
BAIFA Resolution No. 36 – Revision to BAIFA Toll Violation Penalties

Subject:

A request for approval of BAIFA Resolution No. 36, revising BAIFA’s express lanes violation penalties to \$10 for the first notice plus \$20 for the second notice (for a total of \$30 after two notices).

Background:

BAIFA’s current express lanes toll violation penalty structure, approved in 2016, is defined in its Toll Facility Ordinance at \$25 + \$45 for the first and second notice (for a total of \$70 due at the time of the second notice) and was set as such to match BATA’s penalty structure at the time.

On October 21, 2021, BATA reduced its penalties to \$5 + \$10 (for a total of \$15 due at the time of the second notice). Subsequently, staff of Santa Clara Valley Transportation Authority, Alameda County Transportation Commission, and San Mateo County Express Lanes Joint Powers Authority (collectively, “Partner Agencies”) and BAIFA agreed to evaluate whether to revise the violation penalties for express lanes and to what value. Partner Agencies communicated a desire to maintain consistent penalties for all Bay Area express lanes to maintain a seamless customer-facing policy but voiced concerns with matching BATA’s penalty amounts. They noted express lanes are different from toll bridges and warrant a greater deterrent to potential violators for reasons that include:

1. BATA’s penalties reduction was in large part a result to a foundational change in March 2020 to how the bridges are tolled after the removal of cash collection. Express lanes have always required all electronic tolling.
2. Drivers have a choice to use the tolled express lane or free general purpose lanes;
3. Express lanes enforcement is more complicated, and operational costs and risk of leakage are higher due to continuous access and multiple toll points; and
4. Express lanes must meet Federal performance standards for travel speed.

On June 22, 2022, BAIFA amended its toll ordinance to allow revision of violation penalties by resolution amongst other changes.

Also on June 22, staff presented a recommendation from Bay Area Express Lanes operators to reduce penalties to \$10 for the first notice plus \$20 for the second and to try to set a common effective date for all Bay Area operators. The last board action will be on September 22, 2022 by Alameda County Transportation Commission (ACTC); operators have agreed to an effective date that closely follows: October 3, 2023. Qualifying transactions on or after this date would be subject to the new penalties. Commissioners commented that, although some might have preferred the penalties match BATA's, they agreed with the need for regional consistency amongst express lanes operators and acknowledged the challenges in reaching it. Commissioners requested further focus on data-driven policy recommendations related to penalties, payment plans, and other matters related to reducing the number of violations that occur.

Issues:

None identified.

Recommendations:

Staff recommends the Authority approve BAIFA Resolution No. 36, Revision to BAIFA Toll Violation Penalties, which revises the penalties to \$10 for the first notice and an additional \$20 for the second notice, effective October 3, 2022.

Attachments:

- Attachment A: BAIFA Resolution No. 36 – Revision to BAIFA Toll Violation Penalties.



Therese W. McMillan

Date: July 27, 2022
Referred by: BAIFA

ABSTRACT

BAIFA Resolution No. 36

This resolution adopts revised violation penalties for the BAIFA Express Lanes, effective October 3, 2022, as set forth in Attachment A of the BAIFA Toll Facility Ordinance.

Further discussion of this resolution is contained in the Executive Director's memorandum dated July 27, 2022.

Date: July 27, 2022
Referred by: BAIFA

Re: Adoption of revised violation penalties for the BAIFA Express Lanes, effective October 3, 2022, as set forth in Attachment A of the BAIFA Toll Facility Ordinance

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY
RESOLUTION No. 36

WHEREAS, the Metropolitan Transportation Commission (“MTC”) and the Bay Area Toll Authority (“BATA”) have executed a joint exercise of powers agreement dated as of August 1, 2006, as amended, which created and established the Bay Area Infrastructure Financing Authority (“BAIFA”): and

WHEREAS, the Metropolitan Transportation Commission (“MTC”) has been authorized by the State of California to develop and operate high-occupancy toll lane facilities constituting the Bay Area Express Lane Network (“Project”) pursuant to California Streets and Highways Code section 149.7 (“Express Lanes Statute”); and

WHEREAS, the Bay Area Infrastructure Financing Authority (“BAIFA”) is authorized by the Joint Exercise of Powers Agreement between MTC and the Bay Area Toll Authority (“BATA”) dated as of August 1, 2006, as amended, to develop and operate high-occupancy toll lane facilities pursuant to the Express Lanes Statute; and

WHEREAS, Vehicle Code authorizes penalties for certain types of violations; and

WHEREAS, BAIFA adopted a Toll Facility Ordinance that sets forth penalties for certain violations of the Toll Facility Ordinance (“Penalties”) and amended the Toll Facility Ordinance in June 2022 to allow revision of penalties by resolution;

NOW, THEREFORE, BE IT RESOLVED, that BAIFA hereby adopts revised Penalties, effective for transactions on or after October 3, 2022 as set forth in Attachment A to this Resolution, and incorporated herein as though set forth at length; and be it further

RESOLVED, that Attachment A to the BAIFA Toll Facility Ordinance shall be updated to reflect the changes adopted through this Resolution No. 36 and posted on the agency website.

