

**CODE OF MASSACHUSETTS REGULATIONS
TITLE 730: MASSACHUSETTS TURNPIKE AUTHORITY
CHAPTER 7.00: USE OF THE MASSACHUSETTS TURNPIKE AND
THE METROPOLITAN HIGHWAY SYSTEM**

7.04: Electronic Toll Collection (ETC)

(1) Use of the ETC System. The Authority establishes the terms and conditions governing the use of an ETC system and requires that account holders accept these terms and conditions.

(a) Unauthorized Use. No person may use the Authority's ETC system or possess an electronic device that the Authority issues for use with its ETC system unless:

The electronic device is properly programmed to assess the appropriate toll charge that the Authority determines is appropriate from time to time for the classification of the vehicle that is using the ETC system (*i.e.* commercial versus passenger vehicles), in accordance with the classification for that vehicle designated by the Massachusetts Registry of Motor Vehicles and in accordance with the vehicle classifications enumerated in 730 CMR 7.03; and

1. the person is duly registered with the Authority as a current account holder;
2. the person is operating an authorized ETC-equipped motor vehicle with the permission of the account holder of the ETC-equipped motor vehicle; or
3. the person is using an electronic device of an electronic toll collection system of another jurisdiction that the Authority accepts for use in its ETC system.

(b) Restricted Access. A motor vehicle that is not an authorized ETC-equipped motor vehicle may not pass through a dedicated ETC toll lane. A motor vehicle that is not an authorized ETC-equipped motor vehicle may pass through an ETC toll lane where there are means existing in the lane other than an ETC system for the collection of the appropriate toll and the operator of the motor vehicle pays the toll, except as 730 CMR 7.03(9) provides with respect to two axle commercial vehicles and Common Carriers.

(c) ETC Device Programming and Vehicle Classification. The owner of any vehicle using the ETC system shall be responsible for ensuring that the electronic device used for the ETC system is appropriately programmed to assess the appropriate toll amount for the classification of the vehicle that is using the ETC system, in accordance with the classification for that vehicle designated by the Massachusetts Registry of Motor Vehicles and in accordance with the vehicle classifications enumerated in 730 CMR 7.03. Any failure to comply with this provision is considered toll evasion and unauthorized use of the ETC system.

(2) Assessment of Toll. An ETC-equipped motor vehicle that passes through an ETC toll lane incurs a toll in accordance with 730 CMR 7.03(1). The Authority assesses the appropriate toll charge against the corresponding account holder.

(3) Evasion of Toll by Device or Method. No person may use or attempt to use any device or method, the intended result of which is the inability of an ETC system to assess or collect the toll due under 730 CMR 7.03 or the non-payment of the toll.

(4) Prima Facie Responsibility.

(a) Stolen Vehicle. The registered owner is *prima facie* responsible for the payment of the fines and penalties that the Authority assesses in accordance with 730 CMR 7.12(3)(a) with respect to a violation of 730 CMR 7.04, unless the registered owner has reported in a timely manner to a police agency that the violating vehicle has been stolen, and the violating vehicle remained stolen at the time of the violation of 730 CMR 7.04.

(b) Stolen ETC Device. The Account Holder to which an ETC device is assigned is *prima facie* responsible for the payment of the toll charges and fees associated with the use of that ETC device, unless the Account Holder has reported in a timely manner to the Authority that the ETC device has been stolen, and the ETC device remained stolen at the time that the toll charges, fees, fines, and penalties were incurred.

(5) ETC Toll Lanes - Violation Enforcement System.

(a) Enforcement. A violation clerk may enforce the provisions of 730 CMR 7.04.

(b) Designation of Violation Clerks. The Authority may designate one or more violation clerks to perform the functions specified in 730 CMR 7.04(5)(c) at the pleasure of the Authority and for such finite or indefinite period as the Authority deems desirable.

(c) Functions of the Violation Clerks. The violation clerks supervise and coordinate the

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processing of violation notices in accordance with 730 CMR 7.04(5)(a). The violation clerks may, subject to the fiscal and managerial approval and oversight of the Authority, hire or designate such personnel and organize such divisions as the violation clerks may deem necessary, or contract for such services, in order to carry out the provisions of 730 CMR 7.04(5)(c).

(d) Content of Violation Notice.

1. Information Regarding the Specific Offense. A violation notice includes, but is not limited to, the following information: the registration number and state of issuance of the registration number of the vehicle involved; the name of the registered owner of the vehicle; the type and color of the vehicle; the date, time and place of the violation; the specific violation charged by reference to the appropriate entry in 730 CMR 7.00: *Table 10*; the applicable fines or penalties that the Authority has established; the identification number of the violation clerk authorized to enforce the provisions of 730 CMR 7.04; and such other information as the Authority may deem appropriate.

2. Notice of Requirement to Respond. A violation notice states that the registered owner must pay the fine stated in the violation notice or appeal the violation within 60 calendar days after the date of the issuance of the violation notice and describes the means and content of the response for payment or appeal.

