

Mileage-Based User Fee Program

Final Report

Virginia Department of Motor Vehicles
December 2021

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Executive Summary

Chapters [1230](#) and [1275](#) of the 2020 Acts of Assembly established a highway use fee as a new source of revenue for the Commonwealth Transportation Fund and directed the Department of Motor Vehicles (DMV) to convene a working group to develop a mileage-based user fee (MBUF) program as an alternative method of collecting the highway use fee.

The DMV working group met, conducted research on similar programs in other jurisdictions, and developed a list of requirements necessary to implement a mileage-based user fee program in Virginia. The working group considered each of the following elements as directed by the enacting legislation: the protection of all personally identifiable information that may be divulged in the reporting of highway usage, methods to record and report highway usage, the administration of the program, including the collection of fees for highway usage, and other issues identified by the working group.

The working group developed a Request for Proposal (RFP) outlining the basic requirements necessary to implement a mileage-based user fee program in the Commonwealth. The RFP was issued on March 12, 2021. The RFP sought proposals from contractors to administer a program for DMV to track and report a customer's vehicle miles traveled, collect fees, and transfer revenue to the state. DMV has negotiated a contract with the selected vendor and expects all implementation steps to be completed on schedule.

Details of the program requirements, as outlined in the RFP, were included in an [interim report](#) submitted to the General Assembly in July 2021. While evaluating the submitted RFPs and working through DMV business requirements necessary to implement the program, the DMV working group considered additional issues including MBUF payment enforcement and highway use fee refunds and developed recommendations for additional legislation. Draft legislation to protect the privacy of data collected for the MBUF program was attached to the interim report. Other recommendations are detailed in this report.

Introduction

Chapters [1230](#) and [1275](#) of the 2020 Acts of Assembly authorized structural changes to the Commonwealth's transportation funding system and adjusted funding sources for transportation infrastructure and other transit needs. These changes increased statewide and regional motor fuels taxes and linked future increases to inflation, reduced vehicle registration fees, and created a new highway use fee on alternative fuel, electric, and fuel-efficient vehicles.

The goal of the highway use fee is to ensure fairness in transportation funding by charging a fee to vehicle owners paying less in fuels taxes compared to others because their vehicles use less motor fuel while driving the same number of miles. Motor fuels tax revenues are a major revenue source of the Commonwealth Transportation Fund, out of which highway maintenance and construction are funded. With the advent and increasing use of alternative fuel, electric, and fuel-efficient vehicles, motor fuels taxes are generating less revenue even as vehicle miles traveled are increasing. The General Assembly imposed a highway use fee based on each vehicle mile driven as a fair and equitable means to supplement declining motor fuels tax revenue.

Virginia's highway use fee, which became effective on July 1, 2020, is imposed on all alternative fuel, electric, and fuel-efficient vehicles registered in the Commonwealth. A fuel-efficient vehicle is defined as one with a combined fuel economy of 25 miles per gallon (mpg) or greater. The highway use fee for an electric vehicle is equal to 85 percent of the tax paid for gasoline by a vehicle with a combined fuel economy of 23.7 mpg driven 11,600 miles per year (the average annual miles traveled by a passenger vehicle in the Commonwealth).¹ The highway use fee for other fuel-efficient vehicles is equal to 85 percent of the tax paid on gasoline by a vehicle with a combined fuel economy of 23.7 mpg driven 11,600 miles per year less the tax paid on gasoline by the vehicle being registered driven 11,600 miles per year.

The 2020 legislation also creates a voluntary mileage-based user fee (MBUF) program as an alternative to the flat highway use fee. By participating in the program, a vehicle owner can pay a fee based on actual miles driven instead of the 11,600 mile passenger vehicle average. The *Code of Virginia* defines eligibility for the program, the fee structure, and the Department of Motor Vehicles' (DMV) authority to establish procedures for the collection of fees. Enacting legislation requires DMV to convene a working group to assist in the development of the mileage-based user fee program.² In developing recommendations, the working group is directed to consider (i) the protection of all personally identifiable information that may be divulged in the reporting of highway usage; (ii) methods to record and report highway usage; (iii) the administration of the program, including the collection of fees for highway usage; and (iv) other issues identified by the Commissioner. The legislation requires the MBUF program to be

¹ Section 46.2-772 of the *Code of Virginia* authorizes DMV to calculate the annual highway use fee using the average number of miles traveled by a passenger vehicle in the Commonwealth in a year, as determined by the Commissioner. For Fiscal Year 2021 that figure has been determined to be 11,600 miles.

