



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Parkways Authority

TITLE-SERIES: 184-05

RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No

RULE NAME: RULES PROVIDING FOR ELECTRONIC TOLL
COLLECTION AND THE ENFORCEMENT
PROCESS

CITE STATUTORY AUTHORITY: West Virginia Parkways Authority

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 09/20/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Jeffrey Miller

ADDRESS: PO Box 1469, 3310 Piedmont Road
Charleston, WV

EMAIL: jmillers@wvturnpike.com

PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

In compliance with relevant sections of W.Va. Code 17-16D-1, et. seq., to upgrade the current toll system to move toward All Electronic Tolling.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Compliance with relevant provisions W.Va. Code 17-16D-1, et seq.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

None

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

None

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

None

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			FY 2024
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

Cost of Toll System Upgrade.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Robin G Shamblin -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 184
LEGISLATIVE RULE
PARKWAYS AUTHORITY

SERIES 5
RULES PROVIDING FOR ELECTRONIC TOLL COLLECTION AND THE
ENFORCEMENT PROCESS

§184-5-1. General.

1.1. Scope. -- These electronic toll collection rules deal with and govern the collection of Tolls on the West Virginia Turnpike by means of the use of electronic devices which read and receive data from a traveling vehicle and have the capability to charge an account holder, owner or operator of a vehicle for the prescribed toll.

1.2. Authority. -- W. Va. Code §§17-16D-3, 17-16D-5.

1.3. Filing Date.

1.4. Effective Date.

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2033.

§184-5-2. Payment of tolls required; exceptions.

Except for those permitted free uses of toll facilities as set forth below, and pursuant to the provisions of West Virginia Code 17-16D-1, et. seq. it is unlawful for the owner or operator of a motor vehicle to use a toll facility on the West Virginia Turnpike without payment of the specified toll. These tolls may be collected by electronic toll collection. If an owner or operator of a vehicle fails to pay the prescribed toll when due, the owner of the vehicle is in violation of Article 16D of the West Virginia Code.

These rules are promulgated in accordance with the statutory authorization of West Virginia Code Section 3, Article 16D, Chapter 17. This section of the Code specifically authorizes the collection and enforcement of tolls on roads, bridges and highways by electronic toll collection.

2.1 Imposition of liability for the payment of tolls:

2.1.1. If, as evidenced by a video collection system, a violation of the above Article 16D occurs, the following applies:

2.1.1.a. The Parkways Authority will prepare and mail a notice of violation as follows:

2.1.1.a.1. The Notice of Violation shall be sent by first class mail to each person listed or ascertained as owner; and

2.1.1.a.2. The Notice shall be mailed, postage prepaid, to the address shown on the vehicle registration, which is presumed to be the last known address of the owner.

2.1.1.b. The Notice shall be mailed no later than 120 days after the violation or the date that a lessor provides sufficient information as to the identity of the lessee, the actual owner for the purposes of this rule.

2.2. Personal service of the Notice of Violation is not required.

2.3. The Notice of Violation shall contain the following:

2.3.1. Information advising the person noticed of the violation, when and where it occurred and that the violation can be contested by requesting a hearing.

2.3.2. That the failure to contest the violation in the time and in the manner provided is an admission of liability.

2.3.3. That a default judgment can be entered on the notice if the person notified does not respond timely.

2.3.4. That a violation of the statutory Article 16D and this rule may subject the owner or operator to civil penalties, administrative fees, administrative hearing costs and collection fees and costs as provided in Article 16D and this rule.

2.3.5. That at some point, the failure to pay the civil penalties and fees imposed by Article 16D and this rule may result in the denial of an application for a new or renewal of the vehicle registration in this state or possibly in the state in which the vehicle is registered.

§184-5-3. Free Passage on toll facilities.

Free passage shall only be allowed as provided in Section 511 (b) of the Master Trust Indenture by and between West Virginia Parkways Authority and United Bank as Trustee authorizing and securing Turnpike Toll Revenue Bonds Dated as of August 1, 2018 as the same may be amended.

