

Draft Toll Rules – May 2023 Meeting: State Toll Rulemaking Advisory Committee

Date: May 19, 2023

Blue highlighted = state law

Department of Transportation
Chapter 731
Division 40
TOLLWAY PROJECTS

DEFINITIONS

731-040-0020 Definitions

As used in these [OAR 731, division 40](#), rules:

- (1) “Commission” means the Oregon Transportation Commission.
- (2) “Department” or “ODOT” means the Oregon Department of Transportation has the meaning given in [ORS 383.003](#).
- (3) “Director” means the Director of the Oregon Department of Transportation, or the person designated by the Director.
- (4) “Electronic toll collection system” has the meaning given in [ORS 383.003](#).
- (5) “Interstate bridge” means a bridge over a waterway that contains a boundary line with another state and the ~~boundary~~ line.
- (6) “Invoice” or “Toll Invoice” means an invoice for toll payments not yet collected by an electronic toll collection system or other payment system.
- (7) “Interoperability” commonly refers to an agreement with another organization to exchange charges and payments about known customers.
- (8) “Private entity” has the meaning given in [ORS 383.003](#).

(9) “Related facility” has the meaning given in [ORS 383.003](#).

~~(9)~~(10) “Registered account” is an account created by the tollway user.

~~(10)~~(11) “Toll” has the meaning given in [ORS 383.003](#).

(12) “Toll gantry” is the structure over the roadway on which electronic toll equipment is mounted. The physical location of the toll gantry is called a “Toll Zone.” The terms are used interchangeably.

~~(11)~~(13) “Toll Program Fund” means the fund described in [ORS 383.009](#).

~~(12)~~(14) “Toll rate” means an amount charged for the use of a tollway.

~~(13)~~(15) “Tollway” has the meaning given in [ORS 383.003](#).

~~(14)~~(16) “Tollway operator” has the meaning given in [ORS 383.003](#).

~~(15)~~(17) “Tollway project” has the meaning given in [ORS 383.003](#).

~~(16)~~(18) “Tollway project revenue bonds” has the meaning given in [ORS 383.003](#).

~~(17)~~(19) “Tollway user” means the operator of the vehicle or registered owner of a vehicle at the time of the use of the tollway.

~~(18)~~(20) “Transponder” is a type of vehicle identification device. It can be means an attached or embedded device containing a radio frequency identification (RFID) used to identify the vehicle as it passes under a toll gantry, for the purpose of assessing a toll and posting the toll to an account connected to the vehicle.

~~(19)~~(21) “Unit of government” has the meaning given in [ORS 383.003](#).

~~(20)~~(22) “Unregistered ~~Toll a~~Account” is an account created by the Department for vehicles identified on the tollway system but without a pre-established toll account.

(23) “Variable rate toll” means any charge for the use of a tollway where toll rates vary by time of day, according to a published schedule.

~~(21)~~(24) “Vehicle identification device” means any ODOT approved device or in-vehicle technology that supports electronic payment of tolls. This may include radio frequency identification (RFID) toll transponders, connected-vehicle technologies and applications, future cell phone or GPS technologies, or other future devices.

Statutory/Other Authority: ORS [184.619](#), [383.003](#), [383.004](#), [383.014](#) & [383.015](#)

Statutes/Other Implemented: [ORS 383.003](#) & [383.004](#)

History:

TOLL COLLECTION AND ACCOUNTS

731-040-####

Toll Accounts and Toll Payment

- (1) A user of the tollway system must pay a toll, as set out in [OAR 731, division 40](#). Exceptions to the requirement for paying a toll, if any, are described in these OAR 731, division 40, rules, under each rule establishing the toll rate for a specific tollway.
- (2) A tollway user may pay a toll, fee or fine to the Department, or its contractors or agents, using a method including but not limited to:
 - a) Credit or debit card,
 - a)b) Cash;
 - b)c) Bank or Guaranteed Draft;
 - c) ~~Guaranteed Draft~~;
 - d) ~~Credit card, under the conditions described in [ORS 825.502](#) (Payment of taxes and fees by credit card)~~;
 - e)d) Cashier's Check;
 - f)e) Personal or business check Online payment systems, as technology and systems are established.
- (3) All payments to the Department shall be in United States funds.

~~The Department may impose a fee for checks returned for insufficient funds.~~

- ~~(4) A tollway user may establish a toll account with the department to pay a toll. A tollway user may select one of the following toll accounts for payment of a toll:~~
- ~~(5) A registered Oregon toll account associated with at least one transponder or toll reporting device in the account, and a valid license plate for each vehicle in the toll account; or~~
- ~~(6) A registered Oregon toll account associated with a license plate for each vehicle in the toll account.~~
- ~~(7)(4)~~

~~(56) The Department may create an unregistered toll account when a ~~department~~ toll gantry detects a vehicle and license plate that is not associated ~~to an existing~~ with a valid ODOT or interoperable partner toll account.~~

~~(7) The Department may charge additional fees for a vehicle travelling on a tollway that is an unregistered account.~~

(6) The Department ~~shall~~ will create a valid account prior to issuance of a transponder or other vehicle transponder reporting device to be associated with that account.

