



COMMONWEALTH of VIRGINIA

Commonwealth Transportation Board

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Chairman

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Agenda item # 6

RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD

September 20, 2017

MOTION

Made By: Mr. Malbon, Seconded By: Ms. Hynes

Action: Motion Carried, Unanimously

**Title: Transponder Requirement as a Condition for Access and Use
of VDOT Operated HOT Lane Facilities**

WHEREAS, pursuant to section 33.2-502 of the *Code of Virginia*, the Commonwealth Transportation Board (Board) may designate one or more lanes of any highway, including lanes that may previously have been designated HOV lanes under § 33.2-501, in the Interstate System, primary state highway system, or National Highway System, or any portion thereof, as HOT lanes; and

WHEREAS, pursuant to 23 USC §166 (b) (4), relating to high occupancy toll vehicles, a public authority may allow vehicles not meeting high occupancy requirements and not otherwise exempt from high occupancy requirements to use an HOV facility if the operators of the vehicles pay a toll charged by the authority for use of the facility and the authority, among other things, establishes a program that addresses how motorists can enroll and participate in the toll program and develops, manages, and maintains a system that will automatically collect the toll; and

WHEREAS, pursuant to § 33.2-502, in making HOT lanes designations, the Board shall also specify the high-occupancy requirement and conditions for use of such HOT lanes or may authorize the Commissioner of Highways to make such determination consistent with the terms of a comprehensive agreement executed pursuant to § 33.2-1808; and

WHEREAS, the Board has specified or will specify by separate action high-occupancy requirements pursuant to HOT lane designations from time to time and recognizes that the enforcement of High Occupancy Vehicle (HOV) usage or collection of a toll when high-occupancy requirements are not met, is paramount in managing the traffic on HOT facilities and

the dynamic nature of the toll prices on HOT facilities; and

WHEREAS, the current state of technology for HOV declaration and collection of tolls as applicable on HOT lanes in Virginia is done electronically by use of a vehicle mounted electronic transmitter (E-ZPass transponder); and

WHEREAS, existing HOT lane facilities operating in the Commonwealth require the use of transponders for entry onto and use of the HOT lane facilities; and

WHEREAS, the Virginia Department of Transportation (VDOT) will be operating HOT lane facilities in the future and desires to facilitate enforcement of HOV usage and to maintain operational consistency to avoid public confusion related to HOT lanes access and use by requiring an E-ZPass transponder to enter and use said HOT lane facilities; and

WHEREAS, VDOT recommends that the CTB (1) require that in order for a vehicle to access and use VDOT operated HOT lane facilities, the operator must use an E-ZPass transponder or other electronic method/technology to pay the requisite toll or, if the vehicle meets the occupancy requirement, to declare the Vehicle's HOV status; and (2) provide the Commissioner with the authority to establish the required electronic method/technology for automatic toll collection and/or HOV declaration to be used when a vehicle is accessing or using said facilities, whether such method/technology consists of an E-ZPass transponder or a successor method/technology.

NOW, THEREFORE BE IT RESOLVED, that the CTB hereby concurs with VDOT's recommendation and hereby (1) requires that, in order for a vehicle to access and use VDOT operated HOT lane facilities, the operator must use an E-ZPass transponder or other electronic method/technology to pay the requisite toll or, if the vehicle meets the occupancy requirement, to declare the Vehicle's HOV status; and (2) grants the Commissioner the authority to establish the required electronic method/technology for automatic toll collection and/or HOV declaration to be used when a vehicle is accessing or using said facilities, whether such method/technology consists of an E-ZPass transponder, or a successor method/technology.

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CTB Decision Brief

Title: Transponder Requirement as a Condition for Access and Use of VDOT Operated HOT Lane Facilities

Issue: Currently, High Occupancy Tolling (“HOT”) lane facilities in Virginia are operated by a private entity pursuant to comprehensive agreements established under the Public-Private Transportation Act of 1995 (PPTA). Among other things, the conditions for use of these facilities are outlined in these agreements and were negotiated by the Commissioner of Highways in accordance with the authority granted in §33.2-502 of the *Code of Virginia*. Pursuant to §33.2-502, however, the authority to establish conditions for use of HOT lane facilities not operated pursuant to a comprehensive agreement lie with the Commonwealth Transportation Board (CTB). There is a need to require use of a transponder or other electronic technology as a condition of using those HOT lane facilities that will be operated by the Virginia Department of Transportation (VDOT) and hence, VDOT is requesting that the CTB establish this requirement for said HOT lane facilities..

Facts:

- The Commonwealth Transportation Board (“CTB”), pursuant to § 33.2-502 and by resolution, has thus far designated several HOT Lane Facilities that will be operated by VDOT, namely I-66 Inside Beltway in northern Virginia and I-64 in Hampton Roads from I-564 to I-264 (reversible HOV lanes) as HOT lanes once the Commissioner of Highways approves them for operational readiness.
- With this designation, §33.2-503 along with 23 USC §166 (b)(4), outline operational requirements for HOT lanes that include payment of tolls through automation, the ability to enforce violation of HOV rules and/or failure to pay tolls, and access to a HOT lane facility only when prior arrangements have been made with the HOT lanes operator.
- Pursuant to §33.2-502, these operational requirements have been addressed in the comprehensive agreements relating to existing HOT lane facilities in Virginia established under the PPTA. The concept of operations for existing HOT facilities requires that all vehicles entering the facility be equipped with a properly mounted E-ZPass transponder (the current technology for automated collection of tolls and/or declaration of a vehicle’s HOV compliance status). There is signage at all entry points to these facilities which convey this requirement to users. With the current state of tolling technology, payment of tolls via transponder associated with a properly funded E-ZPass account, along with HOV declaration, provides an efficient and effective method to operate the HOT facilities in accordance with State and Federal requirements.
- Consistency in operation between different HOT lanes operators and facilities is critical to the public acceptance and success of any new HOT lane facility. As the existing HOT lane facilities have been operating since 2012, public facing operational concepts have

been well established. The continuation of these operational concepts, including the transponder requirement as a condition of access, lessens the potential of confusion as users travel between different facilities in the Commonwealth.

- In the case of HOT lane facilities operated by VDOT, the CTB is authorized under Virginia Code § 33.2-502 to specify the high-occupancy requirement and conditions for use of HOT lanes. In anticipation of new HOT lane facilities that have been or will be designated by the CTB and that will be operated by VDOT, establishment by the CTB of a transponder requirement as a condition of use for these HOT lane facilities is critical to the effective operation and enforcement of these facilities.
- Given the potential for change in the technology/methods for automatic collection of tolls and/or HOV status declaration, VDOT is also requesting that the CTB delegate to the Commissioner authority to determine the appropriate technology/method to utilize for these purposes.

Recommendations: The Department recommends that the CTB (1) require that, in order for a vehicle to access and use VDOT operated HOT lane facilities, the operator must use an E-ZPass transponder or other electronic method/technology to pay the requisite toll or, if the vehicle meets the occupancy requirement, to declare the Vehicle's HOV status; and (2) grant the Commissioner the authority to establish the required electronic method/technology for automatic toll collection and/or HOV declaration to be used when a vehicle is accessing or using said facilities, whether such method/technology consists of an E-ZPass transponder or a successor method/technology.

Action Required by CTB: The CTB will be presented with a resolution for a formal vote.

Result, if approved: The VDOT operated HOT facilities will require the use of a transponder for entry onto the facility, or such other successor method/technology as determined by the Commissioner.

Options: Approve, Deny, or Defer