

Draft Toll Rules – April Meeting: State Toll Rulemaking Advisory Committee

Date: April 21, 2023

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.
- (3) “Director” means the Director of the Oregon Department of Transportation, or the person designated by the Director.
- (4) “Interstate bridge” means a bridge over a waterway that contains a boundary line with another state and the boundary line.
- (5) “Invoice” or “Toll Invoice” means an invoice for toll payments not yet collected by an electronic toll collection system or other payment system.
- (6) “Private entity” has the meaning given in ORS 383.003.
- (7) “Related facility” has the meaning given in ORS 383.003.
- (8) “Toll” has the meaning given in ORS 383.003.
- (9) “Toll Program Fund” means the fund described in ORS 383.009.
- (10) “Toll rate” means an amount charged for the use of a tollway.
- (11) “Tollway” has the meaning given in ORS 383.003.

- (12) "Tollway project" has the meaning given in ORS 383.003.
- (13) "Tollway user" means the operator of the vehicle or registered owner of a vehicle at the time of the use of the tollway.
- (14) "Toll reporting device" means an ODOT approved device that allows a secure electronic tolling transaction by means of capturing and reporting travel data.
- (15) "Transponder" means an attached or embedded device 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.
- (16) "Electronic toll collection system" has the meaning given in ORS 383.003.
- (17) "Unit of government" has the meaning given in ORS 383.003.
- (18) "Unregistered Toll Account" is an account created by the Department for vehicles identified on the tollway system but without a pre-established toll account.
- (19) "Tollway operator" has the meaning given in ORS 383.003.
- (20) "Tollway project revenue bonds" has the meaning given in ORS 383.003.
- (21) "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.

Statutory/Other Authority: ORS 184.619, 383.003, 383.004, 383.014 & 383.015

Statutes/Other Implemented: ORS 383.003, 383.004

History:

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

DOT 3-1997, f. & cert. ef. 12-29-97

TOLL COLLECTION AND ACCOUNTS

731-040-####

Toll Accounts and Toll Payment

- (22) 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.
- (23) 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) Cash;
- b) Bank Draft;
- c) Guaranteed Draft;
- d) Credit card, under the conditions described in ORS 825.502 (Payment of taxes and fees by credit card);
- e) Cashier's Check; or
- f) Personal or business check.

- (24) All payments to the Department shall be in United States funds.
- (25) The Department may impose a fee for checks returned for insufficient funds.
- (26) 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:
- a. 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
 - b. A registered Oregon toll account associated with a license plate for each vehicle in the toll account.
- (27) 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 ODOT or interoperable partner toll account.
- (28) The Department may charge additional fees for a vehicle travelling on a tollway that is an unregistered account.
- (29) The Department shall create a valid account prior to issuance of a transponder associated with that account.
- (30) 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.
- (31) 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.
- (32) The Department may look up registered owners of any detected license plate in from any United States jurisdiction, and in any Canadian Province or Mexican state in which the department is permitted to perform a search for a registered owner.

ADMINISTRATIVE FEE, CIVIL PENALTY, & CUSTOMER DATA

Blue highlighted = state law

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
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\(2\)](#).

Payment process

- (4) 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 toll transactions.
- (6) Evidence from the electronic toll collection system will follow requirements established in [ORS 383.045](#), which include:
- a. A recorded image produced by an electronic toll collection system shall capture only images of a vehicle and the license plate of the vehicle.
 - b. 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.

- c. 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.
- d. 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.

- (7) If unpaid toll transactions remain after 10 days from the initial transaction, the Department may issue an invoice that includes all transactions matching the license plate. The account holder will be notified that they have 30 days to pay.
- (8) If the toll account remains in debt after 30 days from the issued invoice, the Department will issue a second invoice. The invoice will include any additional transactions that occurred within the 30 days. The 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.
- (9) If the toll account remains 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 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 through a collection process by referring them to the Department of Revenue or assigning it to a collection agency.
- (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

- (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](#).

- (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.
- (13) The Civil Penalty will be \$25.00 per unpaid toll invoice.
- (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.
- (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.
- (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](#).
- (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.
- (18) The vehicle registration hold will be removed when all outstanding balances are paid or ownership changes.

Dispute process

- (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.
- (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.

- (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.
- (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

- (23) Driver records and information used to collect and enforce tolls will follow the requirements specified in [ORS 383.075](#), which include:
- a. 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.
 - b. Information collected or maintained by an electronic toll collection system may not be disclosed to anyone except:
 - i. The owner of an account that is charged for the use of a tollway;
 - ii. A collection agency, a payment processor as defined by the Department, or a financial institution, as necessary to collect tolls owed;
 - iii. Employees of the Department;
 - iv. The tollway operator and authorized employees of the operator;
 - v. A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement;
 - vi. 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
 - vii. As requested for use in any civil, criminal or other legal proceeding or investigation that relates to the use of a tollway.
- (24) Information collected or maintained by a photo enforcement system may not be disclosed to anyone except, per [ORS 383.075](#):
- a. The registered owner of the vehicle;
 - b. Employees of the Department;
 - c. The tollway operator and authorized employees of the operator;
 - d. A law enforcement officer who is acting in the officer's official capacity in connection with toll enforcement; and
 - e. 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.

- (25) The Department may charge a reasonable fee under [ORS 192.324](#) (Copies or inspection of public records) for providing information under this section.
- (26) A person or unit of government requesting information under this section. Conditions 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.
- (27) 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](#).

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

Statutes/Other Implemented: ORS 383.035 & 383.055

History:

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