The Authority , in that provision of the Master trust Indenture covenants that it will not allow or permit any free use of the toll facilities of the West Virginia Turnpike except to officials or employees of the Authority and /or WVDOH engaged in official business of the Authority and /or WVDOH or law enforcement officers or emergency vehicles while in the discharge of their official duties , or in the event of an emergency which is temporary, free passage is required in order to assure the health, safety, and security of customers on the Turnpike.

3.1. In the event the specific toll concerned requires presentation of a toll pass for toll-free use of such facilities, and in cases of emergency and circumstances of concern for public safety on the highways of the State of West Virginia, the Parkways Authority shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.

3.2. The assessment of the threat to public safety shall be performed and the decision to temporarily suspend toll collection operations shall be made by the Parkways Authority, or its lawful designee.

3.3. Major incidents that may require the temporary suspension of toll collection operations shall include:

3.3.1. natural disasters, such as hurricanes, tornadoes, fires, and floods;

- 3.3.2. accidental releases of hazardous materials, such as chemical spills;
- 3.3.3. major traffic accidents, such as multivehicle collisions; and
- 3.3.4. other incidents deemed to present a risk to public safety.

3.4. Any mandatory evacuation during a state of emergency as defined in Chapter 15 of the Code of West Virginia or other similar provisions of state law, shall require the temporary suspension of toll collection operations in zones affected by evacuation circumstances on routes designated as mass evacuation routes or Turnpike detours. The Parkways Authority shall reinstate toll collection when the toll collection suspension period ends.

3.5. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, a court of competent jurisdiction may assess against such person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount be paid to the Parkways Authority for deposit into the toll road fund.

§184-5-4 Installation and use of photo-monitoring system or automatic vehicle identification system in conjunction with electronic or manual toll facilities; penalty. The process and procedure of the collection effort.

4.1. For purposes of this section:

4.1.1. "Automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

4.1.2. "Automatic vehicle identification system" means an electronic vehicle identification system installed to work in conjunction with a toll collection device that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility.

4.1.3. "Debt collection" means the collection of unpaid tolls and applicable administrative fees by:

4.1.3.a. retention of a third-party debt collector or

4.1.3.b. collection practices undertaken by employees of a toll facility operator (governmental unit employees also) that are materially similar to a third-party debt collector.

4.1.4. "Owner" means the registered owner of a vehicle on record with the West Virginia Department of Motor Vehicles or with the equivalent agency in another state.

4.1.4.a. "Owner" does not include a vehicle stolen at the time that it passes through a toll facility without paying the scheduled toll and the registered owner has promptly filed a report with the appropriate police department regarding the theft and provided a copy to the Parkways Authority within 30 days after the violation or unless the vehicle belongs to a rental or leasing agency. However, if the rental or leasing agency fails or refuses to produce a copy of an appropriate rental agreement or vehicle lease, or the owner has failed to timely (within 30 days after notice of the toll violation is received) produce a certified copy of a police report, in such cases each shall be deemed the owner of the offending vehicle.

4.1.5. "A video collection/monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection device that automatically produces one or more photographs, one or more

microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section.

4.2. The Parkways Authority may install and operate or cause to be installed and operated a video collection/monitoring system (as more specifically defined in 17-16D-2 (7) including an automatic vehicle identification system, at all its locations where tolls are collected for the use of such toll facility. The Parkways Authority shall send an invoice or bill for unpaid tolls to the owner of a vehicle as part of an electronic or manual toll collection process pursuant to West Virginia Code Chapter 17, Article 16D, Sections 3 and 5 prior to seeking further remedies under this rule.

4.3. Information collected by a photo-monitoring system or automatic vehicle identification system installed and operated pursuant to subsection B shall be limited exclusively to that information that is necessary for the collection of unpaid tolls.