² The enacting legislation can be found in Appendix A of this report.

operational on July 1, 2022, and the DMV working group to submit a final report no later than December 15, 2021.³

It is anticipated the MBUF program will appeal to vehicle owners using their vehicles to travel significantly less than the average number of miles traveled by passenger vehicles in the Commonwealth. While the program is expected to enroll a relatively small number of participants at its inception, the knowledge gained from implementation will be valuable if the program is later expanded to cover more vehicles.

Program Implementation

DMV issued an RFP on Virginia's electronic procurement system (eVa) on March 12, 2021. The RFP remained open until April 26, 2021. Multiple proposals were received, evaluated, and contract negotiations with the selected vendor are complete. An implementation schedule is in place to ensure adequate progress on all necessary steps toward deployment to production on July 1, 2022.

As part of the procurement process, the Virginia Information Technologies Agency performed an Enterprise Cloud Oversight Service review of the selected vendor ensuring adequate security controls are in place for the protection of data, proper utilization of resources and compliance with regulations, laws and timely resolution of audit recommendations.

Detailed program requirements for design, development, and deployment of the program are documented in the RFP.⁴ DMV is currently preparing select DMV systems to interface with the contractor systems and planning for communication and publication of the program to potential participants.

Recommended Legislative Changes

While working through the business requirements necessary to implement the MBUF program, DMV determined there are three issues that should be considered by the General Assembly. DMV recommends legislative action on the three issues.

The interim report details DMV's recommendation to strengthen existing law by adding specific statutory protections for data collected in the MBUF program, including location data. Under Va. Code § 46.2-208, a government agency using the data to further an official purpose would be entitled to certain DMV records collected for the MBUF program. Draft legislation modeled on existing Virginia statutes protecting the information collected by toll facility operators is included in an appendix to this report.

³ Chapters 1230 (<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1230&201+ful+CHAP1230>) and 1275 (<https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1275&201+ful+CHAP1275>) of the 2020 Acts of Assembly.

⁴ The RFP for the mileage-based user fee program may be found at https://mvendor.cgieva.com/Vendor/public/VBODetails.jsp?PageTitle=SO%20Details&DOC_CD=RFP&Details_Page=VBOSODetails.jsp&DEPT_CD=A154&ID_INTRNL_NO=167031&ID_NO=RFP%20154%3A21-009&ID_VERS_NO=1

Enforcement and collection of unpaid MBUF program fees is another issue DMV recommends that the legislature consider. The MBUF is not due until the program participant has driven the registered vehicle and been billed for the vehicle miles traveled, leading to a situation where unpaid fees could accrue. Similar to many Virginia tolls, the MBUF is owed to the vendor. Lack of enforcement of the MBUF creates inequity, as vehicle owners subject to the highway use fee are required to pay the fee at the time of vehicle registration. There are existing statutes authorizing DMV to withhold registration renewal for vehicles that have accrued unpaid tolls owed to tolling operators.⁵ DMV recommends that similar legislation be passed authorizing DMV to withhold registration renewal from vehicle owners who owe a MBUF to the vendor.

A third issue the legislature should consider is allowing the refund of the highway use fee if a vehicle owner cancels vehicle registration with six or more months remaining in the registration period. The fee is collected at the time a vehicle is registered. While Va. Code § 46.2-688 authorizes DMV to refund part or all of a customer's registration fee if the customer cancels a registration with at least six months remaining in the registration period, the Code does not authorize the refund of the highway use fee. Since the highway use fee acts as a mechanism to tax vehicle miles traveled, it is inequitable to impose the tax on a vehicle when the owner is no longer driving it. In addition, failure to refund the fee when an owner has purchased a multi-year registration and cancels it also acts as a deterrent to customers purchasing a multi-year registration. DMV recommends amending the Code to allow for a prorated refund of the highway use fee in six-month increments if the vehicle registrant cancels the registration with more than six months remaining in the registration period.

