



# **Report of the Tolling Legislation Working Group**

**HB 746  
(2010)**

**Report to the Chairmen of House Transportation and Senate Transportation and the  
Courts of Justice Committees**

Virginia Department of Transportation  
1401 East Broad Street  
Richmond, Virginia 23219

**December 2010**



# COMMONWEALTH of VIRGINIA

DEPARTMENT OF TRANSPORTATION  
1401 EAST BROAD STREET  
RICHMOND, VIRGINIA 23219 2000

**Gregory A. Whirley**  
Commissioner

December 15, 2010

The Honorable Henry L. Marsh III  
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The Honorable Yvonne B. Miller  
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Norfolk, Virginia 23501

The Honorable David B. Albo  
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The Honorable Joe T. May  
P.O. Box 2146  
Leesburg, Virginia 20177-7538

Dear Members:

Chapter 839 of the 2010 Acts of Assembly (Chapter 839 or the Act) directed the Virginia Department of Transportation (VDOT), in consultation with the Virginia Department of Motor Vehicles (DMV), to convene a working group to i) examine the impact of increased development of toll roads in the Commonwealth of Virginia (Commonwealth or Virginia) on the ability of the courts to carry out the provisions of this act; ii) evaluate ways to improve processes for enforcing toll violation laws across the Commonwealth; and, iii) examine opportunities for alternative toll violation resolution, including the creation of an expedited hearing process.

The Act directed the working group to present its findings and recommendations in the form of a report, to be submitted to the respective chairs of the House and Senate Committees of Transportation and Courts of Justice.

In accordance with Chapter 839, I am respectfully submitting the Tolling Legislation Working Group's report to each of you for your information and use.

If you have any questions or need additional information, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Gregory A. Whirley, Sr.".

Gregory A. Whirley, Sr.  
Commissioner

Attachment

# REPORT OF THE TOLLING LEGISLATION WORKING GROUP

## CHAPTER 839 OF THE 2010 ACTS OF ASSEMBLY

December 15, 2010

## PREFACE

Chapter 839 of the 2010 Acts of Assembly (Chapter 839 or the Act) directed the Virginia Department of Transportation (VDOT), in consultation with the Virginia Department of Motor Vehicles (DMV), to convene a working group to examine the impacts of the increased development of future toll roads in the Commonwealth of Virginia on the ability of the courts to carry out the provisions of the Act, to evaluate ways to improve the enforcement of toll violation laws across the state, and to look for opportunities for alternative toll violation resolution. The Act also instructed the Executive Secretary of the Supreme Court of Virginia to be included and consulted regarding the issues affecting court administration of the judicial branch.

As directed by the VDOT Commissioner, VDOT's Chief of Planning and Programming convened a Tolling Legislation Working Group (TLWG) comprised of tolling facilities and representatives of the court system. Members of the TLWG include the Metropolitan Washington Airports Authority (MWAA), Chesapeake Expressway, George P. Coleman Bridge, Powhite Parkway Extension, Faneuil, Elizabeth River Crossings (ERC), VDOT's Financial Planning and Policy Divisions, the Virginia Center for Transportation Innovation and Research (VCTIR), Dulles Greenway, Richmond Metropolitan Authority (RMA), DMV, the Office of the Executive Secretary of the Supreme Court of Virginia (OES), Pocahontas 895, Transurban, the Office of the Attorney General (OAG), and the Chesapeake Bay Bridge-Tunnel (CBBT). Staff from VDOT's Financial Planning and Policy Divisions provided assistance to the TLWG. To assist in meeting the objectives set forth by Chapter 839, three subcommittees were established to assist the working group.

The TLWG met eleven times in VDOT's Central Offices in Richmond to carry out the work of the group. This report provides background discussion on toll violations, the various types of toll facilities and toll collection methods used in the state, and a listing of toll facilities in the Commonwealth. Information is also provided regarding the current *Code of Virginia* statutes relating to toll violations and tolling enforcement, as well as toll violation processes employed by VDOT's E-ZPass Customer Service Center. Finally, the report presents toll violation data and a discussion on the impacts of the anticipated increase in the development of toll facilities in the state on the court system.

The findings and recommendations developed by the TLWG focused on efforts to refine the existing toll violation process system through changes to the existing business rules and legislation, to dispose of as many of the toll violations through the V-Tolling process, and to encourage settlement of multiple toll violations through the first and second notice process, prior to the violators being issued summons or prior to the cases reaching court.

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## EXECUTIVE SUMMARY

Chapter 839 of the 2010 Acts of Assembly (Chapter 839 or the Act) directed the Virginia Department of Transportation (VDOT), in consultation with the Virginia Department of Motor Vehicles (DMV), to convene a working group to i) examine the impact of increased development of toll roads in the Commonwealth of Virginia (Commonwealth or Virginia) on the ability of the courts to carry out the provisions of this act; ii) evaluate ways to improve processes for enforcing toll violation laws across the Commonwealth; and, iii) examine opportunities for alternative toll violation resolution, including the creation of an expedited hearing process. As provided in Chapter 839, the Executive Secretary of the Supreme Court of Virginia was included and consulted regarding issues affecting court administration or the judicial branch.

The VDOT Commissioner formed the Tolling Legislation Working Group (TLWG), comprised of toll facility operators, representatives of the court system and other interested parties. To assist the TLWG in meeting the objectives set forth by Chapter 839, three subcommittees (Data Collection and Research, Business Processes and Legislation) were established to address specific aspects of the toll enforcement issue. Appendix A provides the subcommittee assignments. This report represents the culmination of the TLWG's efforts to date, including the contributions and recommendations of the three subcommittees. The legislative and business process recommendations in this report work hand-in-hand to achieve significant benefits necessary to improve the toll violation enforcement process in the Commonwealth.

The report provides background discussion on toll violations, the various types of toll facilities and toll collection methods used in the state, and a listing of toll facilities in the Commonwealth. Information is also provided regarding the current *Code of Virginia* statutes relating to toll violations and tolling enforcement, as well as toll violation processes employed by VDOT's E-ZPass Customer Service Center (CSC). Finally, the report presents toll violation data and a discussion on the impacts of the anticipated increase in the development of toll facilities in the state on the court system.

The Data Collection and Research subcommittee chaired by Elizabeth River Crossings (ERC), looked at data provided by the VDOT CSC and estimates that more than 200,000,000 toll transactions were processed in the Commonwealth for the one-year period ending June 30, 2010. Of this amount, 1,914,000 toll violations (approximately one percent of all transactions) occurred. Of these violations, approximately 43,000 either have resulted or will result in summonses to be heard in court. Of the 1,871,000 violations that do not reach the summonses stage, approximately 28 percent (539,000) were not processed, as the toll facility may not have photo-monitoring capabilities or the license plate images taken by the photo-monitoring equipment were of poor quality and unreadable; approximately 34 percent (647,000) were processed through V-Tolling (as later explained in the report); approximately 15 percent (283,000) were first time violators who do not violate a second time within certain time limitations and were purged from the system; and the remaining 23 percent (approximately 445,000) violations were pursued through notices and ultimately summonses. Of the 445,000 violation notices that were sent, about 65,000 were returned to sender as being undeliverable and were not processed; 164,000 violations were paid through the first or second notices; and 173,000 notices were to violators who disregarded the two notices, but did not record a third violation within certain time limitations and were purged from the system; and the remaining 43,000 (representing an estimated 6,750 individuals) violations have resulted or will result in summonses to court.

Without changes to the current process, the future development of toll facilities, particularly all-electronic toll (AET) facilities, will result in an increase in the number of toll violations, to an estimated 4,000,000 each year by 2015, according to information from the Data Collection and Research subcommittee chaired by ERC. Ensuring that these violations can be effectively and efficiently processed is critical to the development of future toll facilities in the Commonwealth. It is forecasted that the number of violations that will become eligible for summonses will continue to significantly increase through 2015 as additional toll facilities are developed and become operational.<sup>1</sup>

Also, according to information on violations and violators from the Data Collection and Research subcommittee chaired by ERC, the majority of violations were committed by toll road customers who are not considered persistent violators. Thirty-four percent of all violations were committed by toll road patrons who violated one time during the 12-month period. In total, 77 percent of all violations were committed by patrons who violated less than 10 times in the 12-month period. The remaining 23 percent of the violations were committed by only two percent of violators, who incurred on average 22 violations over the 12-month period. Put another way, 70 percent of violators violated only one time over the 12-month period, with 98 percent of violators violating less than ten times.

The findings and recommendations developed by the TLWG focused on efforts to refine the current toll violation process system through changes to the existing business rules and legislation, to dispose of as many of the toll violations through the V-Tolling process, and to encourage settlement of multiple toll violations through the first and second notice process, prior to the violators being issued summonses or prior to the cases reaching court. Appendix B provides a summary of the legislative and business process findings and recommendations.

Generally, legislative changes are being proposed to authorize the toll facility operators to levy charges to cover the costs associated with processing and mailing unpaid toll invoices for the first unpaid toll; allow the administrative fee to be levied on a first unpaid toll, if the unpaid toll invoice or bill remains unpaid after 30 days; provide that a hold may be placed on the issuance or renewal of a vehicle's registration upon a finding by the court that a violator has two or more unpaid tolls and has failed to pay the required penalties, fees and unpaid tolls; and codify a pre-trial settlement option with reduced civil penalties.

Recommended changes to the toll violation processing business rules are being proposed for consideration by VDOT, the CSC management, and the individual toll facilities to improve internal business operations. These proposed changes include increased use of the V-Tolling process and steps to encourage increased transponder usage by toll road patrons; eliminating the mailing of summons (in addition to serving them) to in-state toll violators as a cost saving measure; setting a time period for violations to accrue prior to the first notice being sent out (for example, a first notice could contain a single violation or multiple violations); inclusion of additional information with violation notices to educate violators of options to pay or consequences of non-payment; and several changes that will improve CSC management and offer additional alternatives, such as email for contacting customers to address account issues, and a special toll violation docket model currently being used in several general district courts to

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<sup>1</sup> Assumes (1) existing facilities experience constant violation rates and (2) new All Electric Toll facilities will experience higher violation rates.

increase capacity for these cases. These recommended changes would be anticipated to lower processing costs for facilities and the costs that are passed onto violators.

The TLWG examined the effectiveness of alternative processes used to enforce tolling violations in other states where the obligation is on the vehicle owner to request an appeal for a court or administrative hearing, rather than all non-paying users proceeding to court, similar to the method under which parking tickets are pursued in Virginia. This process has been shown to significantly reduce the number of toll violation cases that proceed to court. The TLWG is recommending, as a continuing focus of the working group, a similar process be further evaluated prior to all electronic toll facilities becoming operational in the state, as well as continued investigation of the issue of implied consent. Consideration must be given to ensure that the right to due process is maintained and protected.

The creation of an expedited hearing process was also evaluated as an alternative to the current court process. DMV's administrative hearing process was evaluated for use in handling toll violations. Implementation of an administrative hearing process for toll violations cases, anticipated to be significantly greater in number than the number of administrative hearings conducted by DMV, would require a significant investment in staffing, resources, and time. As a more cost effective and administratively feasible alternative to the administrative hearing process, the TLWG is recommending consideration of a special toll violation docket model currently being used in several general district courts to increase capacity for these cases. It is important to recognize, however, that while this approach would use the existing facilities and infrastructure of the courts, it would require a significant investment in staffing and resources for clerks to process the summonses and related papers for each violation and for judges to adjudicate the charged violations.

