the toll facility, provided that an image of each such license plate in the Notice of Violation shall be provided by the Authorized Agent upon request.

4. The individual or business alleged to be liable for the toll violation as owner may dispute the violation by submitting a Declaration of Dispute to the Authorized Agent at the time and place and in the manner established in the Notice of Violation and such toll violation and associated toll violation fee shall be dismissed if such individual or business provides a certification that:
  - (a) The individual or business was not the registered owner of the vehicle at the time of the toll transaction that forms the basis of such alleged violation and submits to the Authorized Agent: (i) a copy of the plate surrender receipt from the Department of Motor Vehicles; (ii) proof of sale of the vehicle; (iii) a copy of the report to a law enforcement agency that the plate was lost; and/or (iv) a copy of the report to a law enforcement agency that the vehicle was stolen; or
  - (b) The toll was paid by E-ZPass and the toll posted to an E-ZPass Account and submits to the Authorized Agent a copy of the E-ZPass statement showing the toll posting; or
  - (c) The toll was paid in cash at the time and submits to the Authorized Agent a copy of the toll receipt; or
  - (d) The registered owner's vehicle was not present at the facility at the time of the violation(s) or for other good cause shown.
5. If the owner is a vehicle rental or leasing company which seeks to perform a Transfer of Responsibility to the vehicle lessee or renter, the owner shall submit to the Authorized Agent at the time and place and in the manner established in the Notice of Violation a signed lease or rental agreement and certification of the name and address of the lessee or renter of the vehicle at the time of the toll transaction that forms the basis for the violation. A Notice of Violation or toll invoice shall be sent by the Authorized Agent to such lessee or renter within forty-five days of receipt of the signed lease or rental agreement and certification and such lessee or renter shall be deemed to the owner of such vehicle and shall be liable for the payment of tolls and any toll violation fees.
6. The Authorized Agent shall send the owner a written determination of the Declaration of Dispute under subdivision four.
  - (a) The owner may request a review by the Authority of the Authorized Agent's determination of the Declaration of Dispute by submitting a Request for Review to the Authority at the place and time and in the matter established in the Authorized Agent's written determination of the Declaration of Dispute.
  - (b) The Authorized Agent's determination of the Declaration of Dispute under subdivision four shall be final and binding on the owner unless overturned by the Authority upon review.
  - (c) The Authority's determination of the owner's Request for Administrative Review shall be final and binding on the owner unless overturned by a Court of competent jurisdiction of the State of New York, County of New York, under Article 78 of the New York Civil Practice Law and Rules or a United States Court located in New York City, under the procedures and laws applicable in that court.
7. The individual or business alleged to be liable for each toll violation as owner shall be liable for each unpaid toll and toll violation fee unless: (i) such unpaid toll and/or toll violation fee has been dismissed under subdivision four or subdivision six; (ii) there has been a Transfer of Responsibility under subdivision five; or (iii) after payment of such toll, the toll violation fee has

been dismissed or reduced under the Fee Waiver Policy adopted by the Authority. Such owners who fail to pay each toll and toll violation fee in response to a Notice of Violation may also have their vehicle registrations suspended under vehicle and traffic law section 510(3)(d) and implementing regulations.