

19:9-8.11 Discretion

Nothing contained herein shall be construed to limit the authority of the Authority to refrain from contracting within the discretion allowed by law.

SUBCHAPTER 9. ELECTRONIC TOLL COLLECTION MONITORING SYSTEM

19:9-9.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Electronic toll collection system” or “ETC system” means the electronic system employed or utilized by the Authority to register and collect the toll required to be paid for a vehicle entering a toll plaza owned and/or operated by, or upon the behalf of, the Authority.

“Inadvertent toll violation” means a toll violation that occurs when a person who enters a toll collection plaza and takes every reasonable action to pay the required toll but who is prevented by circumstances beyond his or her reasonable ability to control from paying the required toll. The owner of a violating vehicle shall have the affirmative obligation to establish an inadvertent toll violation. An inadvertent toll violation does not include the following:

1. Failure to have the coinage, currency or other authorized means necessary to pay the required toll;
2. Entering a dedicated ETC system lane with a vehicle that is not equipped for the electronic toll collection system; or
3. Failure to adequately deposit the full amount of the toll in a toll collection basket.

“Lessee” means any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

“Lessor” means any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other contract that provides the lessee with the exclusive use of the vehicle for any period of time.

“Operator” means the term “operator” as defined in N.J.S.A. 39:1-1.

“Owner” means the term “owner” as defined in N.J.S.A. 39:1-1.

“Toll collection monitoring system” means a vehicle sensor, placed in a location to work in conjunction with a toll collection facility, that produces one or more photographs,

one or more microphotographs, a videotape or other recorded images, or a written record, of a vehicle at the time the vehicle is used or operated in violation of the toll collection monitoring system rules. The term shall also include any other process that identifies a vehicle by photographic, electronic or other method.

“Toll collection monitoring system rules” means the rules contained in this subchapter and authorized and adopted pursuant to N.J.S.A. 27:23-34.2 that prohibit a vehicle from making use of the Roadway except upon the payment of such tolls as may from time to time be prescribed by the Authority and that further makes it a violation subject to a civil penalty for any person to refuse to pay, to evade, or to attempt to evade the payment of such tolls, if the violation is recorded by a toll collection monitoring system as defined in N.J.S.A. 27:23-34.1.

“Vehicle” means the term “vehicle” as defined in N.J.S.A. 39:1-1.

“Violating vehicle” means a vehicle alleged to be involved in a violation of the toll collection monitoring system rules.

Amended by R.2010 d.077, effective June 7, 2010.
See: 42 N.J.R. 155(a), 42 N.J.R. 1064(a).

In the introductory paragraph, substituted “context” for “content”; substituted definition “‘Electronic toll collection system’ or ‘ETC system’” for definition “‘Electronic Toll Collection System’ or ‘ETC System’”; in paragraph 2 of definition “Inadvertent toll violation”, substituted “system” for “System”; in definition “Toll collection monitoring system”, substituted “images” for “image” and “process” for “technology”; and in definition “Toll collection monitoring system rules”, substituted “the Roadway” for “any Turnpike project” and “N.J.S.A. 27:23-34.1” for “this section”.

19:9-9.2 Toll collection monitoring system violation

(a) No owner, operator, lessor or lessee shall refuse to pay, evade or attempt to evade the payment of the toll for passage of a vehicle on a Roadway, unless an exemption exists for the payment of the required toll. Except as provided in N.J.S.A. 27:23-34.3(b), an owner of a vehicle shall be jointly and severally liable for the failure of an operator of the vehicle to comply with the toll collection system monitoring rules. The owner of a vehicle shall be liable if the vehicle was used or operated by the operator with the express or implied permission of the owner when the violation of the toll collection system monitoring rules was committed, and the evidence of the violation is obtained by a toll collection monitoring system. An owner of a vehicle shall not be liable if the operator of the vehicle has been identified and charged with a violation of N.J.S.A. 27:23-25 for the same incident.

(b) Within the time period specified in N.J.S.A. 27:23-34.3, the Authority or its agent may send an Advisory and Payment Request to the owner of the violating vehicle by regular mail as provided for in P.L. 1997, c.59. Upon receipt of the Advisory and Payment Request, the owner of the violating vehicle shall pay to the Authority or its agent, the proper toll and an administrative fee in the amount of \$50.00 per violation or such other amount as may be established by

duly adopted rule; provided, however, that an owner that proves an inadvertent toll violation has occurred shall be required only to pay the toll and shall not incur the administrative fee. If the owner fails to pay the required toll and fee by the number of days specified in N.J.S.A. 27:23-34.3 from the date on which the Advisory and Payment Request was sent, the owner shall be subject to penalties described herein. The Authority or its agent may cause additional Advisory and Payment Requests to be issued in regard to the unresolved violation.

