In E-ZPass crackdown, punishment doesn't fit the crime

By Marta Mossburg
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The O'Malley administration is all for enforcing infractions on state residents — but holds itself to an entirely less stringent moral and legal standard. The push to double E-ZPass fines is a case in point. The Maryland Transportation Authority (MdTA) would like to increase late fees for E-ZPass infractions to $50 and potentially suspend vehicle registrations for nonpayment in legislation yet to be introduced this session.

For starters, the proposed punishment far exceeds the crime.

Scofflaws already have to pay a 50 percent markup for each toll they do not pay. And if they do not pay the marked-up toll rate within 30 days, each violation comes with a $25 "administration" fee. Even those who do nothing wrong must pay a "maintenance" fee if they use it less than twice a month, according to regulations.

Administration fees generate millions for the MdTA. In fiscal year 2010 it collected $2.2 million, in 2011 $1.7 million and in 2012 $4.7 million. No doubt 2013 will reap even more money as violators on the recently opened Intercounty Connector expand its sources of revenue.

I don't know whether the majority of people who drive without paying do so once, occasionally or repeatedly, but the current law is tough enough and then some.

Jeff Zinn found out the hard way. Sometime in August or September, the credit card that Mr. Zinn, who commutes from Towson to Rockville, had on file with E-ZPass went over its credit limit, so his account could not be recharged. He said he racked up about $240 worth of unpaid tolls and paid E-ZPass $376.10 on Dec. 15. The amount reflects the 50 percent markup.

He thought that was the end of it, but because he did not pay within the time frame of the notice he received, he is now on the hook for a total of $2,151.10 due to administrative fees. John Sales, a spokesman for the MdTA, said he could not comment on Mr. Zinn's case because of privacy laws.

In a letter to E-ZPass earlier this month, Mr. Zinn wrote, "I was unemployed from the early 2012 until July, when I began commuting from Towson, MD to Rockville, MD for a job, which is the

only reason I regularly use E-ZPass. I cannot afford to pay $2,151.10 and still pay my mortgage and feed my children. Particularly not when I've already paid your office an amount equal to 150 percent of the unpaid tolls." He added, "This is criminal. And unconstitutional. And mean-spirited."

I doubt the fines are unconstitutional, but they certainly are "mean-spirited" and hypocritical in light of how the state Department of Transportation (DOT) spends taxpayer dollars.

A recent audit of the State Highway Administration, another branch of the DOT, found yet again that the agency used tens of millions inappropriately to extend contracts, paid for things not outlined in contracts and literally made up project costs. An audit in 2011 found many of the same problems. The millions identified as being spent wrongly or questionably in the two audits are many times the $6.7 million the MdTA said it has not been able to collect in unpaid E-ZPass bills over the past five fiscal years, so some perspective is in order.

In addition, when a state agency does something wrong, nothing happens. Personnel rules prevent Marylanders from finding out, for example, if any of those MdTA police officers found to have accessed porn thousands of times during the workweek back in 2006 were ever fired — or changed their behavior. The bigger issue is that agencies are never punished financially for doing wrong. Del. Gail Bates, a Republican from Howard County, would like to withhold a portion of funding from state agencies whose audits show multiple repeat infractions, but how many other legislators in this one-party state have an incentive to rock the boat?

People should not run E-ZPass without paying. But for the state to double fines when it repeatedly can't put its own house in order breeds contempt for government and reveals residents' true status as bank accounts for an unchecked bureaucracy.

Marta H. Mossburg is a fellow at the Franklin Center for Government and Public Integrity. Her column appears regularly in The Baltimore Sun. Her email is marta@martamossburg.com.

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