4.3.1. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other data collected by a photo-monitoring system or automatic vehicle identification system shall be used exclusively for the collection of unpaid tolls and shall not:

4.3.1.a. be open to the public;

4.3.1.b. be sold and/or used for sales, solicitation, or marketing purposes;

4.3.1.c. be disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll; and

4.3.1.d. be used in a matter before a court or hearing officer or administrative law judge in a pending action or proceeding unless the action or proceeding relates to a violation of Article 16D or this rule or upon order from a court of competent jurisdiction.

4.3.2. Information collected under this section shall be purged and not retained later than 120 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties or a resolution of a contested matter whichever shall later occur. Any violation of this subsection shall constitute a misdemeanor. In addition to any fines or other penalties provided for by law, any money or other thing of value obtained as a result of a violation of this section shall be forfeited to the Parkways Authority or the State of West Virginia as their interests may appear.

4.3.3. The Parkways Authority may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee may be levied upon the operator of the vehicle after the first unpaid toll has been documented. The operator of the vehicle shall pay the unpaid toll and any administrative fee detailed in an invoice for the unpaid toll issued by Parkways Authority. If paid within 60 days of notification, the administrative fee shall not exceed \$25.

4.4. If the matter proceeds before a court of competent jurisdiction, and the owner/operator is found responsible, in addition the owner or operator of a vehicle shall be liable in each case, for the unpaid toll, all accrued administrative fees imposed by the Parkways Authority, and applicable court costs as well as all fines which may be imposed by this code.

4.5. Any civil action filed under Article 16D or this rule shall be brought in magistrate court of the county in which the toll facility is located and shall be commenced within two years of the commission of the offense. Such action shall not be considered a traffic infraction.

4.6. Proof of a toll violation of non-payment shall be evidenced by information obtained from a photo-monitoring system or automatic vehicle identification system as provided in Article 16D and this rule. A certificate, sworn to or affirmed by a technician employed or authorized by the Parkways Authority, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a photo-monitoring system, or of electronic data collected by an automatic vehicle identification system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images or electronic data evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this section. A record of communication by an automatic vehicle identification device with the automatic vehicle identification system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle identification device was located in the vehicle registered to use such device in the records of the Parkways Authority.

4.6.1. The owner of such vehicle shall be given reasonable notice by way of a Notice of Violation as provided in this subsection that his or her vehicle had been used in violation of this section. such owner shall also be given notice of the time and place of any hearing if the matter is appealed or contested.

4.6.2. The evidence provided and produced pursuant to 184-5-4.6 above shall be prima facie evidence that the vehicle described in the Notice of Violation issued pursuant to this subsection was operated in violation of this section. Records obtained from the Department of Motor Vehicles or from the equivalent agency in another state and certified as true and correct copies by the head of such agency or his designee identifying the owner of such vehicle shall give rise to a rebuttable presumption that the owner of the vehicle is the person named in the summons.

4.6.3. Upon either (i) the filing of an affidavit with the toll facility operator within 14 days of receipt of an invoice for an unpaid toll from the Parkways Authority or (ii) the filing of an affidavit with a court of competent jurisdiction at least 14 days prior to the hearing date by the owner of the vehicle stating that he was not the operator of the vehicle on the date of the violation and providing the legal name and address of the operator of the vehicle at the time of the violation, an invoice and/or summons, as appropriate, will also be issued to the alleged operator of the vehicle at the time of the offense.

4.6.4. In any action against a vehicle operator, an affidavit made by the owner providing the name and address of the vehicle operator at the time of the violation shall constitute prima facie evidence that the person named in the affidavit was operating the vehicle at all the relevant times relating to the matter named in the affidavit.

4.6.5. If the owner of the vehicle produces for the Parkways Authority or the court a certified copy of a police report showing that the vehicle had been reported to the police as stolen prior to the time of the alleged offense and remained stolen at the time of the alleged offense, then the toll facility operator shall not pursue the owner for the unpaid toll and, if a summons has been issued, the court shall dismiss the summons issued to the owner of the vehicle.