Bay Area Infrastructure Financing Authority

Alfredo Pedroza, Chair

The above resolution was entered into by the Bay Area Infrastructure Financing Authority at a regular meeting of the Authority held in San Francisco, California, and at other remote locations, on July 27, 2022.

Date: July 27, 2022
Referred by: BAIFA

Attachment A
Resolution No. 36
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**BAIFA Express Lanes Violation Penalties,
effective for transactions on or after October 3, 2022 on the
BAIFA Express Lanes**

Attachment A

ATTACHMENT A TO
 BAY AREA INFRASTRUCTURE FINANCING AUTHORITY TOLL FACILITY ORDINANCE

Facilities and Tolls

Under the Bay Area Infrastructure Financing Authority Toll Facility Ordinance, the minimum toll per zone, the hours of operation, and Discounts available for high occupancy vehicles (HOVs) and clean air vehicles for each BAIFA toll facility listed below shall be as set forth in this table:

BAIFA Toll Facilities and Zones	Minimum Toll per Zone	Maximum Hours of Operation	HOV Requirement and Occupancy Discount*	Clean Air Vehicle Discount*
<p>I-680 San Ramon to Martinez Five zones southbound: 1. Monument Zone: Marina Vista Avenue to Monument Boulevard 2. South Main Zone: Monument Boulevard to South Main Street 3. El Cerro Zone: South Main Street to El Cerro Boulevard 4. Crow Canyon Zone: El Cerro Boulevard to Crow Canyon Road 5. Alcosta Zone: Crow Canyon Road to Alcosta Boulevard Two zones northbound: 6. Crow Canyon Zone: Alcosta Boulevard to Crow Canyon Road 7. Livorna Zone: Crow Canyon Road to Livorna Road</p>	\$0.50	Monday to Friday from 5AM to 8PM	100% for two or more persons (HOV 2+)	50%

<p>I-880 Oakland to Milpitas Six zones southbound: 1. Washington/238 Zone: Hegenberger Road to Washington Avenue/238 2. Tennyson Zone: Washington Avenue/238 to Tennyson Road 3. Alvarado-Niles Zone: Tennyson Road to Alvarado-Niles Road 4. Thornton Zone: Alvarado-Niles Road to Thornton Avenue 5. Auto Mall Zone: Thornton Avenue to Auto Mall Parkway 6. Dixon Landing Zone: Auto Mall Parkway to Dixon Landing Road Five zones northbound: 7. Auto Mall Zone: Dixon Landing Road to Auto Mall Parkway 8. Mowry Zone: Auto Mall Parkway to Mowry Avenue 9. Decoto/84 Zone: Mowry Avenue to Decoto Road/84 10. Whipple Zone: Decoto Road/84 to Whipple Road 11. Hesperian/238 Zone: Whipple Road to Hesperian Boulevard/238</p>	<p>\$0.50</p>	<p>Monday to Friday from 5AM to 8PM</p>	<p>100% for three or more persons (HOV 3+) 50% for two persons, with the exception of 100% for two persons in a class 1 vehicle designed by the manufacturer to be occupied by no more than two persons, including the driver.</p>	<p>50%</p>
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**Discounts cannot be combined across discount categories; for example, a two-person clean air vehicle on I-880 cannot receive a 100% discount (50% for two persons plus 50% for clean air vehicle).*

For all BAIFA toll facilities, the surcharge for “pay-by-plate” transactions shall be \$0.

Penalties for Violations

All Violations

1st Notice
Toll + \$10 penalty

2nd Notice
Toll + \$20 penalty

Exceptions:

1. If the violation is determined to be the fault of the toll agency.
2. For 1st time offense, a non-customer can open a FasTrak[®] account prior to DMV registration hold or collections and the penalty will be waived.
3. For FasTrak[®] account holders in good standing, toll-only will be posted to the account balance. If the account balance is less than the amount of the toll, the account balance must be brought to the replenishment threshold amount prior to posting the violation toll amount.

A processing fee will be applied to violations sent to the Department of Motor Vehicles (DMV) for a registration hold in the amount of the DMV recording fee authorized pursuant to Vehicle Code Section 4773 (currently \$3, as said amount may subsequently be revised by the DMV).