The TLWG also discussed how to improve the legislative processes for out-of-state violators. Currently, there is no legal authority to enforce out-of-state violations. One method discussed by the TLWG is to develop reciprocity agreements with our neighboring states and beyond, similar to those entered into by VDOT with other states for moving violations.

Finally, the TLWG recommends that the working group continue to meet on a regular basis to review the changes recommended and implemented as a result of this effort, to evaluate the actual impacts of new toll facilities coming online, and to continue to recommend legislative and business rule changes to refine this process. The TLWG recognizes that the proposals made in this report may not be sufficient to handle the increase in toll violation cases that will result from AET. Moreover, at present we are unable to reliably forecast the impact AET will have on specific jurisdictions because there are no AET facilities that are currently operational in Virginia. Finally it should be noted that this report does not address mechanisms to hold out-of-state toll violators accountable, as this will likely require negotiation of reciprocal agreements with other states.

## INTRODUCTION

Chapter 839 of the 2010 Acts of Assembly (Chapter 839 or the Act) directed the Commissioner of the Virginia Department of Transportation (VDOT), in consultation with the Virginia Department of Motor Vehicles (DMV), to convene a working group of toll facility operators and other interested parties as designated by the Commissioner to:

- (i) examine the impact of increased development of toll roads in the Commonwealth of Virginia (Commonwealth or Virginia) on the ability of the courts to carry out the provisions of this act;
- (ii) evaluate ways to improve processes for enforcing toll violation laws across the Commonwealth; and,
- (iii) examine opportunities for alternative toll violation resolution, including the creation of an expedited hearing process.

Chapter 839 further provided that the Executive Secretary of the Supreme Court of Virginia should be included and consulted regarding any issues affecting court administration or the judicial branch.

## PURPOSE

Chapter 839 was passed in response to concerns from tolling facilities and other interested parties in the Commonwealth of the current backlog of toll violations that could be brought before the courts and the anticipated increase in violation cases as a result of the expected increase in development of toll facilities in the state, beginning in 2012.

This report is responsive to Chapter 839 and provides research concerning the Commonwealth's toll violation and enforcement legislation, as well as recommendations to enhance the violation enforcement process.

## TOLLING LEGISLATION WORKING GROUP

Pursuant to Chapter 839, and as directed by the VDOT Commissioner, VDOT's Chief of Planning and Programming convened a Tolling Legislation Working Group (TLWG) comprised of tolling facilities and representatives of the court system. Members of the TLWG include the Metropolitan Washington Airports Authority (MWAA), Chesapeake Expressway, George P. Coleman Bridge, Powhite Parkway Extension, Faneuil, Elizabeth River Crossings (ERC), VDOT, the Virginia Center for Transportation Innovation and Research (VCTIR), Dulles Greenway, Richmond Metropolitan Authority (RMA), DMV, the Office of the Executive Secretary of the Supreme Court of Virginia (OES), Pocahontas 895, Transurban, the Office of the Attorney General (OAG), and the Chesapeake Bay Bridge-Tunnel (CBBT).

To assist in meeting the objectives set forth by Chapter 839, the following three subcommittees were established:

- Data Collection and Research;
- Business Processes; and
- Legislation.

The Data Collection and Research subcommittee was assigned the tasks of obtaining information and material regarding how other states process toll violations through their judicial systems, Departments of Motor Vehicles, Attorneys General offices, Departments of Transportation; various toll facilities; and gathering statistics regarding violation processing in Virginia. ERC was designated as the lead for the subcommittee with membership consisting of Faneuil, Chesapeake Expressway, George P. Coleman Bridge, RMA, DMV, Transurban, VCTIR and VDOT's Financial Planning Division.

The Business Processes subcommittee was given the responsibility of reviewing existing business processes and rules that currently govern Virginia's toll violation enforcement processes and recommending changes to make those processes more effective and efficient. MWAA was selected as the lead for the subcommittee with members consisting of Faneuil, ERC, Transurban, OES, DMV, Dulles Greenway, Powhite Parkway Extension, Chesapeake Expressway, VCTIR, and VDOT's Policy and Financial Planning Divisions.

The Legislation subcommittee was charged with reviewing the *Code of Virginia* and statutes from other states associated with toll violation enforcement and assisting with any proposed legislative changes resulting from the TLWG's work. The OAG was designated as the lead for the subcommittee. Other members were Transurban, OES<sup>2</sup>, ERC, RMA, George P. Coleman Bridge, Powhite Parkway Extension, and VDOT's Policy and Financial Planning Divisions.

This report represents the culmination of the TLWG's efforts to date, including the contributions and recommendations of the three subcommittees. The report also reflects the consensus of the members of the TLWG. The TLWG notes that the legislative and business process recommendations in this report are intended to work hand-in-hand to achieve maximum benefit.

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<sup>2</sup> Court system participation was limited to consultation on issues of court administration and does not constitute endorsement by the Judicial Branch of any of the legislative proposals and these have not been reviewed by either the Supreme Court of Virginia or the Judicial Council of Virginia.

## TOLL COLLECTION AND VIOLATION PROCESSING IN VIRGINIA

This section provides background discussion on the various types of toll facilities, toll collection methods, and toll violations, as well as a listing of toll facilities in the Commonwealth along with usage and violation statistics at Virginia’s toll facilities. Information is also provided regarding the current *Code of Virginia* statutes relating to toll violations and tolling enforcement, in addition to information about the toll violation processes employed by VDOT’s E-ZPass Customer Service Center (CSC). The impacts of the expected increase in the development of toll facilities in the state on the court system are also addressed.

### TOLL FACILITIES AND COLLECTION

There are various types of toll facilities using a number of toll collection methods throughout Virginia, as well as throughout the United States. Table 1 below provides a general overview of the types of toll facilities along with a description of the toll collection methods that may be employed at the facility types.

**Table 1: Toll Facilities and Collection Methods**

Type of Facility	Description and Collection Methods
Traditional Toll Facility (Manual Payment Options)	<ul style="list-style-type: none"> <li>• An area with restricted traffic flow where tolls are collected from users by cash, credit and/or check card, manually or automatically (automatic coin machines or ACM), and/or electronically with transponders.</li> <li>• Gates or barriers may be used on certain manual, ACM and/or electronic toll collection lanes. The placement of barriers ensures collection of tolls, but limits the volume and speed of traffic that may pass through. The removal of barriers increases throughput and speed; however, makes it possible for vehicles to pass through without payment of the toll.</li> </ul>
Express or Open Road Tolling (ORT) Lanes	<ul style="list-style-type: none"> <li>• Some lanes within a traditional toll plaza may be designated as express lanes or have ORT lanes established away from the toll plaza with no barriers to allow faster throughput for E-ZPass customers.</li> <li>• On an express lane, a vehicle passes a collection point (gantry, plaza, Road-Side Unit) at highway speeds without stopping. Express lanes reduce congestion; however, it is possible for vehicles without a transponder to use the facilities, resulting in no toll being paid.</li> <li>• ORT employs only electronic toll collection and could utilize video-tolling as a means of collection.</li> </ul>
All Electronic Toll (AET) Facility	<ul style="list-style-type: none"> <li>• There are no toll plazas or barriers to slow or stop traffic; traffic travels through at posted highway speeds.</li> <li>• No cash, credit, or check card payment (manual) options available at the time of the trip or transaction.</li> <li>• Vehicles are identified through transponders or video tolling.</li> <li>• Currently, there are no all electronic toll collection facilities in operation in Virginia.</li> </ul>

Type of Facility	Description and Collection Methods
High Occupancy Toll (HOT) Lanes	<ul style="list-style-type: none"> <li>• HOT lanes allow low occupancy vehicles access to High Occupancy Vehicle (HOV) lanes if users pay a toll.</li> <li>• This allows more vehicles to use HOV lanes and provides an incentive to select other modes of travel.</li> <li>• HOT lanes employ all electronic toll collection and require the use of a transponder. Video tolling is contemplated as a future toll collection method whereby users without a transponder, based on identification of the vehicle owner by license plate monitoring, would be sent a notice of toll payment due and be allowed a grace period to pay the toll.</li> <li>• The I-495 HOT lanes will be the first operational HOT lane facility in the Commonwealth; projected in December 2012.</li> </ul>

## TOLL VIOLATIONS

Generally, a toll violation occurs when an individual uses a toll facility without paying the required toll. Depending on the type of toll facility and the payment options available, a violation may also occur upon non-payment of the toll after receipt of a toll payment due notice.

On toll facilities where users have the option to pay with cash or with a credit or check card at the time of the trip or the transaction, as well as on HOT lanes where there are free lanes available, a violation occurs at the time the vehicle uses the toll facility without payment of the toll or upon non-payment of a toll payment due notice.

On AET collection facilities, where no cash, credit, or check card payment options are available, or when free lanes are not an alternative, facility users that do not use a transponder are sent a notice of toll payment due based on a video capture of their license plate and are allowed a grace period to pay the toll before the non-payment becomes a violation.

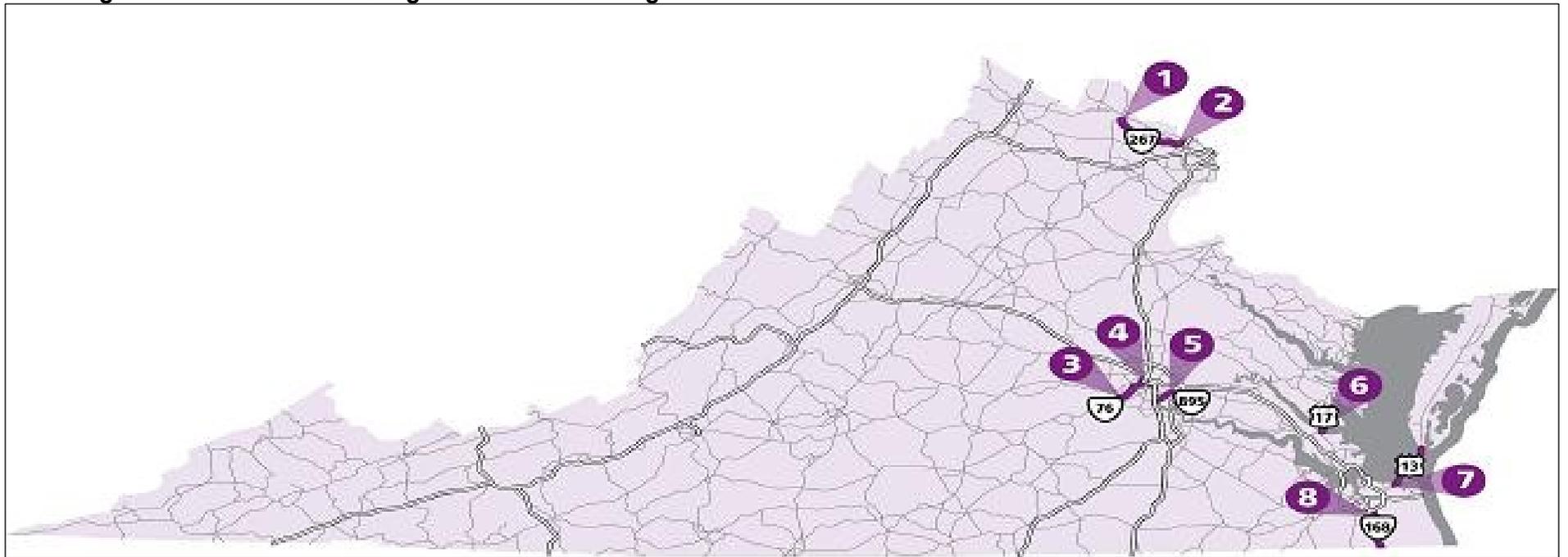
Violation rates vary based on the type of toll collection methods in place at a facility. As expected, toll facilities with barriers on all lanes tend to have very low violation rates, while facilities with no physical barriers can experience much higher violation rates. As such, AET facilities often experience higher violation rates in comparison.