Grant Funding Opportunities for MBUF Program

Participants who will save the most money by enrolling in the MBUF program are the owners of highly fuel efficient or electric vehicles driving significantly less than the average annual vehicle miles traveled in the Commonwealth. It is expected that initial enrollment in the program will be low and will not cover the implementation and annual administrative expenses of the program. DMV has applied for federal grant funding available for state road use charge programs to reduce state expenditures for implementation and administration of the program.

The application for the Federal Surface Transportation System Funding Alternatives grant program for fiscal year 2021 was due on November 1, 2021. The federal grant funding is to provide grants to "eligible entities to demonstrate user-based alternative revenue mechanisms that utilize a user fee structure to maintain the long-term solvency of the Highway Trust Fund." DMV has partnered with the Virginia Department of Transportation to apply for the grant funding and prepared an application demonstrating how Virginia's MBUF program meets the requirements of the grant program. This is a cost reimbursable grant and is permitted to make up no more than 50 percent of the total proposed project costs, with the remainder coming from non-federal sources. The grant award process will not be complete until March 2022. If DMV is awarded a grant, any implementation cost incurred prior to the award will not be eligible for reimbursement. The performance period for an awarded grant is five years.

⁵ See Article 1.1 (§ 46.2-819 et seq.) of Chapter 8 of Title 46.2 of the Code of Virginia.

The Virginia Department of Transportation is a member agency of the Eastern Transportation Coalition, which was previously awarded a Federal Surface Transportation System Funding Alternatives grant. Portions of that grant were to be used for public communications and outreach to the public about road use charge programs. DMV is actively working with the Eastern Transportation Coalition to use this grant funding to conduct public outreach and enhance customer awareness about Virginia's MBUF program.

Conclusion

DMV is on target to implement a fully operational MBUF program on July 1, 2022, as required by the enacting legislation. DMV will establish program guidelines no later than May 2022. DMV will begin notifying eligible customers about participation in the program with registration renewal notices that are sent for registration renewals occurring on or after July 1, 2022, to allow participants to begin enrolling in the program.

Appendix A: Enacting Legislation

Chapter 1230 of the 2020 Acts of Assembly, Enactment Clause 7

7. That the Commissioner of the Department of Motor Vehicles (the Commissioner) shall convene a working group to assist the Department of Motor Vehicles in the development of the mileage-based user fee program authorized pursuant to § 46.2-773 of the Code of Virginia, as created by this act. In developing recommendations, the working group shall consider (i) the protection of all personally identifiable information that may be divulged in the reporting of highway usage; (ii) methods to record and report highway usage; (iii) the administration of the program, including the collection of fees for highway usage; and (iv) other issues identified by the Commissioner. The Commissioner shall issue an interim report no later than July 1, 2021, and a final report no later than December 15, 2021, on the findings of the working group. The Commissioner shall issue guidelines for the program no later than May 15, 2022. Such guidelines shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Chapter 1275 of the 2020 Acts of Assembly, Enactment Clause 7

7. That the Commissioner of the Department of Motor Vehicles (the Commissioner) shall convene a working group to assist the Department of Motor Vehicles in the development of the mileage-based user fee program authorized pursuant to § 46.2-773 of the Code of Virginia, as created by this act. In developing recommendations, the working group shall consider (i) the protection of all personally identifiable information that may be divulged in the reporting of highway usage; (ii) methods to record and report highway usage; (iii) the administration of the program, including the collection of fees for highway usage; and (iv) other issues identified by the Commissioner. The Commissioner shall issue an interim report no later than July 1, 2021, and a final report no later than December 15, 2021, on the findings of the working group. The Commissioner shall issue guidelines for the program no later than May 15, 2022. Such guidelines shall not be subject to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

The full text of the legislation may be found at <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1230&201+ful+CHAP1230> and <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1275&201+ful+CHAP1275>