4.7. Any vehicle rental or vehicle leasing company, if it receives an invoice or is named in a Notice of Violation, shall be released as a party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of receipt of the invoice. Upon receipt of such rental agreement, lease, or affidavit, a notice shall be mailed to the renter or lessee identified therein. The Parkways Authority shall allow at least 30 days from the date of such mailing before pursuing other remedies under this section. In any action against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the matter.

4.8. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the driving record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

4.9. The Parkways Authority may enter into an agreement with the West Virginia Department of Motor Vehicles, to obtain vehicle owner information regarding the owners of vehicles that fail to pay tolls required for the use of its toll facilities.

§184-5-5. Section reserved for later rule adoption by Department of Motor Vehicles in cooperation with the Parkways Authority.

§184-5-6. Use of toll facility without payment of toll; enforcement; penalty.

6.1. For purposes of this section:

6.1.1. "Debt collection" means the collection of unpaid tolls and applicable administrative fees by:

6.1.1.a. retention of a third-party debt collector or

6.1.1.b. collection practices undertaken by employees of a toll facility operator that are materially similar to a third-party debt collector.

6.1.2. "Operator of a toll facility" for the purposes of this rule, means the West Virginia Parkways Authority".

6.1.3. "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles or with the equivalent agency in another state.

6.1.3.a. "Owner" does not include a vehicle rental or vehicle leasing company.

6.2. The Parkways Authority may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. For the purposes of a "No Pay" that is a situation in which the Turnpike patron does not have the funds to pay the requisite toll and signs a promise to pay. The person who executed the written promise to pay shall pay the unpaid toll and any administrative fee detailed in an invoice or bill issued by a toll facility operator. If paid within 60 days of notification, the administrative fee shall not exceed \$25.

6.3. No Notice of Violation may be issued by Parkways Authority for a violation of this section unless the toll facility operator can demonstrate that:

6.3.1. there was an attempt to collect the unpaid tolls and applicable administrative fees through debt collection not less than 30 days prior to issuance of the summons and

6.3.2. 120 days have elapsed since the unpaid toll or, in a Notice of Violation for multiple violations, 120 days have elapsed since the most recent unpaid toll noticed on the Notice of Violation.

6.4. A written promise to pay an unpaid toll within a specified period of time executed by the operator of a motor vehicle, accompanied by a certificate sworn to or affirmed by an authorized agent of the toll facility that the unpaid toll was not paid within such specified period, shall be prima facie evidence of the facts contained therein.

6.5. In the event that the vehicle owner /operator contests the violation, The Parkways Authority may offer to the owner an option to pay the unpaid toll and fees plus a reduced civil penalty of not more than \$25 for a first or second offense or not more than \$50 for a third, fourth, or subsequent offense, as specified on the Notice of Violation, provided the owner actually pays to the Parkways Authority the entire amount so calculated at least 14 days prior to the hearing date noticed to the owner. If the owner accepts such offer and such amount is actually received by the Parkways Authority at least 14 days prior to the hearing date specified, the Parkways Authority shall dismiss the Notice of Violation issued to the owner of the vehicle.

6.6. Imposition of a civil penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the driving record of the person upon whom such civil penalty is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

§184-5-7. Installation and use of video-monitoring system and automatic vehicle identification system in conjunction with all-electronic toll facilities; penalty.

7.1. Definitions; For purposes of this section:

7.1.1. "Automatic vehicle identification device" means an electronic device that communicates by wireless transmission with an automatic vehicle identification system.

7.1.2. "Automatic vehicle identification system" means an electronic vehicle identification system installed to work in conjunction with a toll collection device that automatically produces an electronic record of each vehicle equipped with an automatic vehicle identification device that uses a toll facility.

7.1.3. "Debt collection" means the collection of unpaid tolls and applicable administrative fees by:

7.1.3.a. retention of a third-party debt collector or

7.1.3.b. collection practices undertaken by employees of a toll facility operator that are materially similar to a third-party debt collector.

7.1.4. "Operator" means a person who was driving a vehicle that was the subject of a toll violation but who is not the owner of the vehicle.