A large number of toll violations result in significant revenue losses to facilities, as well as increased operations costs incurred to pursue and collect from violators. Together, these factors can result in higher toll rates as facility operators attempt to recover lost revenue to meet the financing and operating needs of the toll facilities and in the development of future toll facilities.

## VIRGINIA TOLL FACILITIES

There are currently eight toll systems in Virginia, comprised of 10 toll facilities employing a number of different tolling methods. Figure 1 shows the location of the toll facilities and Table 2 provides a description of each facility and the toll collection methods utilized at each. In total, the Commonwealth's toll facilities process more than a half a million transactions per day or over 200 million transactions per year.

**Figure 1: Location of Existing Toll Facilities in Virginia**



Source: <https://www.ezpassva.com/TollFacilities/TollFacilities.aspx?AspxAutoDetectCookieSupport=1>

**Table 2: Toll Facilities and Collection Methods in Virginia**

Facility Name	Description of Facility and Toll Collection Method
<p><b>1) Dulles Greenway (Route 267)</b>                      &gt; 18.0 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility</li> <li>&gt; All lanes gated except during peak hour at selected locations</li> <li>&gt; Payment options: cash, credit, check card, E-ZPass, and unpaid toll forms</li> </ul>
<p><b>2) Dulles Toll Road (Route 267) (MWA)</b>                      &gt; 109.3 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility with express lanes</li> <li>&gt; Not all lanes gated</li> <li>&gt; Payment options: cash, E-ZPass, and unpaid toll forms</li> </ul>
<p><b>3) Powhite Parkway Extension (Route 76)</b>                      &gt; 19.8 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility with express lanes</li> <li>&gt; All lanes gated</li> <li>&gt; Payment options: cash, E-ZPass, and unpaid toll forms</li> </ul>
<p><b>4) RMA Expressway System</b>                      Powhite Parkway                      &gt; 34.1 million transactions in 2009                      Richmond Downtown Expressway                      &gt; 18.8 million transactions in 2009                      Boulevard Bridge                      &gt; 4.8 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility with express and ORT lanes</li> <li>&gt; Not all lanes gated</li> <li>&gt; Payment options: cash, E-ZPass, and unpaid toll forms</li> </ul>
<p><b>5) Pocahontas Parkway (Route 895)</b>                      &gt; 5.8 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility with mainline Express Lanes</li> <li>&gt; Lanes not gated</li> <li>&gt; Payment options: cash, credit, check card, E-ZPass, and unpaid toll forms</li> </ul>
<p><b>6) George P. Coleman Bridge (Route 17)</b>                      &gt; 5.6 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility with express lanes</li> <li>&gt; Express lanes not gated</li> <li>&gt; Payment options: cash, E-ZPass, and unpaid toll forms</li> </ul>
<p><b>7) Chesapeake Bay Bridge-Tunnel (Route 13)</b>                      &gt; 3.6 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility with express lanes</li> <li>&gt; All lanes are gated</li> <li>&gt; Payment options: pay by check, pre-paid scrip tickets, cash, credit, check card, E-ZPass, and unpaid toll forms</li> </ul>
<p><b>8) Chesapeake Expressway (Route 168)</b>                      &gt; 4.5 million transactions in 2009</p>	<ul style="list-style-type: none"> <li>&gt; Traditional toll facility with express lanes</li> <li>&gt; Selected lanes not gated</li> <li>&gt; Payment options: cash, credit, E-ZPass, and unpaid toll forms</li> </ul>

Source: <https://www.ezpassva.com/TollFacilities/TollFacilities.aspx?AspxAutoDetectCookieSupport=1> and information provided by individual tolling facilities.

## **CODE OF VIRGINIA REFERENCES TO TOLL VIOLATIONS AND ENFORCEMENT**

The *Code of Virginia* addresses tolling violations, enforcement, and penalties under several sections:

- Section 46.2-819.1 of the *Code* authorizes the use of photo-monitoring or automatic vehicle identification systems (otherwise known as transponders) to identify toll violators. Under this section, a toll violation occurs upon use of the facility without payment of the toll by cash or E-ZPass. Facilities under this section are known as non-all electronic toll collection (non-AET) facilities.
- Section 46.2-819.3 of the *Code* contemplates toll facility enforcement by means other than photo-monitoring or automatic vehicle identification systems. At these facilities, a user has the option to execute a “written promise to pay an unpaid toll within a specified period of time” (unpaid toll form) and provides that non-payment within the period prescribed in the notice is evidence of a toll violation. Facilities under this section are also non-AET facilities and may or may not employ photo-monitoring systems enforced under §46.2-819.1 of the *Code*.
- Section 46.2-819.3:1 of the *Code* provides for the use of video-monitoring and automatic vehicle identification systems to identify facility users for the purposes of recovering the required tolls. In practice, facilities operating under this section are AET facilities that do not have toll booths or gates. Users without automatic vehicle identification systems are invoiced for the amount of toll(s) due, and a violation does not occur until the invoice remains unpaid for thirty days. At this time, there are no operational toll facilities in the Commonwealth with enforcement under this statute.

Two additional *Code* sections address tolling, but are not discussed in this report:

- Section 46.2-819 of the *Code of Virginia* provides that is unlawful to use a toll facility without payment of the specified toll and specifies the factors that the court must consider in hearing violations under this section (for example, whether the facility was manned, among others). This section does not directly address methods of enforcement and is not addressed in this report.
- Section 33.1-56.3 of the *Code* pertains only to HOT lanes enforcement and provides for stricter violation enforcement and stiffer penalties on the basis that use of these facilities is completely voluntary (that is, users have the option to use adjacent, non-tolled lanes to avoid paying the tolls). Enforcement under this statute is not discussed in this report primarily because there are currently no operational HOT lanes facilities in the Commonwealth.

## **STATISTICS ON TOLL VIOLATIONS AND VIOLATORS FOR VIRGINIA TOLL FACILITIES**

Based on information from the Data Collection and Research subcommittee chaired by ERC, there were more than 200,000,000 toll transactions in the Commonwealth. Of this amount, 1,914,000 toll violations (approximately one percent of all transactions) occurred in the one-year period ending June 30, 2010. Of these violations, approximately 43,000 either have resulted or

will result in summonses to be heard in court. Of the 1,871,000 violations that did not reach the summons stage, approximately 28 percent (539,000) were not processed as the toll facility may not have photo-monitoring capabilities or the license plate images taken by the photo-monitoring equipment was of poor quality and unreadable; approximately 34 percent (647,000) were processed through V-Tolling (as explained in the report); approximately 15 percent (283,000) were first time violators who did not violate a second time within a certain time limitations and were purged from the system; and the remaining 23 percent (approximately 445,000) of violations were pursued through notices and ultimately summonses. Of the 445,000 violation notices that were sent, about 65,000 were returned to sender as being undeliverable and were not processed; 164,000 violations were paid through the first or second notices; 173,000 were violators who disregarded two notices, but did not record a third violation within certain time limitations and were purged from the system; and the remaining 43,000 violations (representing an estimated 6,750 individuals) have resulted or will result in a summons.

Table 3 below highlights that the majority of the violations come from customers who are not persistent violators. This finding supports a recommendation to allow a fee to cover the cost of invoicing the first violation rather than having to wait for a second violation to occur before being able to do so. Based on information provided by the Data Collection and Research subcommittee chaired by ERC, 34 percent of all violations were committed by patrons who violated one time during the 12-month period. In total, 77 percent of all violations were committed by patrons who violated less than 10 times in the 12-month period. The remaining 23 percent of violations were committed by only two percent of violators, who each incurred on average 22 violations over the 12-month period. Put another way, 70 percent of violators violated only one time over the 12-month period, with 98 percent of violators violating less than ten times. These statistics indicate that first-time or non-persistent violators comprise a large portion of toll violations, highlighting the need for more education of toll facility users to minimize violations.

**Table 3: Number of Violations Per Unique Customer from July 1, 2009 to June 30, 2010**

Number of Violations	Percent of Violations	Cumulative Percent of Violations	Percent of Violators	Cumulative Percent of Violators
1	34%	34%	70%	70%
2	14%	48%	15%	85%
3	8%	57%	6%	90%
4	6%	63%	3%	93%
5 to 9	14%	77%	5%	98%
10 to 19	9%	86%	1%	99%
20 to 49	7%	93%	1%	100%
50 to 99	3%	97%	0%	100%
100 to 199	2%	99%	0%	100%
200 to 499	1%	100%	0%	100%

Source: Based on information presented by the Data Collection and Research subcommittee chaired by ERC from VDOT CSC Facilities for the one-year period ending June 30, 2010.

## VIRGINIA'S CURRENT TOLL VIOLATION PROCESS SYSTEM

The *Code of Virginia* defines a high level toll violation process and sets forth the maximum penalties allowed for cost recovery, court costs, and administrative and other fees. Business

rules supplement the legislative requirements for enforcing and collecting toll violations and provide flexibility to allow for differences in the business practices and customer bases of the different toll facilities.

In Virginia, approximately 80 percent of toll violations are processed by the VDOT E-ZPass CSC using a defined set of business rules. The Dulles Toll Road, Powhite Parkway Extension, Coleman Bridge, and RMA (for their ORT) lanes use the CSC to process their toll violations. The remaining 20 percent of toll violations are processed by the Chesapeake Expressway, Pocahontas Parkway, and the Dulles Greenway, with each facility using its own systems and business rules that vary marginally from those of the CSC. The CBBT does not employ a toll violation processing system, as the facility's users are a "captive audience". The CBBT does issue unpaid toll notices and has a follow up system for collection of those unpaid tolls.

Toll transactions that are initially identified as violations go through a number of sequential steps, beginning with "V-Tolling" to determine if the transactions can be attributed to existing E-ZPass customers. Transactions that are not cleared through V-Tolling proceed to the notice of unpaid toll stage and are then summoned if they remain unpaid or unresolved. Repeat toll violators who do not resolve unpaid tolls, administrative fees, and court-imposed penalties and fees proceed to having their vehicle registration issuances and renewals denied. A general summary of the steps in processing toll violations is provided below.

