§1980. Penalties

Regulatory rules and laws shall be observed as follows. [PL 1981, c. 595, §3 (NEW).]

1. Traffic infraction. Except as provided in subsection 1-A, a violation of published rules relating to the turnpike or its use or services is a traffic infraction and is punishable by a fine of not more than $500.
[PL 2003, c. 452, Pt. L, §4 (AMD); PL 2003, c. 452, Pt. X, §2 (AFF).]

1-A. Criminal violations. The following violations of published rules relating to the turnpike or its use or services are crimes.

A. A person who operates a motor vehicle at a speed that exceeds, by 30 miles per hour or more, the speed fixed by the authority commits a Class E crime. [PL 2003, c. 452, Pt. L, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who fails or neglects to pay tolls, fares or charges for use of the turnpike commits a Class E crime. [PL 2003, c. 452, Pt. L, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

These crimes are strict liability crimes as defined in Title 17-A, section 34, subsection 4-A.
[PL 2003, c. 452, Pt. L, §5 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

2. Criminal acts and civil violations. The Revised Statutes, and amendments thereto, and the decisions of the courts of the State, shall apply to criminal acts and civil violations committed on the turnpike.
[PL 1981, c. 595, §3 (NEW).]

2-A. Toll violations. In addition to potential criminal liability under subsection 1-A, the registered owner of a vehicle may be liable for civil penalties for failure to pay a toll as set out in this subsection.

A. If an operator of a vehicle fails to pay a toll, the registered owner of that vehicle is liable for payment of the toll and is subject to a civil penalty of:

(1) Fifty dollars, except as provided in subparagraph (2) or (3);

(2) One hundred dollars, if a failure to pay a toll occurs within 18 months of a prior failure to pay; or

(3) One hundred fifty dollars, if a failure to pay a toll occurs within 18 months of 2 or more prior failures to pay. [PL 2003, c. 591, §2 (RPR).]

B. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Administrative fee" means the fee imposed pursuant to paragraph C, subparagraph (4).

(2) "Electronic toll collection system" means a system of collecting tolls or other charges that is capable of charging an account holder the appropriate amount by transmission of information between a device on a motor vehicle and a toll collection facility.

(3) "Pay" means paying a toll by cash, by permitting a charge against a valid account with the authority or by any other means of payment approved by the authority at the time.

(4) "Photo-monitoring system" means a motor vehicle sensor installed to work in conjunction with a toll collection facility that automatically produces a photograph, microphotograph, videotape or other recorded image of a motor vehicle when the operator of the motor vehicle fails to pay a toll.

(5) "Registered owner" means a person in whose name a motor vehicle is registered under the law of a jurisdiction, including a person issued a dealer or transporter registration plate.

(6) "Toll" or "tolls" means tolls or other charges prescribed by the authority for use of the turnpike or for other services provided to a turnpike patron under section 1965, subsection 1, paragraph V.

(7) "Violation clerk" means an employee of the authority designated by the authority to enforce violations and adjudicate appeals relating to those violations under this subsection. [PL 2003, c. 591, §2 (RPR).]

C. The following procedures must be followed for the collection of tolls, administrative fees and civil penalties under this subsection.

(1) The authority shall send a notice of liability by first class mail to a person alleged to be liable as a registered owner under this subsection. The notice must be sent to the address of the registered owner on record with the authority if the registered owner is an electronic toll collection patron of the authority or, if no such record exists, the address of the registered owner on record with the Secretary of State. If no address is on record with the authority or the Secretary of State, the notice may be sent to an address for the registered owner obtained by the authority through other reasonable means, including but not limited to through databases compiled by law enforcement or other government agencies. A written statement by the authority that the notice of liability has been mailed is prima facie evidence of the mailing of the notice.

(2) A notice of liability must include the amount of the unpaid toll, the registration number of the vehicle involved, the toll collection facility at which the failure to pay occurred and the date and the approximate time of the failure. The notice must also include the name, address and telephone number of the violation clerk responsible for enforcing the penalty for the failure to pay.

(3) A notice of liability must state how the alleged liability may be contested and must identify the statutory defenses described in paragraph E. The notice must also include a warning that failure to contest in the manner and time provided is an admission of liability and a waiver of defenses and that failure to pay or respond may result in revocation of the registration certificate and plates issued for a motor vehicle registered in the State or suspension of the right to operate the motor vehicle in this State if it is registered in another jurisdiction.

(4) Within 30 calendar days after the date of issuance of the notice of liability, the registered owner shall:

(a) Pay the amount of the toll for which the person is liable, the civil penalty or penalties provided for in paragraph A and an administrative fee of $20 for each unpaid toll for which the person is liable;

(b) Send a written dispute by mail to the violation clerk named in the notice, as provided by paragraph I; or

(c) Request a hearing with the violation clerk named in the notice as provided by paragraph J. [PL 2015, c. 159, §1 (AMD).]

