

BAIFA Resolution No. 36, Revised – Revision to Toll Violation Penalties and Exception to Assessment of Penalties

Subject:

A request to adopt the BATA low-income payment plan and for approval of BAIFA Resolution No. 36, Revised, Revision to Toll Violation Penalties and Exception to Assessment of Penalties, adding an exception to the assessment of penalties to include a One-Time Waiver Program effective July 1, 2023 and expiring September 30, 2024.

Background:

Since the pandemic began in March 2020, BAIFA has delayed sending unpaid violation notices to the Department of Motor Vehicles (DMV) for registration holds or to collections, while all other express lanes operators resumed sending violation notices to DMV as of January 2021.

In July 2022, BAIFA approved staff's recommendation to lower penalties to \$10 for the first notice plus \$20 for the second notice (for a total of \$30 after two notices). Attachment A to the Resolution's statement of the penalty amounts created a potential ambiguity where the second notice did not take into account the accumulation of penalties. Resolution No. 36, Revised provides clarification.

Low-Income Payment Plan

In September 2022, AB 2594 was signed into legislation; it includes new requirements for California and Bay Area toll facilities. One of the requirements, as presented in [Item 5a](#) at the October 2022 BATA Oversight Committee meeting and [Item 4a](#) at the January 25, 2023 BAIFA meeting, is the adoption of a payment plan for low-income individuals.

In February 2023, all members of the Bay Area Express Lanes Network Executive Steering Committee (ESC), which is comprised of executive staff from the Bay Area express lanes operators and other state and local agencies with an interest in express lanes tolling, supported the decision to implement the low-income payment plan on the same timeframe as the Bay Area toll bridges and with the same policies, which are identified in Attachment A. Qualifying drivers will be able to enter a single payment plan with a single set of rules for violations incurred across all Bay Area toll bridges and express lanes. See Attachment A for the payment plan policies that will apply to all Bay Area toll operators.

One-Time Violation Penalty Waiver

On May 10, 2023, the BATA Oversight Committee acted to refer BATA Resolution No. 52, Revised to BATA for approval to add the policies of the low-income payment plan and to adopt a One-Time Waiver Program offering the waiver of violation penalties on state-owned bridges to all customers with no limitation on the timeframe when the violations occurred. This waiver serves two purposes: (1) address the requirement in AB2594 to provide a waiver of violation penalties for low-income drivers who received bridge toll violations occurring between March 20, 2020 and January 1, 2023 (“COVID Waiver”); and (2) expand on the requirements of the AB2594 COVID Waiver by offering it to anyone with violations on state-owned bridges regardless of income level, which will assist the FasTrak[®] Customer Service Center in more efficiently handling the increase in calls starting July 1. To obtain the waiver, a customer must call the FasTrak[®] Customer Service Center and pay all tolls and DMV fees owed, or if eligible, enter into a payment plan and make the first payment. Customers will also be provided information on how to pay tolls to avoid receiving future violations and will be encouraged to open a FasTrak[®] account. This one-time waiver will be available through September 30, 2024, which is consistent with the COVID Waiver requirements in AB2594.

When the low-income payment plan begins July 1, 2023, BAIFA will resume release of outstanding second notices of toll violation to DMV hold, as will BATA. From January 2021 through January 2023, more than 140,000 vehicles have aggregate tolls due of \$5 or more. This represents approximately 1.5 million outstanding violations not yet released to DMV for a registration hold or to collections. This accounts for more than \$6.8 million in outstanding tolls. These violations carry \$70 or \$30 in penalties depending on whether they were incurred before or after October 3, 2022, respectively, the effective date of BAIFA’s reduced penalties.

BAIFA staff recommend the adoption of the One-Time Waiver Program. Although express lanes are not required to provide the AB 2594 COVID-era waiver, BAIFA customers will be similarly impacted as BATA customers by the release of BAIFA DMV holds. Adopting the One-Time Waiver Program helps BAIFA’s express lanes users make a fresh start and helps BAIFA collect the tolls due. Furthermore, this standardized waiver program is simple and easy to communicate to the public and for the FasTrak[®] Customer Service Center to administer.

Other Bay Area express lanes operators resumed sending violations to DMV hold in 2021 and do not have a backlog of violations to send. They are not adopting the One-Time Waiver Program for all violators; instead, the other express lanes operators will allow a one-time waiver of penalties for people who qualify as low-income. In addition, other express lanes operators will continue to make use of existing settlement practices.