## V-TOLLING

Currently, forty to fifty percent of unpaid tolls are attributable to existing E-ZPass customers with insufficient E-ZPass account balances or transponders that are not working, not in the vehicle, or improperly read. In these cases, the CSC employs a process known as "V-Tolling" to collect the unpaid tolls. V-Tolling is an alternate method to process these toll violations without any toll payment due or toll violation notices being sent and significantly reduces the number of violations that must be pursued by other means, including the court process. However, this process is available only for toll facility patrons who are members of the E-ZPass network and use transponders. Based on information provided by the Data Collection and Research subcommittee chaired by ERC, 646,000 violations were processed as V-Tolls in the one-year period ending June 30, 2010.

First, the CSC uses V-Tolling for existing E-ZPass customers who have recorded toll violations because their E-ZPass accounts have insufficient funds to cover the toll(s) due. In this scenario, if the violating patron has an active and up-to-date E-ZPass account and their transponder is active and read, but has insufficient funds at the time of the transaction, the CSC will hold the transaction for five days, during which time the CSC will attempt to post the transaction to the account. Depending on the type of account, the customer may have automatic account replenishment through credit or check card or the customer may be required to manually replenish his account by calling or personally appearing with cash, check, or a credit or check card. If sufficient funds are added to the account within the five days, the toll will be posted and the violation is dismissed. If the account is not replenished within the five day period, the unpaid toll is processed as a violation as described below.

Second, V-Tolling is used when an E-ZPass account holder's transponder is not read or working properly. In this scenario, the CSC conducts a DMV lookup of the license plate on the violating vehicle and/or a cross check against the license plate database for the CSC and the E-ZPass Interagency Group. If a match is found and sufficient funds are available, the toll is be posted to

the account and the toll violation is dismissed. If a match is not found (or if sufficient funds are not available after five days), the unpaid toll is processed as a violation as described below.

The toll facility incurs a cost of \$0.17 per transaction related to the CSC's V-Tolling process; however, no administrative fees are generally charged to the account holder. Under the current business rules, customers with an excessive number of V-Toll transactions, defined as more than five per month, are sent a notice regarding the amount of transactions being handled as V-Tolls and may be charged a fee to cover the cost of this service. When a two-axle customer is V-Tolled at the Coleman Bridge, the customer (even first-time offenders) is charged the regular toll rate and loses the discounted, commuter rate.

**Finding:** VDOT currently provides the V-Tolling service to those facilities that utilize the CSC for violation processing. V-Tolling is an efficient method to process toll violations without any toll payment due or toll violation notices being sent to toll facility users that are members of the E-ZPass network and use transponders. This process significantly reduces the number of violations which must be pursued by other means, including the court process.

**Business Process Change Recommendation:** It is recommended that VDOT offer V-Tolling services to the other in-state toll facilities that wish to take advantage of V-Tolling as a means of reducing the number of potential toll violators.

**Finding:** V-Tolling is a service available only to E-ZPass customers. To increase the effectiveness of V-Tolling in reducing the number of toll violations that must be pursued through mailings and the court process, increased use of transponders by the traveling public is necessary.

**Business Process Change Recommendation:** VDOT, the CSC and toll facility operators should increase their transponder marketing efforts and focus public outreach in regions of the state that have operating toll facilities.

Several other findings and recommendations have come from the group to improve CSC management and to offer additional alternatives for contacting customers to address account issues.

**Finding:** Currently, customers opening an E-ZPass account with the CSC are not required to provide their email addresses. Having an email address in addition to traditional contact information would allow quicker contact with the customer and provide another opportunity to reach out to E-ZPass patrons/violators to resolve any account issues, including insufficient funds available for V-Tolling that might otherwise result in the unpaid toll progressing to court.

**Business Process Change Recommendation:** Amend the business rules to provide that when a customer signs up for E-ZPass, the customer may "opt-in" to provide an email address for purposes of receiving communications from toll facility operators related to unpaid tolls or toll violations. In providing an email address, the customer also consents that it is with his knowledge and consent that they may be notified by email of an unpaid toll. The email notification would be in addition to any notification requirements provided by the *Code of Virginia*.

## VIOLATION NOTICES

This section outlines the processes and business rules associated with steps taken to recover unpaid tolls once they become a violation. Under the current business rules, once a toll violation is recorded, the CSC conducts a license plate look-up through DMV to identify the registered owner of the vehicle associated with the toll violation. If the violating vehicle is connected to an existing E-ZPass account, the unpaid toll amount may be debited from the customer's account through the "V-Tolling" process discussed above, and the violation is dismissed.

If the violator is not an existing E-ZPass customer, and it is their first violation, no action is taken because the *Code* does not currently authorize toll facility operators to charge a fee or otherwise recover costs associated with mailing out the invoice on the first violation. Further, §§ 46.2-819.1 and 46.2-819.3 of the *Code* (which governs toll violation processing for the toll collection methods and technology currently in use in the Commonwealth) provide that an administrative fee may not be levied upon the operator of the vehicle until the second unpaid toll has been documented.<sup>3</sup> As a result, it is cost prohibitive to send a notice upon the first documented unpaid toll, and the CSC business rules reflect this by providing that a second violation should be recorded before a violation notice is sent to the vehicle operator.

Based on information presented by the Data Collection and Research subcommittee chaired by ERC, analysis of toll facility violation data indicates there were nearly 283,000 single violations (representing nearly 39 percent of all violations that could not be resolved through V-Tolling) for the one-year period ending June 30, 2010. All of these violations were purged because a second violation on the same facility was never recorded within 90 days of the first violation.<sup>4</sup> As such, the unpaid tolls from these violators went uncollected, representing a significant challenge to the predictability in revenues, both for the Commonwealth and for toll facility operators.

These problems could be ameliorated if the toll facility operators were authorized to recover the costs associated with mailing unpaid toll notices on a first unpaid toll violation. Based on information presented by the Data Collection and Research subcommittee chaired by ERC, approximately 37 percent of violators who received notices (because they have documented two or more unpaid tolls) actually paid the unpaid toll amount(s) and administrative fees due in the one-year period ending June 30, 2010. According to the facilities participating on the TLWG, the cost incurred by a toll facility for the CSC to send a notice and process payment is approximately \$8.50.

**Finding:** The *Code of Virginia* does not currently authorize toll facility operators to charge a fee or otherwise recover costs associated with mailing out an invoice for a single unpaid toll under §§ 46.2-819.1 and 46.2-819.3 of the *Code*. In addition, those sections require that a second unpaid toll be documented before an administrative fee may be levied. The inability to recover the costs associated with mailing a first unpaid toll notice, as well as to charge an administrative

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<sup>3</sup> Section 46.2-819.3:1 of the *Code* does allow for an administrative fee to be charged for first time violations on toll facilities using video-monitoring toll collection methods (video-tolling), if a user fails to pay a toll payment due notice within 30 days of notification. There are currently no toll facilities in Virginia that employ video-tolling, although video-tolling facilities are scheduled to become operational in 2012.

<sup>4</sup> Single violations are purged from the CSC's database after 90 days if a second violation is not recorded because it is cost prohibitive to pursue and store data on single violators and current data storage constraints.

fee, makes it cost prohibitive for toll facility operators, particularly those with lower toll rates, to send a toll payment due notice on the first violation and contributes to a significant number of toll violations not being pursued.

**Legislative Change Recommendation:** Sections 46.2-819.1 and 46.2-819.3 of the *Code of Virginia* should be amended to provide that (1) the toll facility operator may levy charges to cover the costs associated with mailing unpaid toll invoices on a first unpaid toll violation and (2) that an administrative fee may be levied on a first unpaid toll if the unpaid toll invoice or bill remains unpaid after 30 days.

**Finding:** Resulting from the recommended change to the *Code* to allow an administrative fee to be levied upon the first unpaid toll, a defined time period is needed for violations to occur prior to sending out the violation notice to limit the workload requirements.

**Business Process Change Recommendation:** Modify the business rules to allow a time frame from three days up to one week, depending on the individual toll facility, to accumulate violations before an unpaid toll notice is sent out. Under this rule, a customer could incur one or more violations within the accumulation period and the unpaid toll notice would reflect the total number of violations for that period, plus the amount of unpaid tolls, the fee to cover the cost of invoicing, and any administrative fee.

Under current legislation, once the violator has two or more violations on the same toll facility, the first unpaid toll notice is sent to the vehicle owner providing details of the violation(s) and the amount of toll(s) owed. Pursuant to §§ 46.2-819.1 and 46.2-819.3 of the *Code*, the CSC may at this point impose and collect an administrative fee in addition to the unpaid toll to recover the costs of collection. The administrative fee may not exceed \$100, and if paid within 30 days, the fee may not exceed \$25. In the one-year period ending June 30, 2010, 445,313 unpaid toll violations were pursued through unpaid toll notices according to information presented by the Data Collection and Research subcommittee chaired by ERC.

Upon receiving the first unpaid toll notice, the vehicle owner has four options: (1) pay the unpaid tolls and any administrative fees; (2) contest the unpaid toll and fee; (3) do nothing; or (4) provide the CSC with the name and address of the individual who was operating the vehicle at the time of the violation. If the vehicle owner elects option (4), the toll facility operator must attempt to collect the unpaid toll from the identified vehicle operator before proceeding with a toll violation.

If no payment or notification by the vehicle owner or the individual operating the violating vehicle is received within 30 days after the first notice is sent, a second or final notice is sent. On the second notice, an administrative fee of \$25 per violation is charged. Upon receiving the second notice, the violator has three options: (1) pay the unpaid toll and any administrative fee; (2) contest the toll and fee; or (3) do nothing.

The response rate for notices can vary significantly. Within the past year, the Chesapeake Expressway, which sends a first notice on the first violation, had a response rate of 84 percent

on first notices, while the VDOT CSC had a response rate of 42 percent<sup>5</sup> for violations pursued through notices.

**Finding:** The low response level by violators to first and second notices and the small number of payments received prior to receiving a summons is believed to be at least partially attributable to a lack of adequate or “official” information contained in the notices advising the violator of potential consequences if they do not respond to the notice with payment of the toll.

**Business Process Change Recommendation:** In an attempt to increase response rates to notices, as well as payments received for unpaid tolls, notices should include additional information to educate violators about the consequences of inaction and non-payment of tolls and administrative fees. For example, additional language could be included on notice envelopes advising violators that failure to pay amounts due will result in a summons to court.

## SUMMONSES

If the violator elects to do nothing within 30 days of receipt of the second notice, the violator becomes eligible for a summons requiring appearance in court to address the toll violation. Current business processes dictate that a summons is issued when an individual has accrued three toll violations without paying the unpaid tolls and administrative fees. Based on information presented by the Data Collection and Research subcommittee chaired by ERC, approximately 173,000 violations were committed by violators who disregard the two notices, but do not record a third violation within certain time limitations and are purged from the system. The remaining 43,000 violations (representing an estimated 6,750 individuals) have resulted or will result in a summons.

**Finding:** Under the CSC violation enforcement process, summonses are mailed once three toll violations have occurred without payment of the unpaid tolls and administrative fees, resulting in a large number of violations that are not pursued through summonses and that remain uncollected.