(c) The Advisory and Payment Request shall contain the name and address of the person alleged to be liable as an owner of a violating vehicle, the license plate number of the violating vehicle, the location where such violation took place, and the date and time of such violation.

(d) The Advisory and Payment Request shall contain information advising the person named of the manner in which he or she may contest the liability alleged in the Advisory and Payment Request or assert that liability should not attach in a given instance due to circumstances that caused an inadvertent toll violation to occur. Such Advisory and Payment Request shall also contain notice that failure to pay the indicated toll and administrative fee or failure to successfully contest the liability will render the owner subject to the penalties described in N.J.A.C. 19:9-3.

(e) If an owner receives an Advisory and Payment Request pursuant to this section for any time period during which the vehicle was reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of this section that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. If an owner receives an Advisory and Payment Request pursuant to this section for any time period during which the vehicle was stolen, but not as yet reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of this section that the vehicle was reported stolen within two hours after the discovery of the theft by the owner. For purposes of asserting that the vehicle was stolen, it shall be sufficient that a copy of the police report on the stolen vehicle be sent first class mail to the Authority or its agent at the address specified on the Advisory and Payment Request.

(f) An owner who is a lessor of a vehicle for which an Advisory and Payment Request was issued pursuant to this section shall not be liable for the violation, provided that the lessor submits to the Authority or its agent issuing the Advisory and Payment Request a copy of the rental agreement, lease or other such contract document covering such vehicle on the date of the violation (with the name and address of the lessee clearly legible), within 60 days after receiving the original Advisory and Payment Request. Failure

to send such information within such 60-day time period shall render the lessor liable for the prescribed penalty. If the lessor complies with these provisions, and the lessee is sent an Advisory and Payment Request within 60 days of such compliance by the lessor, the lessee of the vehicle on the date of the violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for same.

(g) The Authority may designate an employee(s) or agent(s) of the Authority to be a complaining witness on behalf of the Authority and to cause a summons and complaint to issue to the extent permitted by, and pursuant to, the Rules Governing the Courts of the State of New Jersey.

(h) The Authority may adopt a form of contract ("subscription agreement") which may set forth the terms and provisions that govern the responsibilities, duties and obligations of an owner or operator as a subscriber to the ETC System, which subscription agreement may include the termination of the owner or operator as a subscriber of the Authority's ETC System if the owner or operator fails to comply with the terms and provisions of the subscription agreement.

Amended by R.2005 d.23, effective January 3, 2005.

See: 36 N.J.R. 4415(a), 37 N.J.R. 90(a).

Administrative correction.

See: 37 N.J.R. 1085(a).

Amended by R.2010 d.077, effective June 7, 2010.

See: 42 N.J.R. 155(a), 42 N.J.R. 1064(a).

In (b), substituted "the time period specified in N.J.S.A. 27:23-34.3" for "60 days of the date that a toll violation occurs", "by the number of days specified in N.J.S.A. 27:23-34.3 from" for "within 30 days of" and "Authority" for "authority", and inserted "or such other amount as may be established by duly adopted rule"; in (f), substituted "60" for "30" throughout; and in (h), deleted "Authority's" preceding "ETC" and substituted the second occurrence of "subscription agreement" for the second occurrence of "contract" and the third occurrence of "subscription agreement" for "aforesaid contract".

Amended by R.2011 d.259, effective October 17, 2011.

See: 43 N.J.R. 1325(a), 43 N.J.R. 2672(b).

In (b), substituted "\$50.00" for "\$25.00".

19:9-9.3 Penalties

(a) A violation of this subchapter shall be punishable by a fine not exceeding \$500.00 or by imprisonment not exceeding 30 days or by both such fine and imprisonment.

(b) Nothing in this subchapter shall be construed as limiting the power of the Authority to proceed against an operator for a violation of N.J.A.C. 19:9-1.19 or as prohibiting or limiting the enforcement of the motor vehicle and traffic laws as set forth in Title 39 of the Revised Statutes, except that an operator charged with a violation of N.J.S.A. 27:23-34 shall not also be liable for the civil penalty provided in (a) above for the same incident.

Amended by R.2005 d.23, effective January 3, 2005.

See: 36 N.J.R. 4415(a), 37 N.J.R. 90(a).

Rewrote (a).