Appendix B: DMV Steering Committee

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| Richard Holcomb | Commissioner |
| Scott Cummings | Assistant Commissioner for Finance |
| Linda Ford | Deputy Commissioner Chief Operating Officer |
| Millicent Ford | Assistant Commissioner Driver, Vehicle and Data Management |
| Pamela Goheen | Assistant Commissioner for Communications |
| Joseph Hill | Assistant Commissioner Enforcement and Compliance |
| Carla Jackson | Assistant Commissioner for Legal Affairs |
| David Mitchell | Deputy Commissioner Chief Administrative and Finance Officer |
| Lana Shelley | Deputy Commissioner Chief Information Officer |

Appendix C: DMV Working Group

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| Barbara Arkwright | Law Enforcement |
| Michelle Bailey | Procurement |
| Feizel Bobert | IT - Financial |
| Jessica Cowardin | Communications |
| Scott Cummings | Executive Project Sponsor |
| Nick Danforth | IT - Architecture |
| Sam Davenport | Vehicle Services - Process Owner |
| Stepanie Davis | IT - Financial |
| Bob Dunkum | IT - Vehicle |
| David Eaton | Project Advisor |
| Betsy Grace | Procurement |
| Leslie Grott | Project Coordinator |
| Mike Hammonds | IT Security |
| Beau Hurley | IT Security |
| Sandy Jack | Data Management |
| Rose Lawhorne | Data Analysis and Reporting |
| Melanie Lester | Vehicle Services - Process Owner Lead |
| Nanette Marais | IT - Financial |
| Andrew Owens | Legal Services |
| Angela Schneider | Legislative Services |
| Jess Seier | Communications |
| Charles Sheldon | IT Oversight |
| Angie Turner | Project Advisor |
| Melissa Velazquez | Legislative Services |
| Rhonda Verra | IT - Vehicle |
| Tully Welborn | Project Advisor |
| Brian White | Customer Service Management |

Appendix D: Draft Privacy Legislation

SUMMARY

Mileage-Based User Fee Program; data protection and privacy. Clarifies the responsibilities of the Department of Motor Vehicles (DMV) and its contractors regarding information collected as part of the administration of the mileage-based user fee program.

Be it enacted by the General Assembly of Virginia:

That § 46.2-773 of the Code of Virginia relating to the mileage-based user fee program is amended and reenacted as follows:

§ 46.2-773. Mileage-based user fee program.

A. There is hereby established a mileage-based user fee program. The program shall be a voluntary program that allows owners of vehicles subject to the highway use fee pursuant to § 46.2-772 to pay a mileage-based fee in lieu of the highway use fee. No owner of a motor vehicle registered in the Commonwealth shall be required to participate in the program established pursuant to this section.

B. In any year that an owner pays the fee set forth in this section, such owner shall not be subject to the fee set forth in § 46.2-772 for the same vehicle. In no case shall the fees paid pursuant to this section during a 12-month period exceed the annual highway use fee that would have otherwise been paid.

C. The fee schedule for the mileage-based user fee program shall be calculated by dividing the amount of the highway use fee as determined pursuant to subsection B of § 46.2-772 by the average number of miles traveled by a passenger vehicle in the Commonwealth to determine a fee per mile driven.

D. The Department shall establish procedures for the collection of the fees set forth in this section. Such procedures may limit the total number of participants during the first four years of the program.

E. Information collected by the Department and any entity pursuant to this Chapter shall be limited exclusively to that information that is necessary for the collection of the mileage-based user fee. Notwithstanding any other provision of law, all information collected pursuant to this Chapter shall be used exclusively for the collection of the mileage-based user fee and shall not (i) be open to the public; (ii) be sold for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the collection of an unpaid mileage-based user fee or to a vehicle owner as part of a challenge to the imposition of a mileage-based user fee; and (iv) shall not be subject to disclosure through

a court order or through a third-party request submitted pursuant to the Virginia Freedom of Information Act (§ [2.2-3700](#) et seq.).

F. The Department and an entity collecting information pursuant to this Chapter may retain, aggregate and use the information collected pursuant to this section for purposes of traffic management and research and to analyze the effectiveness of the program in such a manner that individuals cannot be identified.