**Business Process Change Recommendation:** The business rules should be amended to provide that a summons may be issued once two unpaid toll violations have occurred. This process change will result in more summonses being issued, and could impact the courts, as described in more detail below.

Based on requirements of the *Code*, current business processes provide that summonses are sent by first class mail and served in-person to toll violators located in the Commonwealth. Summonses are only mailed to out-of-state toll violators. Upon service, the individual has two options: (1) negotiate a pre-trial settlement (where and/or when permitted) or (2) proceed to trial and appear in court. An individual who is served a summons by mail only cannot be tried in absentia if he does not appear in court.

**Finding:** Significant costs are incurred by the CSC to mail summonses and to have them served in-person to toll violators. An individual who is served a summons by mail only cannot

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<sup>5</sup> Based on information presented by the Data Collection and Research subcommittee chaired by ERC of six months of data from the VDOT CSC. The estimate is based on the total number of notices paid, divided by the number of first notices less return mail.

be tried in absentia. Therefore, if the individual does not appear in court in response to a mailed summons, the summons must be served again, in-person, before the court will hear the case.

**Business Process Change Recommendation:** The business rules should be amended to provide that all summonses will be served in-person, but not mailed to in-state customers. Jurisdictional hurdles remain for out-of-state toll violators and mailing summonses is currently the most cost-effective method of service for these violators. Individual toll facilities should continue to decide whether summonses will be mailed, served in-person, or both to out-of-state violators.

## SETTLEMENTS AND COURT ACTIONS

If the violator elects, many courts will allow the CSC to negotiate a settlement with the violator prior to the court appearance. This may allow an individual to settle at an amount less than (s)he might incur if found guilty at trial and permits expedited payment to the court. Qualitative assessments communicated through the course of the TLWG's deliberations indicate that many violators do, in fact, settle once they reach this stage, although corroborating statistics could not be obtained. The current settlement process requires the violator to plead guilty to a reduced number of toll violations. Any settlement reached between the toll facility and the violator must be approved by the court and the violator must still go before the judge. If the individual does not settle pre-court and is convicted of the toll violation(s), the violator must pay any unpaid toll amounts, administrative fees, civil penalties, and court costs.

The *Code of Virginia* establishes escalating civil penalties for violators with multiple convictions over a period of up to three years. Pursuant to §§ 46.2-819.1, 46.2-819.3, and 46.2-819.3:1 of the *Code*, the registered owner or operator is liable for civil penalties as follows:

- First offense - \$50;
- Second offense within one year of the first - \$100;
- Third offense within two years of the second - \$250; and
- Fourth and each subsequent offense within three years of the second - \$500.

The maximum fees, penalties, and court costs currently provided for in the *Code* are shown in Table 4 on the page below.

**Table 4: Maximum Administrative Fees, Civil Penalties, and Court Costs**

Fee, Penalty, or Cost	Fees, Penalties and Costs	Comments
Administrative Fee	\$25-\$100	<ul style="list-style-type: none"> <li>• No fee allowed on the first violation</li> <li>• Administrative fee cannot exceed \$25 if paid within 30 days of the issuance of the notice.</li> <li>• Maximum administrative fee is \$100</li> </ul>
Civil Penalty	\$50-\$500	<ul style="list-style-type: none"> <li>• \$50 for first offense</li> <li>• \$100 for a second offense within one year from the first offense</li> <li>• \$250 for a third offense within two years from the second offense</li> <li>• \$500 for a fourth and any subsequent offense within three years from second offense</li> </ul>
Court Costs	Statewide base costs \$51, plus various variable local costs	<ul style="list-style-type: none"> <li>• Courts charge costs on a per violation basis</li> </ul>

### DENIAL OF REGISTRATION RENEWAL OR ISSUANCE

If a violator has three or more toll violation convictions and fails to pay the penalties, fees, and unpaid tolls associated with those violations, the *Code of Virginia* requires the court to notify the DMV Commissioner of the same. Pursuant to the *Code*, DMV may not renew or issue any vehicle registration certificates or license plates for vehicles owned by the individual. The vehicles impacted by DMV's actions depend upon the statute under which the individual is convicted. Under §§ 46.2-819.1 and 46.2-819.3:1 of the *Code*, if the violator is the owner of the vehicle involved in the toll violation, only that vehicle will be affected. However, if the violator is only an operator of the vehicle involved, then all vehicles owned or co-owned by the individual will be impacted. Under § 46.2-819.3 of the *Code*, all vehicles owned or co-owned by the violator will be affected, regardless of the ownership of the vehicle involved in the violation.

**Finding:** A violator must accrue three or more unpaid tolls and fail to pay the required penalties, fees, and unpaid tolls before a hold may be placed on the issuance or renewal of a vehicle registration certificate.

**Legislative Change Recommendation:** Amend §§ 46.2-819.1, 46.2-819.3, and 46.2-819.3:1 of the *Code of Virginia* to provide that a hold may be placed on the issuance or renewal of the vehicle registration certificate upon a finding by the court that a violator has two or more unpaid

tolls and has failed to pay the required penalties, fees, and unpaid tolls. No change should be made to the requirements that the court is required to notify the DMV Commissioner of such facts.

Appendix C provides workflow charts outlining the current legal requirements and business processes for enforcing toll violations and the legal requirements and business processes proposed in this report.

## **THE IMPACT OF INCREASED DEVELOPMENT OF TOLL ROADS IN THE COMMONWEALTH ON THE COURTS**

Chapter 839 of the 2010 Acts of Assembly directed the working group to examine the impact of increased development of toll roads in the Commonwealth on the ability of the courts to carry out the provisions of this act.

Several new toll facilities with enforcement under § 46.2-819.3:1 of the *Code of Virginia* are under consideration and may become operational by 2015, including the Downtown Tunnel, Midtown Tunnel, and Martin Luther King, Jr. Expressway Extension in the Cities of Norfolk and Portsmouth, the Jordan Bridge in South Norfolk, Route 17/Dominion Boulevard in the City of Chesapeake and a new U.S. Route 460 between I-295 in Prince George County to U. S. Route 58 near Suffolk.

Based on traffic growth projections, the number of existing toll facilities, and the expected traffic at the new facilities enforced under § 46.2-819.3:1 of the *Code*, the Data Collection and Research subcommittee chaired by ERC estimates that the total number of toll transactions will increase to 297.6 million by 2015, an increase of 48.8 percent over the current 200 million transactions per year for existing facilities in the Commonwealth.

All of the new facilities are designed as AET facilities without traditional tolling gates or booths, on which toll violations have been shown to be significantly higher than on non-AET facilities. Based on information presented by the Data Collection and Research subcommittee chaired by ERC, the total number of toll violations is expected to more than double, from 1.91 million in the one-year period ending June 30, 2010 to 4.02 million in 2015. It is forecasted that the number of violations that will become eligible for summons (that is, the number of cases potentially reaching court hearings) will increase to 160,000 in 2015, an increase of approximately 400 percent over the one-year period ending June 30, 2010.<sup>6</sup>

Based on the above estimates, the increased development of toll facilities will result in an increase in the number of toll violation cases the district court clerks must process and schedule and that district court judges must hear and decide. As such, the TLWG examined a number of opportunities to more efficiently move toll violation cases through the court system through prompt issuance of summonses and innovative docket scheduling practices, as well as to reduce the number of cases proceeding to court once summonses have been issued. This section outlines those opportunities.

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<sup>6</sup> Assumes (1) existing facilities experience constant violation rates and (2) new AET facilities will experience higher violation rates.

## ISSUING SUMMONSES AND SCHEDULING DOCKETS

Pursuant to the *Code*, a separate summons is required to be issued for each toll violation. Based on data from the CSC, more than 12,000 violations were eligible to be summoned in the first six months of 2010. It is estimated that among all the facilities, there are more than 40,000 violations eligible for summonses each year; representing approximately two percent of all violation cases (the remaining cases are resolved prior to escalation to the summons level).

While the courts limit the number of cases to be scheduled for hearing each month as a matter of necessary docket management, the courts do not prohibit issuance and filing of summonses with future hearing or return dates. However, it has been the practice of facilities and the CSC to hold cases eligible for summonses until the courts indicate the ability to schedule them on the docket. This practice resulted in toll violations occurring in 2006 and later not being sent to the courts of jurisdiction in significant numbers until late 2009.

Court docket scheduling practices have contributed to the mounting number of unresolved toll violation cases, as well. Until recently, some courts scheduled toll violation cases based on the number of violations (i.e., summonses), rather than on the number of individual violators represented by those summonses. In a hypothetical example of a single violator with 100 summonses for toll violations, a court scheduling 50 toll violation cases on a docket would require two separate days to dispense with the single violator. However, significant progress has been made to increase the court's capacity to hear these cases through changes in docket scheduling practices. Specifically, some courts have initiated a practice of scheduling cases based on the number of violators, rather than the number of violations (in other words, grouping multiple summonses issued to a single violator for a single hearing on the docket). Using the earlier example, under the new docket scheduling practice, the court would now dispense with the single violator having 100 summonses for toll violations, plus up to 49 additional violators on a single docket.

In July 2010, more than 25,000 toll violation summonses were eligible to be issued across the Commonwealth, but had not been issued due to the toll facilities' concerns about the lack of immediate capacity on the court dockets. By September 2010, this number had been reduced by 44 percent to 14,000 toll violation summonses relating to 2,500 unique patrons (violators). This reduction is largely due to the Gloucester County, Chesterfield County, and Richmond-Manchester General District Courts creating special dockets in addition to the regular traffic and criminal dockets, so a large number of defendants could be scheduled. Also, Gloucester, Chesterfield, and Richmond-Manchester General District Courts have begun allotting docket space based on the number of violators rather than the number of summonses, thereby further increasing court capacity. For the final three months of 2010, the average number of summonses scheduled each month for all courts hearing toll violation cases is approximately 4,550 compared to approximately 2,725 each month in 2009. This represents a 66 percent increase in capacity.

**Finding:** The large number of cases awaiting issuance of summons is attributable to several factors, including holding cases eligible for summons until the courts can actually hear the cases and the court practice of scheduling dockets according to the number of summonses (i.e., by violation regardless of how many violators are represented by the number of summonses) rather than by the number of violators.

**Business Process Change Recommendation:** To ensure that toll violation cases are summoned timely, summonses should be issued promptly by the toll facility operator or vendor

using future hearing or return dates. If summonses are issued promptly, the courts will be aware of the volume of cases pending and can take necessary steps to hear those cases. The facility operator or CSC is also encouraged to communicate with the courts about the number of summonses and number of new cases generated each month.

**Business Process Change Recommendation:** The courts should be encouraged to develop docket scheduling practices, such as scheduling dockets according to the number of violators rather than the number of violations, to increase the capacity of the courts to hear these cases.

Although progress has been made to reduce the number of toll violations cases awaiting hearings (as identified above), the increased development of new toll roads in the Commonwealth, along with the anticipated increase in toll violations and changes in business processes as described above, will necessarily impact the court's ability to process toll violations cases with existing resources. It should be noted that the continued loss of sitting judges and judicial vacancies will impact the ability of the courts to process cases.