(7) The Department shall accept payment of tolls with valid toll accounts of interoperable toll operators, as per agreements between the Department and the interoperable toll operators. ~~This will inform the criteria for selecting electronic toll collection systems to ensure interoperability with tolling systems used in other states, to the extent that technology facilitating interoperability exists, per ORS 303.014.~~

~~(8) The Department may invoice holders of registered or unregistered accounts, according to advertised processes as approved or authorized by the Commission. An invoice includes the toll(s) due based on detection date, time and location, and any additional fees or civil penalties.~~

~~(9)~~
(10)(8) The Department may look up registered owners of any detected license plate from any United States jurisdiction, and in any Canadian Province or Mexican state in which the department is able and permitted to perform a search for a registered owner.

ADMINISTRATIVE FEE, CIVIL PENALTY, & CUSTOMER DATA

731-040-####

Administrative fees

(1) The Department may enforce the payment of a toll by one or more of the following, per ORS 383.035:

- a. Imposing an administrative fee;
- b. Imposing a civil penalty;
- c. Suspension of vehicle license registration renewals; or
- d. Pursuing unpaid amounts through a collection process either internally or by assigning them to a collection agency.

(2) The Department will apply an administrative fee, consisting of one or more of the following:

Mailed Statement Fee	\$2.00 <u>per mailed statement</u>
Returned Check/Automated Clearing House (ACH) Rejection Fee	\$35.00
Invoice Fee	\$5.00 per invoice

~~(3) The civil penalty and administrative fees established by the tollway operator will not exceed the actual cost of collecting the unpaid toll, per ORS 383.035(2).~~

~~(3)(4) The Department may charge a fee for a vehicle travelling on a tollway without a toll account.~~

Payment process

- ~~(4)~~(5) Tollway users will receive notifications from the Department of outstanding account debts and will be provided options for resolution as outlined in OAR 731-040-####. The Department may choose not to apply the administrative fee if the tollway user pays toll account debts within a time deemed acceptable by the Department.
- (5) The Department will hold the registered owner of vehicle as the responsible party for all unpaid tolls transactionson unregistered accounts.
- (6)
- (6)
- (7) Evidence from the electronic toll collection system will follow requirements established in ORS 383.045. which include:
- (8) ~~A recorded image produced by an electronic toll collection system shall capture only images of a vehicle and the license plate of the vehicle.~~
- (9) ~~Except as provided in subsection (c) of this section, a recorded image of a vehicle and the license plate of the vehicle produced by an electronic toll collection system at the time the driver of the vehicle did not pay a toll shall be presumed evidence that the registered owner of the vehicle is the driver of the vehicle.~~
- (10) ~~If the registered owner of a vehicle is a person in the vehicle rental or leasing business, the registered owner may elect to identify the person who was operating the vehicle at the time the toll was not paid or to pay the toll, civil penalty and administrative fee.~~
- (11) ~~A registered owner of a vehicle who pays the toll, civil penalty and administrative fee is entitled to recover the same from the driver, renter or lessee of the vehicle.~~
- ~~(12)~~(7)
- (13) ~~If unpaid toll transactions remain unpaid- for up to after 30 days up to 10 days from the initial transaction, the Department may issue an invoice to the owner of record, that will includes all transactions posted to the unregistered account matching the license plate. The owner of record account holder will be notified that they have 30 days to pay. Invoices will An invoice includes the tolls transaction(s) due based on detection date, time and location, and any additional fees.~~
- (14)(8) If the toll account contains unpaid toll transactions or fees remains in debt after 30 days after thean fr firstem t he issued invoice, the Department will may issue a second invoice. The invoice maywill include any additional transactions that occurred within the 30 days. The vehicle owner of record account holder will be notified that they have 10 days to pay. They will be notified that if payment is not received, then their account may be placed in delinquent status.
- (15)(9) If the toll account remains contains unpaid toll transactions or fees in debt after 10 days from the second invoice, the Department may choose to place an account in delinquent status. The Department would then pursue a process that would include one or a combination of the following actions:

- a. Pursuing ~~debt~~ unpaid toll transactions through the Department's collection process;
- b. Issuing a Notice of Civil Penalty;
- c. Suspension of vehicle license registration renewals, per ORS 383.035(4); and
- d. Pursuing ~~debt~~ unpaid toll transactions through a collection process by referring them to the Department of Revenue or assigning it to a collection agency.

~~(16)~~(10) In pursuit of resolution with the tollway user the Department may choose to defer putting an account into delinquency status for reasons that include, but are not limited to:

- a. The current number and cost of unpaid tolls or fees;
- b. Factors in determining the calculation of collecting the unpaid toll transaction versus the cost to administer, per ORS 383.035(2);
- c. Enrollment in the low income toll program or financial hardship; or
- d. Other hardship reasons, such as a medical emergency, bereavement, military service, etc.