D. Except as provided in paragraph E, it is not a defense to liability under this subsection that a registered owner was not operating the motor vehicle at the time of the failure to pay. [PL 2003, c. 591, §2 (RPR).]

E. Defenses to liability under this subsection are as set out in this paragraph.

(1) If a person other than the registered owner of the motor vehicle is adjudicated criminally or civilly responsible for the failure to pay a toll, then the registered owner is not liable under this subsection.

(2) If the registered owner of the motor vehicle is the lessor of motor vehicles and at the time of the failure to pay an authority toll the motor vehicle was in the possession of a lessee and the lessor provides the authority with a copy of the lease agreement containing the information required by Title 29-A, section 254, then the lessee, and not the lessor, is liable under this subsection.

(3) If the motor vehicle is operated using a dealer or transporter registration plate and at the time of the failure to pay the motor vehicle was under the custody or control of a person other than the dealer or transporter, and if the dealer or transporter provides the authority with the name and address of the person who had custody or control over the motor vehicle at the time of the failure to pay, then that person and not the dealer or transporter is liable under this subsection.

(4) If a report that the motor vehicle was stolen is given to a law enforcement officer or agency before the failure to pay occurs or within a reasonable time after the registered owner becomes aware of the theft, then the registered owner is not liable under this subsection. [PL 2003, c. 591, §2 (RPR).]

F. Nothing in this subsection may be construed to limit the liability of an operator of a motor vehicle for a failure to pay an authority toll. If a person who is liable for a failure to pay under this subsection was not the operator of the motor vehicle at the time of the failure to pay, that person may maintain an action for indemnification against the operator to recover all tolls, administrative fees and civil penalties paid by that person under this subsection. [PL 2003, c. 591, §2 (RPR).]

G. The authority shall notify the Secretary of State, who shall, in accordance with Title 29-A, section 154, subsection 6, suspend the registration certificate and plates issued for the vehicle involved in the alleged failure to pay if that vehicle is registered in this State or, if that vehicle is registered in another jurisdiction, suspend the right to operate the motor vehicle in accordance with Title 29-A, section 2461 if a registered owner:

(1) Does not dispute a notice of liability or pay the tolls, administrative fees and civil penalties as required by paragraph C, subparagraph (4);

(2) Does not pay the required tolls, administrative fees and civil penalties within 30 days of a final determination of liability as provided in paragraphs I and J; or

(4) Does not pay the required tolls, administrative fees or civil penalties within 30 days of a final determination of liability by an away agency with whom the authority has a reciprocal collection arrangement under subsection 2-C.

When notifying the Secretary of State under this paragraph, the authority shall send a notice by first class mail informing the registered owner of the pending suspension. [PL 2015, c. 159, §2 (AMD).]

H. [PL 2011, c. 476, §7 (RP).]

I. The registered owner may, without waiving the right to a hearing before a violation clerk as provided by paragraph J and also without waiving the right to judicial review as provided by Title 5, chapter 375, subchapter 7, appeal a notice of liability as provided by paragraph C, subparagraph (4) and receive a review and disposition of the violation from a violation clerk by mail. The appeal by mail must contain a signed statement from the registered owner explaining the basis for the appeal. The signed statement may be accompanied by signed statements from witnesses, police officers, government officials or other relevant parties or photographs, diagrams, maps or other relevant documents that the registered owner determines appropriate to submit. Statements or materials sent to a violation clerk for review must have attached to them the name and address of the registered owner as well as the number of the notice of liability and the date of the violation. All information submitted by the registered owner becomes part of the violation record. The

violation clerk shall, within 60 days of receipt of such material, review the material and dismiss or uphold the violation and notify the registered owner of the disposition of the hearing in writing by mail. If the appeal by mail is denied, the violation clerk shall explain the reasons for the determination. The review and disposition handled by mail is informal, the rules of evidence do not apply and the decision is final, subject to the hearing provisions of paragraph J. [PL 2003, c. 591, §2 (NEW).]

J. As provided by paragraph C, subparagraph (4) or within 30 days of the issuance of a decision by a violation clerk under paragraph I, a registered owner may make a written request for an appeal hearing before a violation clerk designated by the authority. The violation clerk shall then notify the registered owner in writing by certified mail, return receipt requested of the date, time and place of the hearing. The hearing is informal, the rules of evidence do not apply and the decision of the violation clerk is final. The violation clerk shall notify the parties in person or by mail of the decision following the hearing. Each written appeal decision must contain a statement of reasons for the decision including a determination of each issue of fact necessary to the decision. Failure to appear at the date, time and place specified on the hearing notice automatically results in the denial of the appeal. [PL 2003, c. 591, §2 (NEW).]