In particular, the 13<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup> Judicial Districts (which include the City of Richmond, Fairfax County, and Loudoun County, respectively) have experienced a decrease in the number of judges since 2009. The 12<sup>th</sup> Judicial District (including Chesterfield County) will experience the loss of a judge in early 2011. The 4<sup>th</sup> Judicial District (comprised of the City of Norfolk) will lose a judge by January 2012. Each of these jurisdictions has or will experience an increased caseload per judge from the judicial vacancies in addition to the increased caseload resulting from toll violations. Three of these districts, the 12<sup>th</sup>, 19<sup>th</sup>, and 20<sup>th</sup>, had among the highest caseloads per judge in the state even when they had judge appointments at the level provided in the *Code*.<sup>7</sup>

The total number of traffic infractions brought in Virginia's General District Courts in 2009 was 1,631,762. If that number does not rise significantly and if, as projected by the information presented by Data Collection and Research subcommittee chaired by ERC, 160,000 toll violations summonses were to be issued in 2015, the number of toll violations would represent nearly 10% of all traffic infraction cases in the Commonwealth, but the burden of disposing of these cases would fall on a handful of courts.

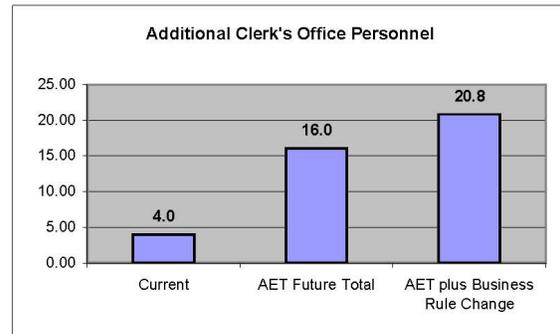
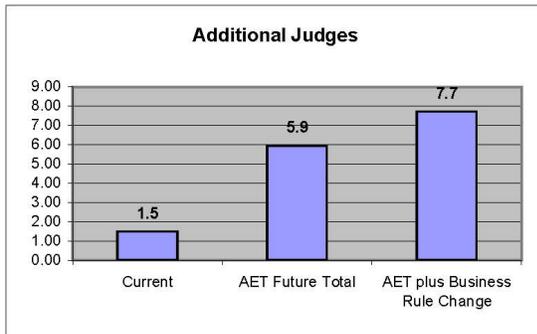
The impact on clerks' and sheriffs' offices must be noted as well, as the clerk's office must process each summons and the sheriffs must serve them. There will be specific costs and increased staffing needs for the courts where these cases will have to be handled. Table 5 below shows the potential impact to the courts of the increased caseload resulting from AET and increased issuance of summonses.

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<sup>7</sup> Source: Supreme Court of Virginia, CAIS-CMS, Caseload Statistical System, 2010

**Table 5<sup>1</sup>**

<i>Statewide Judicial Resources Used/Needed</i>	40,000 summons (Current rate of summons issuance.)	120,000 (Additional summons projected resulting from AET facilities.)	Subtotal= 160,000	12,000 (Estimate of increased summonses resulting from business process change of issuing summons after two violations, instead of three.) <sup>2</sup>	36,000 (Estimate of increased summonses resulting from business process change of issuing summons after two violations, based on development of AET facilities.)	TOTAL= 208,000
<i>Judges</i>	1.5	4.5	5.9	0.5	1.3	7.7
<i>Clerk's Office Personnel</i>	4.0	12.0	16.0	1.2	3.6	20.8



1) This table shows statewide figures for judges and clerk's office personnel requirements, based on current summons level and projected increases in summoning resulting from business process changes and development of AET facilities. The need for additional judges and clerks is based on our existing staffing model. This table does not account for the distribution of cases among the affected courts. Some courts will be impacted to a much greater degree than others because of the volume of traffic and degree to which AET is used in the jurisdiction.

2) See Table 3, above. Increase of approximately 30% projected based on number of second violations per unique customer (14% of violations) compared with third or more violations per unique customer (52% of violations).

It should be noted, depending on the outcome from the implementation of proposed changes to the business rules, the 208,000 summonses reaching the courts as referenced in Table 5 could be significantly greater.

Together with additional judge and clerk positions, the continued development and implementation of creative solutions will be necessary to permit adequate, timely enforcement of the Commonwealth's toll violation statutes through timely processing of summonses and case papers and timely hearings for toll violation cases.

The TLWG examined the special toll violation docket model currently being used in several general district courts to increase capacity for these cases. In particular, Richmond-Manchester General District Court has agreed to schedule a special toll violation docket presided over by a district judge, who agreed to create and "shoehorn in" an additional docket into the court's schedule. Fortunately, this judicial district had sufficient resources and courthouses in close proximity to each other so that this assistance and courtroom space could be made available. Such may not be the case in the various other judicial districts where the impact of toll violations is most keenly felt.

As an effort to increase or enhance the judicial resources available to hear toll road violations, consideration was given to the utilization of additional substitute judges in general district courts

to hear a specialized toll road docket. Pursuant to § 16.1-69.44 of the *Code*, a substitute judge is entitled to a per diem of \$200, or \$100 “if the substitute judge acted in his official capacity for less than a full court docket or served less than four hours.” They are also compensated for their mileage to and from court.

It should be noted that there are current statutory hurdles to the use of judges in this way, as well as issues of fiscal impact, availability of a sufficient number of attorney substitute judges, availability of necessary additional courtrooms and the impact that processing additional summonses, scheduling additional judges, and preparing additional dockets will have on clerk’s offices whose staffing levels have not increased for a number of years to meet existing caseloads. Additional duties for the clerk would include contacting and scheduling substitute judges for these dockets, as well as coordinating an appropriate location for these hearings. Many of the courts where the toll cases will be tried already have daily scheduled dockets that utilize all available space within the courthouse facilities.

As mentioned above, experimentation with special dockets and innovative docket scheduling practices has resulted in a significant reduction in the number of cases awaiting hearings and is likely to be helpful in keeping these cases flowing through the court system. District courts with the largest number of toll violation cases should consider establishing special toll violation court dockets as a means to manage these cases.

**Finding:** Building on and experimenting with existing court processes to manage toll violation cases, rather than developing and establishing a wholly new process for hearing these cases, is more cost effective. However, the courts will be substantially impacted by the increased number of toll violation cases, and there will be a resulting fiscal impact even with creative docketing measures.

**Business Process Change Recommendation:** Consideration should be given to establishing a “toll violation court docket” in the busiest courts.

### **PAYMENT OPTIONS BEFORE TRIAL – THE PRE-TRIAL SETTLEMENT OPTION**

The TLWG agreed that the most effective approach to limiting present and future impacts on the court system, at least at the present time, is to implement a pre-trial settlement process designed to incentivize violators to resolve any unpaid tolls prior to their scheduled hearings. The goal of the pre-trial settlement option is to reduce the number of toll violation cases that are actually heard in court.

Currently, toll violators who receive a summons must appear before a judge. They may settle with the toll facility before appearing in court, but any settlement must be approved by the judge. Thus, the existing current settlement process still requires court involvement and a hearing. In addition, the toll violator is found guilty as part of the settlement offer. This “at-court” settlement process is discussed briefly on page 14. (The pre-trial settlement option discussed here is different from and in addition to the at-court settlement process, as it would not require approval of the judge.)

According to toll facility operators participating in the TLWG, despite their notification and collection efforts prior to issuing summonses, the issuance of summonses is what finally gets the attention of violators, particularly those with large numbers of toll violations.

Although some violators reach the summons stage of enforcement before they are willing to resolve unpaid tolls and administrative fees, there may be an opportunity to reduce the number of cases that actually proceed to trial, or, require action by a judge by proceeding to trial, by incentivizing these violators to remit unpaid tolls, administrative fees, and reduced penalties in a manner similar to the pre-payment options afforded under parking violations, speed enforcement statutes and other traffic infractions in Virginia. This pre-trial settlement option would be structured to allow toll facility operators to recover unpaid tolls and fees, but also to be more financially advantageous to the violator than if (s)he waits to settle at court or goes to trial and (s)he would not have to plead guilty to any toll violations.

Based on Virginia's experience with other pre-trial payment processes, a pre-trial settlement process for toll violations has the potential to greatly reduce the number of toll violations cases proceeding to court. For example, according to data from the courts' case management system for eleven traffic infractions related to speeding, all of which are pre-payable, 56 percent of charged individuals pre-paid in lieu of appearing in court. It should be noted that traffic infractions related to speeding are treated much more seriously by the *Code* than are tolling violations, though traffic infractions such as speeding often result in smaller monetary penalties than tolling violations. In Virginia, traffic infractions appear on driving records and typically result in demerit points (accrual of which may lead to suspension of drivers' licenses or other penalties), while tolling violations do not. However, if a similar percentage of toll violators take advantage of a final pre-trial settlement opportunity, violators would avoid incurring the higher costs of the statutory civil penalties, as well as the time required to appear in court.

Furthermore, as discussed earlier, information communicated through the course of the TLWG's deliberations indicate that many violators settle once they reach court. It is anticipated that an earlier incentive to settle, such as the pre-trial settlement option above, would increase the number of cases that are settled. Coupled with the at-court settlement process, the pre-trial settlement option would be expected to mitigate the impact on the courts.

**Finding:** If a uniform pre-trial settlement option were created, it would be expected that the number of cases proceeding to trial would decrease. Once courts gain experience with the use and effect of that option, courts would then be able to discount for the number cases which will likely settle and thus be better able to set a practical number of cases to be heard on each individual docket.

**Legislative Change Recommendation:** Amend the *Code* to provide that the toll facility operator may offer to the vehicle owner an option to pay the unpaid toll and fees plus a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth or subsequent offense, as specified on the summons. If the owner accepts such offer and such amount is actually received by the toll facility operator at least 14 days prior to the hearing date specified on the summons, the toll facility operator shall move the court to dismiss the summons issued to the registered owner of the vehicle, and the court shall dismiss upon such motion.

## **OPPORTUNITIES FOR ALTERNATIVE TOLL VIOLATION RESOLUTION AND CREATION OF AN EXPEDITED HEARING PROCESS**

Chapter 839 of the 2010 Acts of Assembly also directed the group to examine opportunities for alternative toll violation resolution, including the creation of an expedited hearing process. The TLWG considered several options in this regard, including establishing an administrative hearing process based on the one used by DMV and alternative processes used to pursue toll

violations in other states, similar to the process utilized in Virginia to pursue payment of parking tickets.

## ALTERNATIVE TOLL VIOLATION PROCESS

States including California, Illinois, and Maryland<sup>8</sup> with AET roads have implemented an alternative approach to violation enforcement than provided for in Virginia law, while significantly reducing the number of cases which proceed to court. The process is similar to a tool used by Virginia localities to enforce parking tickets.

Generally, once a customer has committed a toll violation, the violator is sent a toll violation notice. The notice outlines the individual's options to: (1) pay the toll or (2) contest the toll, as well as the consequences of doing nothing.

If the individual elects to contest the toll, (s)he must notify the toll facility that sent the notice of toll violation to request a review of the violation. If the user is dissatisfied with the results of the review, (s)he may request a court or administrative hearing.