(e) Issuance of Violation Notice.

1. Delivery of Violation Notice. A violation clerk issues and certifies the violation notice and sends the violation notice as soon as practicable by first class mail to the registered owner of the vehicle at the address of the registrant on record with the Massachusetts Registry of Motor Vehicles, or, in the case of a motor vehicle registered under the laws of another state or jurisdiction, at the address of the registrant on record with the official in the state or other jurisdiction having charge of the registration of the vehicle.

2. Prima Facie Evidence of Notice. Delivery by first class mail of a copy of the violation notice as specified in 730 CMR 7.04(5)(e)1. is sufficient notice of the violation. Certification of the violation notice by a violation clerk is *prima facie* evidence of the facts contained therein and is admissible in any administrative or judicial proceeding to adjudicate the liability for the violation. The violation clerks shall maintain a docket of all copies of violation notices.

(f) Payment or Appeal of Violation Notice. Within 60 calendar days after the date of the issuance of the violation notice, the registered owner to whom the violation notice is issued must make one of the following responses: pay the fine as provided by 730 CMR 7.04(5)(f)1.; send a written dispute by mail as provided by 730 CMR 7.04(5)(f)2.; or request a hearing as provided by 730 CMR 7.04(5)(f)3.

1. Payment of Fine. The registered owner shall pay the fine as specified in the violation notice.

2. Appeal by Mail. The registered owner may, without waiving the right to a hearing before a violation clerk as provided by 730 CMR 7.04(5)(f)3., and also without waiving judicial review as provided by M.G.L. c. 30A, § 14, appeal a violation notice 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 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 violation notice 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 of the violation clerk is final subject to the hearing provisions provided by 730 CMR 7.04(5)(f)(3) and to judicial review as provided by M.G.L. c. 30A, § 14.

3. Request for Hearing. Consistent with the provisions of M.G.L. c. 30A, a person issued a violation notice may make a written request for an appeal hearing before a violation clerk designated by the Authority. The violation clerk then notifies the registered owner in writing by first class mail of the date, time, and place of the hearing. The hearing is informal, the rules of evidence do not apply, and the decision

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of the violation clerk is final, subject to judicial review as provided by M.G.L. c. 30A, § 14. Parties are notified in person or by mail of the decision following the hearing. Each written appeal decision contains 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.

4. The provisions of 730 CMR 7.04(5) do not apply to Uniform Traffic Citations issued by Massachusetts State Police officers pursuant to M.G.L. c. 90C. In accordance with the provisions of M.G.L. c. 81A, § 4(k), a violation of the Authority's regulations that results in the issuance of a Uniform Traffic Citation by a Massachusetts State Police officer under M.G.L. c. 90C, is subject to the procedures that M.G.L. c. 90C provides.

(g) Failure to Comply. Failure to comply with the requirements of 730 CMR 7.04(5)(f) shall result in the following sanctions against the registered owner.

1. Additional Fines or Penalties. The Authority assesses the following additional fines or penalties for late payment, failure to pay, or for otherwise failing to respond to a violation notice as provided by 730 CMR 7.04(5)(f).

Failure to Respond Within 60 Days After the Date of Issuance of a Violation Notice. A registered owner who fails to pay the fine specified in a violation notice or who fails to appeal a violation notice as provided by 730 CMR 7.04(5)(f) within 60 calendar days after the date of the issuance of the violation notice shall pay an additional penalty of \$40.00. The violation clerk notifies the registered owner by first class mail of this notice of liability and, in addition, notifies the Registrar of Motor Vehicles who shall place the matter on record and, upon receipt of a notice of liability, the Registrar shall not renew the registered owner's license to operate the vehicle or the registration of the vehicle until after notice from the violation clerk that all such matters have been disposed of in accordance with applicable law or regulation. If the registered owner is a resident of another state or jurisdiction, the Registrar shall revoke the registered owner's right to operate in the Commonwealth until the matter has been disposed of in accordance with applicable law or regulation.

2. Civil or Criminal Action. The Authority may pursue such civil or criminal action as it deems appropriate to collect the fine initially assessed in the violation notice as well as such additional fines or penalties as the Authority may assess in accordance with 730 CMR 7.04(5)(g)1.

(6) Confidentiality of Records. In accordance with M.G.L. c. 81A, § 10, the Authority shall maintain the confidentiality of all information including, but not limited to, photographs or other recorded images and credit and account data relative to account holders who participate in its ETC system.

(7) System Maintenance and Enforcement. Any electronic or other automated system of toll collection used by the Authority is regularly tested and maintained to promote accurate and efficient determinations as to payment or evasion of tolls. Any violation notice based in whole or in part upon inspection of any photograph or other recorded image of a motor vehicle and the written certification by a violation clerk shall be *prima facie* evidence of the facts contained therein and shall be admissible in any administrative or judicial proceeding to adjudicate the liability for such violation.