7.1.5. "Operator of a toll facility other than the Parkways Authority" means any agency, political subdivision, authority, or other entity that operates a toll facility.

7.1.6. "Owner" means the registered owner of a vehicle on record with the Department of Motor Vehicles or with the equivalent agency in another state.

7.1.6.a. "Owner" does not mean a vehicle rental or vehicle leasing company.

7.1.7. "Video-monitoring system" means a vehicle sensor installed to work in conjunction with a toll collection device that automatically produces one or more photographs, one or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of this section.

7.2. The Parkways Authority may install and operate or cause to be installed and operated a video-monitoring system in conjunction with an automatic vehicle identification system on facilities for which tolls are collected for the use of such toll facility even though it may also offer manual toll collection. A video-monitoring system shall include, but not be limited to, electronic systems that monitor and capture

images of vehicles using a toll facility to enable toll collection for vehicles that do not pay using a toll collection device. The operator of a toll facility shall send an invoice for unpaid tolls to the owner of a vehicle as part of a video-monitoring toll collection process, prior to seeking remedies under this section.

7.3. Information collected by a video-monitoring system in conjunction with an automatic vehicle identification system installed and operated pursuant to this rule shall be limited exclusively to that information that is necessary for the collection of unpaid tolls and establishing when violations occur, including use in any proceeding to determine whether a violation occurred.

7.3.1. Notwithstanding any other provision of law, all images or other data collected by a video-monitoring system in conjunction with an automatic vehicle identification system shall be protected in a database with security comparable to that of the Department of Motor Vehicles' system and used exclusively for the collection of unpaid tolls and for efforts to pursue violators of this section and shall not:

7.3.1.a. be open to the public;

7.3.1.b. be sold and/or used for sales, solicitation, or marketing purposes other than those of the toll facility operator to facilitate toll payment;

7.3.1.c. be disclosed to any other entity except as may be necessary for the collection of unpaid tolls or to a vehicle owner or operator as part of a challenge to the imposition of a toll; and/or

7.3.1.d. be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of this section or upon order from a court of competent jurisdiction.

7.3.2. Except as provided above, information collected under this section shall be purged and not retained later than 120 days after the collection and reconciliation of any unpaid tolls, administrative fees, and/or civil penalties.

7.4. If a vehicle uses a toll facility without paying the toll, the owner or operator shall be in violation of this section if he refuses to pay the toll within 30 days of notification. The toll facility operator may impose and collect an administrative fee in addition to the unpaid toll so as to recover the expenses of collecting the unpaid toll, which administrative fee shall be reasonably related to the actual cost of collecting the unpaid toll and not exceed \$100 per violation. Such fee shall not be levied upon the owner or operator of the vehicle unless the toll has not been paid by the owner or operator within 30 days after receipt of the invoice for the unpaid toll, which nonpayment for 30 days shall constitute the violation of this section. Once such a violation has occurred, the owner or operator of the vehicle shall pay the unpaid tolls and any administrative fee detailed in the invoice for the unpaid toll issued by a toll facility operator. If paid within 60 days of the toll violation, the administrative fee shall not exceed \$25.

7.4.1. The toll facility operator may levy charges for the direct cost of use of and processing for a video-monitoring system and to cover the cost of the invoice, which are in addition to the toll and may not exceed double the amount of the base toll, provided that potential toll facility users are provided notice before entering the facility by conspicuous signs that clearly indicate that the toll for use of the facility could be tripled for any vehicle that does not have an active, functioning automatic vehicle identification device registered for and in use in the vehicle using the toll facility, and such signs are posted at a location where the operator can still choose to avoid the use of the toll facility if he chooses not to pay the toll.