If the customer neither pays the toll nor contests the violation after a set period of time, the toll facility then requests the Department of Motor Vehicles to place a hold on the vehicle owner's (or toll violator's) vehicle registration issuance or renewal until the toll and associated fees have been paid.

In the case of the parking tickets in Virginia, localities have the authority, under § 46.2-752 of the *Code of Virginia*, to enter into agreements with DMV to request holds on the issuance or renewal of the registrations of vehicles involved in parking violations. Once the delinquent parking citations are paid, the localities request the removal of the holds and the vehicle registrations may be renewed. Typically, vehicle owners do not learn of the hold until attempting to renew the registrations of their vehicles, which means that this option may delay the collection of delinquent fees by more than a year, depending on the registration period of the vehicle affected. Nevertheless, this tool is effective and allows localities to forego court action for these violations.

**Finding:** This vehicle registration hold process allows the toll facility or CSC to initiate a vehicle registration hold after a certain number of toll violations have occurred and following unsuccessful efforts to collect those tolls, rather than the hold being initiated by the courts following three convictions and the failure by the violator to pay the tolls, associated fees and court cost. While individuals will always have the option to contest an unpaid toll in court, only those individuals that actively object to the toll violation notice proceed to court. Based on information collected by the working group, data has shown this process is capable of significantly reducing the number of cases proceeding to court.

**Recommendation:** As AET facilities are developed in the Commonwealth and as a continuing focus of the TLWG, implementation of a similar process should to be considered as an option in reducing the burden on the courts. Efforts must ensure that the violator's right to due process is

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<sup>8</sup> Maryland uses the process to effectively enforce tolling on existing non-AET facilities and will utilize the process on AET facilities once they become operational.

maintained and protected. In addition, as the TLWG continues to further examine other options of reducing the burdens on the courts, it will also need to investigate the issue of implied consent.

### ALTERNATIVES FOR TOLL VIOLATION CASE HEARINGS

DMV's Hearing Office conducts informal administrative conferences and formal administrative hearings when authorized or required by the *Code* to do so before an action is taken, such as suspending an individual's driver's license and registration privileges or granting or revoking a motor vehicle-related business license or certificate that is issued by DMV. DMV currently employs six full-time hearing officers, a Chief Hearing Officer, one part-time hearing officer, and an intern. The full-time hearing officers each conduct an average of 150 hearings or administrative conferences per month. The Chief Hearing Officer reviews decisions and conducts hearings, as necessary. The part-time hearing officer also conducts hearings, but does not conduct 150 per month. Hearings may be related to a variety of DMV responsibilities, such as insurance monitoring, driver medical review, driver training, driver improvement, motor carrier, reserve/personalized license plates, disabled vehicle placards, and a broad range of vehicle-related issues. Depending on the type of case, various levels of review by the Chief Hearing Officer, the Assistant Commissioner for Legal and Government Affairs, and/or the DMV Commissioner are required. Also depending on the type of case (or whether the customer files exceptions to the hearing officer's decision), a number of decisions are required to be reviewed and signed by the Commissioner or his designee.

Implementation of an administrative hearing process for toll violations cases, anticipated to be significantly greater in number than the number of administrative hearings conducted by DMV, would require a significant investment in staffing, resources, and time. Using DMV's current staffing level of six full-time officers, each conducting an average of 150 hearings per month, implementation of such a process for the approximately 3,333 toll violations cases each month in 2009 would have required about 22 full-time administrative hearing officers. With toll violations cases expected to increase 300 percent by 2015, approximately 67 administrative hearing officers would be needed to conduct toll violation hearings at that time.

In addition, even if resources were available to be allocated for an administrative hearing process, the burden of review by the Commissioner or his designee for these cases would require a considerable amount of time, thereby making a toll violation administrative process even more disadvantageous.

It should be noted that the process by which cases would be heard under an administrative hearing process would likely be vastly different than the process of hearing cases through the judicial system. As such, the estimate of the number of administrative hearing officers anticipated to be required to hear toll cases differs from the number of judges that would be needed to hear to an equal number of toll violation cases.

**Finding:** An administrative hearing process is not recommended at this time.

## **APPENDIX A: TOLLING LEGISLATION WORKING GROUP - SUBCOMMITTEE ASSIGNMENTS**

### Data Collection and Research

Members: Faneuil  
Chesapeake Expressway  
Elizabeth River Crossings  
Coleman Bridge  
Richmond Metropolitan Authority  
Department of Motor Vehicles  
Transurban  
VDOT Research Council  
VDOT Financial Planning

Lead: Elizabeth River Crossings

### Business Process

Members: Faneuil  
Metropolitan Washington Airports Authority  
Elizabeth River Crossings  
Transurban  
Supreme Court of Virginia\*  
Department of Motor Vehicles  
Dulles Greenway  
Powhite Parkway Extension  
Chesapeake Expressway  
VDOT Research Council  
VDOT Financial Planning

Lead: Metropolitan Washington Airports Authority

### Legislation

Members: Transurban  
Supreme Court of Virginia\*  
Office of the Attorney General  
Elizabeth River Crossings  
Richmond Metropolitan Authority  
Coleman Bridge  
Powhite Parkway Extension  
VDOT Policy  
VDOT Financial Planning

Lead: Office of the Attorney General

\* = Court system participation was limited to consultation on issues of court administration and does not constitute endorsement by the Judicial Branch.

## APPENDIX B: SUMMARY OF FINDINGS AND RECOMMENDATIONS

Area Impacted	Findings	Recommendations
<b>LEGISLATIVE</b>		
Code of Virginia – Violation Notices	The <i>Code of Virginia</i> does not currently authorize toll facility operators to charge a fee or otherwise recover costs associated with mailing out an invoice for a single unpaid toll under §§ 46.2-819.1 and 46.2-819.3 of the <i>Code</i> . In addition, those sections require that a second unpaid toll be documented before an administrative fee may be levied. The inability to recover the costs associated with mailing a first unpaid toll notice, as well as to charge an administrative fee makes it cost prohibitive for toll facility operators, particularly those with lower toll rates, to send a toll payment due notice on the first violation and contributes to a significant number of toll violations not being pursued.	Sections 46.2-819.1 and 46.2-819.3 of the <i>Code of Virginia</i> should be amended to provide that (1) the toll facility operator may levy charges to cover the costs associated with mailing unpaid toll invoices and (2) that an administrative fee may be levied on a first unpaid toll if the unpaid toll invoice or bill remains unpaid after 30 days.
Code of Virginia – Denial of Registration Renewal or Issuance	A violator must accrue three or more unpaid tolls and fail to pay the required penalties, fees, and unpaid tolls before a hold may be placed on the issuance or renewal of a vehicle registration certificate.	Amend §§ 46.2-819.1, 46.2-819.3, and 46.2-819.3:1 of the <i>Code of Virginia</i> to provide that a hold may be placed on the issuance or renewal of the vehicle registration certificate upon a finding by the court that a violator has two or more unpaid tolls and has failed to pay the required penalties, fees, and unpaid tolls. No change should be made to the requirements that the court is required to notify the DMV Commissioner of such facts.

Area Impacted	Findings	Recommendations
<b>LEGISLATIVE (continued)</b>		
Code of Virginia – Payment Options Before Trial - The Pre-Trial Settlement Option	If a uniform pre-trial settlement option were created, it would be expected that the number of cases proceeding to trial would decrease. Once courts gain experience with the use and effect of that option, courts would then be able to discount for the number cases which will likely settle and thus be better able to set a practical number of cases to be heard on each individual docket.	Amend the <i>Code of Virginia</i> to provide that the toll facility operator may offer to the vehicle owner an option to pay the unpaid toll and fees plus a reduced civil penalty of \$25 for a first or second offense or \$50 for a third, fourth or subsequent offense, as specified on the summons. If the owner accepts such offer and such amount is actually received by the toll facility operator at least 14 days prior to the hearing date specified on the summons, the toll facility operator shall move the court to dismiss the summons issued to the registered owner of the vehicle, and the court shall dismiss upon such motion.
<b>BUSINESS PROCESSES</b>		
V-Tolling	VDOT currently provides the V-Tolling service to those facilities that utilize the CSC for violation processing. V-Tolling is an efficient method to process toll violations without any toll payment due or toll violation notices being sent to toll facility users that are members of the E-ZPass network and use transponders. This process significantly reduces the number of violations which must be pursued by other means, including the court process.	It is recommended that VDOT offer V-Tolling services to the other in-state toll facilities that wish to take advantage of V-Tolling as a means of reducing the number of potential toll violators.
V-Tolling	V-Tolling is a service available only to E-ZPass customers. To increase the effectiveness of V-Tolling in reducing the number of toll violations that must be pursued through mailings and the court process, increased use of transponders by the traveling public is necessary.	VDOT, the CSC and toll facility operators should increase their transponder marketing efforts and focus public outreach in regions of the state that have operating toll facilities.

