



METROPOLITAN
TRANSPORTATION
COMMISSION

Agenda Item 6m
Bay Area Metro Center
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San Francisco, CA 94105
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Memorandum

TO: Legislation Committee

DATE: April 7, 2017

FR: Executive Director

W. I. 1131

RE: AB 344 (Melendez): Toll Violations

Background

Under current law, a person receiving a toll violation may appeal the violation without providing any initial payment. If the person wants to further challenge the toll violation, the law provides that they may request an administrative review, but requires that they pre-pay the toll penalty at that time, pending the results of the administrative hearing. Under AB 344, a person would not be required to provide any payment until the conclusion of this second level of review, or if the person further challenges it, upon a finding by a court.

California law currently provides a similar structure for protesting a parking violation notice. For the first phase of review, no payment is required. For the second administrative hearing, payment is required, unless the person can provide proof of an inability to pay the amount due. The law requires every local agency adopt a written procedure for allowing a person to make this case. Unlike the parking law, however, AB 344 would waive up-front payment for all toll violations until the matter is concluded, regardless of ability to pay.

Recommendation: Oppose Unless Amended

Discussion

In 2016, BATA had approximately 120,000 toll violation protests; of these, only 0.05 percent were challenged and considered through the administrative review process. For anyone challenging a toll violation, the initial review is handled by the FasTrak Customer Service Center. Toll violations that are found in error are handled there. The second level of review known as the “administrative review” is done by BATA staff. Each administrative review, including the hearing, takes approximately 8 hours of staff time. While this is handled by a single BATA staff person today, removing the requirement for up-front payment would likely encourage more recipients of toll violation notices to carry their protest to the administrative hearing phase, even if they know they are at fault, simply to postpone payment or take their chances at receiving a reduced penalty. It is also worth noting that BATA is unaware of any instance in which the administrative hearing has resulted in a finding that the violation notice was in error. Such cases are discovered during the initial review when no payment is required.

Given that the underlying concern that up-front payment of the toll violation prior to the second protest phase is burdensome for a vehicle owner of limited means, staff recommends an “oppose unless amended” position on AB 344. The amendment would conform the bill to the provisions applicable to parking violations and waive up-front payment if a person can demonstrate an inability to pay. Under that provision, each agency that issues violation notices is required to develop a written procedure for a person to request this waiver. As an example, attached is the form the San Francisco Municipal Transportation Agency provides to recipients of parking violation notices.


Known Positions:

Support

American Civil Liberties Union

Opposition

Transportation Corridors Agency


Steve Heminger

Attachment:

- Attachment A: SFMTA Customer Service Center Hearing Deposit Waiver Information Bulletin 2016-011

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SFMTA Customer Service Center
Hearing Deposit Waiver Information
Bulletin 2016-011
Issue Date: September 15, 2016**SFMTA**
Municipal
Transportation
Agency

SFMTA.COM

Pursuant to the California Vehicle Code (section 40215), and the California Public Utilities Code (section 99581), an individual requesting an administrative hearing of a parking citation or transit violation shall deposit the amount of the fine with the SFMTA. In the event that an individual submits satisfactory proof of his or her inability to pay the citation fine, as determined by the SFMTA, the SFMTA may waive the requirement for this deposit.

To approve a waiver, the information provided by the customer must be consistent with the ranges shown in the chart below. After the customer completes the form providing their Annual Gross Income and the number of dependents in the household, use the table below to determine if the customer qualifies for a waiver. For instance, a family of four (4) must have an annual income of \$48,500 or less to qualify for a Hearing Deposit Waiver.

Size of family unit	200 Percent of Poverty	Size of family unit	200 Percent Of Poverty
1	\$23,540	9	\$90,100
2	\$31,860	10	\$98,420
3	\$40,180	11	\$106,740
4	\$48,500	12	\$115,060
5	\$56,820		
6	\$65,140		
7	\$73,460		
8	\$81,780		

Correctable Citations:

Individuals requesting an administrative hearing on correctable citations will not have to deposit the amount of the fine with the SFMTA.

If a customer does not qualify for a Hearing Deposit Waiver and it is not a correctable citation, he or she must deposit the amount of the citation to proceed to an Administrative Hearing. If the person does not want to make the required deposit, refer him or her to California Vehicle Code (section 40215) for parking citations, or the California Public Utilities Code (section 99581) for transit violations.

When a Hearing Deposit Waiver is granted, eTims must be noted: Hearing Deposit Waiver granted.