Next Steps:

BATA will conduct outreach from July to November 2023 to make the public aware of the payment plan, as presented at the December 2022 BATA Oversight Committee meeting. The strategy is two-pronged, with a general outreach to the broader Bay Area and targeted outreach to Equity Priority Communities, and will include information on express lanes.

Issues:

None identified.

Recommendations:

Staff recommends the Authority adopt the BATA low-income payment plan and approve BAIFA Resolution No. 36, Revised, Revision to Toll Violation Penalties and Exception to Assessment of Penalties, clarifying the penalties and adding an exception to the assessment of penalties to include a One-Time Waiver Program effective July 1, 2023 and expiring September 30, 2024.

Attachments:

- Attachment A: Payment plan policies
- Attachment B: BAIFA Resolution No. 36, Revised – Revision to BAIFA Toll Violation Penalties and Exception to Assessment of Penalties.
- Attachment C: PowerPoint Presentation



Andrew B. Fremier

Attachment A – AB2594 and BATA Payment Plan

	AB 2594 (Ting) Section 40269.5	BATA Payment Plan
Open to	Low income (up to 200% federal poverty guidelines)	Low income (up to 200% federal poverty guidelines)
Where and when effective	Bridges 7/1/23 Express lanes 7/1/24	<u>All agencies by 7/1/23</u>
Minimum owed	\$100 in penalties (includes DMV fees)	\$100 in tolls/penalties and DMV fees <u>combined</u>
Maximum owed	\$2,500 in penalties	<u>Unlimited</u>
Both tolls and penalties included in payment plan	Penalties and DMV fees only	<u>Partial tolls</u> and all penalties & DMV fees
Minimum first payment amount to enter plan and release DMV holds	Full amount of tolls owed plus first payment plan payment	<u>50% of tolls owed or \$100, whichever is lower</u>
Maximum number of plans	No concurrent plans; 2 in 6 years	No concurrent plans; 2 in <u>4</u> years

Note: Underlined text exceeds requirements in AB2594

Date: July 27, 2022
Referred by: BAIFA
Revised: 05/24/23

ABSTRACT

BAIFA Resolution No. 36, Revised

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.

This resolution was revised on May 24, 2023 to address revisions to exceptions to the assessment of violation penalties. Attachment A to this Resolution was also revised on May 24, 2023 to clarify penalty amounts and to revise the exceptions to the assessment of penalties to include a One-Time Waiver Program effective July 1, 2023 and expiring September 30, 2024.

Further discussion of this resolution is contained in the Executive Director's memoranda dated July 27, 2022 and May 24, 2023.

Date: July 27, 2022
Referred by: BAIFA
Revised: 5/24/2023 - BAIFA

Re: Adoption of revised violation penalties for the BAIFA Express Lanes and exceptions to the assessment of penalties, as set forth in Attachment A of the BAIFA Toll Facility Ordinance

BAY AREA INFRASTRUCTURE FINANCING AUTHORITY
RESOLUTION No. 36, Revised

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 and exceptions to the assessment of penalties by resolution;

NOW, THEREFORE, BE IT RESOLVED, that BAIFA hereby adopts revised penalties and exceptions to the assessment of penalties 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

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a long horizontal line extending to the right.

Alfredo Pedroza, Chair

The above resolution, revising and superseding the resolution approved on July 27, 2022, was entered into by the Bay Area Infrastructure Financing Authority at a regular meeting of the Authority held in San Francisco, California on May 24, 2023.

Date: July 27, 2022
Referred by: BAIFA
Revised: 5/24/2023 - BAIFA

Attachment A
Resolution No. 36
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**BAIFA Express Lanes Violation Penalties and Exceptions to the
Assessment of Penalties 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>	\$0.50	Monday to Friday from 5AM to 8PM	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.	50%

*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 Penalty
\$10

2nd Notice Penalty
Additional \$20 (for a total penalty of \$30 from the 1st and 2nd notices)

Exceptions:

1. If the violation is determined to be the fault of the toll agency.
2. 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.
3. One-Time Waiver: Upon request, violation penalties will be waived for all open violations at the time of request, up to and including violations on DMV registration hold or at collections. A customer is eligible for this waiver one time only. To receive the waiver, the customer must pay all outstanding tolls and DMV processing fees or, if eligible, enter into a low-income payment plan in accordance with BATA Resolution No. 52, Revised, and make the first payment. This waiver is effective July 1, 2023 and expires September 30, 2024.

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).