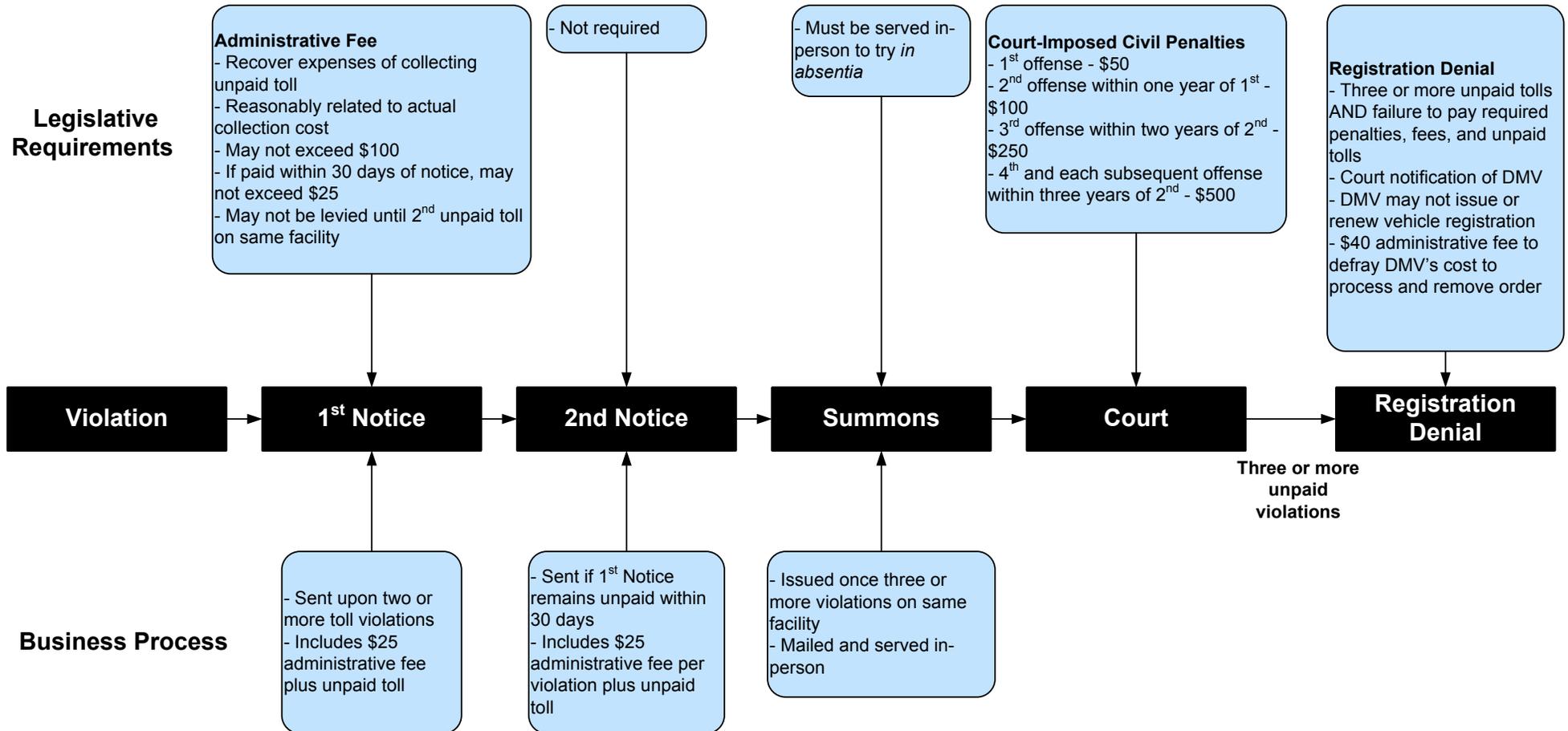
Area Impacted	Findings	Recommendations
<b>BUSINESS PROCESSES (continued)</b>		
General CSC Operation	Currently, customers opening an E-ZPass account with the CSC are not required to provide their email addresses. Having an email address in addition to traditional contact information would allow quicker contact with the customer and provide another opportunity to reach out to E-ZPass patrons/violators to resolve any account issues, including insufficient funds available for V-Tolling that might otherwise result in the unpaid toll progressing to court.	Amend the business rules to provide that when a customer sign up for E-ZPass, an email address is required and not optional. Consideration to waiving this requirement must be given in circumstances where the customer does not have access to a computer, the internet, or email service. In providing an email address, the customer also consents to be officially notified by email for an unpaid toll or toll violation and have payment requested. This would be a courtesy email, requesting payment of the unpaid toll, exclusive of any additional fees.
Violation Notices	Resulting from the recommended change to the <i>Code</i> to allow an administrative fee to be levied upon the first unpaid toll, a defined time period is needed for violations to occur prior to sending out the violation notice to limit the workload requirements.	Modify the business rules to allow a time frame from three days up to one week, depending on the individual toll facility, to accumulate violations before an unpaid toll notice is sent out. Under this rule, a customer could incur one or more violations within the accumulation period and the unpaid toll notice would reflect the total number of violations for that period, plus the amount of unpaid tolls, the mail cost recover fee, and any administrative fee.
Violation Notices	The low response level by violators to first and second notices and the small number of payments received prior to receiving a summons is believed to be at least partially attributable to a lack of adequate or "official" information contained in the notices advising the violator of potential consequences if they do not respond to the notice with payment of the toll.	In an attempt to increase response rates to notices, as well as payments received for unpaid tolls, notices should include additional information to educate violators about the consequences of inaction and non-payment of tolls and administrative fees. For example, additional language on notice envelopes could be included advising violators that failure to pay amounts due will result in a summons to court.

Area Impacted	Findings	Recommendations
<b>BUSINESS PROCESSES (continued)</b>		
Summons	Under the CSC violation enforcement process, summonses are mailed once three toll violations have occurred without payment of the unpaid tolls and administrative fees.	The business rules should be amended to provide that a summons may be issued once two unpaid toll violations have occurred. This process change will result in more summonses being issued, and would impact the courts, as described in the report.
Summons	Significant costs are incurred by the CSC to mail summonses and to have them served in-person to toll violators. An individual who is served a summons by mail only cannot be tried in absentia. Therefore, if the individual does not appear in court in response to a mailed summons, the summons must be served again, in-person, before the court will hear the case.	The business rules should be amended to provide that all summonses will be served in-person, but not mailed to in-state customers. Jurisdictional hurdles remain for out-of-state toll violators and mailing summonses is currently the most cost-effective method of service for these violators. Individual toll facilities should continue to decide whether summonses will be mailed, served in-person, or both to out-of-state violators.
Issuing Summonses and Scheduling Dockets	The large number of cases awaiting issuance of summons is attributable to several factors, including holding cases eligible for summons until the courts can actually hear the cases and the court practice of scheduling dockets according to the number of summonses (i.e., by violation regardless of how many violators are represented by the number of summonses) rather than by the number of violators.	To ensure that toll violation cases are summoned timely, summonses should be issued promptly by the toll facility operator or vendor using future hearing or return dates. If summonses are issued promptly, the courts will be aware of the volume of cases pending and can take necessary steps to hear those cases. The facility operator or CSC is also encouraged to communicate with the courts about the number of summonses and number of new cases generated each month.
Issuing Summonses and Scheduling Dockets		The courts should be encouraged to develop docket scheduling practices, such as scheduling dockets according to the number of violators rather than the number of violations, to increase the capacity of the courts to hear these cases.

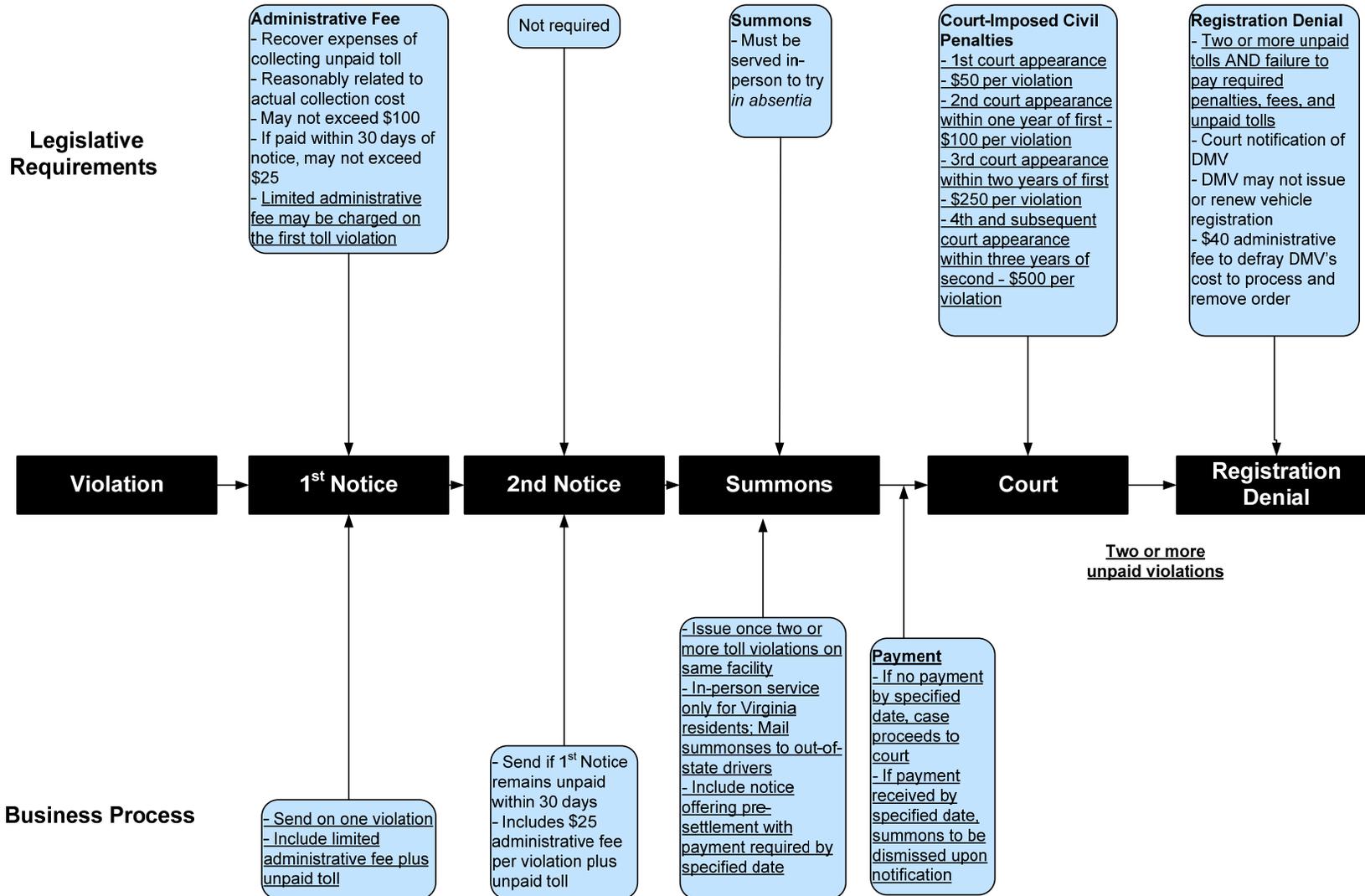
Area Impacted	Findings	Recommendations
<b>BUSINESS PROCESSES (continued)</b>		
Issuing Summonses and Scheduling Dockets	Building on and experimenting with existing court processes to manage toll violation cases, rather than developing and establishing a wholly new process for hearing these cases, is more cost effective. However, the courts will be substantially impacted by the increased number of toll violation cases, and there will be a resulting fiscal impact even with creative docketing measures.	Consideration should be given to establishing a “toll violation court docket” in the busiest courts.
Opportunities for Alternative Toll Violation Resolution and Creation of an Expedited Hearing Process	This vehicle registration hold process allows the toll facility or CSC to initiate a vehicle registration hold after a certain number of toll violations have occurred and following unsuccessful efforts to collect those tolls, rather than the hold being initiated by the courts following three convictions and the failure by the violator to pay the tolls, associated fees and court cost. While individuals will always have the option to contest an unpaid toll in court, only those individuals that actively object to the toll violation notice proceed to court. Based on information collected by the working group, data has shown this process is capable of significantly reducing the number of cases proceeding to court.	As AET facilities are developed in the Commonwealth and as a continuing focus of the TLWG, implementation of a similar process should to be considered as an option in reducing the burden on the courts. Efforts must ensure that the violator’s right to due process is maintained and protected. In addition, as the TLWG continues to examine additional options of reducing the burdens on the courts, it will also need to examine the issue of implied consent.
Alternative Toll Violation Case Hearings	An administrative hearing process is not recommended at this time.	

## APPENDIX C: TOLL VIOLATION PROCESSES – LEGAL REQUIREMENTS AND BUSINESS PROCESSES

### TOLL VIOLATION COLLECTION FOR FACILITIES UNDER §§ 46.2-819.1 and 46.2-819.3 CURRENT LEGAL REQUIREMENTS AND BUSINESS PROCESS



**TOLL VIOLATION COLLECTION FOR FACILITIES UNDER §§ 46.2-819.1 and 46.2-819.3  
PROPOSED LEGAL AND BUSINESS PROCESSES**



Note: Proposed changes to legislative requirements or business process steps shown in underlined text; Existing legal requirements and business processes shown in plain text