K. Any decision by a violation clerk under this section is subject to judicial review of final agency action in the manner provided by Title 5, chapter 375, subchapter 7. If a registered owner files an appeal pursuant to this subsection, the authority may not notify the Secretary of State to suspend the registration certificate and plate issued for the vehicle involved in the alleged failure to pay until the appeal is resolved. [PL 2003, c. 591, §2 (NEW).]

[PL 2015, c. 159, §§1, 2 (AMD).]

2-B. Admissibility of photo-monitoring evidence. A photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring device is admissible in a proceeding to collect a toll or other charge of the authority, to collect civil penalties imposed under subsection 2-A or to impose civil or criminal liability for a failure to pay the toll or charge.

A. An original or facsimile of a certificate, sworn to or affirmed by an agent of the authority that states that a failure to pay has occurred and states that it is based upon a personal inspection of a photograph, microphotograph, videotape or other recorded image produced by a photo-monitoring system, as defined in subsection 2-A, is prima facie evidence of the facts contained in the certificate. [PL 1993, c. 698, §2 (NEW).]

B. A photograph, micro-photograph, videotape or other recorded image prepared for enforcement of authority tolls is for the exclusive use of the authority in the discharge of its duties under this section. This material is confidential and is not available to the public or to any person employed by the authority whose duties do not require access to the material. The authority shall make this information available to a law enforcement officer upon request and may share this information with other toll administrative agencies as provided in section 1982. Except as provided in this subsection or as may be necessary to prove a claim for indemnification under subsection 2-A, paragraph F or to prosecute a criminal offense, this material may not be used in a court in an action or proceeding. [PL 2011, c. 302, §18 (AMD).]

C. A photograph, microphotograph, videotape or recorded image obtained from a photo-monitoring system as defined in subsection 2-A may not be used by the authority for the purposes of collection of a toll or other charge if the photograph, microphotograph, videotape or recorded image shows the face of a passenger or driver of a motor vehicle. [PL 2003, c. 591, §3 (NEW).]

This subsection takes effect July 1, 1995.

[PL 2011, c. 302, §18 (AMD).]

2-C. Reciprocity with away agencies. The authority may enter into reciprocal collection arrangements with away agencies in accordance with this subsection. When an away agency certifies

with supporting evidence that the operator of a motor vehicle registered in this State has failed to pay a toll, the authority may collect the civil penalties and tolls properly imposed by the away agency as though those penalties and tolls were imposed by the authority if:

A. The away agency has its own effective reciprocal procedures for collecting penalties and tolls imposed by the authority and does, in fact, reciprocate in collecting penalties and tolls of the authority by employing sanctions that include denial of a person's right to register or reregister a motor vehicle; [PL 2011, c. 302, §19 (NEW).]

B. The penalties, exclusive of tolls, claimed by the away agency against an owner of a motor vehicle registered in this State do not exceed $100 for a first violation or $600 for all pending violations; [PL 2011, c. 420, Pt. H, §1 (AMD); PL 2011, c. 420, Pt. H, §2 (AFF).]

C. The away agency provides due process and appeal protections to avoid the likelihood that a false, mistaken or unjustified claim will be pursued against an owner; [PL 2011, c. 302, §19 (NEW).]

D. An owner of a motor vehicle registered in this State may present evidence to the away agency or to the authority by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction where the violation occurred; and [PL 2011, c. 420, Pt. H, §1 (AMD); PL 2011, c. 420, Pt. H, §2 (AFF).]

E. The reciprocal collection arrangement between the authority and the away agency provides that each party may charge the other a fee sufficient to cover the costs of collection services, including costs incurred by an agency that registers motor vehicles. [PL 2011, c. 302, §19 (NEW).]

[PL 2011, c. 302, §19 (NEW); PL 2011, c. 420, Pt. H, §1 (AMD); PL 2011, c. 420, Pt. H, §2 (AFF).]

3. Rules. This section shall not affect the power of the authority to make rules governing use of the turnpike, or the power to prescribe limitations on the speed, volume and weight of vehicles using the turnpike, as granted to the authority by this chapter.
[PL 1981, c. 595, §3 (NEW).]

4. Other collection procedures. Nothing in this section prevents the authority from collecting payment for use of the turnpike or any other service in connection with the turnpike by action at law or in equity.
[PL 2003, c. 452, Pt. L, §6 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

SECTION HISTORY

PL 1981, c. 595, §3 (NEW). PL 1993, c. 698, §2 (AMD). PL 1995, c. 65, §A64 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 339, §2 (AMD). PL 2001, c. 154, §§1-4 (AMD). PL 2001, c. 473, §1 (AMD). PL 2003, c. 452, §§L4-6 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2003, c. 591, §§2,3 (AMD). PL 2011, c. 302, §§17-19 (AMD). PL 2011, c. 420, Pt. H, §1 (AMD). PL 2011, c. 420, Pt. H, §2 (AFF). PL 2011, c. 476, §§5-7 (AMD). PL 2015, c. 159, §§1, 2 (AMD).

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