Civil Penalty process

~~(17)~~(11) A tollway user who receives a Notice of Proposed Civil Penalty is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act, ORS 183.413 to 183.470, 183.745, and OAR 137-003-0501 to 137-003-0700.

~~(18)~~(12) A tollway user who has received a Notice of Proposed Civil Penalty must submit a written request by email or mail for a contested case hearing to the Department.

~~(19)~~(13) The Civil Penalty will be \$5025.00 per unpaid toll invoice.

~~(20)~~(14) If the Department does not receive a timely request for a contested case hearing, the tollway user will have defaulted and waived the right to a hearing, except for good cause as provided in OAR 137-003-0528. The Department's file constitutes the record of the case.

~~(21)~~(15) The Department's desire is to identify and come to a resolution with the tollway user for toll account debts. Resolution could include:

- a. The Department may remit or reduce the amount of the civil penalty as part of settlement discussions, per ORS 383.035(3).
- b. The Department may, in accordance with ORS 183.417, make an informal disposition of any contested case prior to the conclusion of any hearing resulting from a civil penalty imposed under ORS 383.035. This disposition may include a stipulation, agreed settlement, consent order or default order.
- c. An informal disposition by stipulation, agreed settlement or consent order must be in writing, signed by the party or parties to the contested case and incorporated into the final order.

~~(22)~~(16) An administrative law judge is authorized to issue a proposed order in a contested case hearing for failure to pay a toll. The administrative law judge presiding at a contested case hearing is not authorized to eliminate or reduce the amount of a civil penalty imposed by the department for failure to pay tolls, per [ORS 383.035](#).

~~(23)~~(17) Once the Civil Penalty is finalized, the Department shall issue a suspension of vehicle registration renewals, per [ORS 383.035](#), and will pursue unpaid amounts through a collection process either internally or by assigning them to a collection agency.

~~(24)~~(18) The vehicle registration hold will be removed when all outstanding balances are paid or ownership changes.

Dispute process

~~(25)~~(19) Customers can dispute toll transactions and fees. The Department will document all dispute actions taken as part of the account record and make them available through the customer service user interface.

~~(26)~~(20) Dispute requests should identify the transaction(s) time, date, and vehicle plate in dispute and provide written rationale for why the transaction is being disputed.

~~(27)~~(21) The Department will receive, document, and review the dispute within approximately 45 days, depending on the scale and complexity of the dispute. The resolution may include the following:

- a. Rejecting the dispute and continuing the enforcement process;
- b. Accepting the dispute and removing the debt; or
- c. Coming to resolution on the debt with the customer for payment.

~~(28)~~(22) Invoices that are in dispute waiting for a decision will have their escalation process paused. If the dispute is rejected, the invoice escalation period resumes, adjusting for the review time.

Customer data

~~(29)~~—Driver records and information used to collect and enforce tolls will follow the requirements specified in [ORS 383.075](#), which include:

~~(30)~~—Except as provided in subsections of this section, records and information used to collect and enforce tolls are exempt from disclosure under public records law and are to be used solely for toll collection.

~~(31)~~—Information collected or maintained by an electronic toll collection system may not be disclosed to anyone except:

~~(32)~~—The owner of an account that is charged for the use of a tollway;

~~(33) — A collection agency, a payment processor as defined by the Department, or a financial institution, as necessary to collect tolls owed;~~

~~(34) — Employees of the Department;~~

~~(35) — The tollway operator and authorized employees of the operator;~~

~~(36) — A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement;~~

~~(37) — An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls; and~~

~~(38)(23) — As requested for use in any civil, criminal or other legal proceeding or investigation that relates to the use of a tollway.~~

~~(39) — Information collected or maintained by a photo enforcement system may not be disclosed to anyone except those identified in , per ORS 383.075.~~

~~(40) — The registered owner of the vehicle;~~

~~Employees of the Department;~~

~~The tollway operator and authorized employees of the operator;~~

~~A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and~~

~~(41)(24) — An administrative law judge or court in an action or proceeding in relation to unpaid tolls or administrative fees or civil penalties related to unpaid tolls.~~

~~(42)(25) — The Department may charge a reasonable fee under ORS 192.324 (Copies or inspection of public records) for providing information under this section.~~

~~(43)(26) — A person or unit of government requesting information under this section must meet the . ~~C~~conditions identified in must, per ORS 383.075.~~

~~a. Provide reasonable assurance of the identity of the requester;~~

~~b. Provide reasonable assurance of appropriate use of the information, if applicable;~~

~~c. Prove that the person whose information is to be disclosed has given permission for the disclosure, if permission is required; and~~

~~d. Submit a written request for the information in a form prescribed by the Department.~~

~~(44) — Sensitive business, commercial or financial information presented to the Department by a private entity for the purpose of determining the feasibility of the entity's participation in a tollway project is exempt from disclosure under ORS 192.311, per ORS 383.025.~~

~~(45)(27)~~

Statutory/Other Authority: ORS 184.616, 184.619, 802.010, 383.035 & 383.055

Statutes/Other Implemented: ORS 383.035 & 383.055

History:

DOT 5-2012, f. & cert. ef. 7-19-12