7.4.2. A person receiving an invoice for an unpaid toll under this section may:

7.4.2.a. pay the toll and administrative fees directly to the toll facility operator or

7.4.2.b. file with the toll facility operator a notice, on a form provided by the toll facility operator to contest liability for a toll violation. The notice to contest liability for a toll violation may be filed by any person receiving an invoice for an unpaid toll by mailing or delivering the notice to the toll facility operator within 30 days of receiving such invoice for an unpaid toll. Upon receipt of such notice, the toll facility operator may issue a Notice of Violation pursuant to this rule.

7.4.3. No Notice of Violation may be issued by a toll facility operator for a violation of this section unless the toll facility operator can demonstrate that (i) there was an attempt to collect the unpaid tolls and applicable administrative fees through debt collection not less than 30 days prior to issuance of the Notice of Violation.

7.5. Proof of a violation of this section shall be evidenced by information obtained from a video-monitoring system or automatic vehicle identification system as provided in this section. A certificate, sworn to or affirmed by a technician employed or authorized by the operator of a toll facility or by the locality wherein the toll facility is located, or a facsimile of such a certificate, based on inspection of photographs, microphotographs, videotapes, or other recorded images produced by a video-monitoring system or of electronic data collected by an automatic vehicle identification system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images or electronic data evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation under this section. A record of communication by an automatic vehicle identification device with the automatic vehicle identification system at the time of a violation of this section shall be prima facie evidence that the automatic vehicle identification device was located in the vehicle registered to use such device in the records of the Parkways Authority.

7.5.1. It shall be prima facie evidence that the vehicle described in the summons issued pursuant to subsection I was operated in violation.

7.6. If The Commissioner of the West Virginia Division of Motor Vehicles has been so authorized by statute and appropriate rules and an owner of a vehicle has received at least one invoice for two or more unpaid tolls by certified mail and has (i) failed to pay the unpaid tolls and administrative fees and (ii) failed to file a notice to contest liability for a toll violation, then the toll facility operator may notify the Commissioner, who shall, if no form contesting liability has been timely filed with the toll facility operator pursuant to this section, refuse to issue or renew the vehicle registration certificate of any applicant therefor or the license plate issued for any vehicle driven in the commission of the offense until the toll facility operator has notified the Commissioner that such fees and unpaid tolls have been paid.

7.6.1. If the vehicle owner was not the operator at the time of the offense and the person identified in an affidavit pursuant to subsection J as the operator has received at least one invoice for two or more unpaid tolls by certified mail and such person has (a) failed to pay the unpaid tolls and administrative fees and (b) failed to file a notice to contest liability for a toll violation, then the toll facility operator may notify the Commissioner, who shall, if no form contesting liability has been timely filed with the toll facility operator pursuant to this section, refuse to issue or renew any vehicle registration certificate of any applicant therefor or the license plate issued for any vehicle owned or co-owned by such person until the toll facility operator has notified the Commissioner that such fees and unpaid tolls have been paid.

7.7. Any vehicle rental or vehicle leasing company, if it receives an invoice for unpaid toll or is named in a Notice of Violation, shall be released as a party to the action if it provides the operator of the toll facility a copy of the vehicle rental agreement or lease or an affidavit identifying the renter or lessee within 30 days of receipt of the invoice or summons. Upon receipt of such rental agreement, lease, or affidavit, an invoice for unpaid toll shall be mailed to the renter or lessee identified therein. Release of this information shall not be deemed a violation of any provision of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) or the Insurance Information and Privacy Protection Act (§ 38.2-600 et seq.). The

toll facility operator shall allow at least 30 days from the date of such mailing before pursuing other remedies under this section. In any action against the vehicle operator, a copy of the vehicle rental agreement, lease, or affidavit identifying the renter or lessee of the vehicle at the time of the violation is prima facie evidence that the person named in the rental agreement, lease, or affidavit was operating the vehicle at all the relevant times relating to the matter named in the NOV.

§184-5-8. Invoice for unpaid toll.

