

**Bay Area Infrastructure Financing Authority
(BAIFA)**

June 22, 2022

Agenda Item 5a - 22-0893

Revision to BAIFA Toll Violation Penalties

Subject:

An information update on a recommendation from Bay Area Express Lanes operators to reduce express lanes toll violation penalties to \$10 + \$20 for the first and second notice (for a total of \$30 due at the time of the second notice).

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. (See summary of current toll violation processes in Attachment A.) Vehicles in Bay Area express lanes are required to be registered to a FasTrak® account; the vast majority of penalties assessed are to registered owners of vehicles in violation of this requirement. First-time violators may have their fees waived if they sign up for FasTrak. Penalties are also assessed when an account holder has a negative balance and then makes a tolled trip on the express lanes; this is a very small share of violations.. Violations related to self-declaring the wrong occupancy are enforced by California Highway Patrol, which issues HOV occupancy citations.

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 Bay Area express lanes partner agencies ("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.

Through discussions, staff from BAIFA and Partner Agencies agreed that the gap between the toll and penalty amount should be reduced while still providing an incentive to get FasTrak and follow the rules. For BAIFA express lanes, 75% percent of violations were for a toll of \$6 or less (between October 1 and December 31, 2021). Staff recommends the first notice be \$10. The second notice would add \$20, which is two times the first notice (to be consistent with BATA's ratio for first and second notice penalties).

Staff is taking into consideration Assembly Bill 2594, Vehicle registration and toll charges (AB-2594) by Assemblymember Phil Ting, which addresses operations of tolled facilities broadly, including assessment of toll violation penalties. The recommendation is well below the amounts allowed in the May 19 version of the bill, which sets a cumulative maximum of \$100 for each toll evasion violation

The BAIFA FY 2022-23 Operating and Capital Budget (Item 4a) reflects violation penalty revenue in the amount of \$9.4 million, which assumes the existing penalty structure of \$25 + \$45 for first and second notice. A reduction in the penalties to \$10 + \$20 would change the revenue projection to \$6.4 million. The reduction is not proportional because it assumes a higher collection rate for violations that have received a second notice.

Next Steps:

Executives of Bay Area express lanes met on June 6 and agree to recommend adoption of a lower penalty of \$10 for the first notice and \$20 for the second notice to their respective boards for approval. Subject to approval of the toll ordinance amendment presented in Item 4c, staff intends to bring a resolution to BAIFA in July. Partner Agencies intend to take resolutions lowering violation penalties for their respective corridors in August and September. The least burden to the Regional Customer Service Center (RCSC), which would be responsible for implementing these changes, and the clearest messaging to the public would come if all operators approved a common effective date. The operators propose the reduction be

implemented shortly following the last board to take action, which is scheduled to be Alameda County Transportation Commission on September 22.

When BATA took action on reducing penalties, it made the reductions retroactive to January 1, 2021, which marked the start of all-electronic tolling (AET) and re-institution of penalties (See slide 4 of Attachment B). This action required refunding the excess amount to violators who had already paid the higher penalty. BAIFA did not face a change in tolling method or suspend penalties, but to the extent the Authority may wish to review the administration of prior violations, staff recommends reviewing this later in the year after more is known about AB 2594 as well as BATA's DMV hold policies.

The reduction in violation penalties would apply equally to all violators. In addition, staff is looking at future opportunities to address impacts on low-income travelers. As the manager of the contract for the Regional Customer Service Center (RCSC) used by all Bay Area toll agencies, BATA has taken the lead on a range of equity initiatives in its Equity Action Plan and plays a key role in implementing equity initiatives affecting Bay Area express lanes. Some opportunities benefitting express lanes customers, such as the creation of a payment plan, are ones that BATA anticipates piloting for toll bridges first but that may then be leveraged for use by express lanes operators at a future time.

Recommendations:

This item is provided for information only.

Attachments:

- Attachment A: Toll Violation Processes
- Attachment B: Presentation



Therese W. McMillan

Attachment A

Current Toll Violation Processes

Step.	BATA Bridges	Bay Area Express Lanes
1.	A. Crossed bridge without FasTrak account and did not pay invoice within 21 days of receipt of monthly invoice. B. Crossed bridge with FasTrak and didn't pay (cash account with a negative balance or expired credit card)	A. Used express lane without FasTrak account; or B. Used express lane with FasTrak and didn't pay (cash account with a negative balance or expired credit card)
2.	First violation notice sent (Toll + \$5)	First violation notice sent (Toll + \$25)
3.	Second violation sent (toll + \$5 + \$10)	Second violation sent (toll + \$25 + \$45)
4.	Sent to DMV hold (toll + \$5 + \$10 + \$3 DMV fee) or sent to collections (toll + \$5 + \$10)	When the sum of tolls exceeds \$5, sent to DMV hold (toll + \$25 + \$45 + \$3 DMV fee) or sent to collections (toll + \$25 + \$45)