8.1. The operator of a toll facility shall send an invoice for the unpaid toll to the registered owner of the vehicle. An invoice for the unpaid toll shall contain the following:

8.1.1. The name and address of the registered owner alleged to be liable under this section;

8.1.2. The registration number of the motor vehicle involved in such violation or information obtained from an automatic vehicle identification system if the vehicle is identified by an automatic vehicle identification system for the purpose of violation detection;

8.1.3. The location where such violation took place;

8.1.4. The date and time of such violation;

8.1.5. The amount of the toll not paid;

8.1.6. The amount of the administrative fee;

8.1.7. The date by which the toll and administrative fee must be paid;

8.1.8. The statutory defenses available under this chapter, including a notice of:

8.1.8.a. the person receiving the NOV's ability to provide the name and address of the vehicle operator at the time of the violation through the filing of an affidavit and

8.1.8.b. instructions for filing such affidavit, including the address to which the affidavit is to be sent;

8.1.9. A warning describing the penalties for nonpayment of the invoice for the unpaid toll or failure to file a notice to contest liability for the unpaid toll; and

8.1.10. The procedures and time limits for filing a notice to contest liability for an unpaid toll.

8.2. The toll facility operator shall include with the invoice a form to be used by the registered owner or operator of the vehicle to contest liability for an unpaid toll. This form shall include the mailing address to which it should be sent.

§184-5-9. Agreements for enforcement of tolling violations against nonresidents.

9.1. In the event that the Governor, or his designee enters into agreements on behalf of the State of West Virginia with her states that provides for reciprocal enforcement of toll violations, in accordance with the provisions of Article 16D, this rule shall be considered to cover those situations.

9.2. Any such agreement made that pertains to these rules shall provide that drivers and vehicles licensed or registered in this State, while operating on the highways and bridges of another state, shall

receive benefits, privileges, and exemptions of a similar kind with regard to toll enforcement as are extended to the drivers and vehicles licensed or registered in the other state while they are operating on the highways of this State.

9.3. Any agreement made under this section shall provide for enforcement of toll violations by refusal or suspension of the registration of the owner's or operator's motor vehicle in accordance with the provisions of Article 16D and these rules for West Virginia residents and enforcement of toll violations in accordance with the laws of the state in which the vehicle is registered for nonresidents. Furthermore, such agreement shall provide that any notice required to be sent between the State of West Virginia and the other state for enforcement under the provisions of the agreement shall be sent via electronic means.

9.4. Any agreement made under this section shall provide that any vehicle owner or operator identified as a violator pursuant to the terms of the agreement shall be afforded the opportunity to challenge or otherwise contest liability for the unpaid toll in accordance with the laws or regulations of the state in which the violation occurred.

§184-5-10. Withholding of vehicle registration for enforcement of out-of-state toll violations.

10.1. In the event that agreements are in force pursuant to 184-5-9 above, upon receipt of notice from a state that has entered into such an agreement with the State of West Virginia that a resident of West Virginia owes unpaid tolls, administrative fees, or penalties to that state, this State shall, if so mandated by the interstate compact with the charging state, refuse to issue or renew the vehicle registration certificate or the license plate issued for a vehicle or vehicles owned by such resident in accordance with this section until such state has notified the Commissioner that such tolls, fees, or penalties have been paid.

10.1.1. If the resident is the owner and operator of the vehicle used in the commission of the offense, the Commissioner shall refuse to issue or renew the vehicle registration certificate or the license plate issued for that vehicle. If the resident was the operator of the vehicle, but not the owner, the Commissioner shall refuse to issue or renew any vehicle registration certificate or license plates for any vehicle owned by the resident.

10.2. The Department of Motor Vehicles shall send each resident identified pursuant to subsection A notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. Such notice shall include instructions for contacting the state to which the unpaid tolls, administrative fees, or penalties are owed by the resident and indicate that such contact information is provided for the purpose of payment of the amounts owed.

10.3. Upon receipt of notice from the applicable state that the resident has satisfied all outstanding obligations to that state, the Commissioner shall release the hold on the vehicle registrations and permit the same to be issued or renewed.

10.4. The Commissioner shall charge a reasonable fee to defray the cost of processing and withholding the registration or registration renewal under this section.