

# Hefty Fees In Store for Misbehaving Va. Drivers

By Tom Jackman  
Washington Post Staff Writer  
Saturday, June 23, 2007; A01

Attention Virginians: The cost of bad driving is about to go up. Way up.

Say you are driving 78 mph on the Capital Beltway and a state trooper tickets you for "reckless driving -- speeding 20 mph over." You will probably be fined \$200 by the judge. But then you will receive a new, additional \$1,050 fine from the Old Dominion, payable in three convenient installments. So convenient that you must pay the first one immediately, at the courthouse.

First-time drunk driver? A \$300 fine from the judge and a \$2,250 fee from the commonwealth.

Driving without a license? Maybe a \$75 fine. Definitely a \$900 fee from [Virginia](#).

As part of the plan to fund the annual \$1 billion transportation package approved this year, state legislators endorsed a new set of "civil remedial fees" for all misdemeanor and felony traffic violations, such as speeding 20 mph above the limit, reckless driving and, in some cases, driving with faulty brakes. Drivers with points on their licenses -- a speeding ticket usually earns four points -- will be hit for \$75 for every point above eight and \$100 for having that many points in the first place.

The new fees will go into effect July 1, and defense attorneys, prosecutors and judges expect chaos. Court clerks fear having to deal with angry hordes learning about the fees for the first time at the payment window.

"I think that we will be overwhelmed," said Nancy L. Lake, clerk of the [Fairfax County](#) General District Court, which includes the busiest traffic court in the state. "We feel we're going to take a lot of flack."

The fees will be imposed only on Virginia residents. All defendants must pay the fines, but the "abuser fees," as Del. [David B. Albo](#) (R-Fairfax) calls them, are part of the state licensing fees and cannot be imposed on out-of-state drivers.

Standard traffic infractions, such as low-level speeding and running a stop sign, do not carry the fees. The state courts posted the fees and eligible offenses this month.

Albo and Del. Thomas D. Rust (R-Fairfax), who co-sponsored the fee legislation, project that \$65 million to \$120 million will be raised annually to cover costs of snow removal, pothole repair and grass-mowing. Money for Northern Virginia's congested roads had to come from somewhere, they reasoned, and new taxes were not going to fly in the GOP-controlled House of Delegates.

The people who will be caught up in the new fees say the first wave of chaos will hit in early August, when the first tickets issued under the new law arrive in courthouses.

Traffic court judges fear they will see a huge increase in trials, with defendants unwilling to plead guilty because they know they will face additional fees.

Prosecutors say that in addition to possibly handling more trials, judges might suspend fines they usually impose, knowing that a heavier civil fee awaits. The money from fines will go to county governments, which could then face a decline in revenue. Funds from the new fees will go to the state.

Defense attorneys say the new fees will unfairly burden the poor because they will not be able to pay them, will lose their licenses and possibly their jobs, and then will face tickets for unlicensed driving, which would lead to jail time.

[Michael S. Davis](#), a veteran [Fairfax](#) defense attorney, said he plans to file a legal challenge to the fees the first time he encounters them. "If somebody from out of state does not have to pay the same price," Davis said, "I think there's clearly an equal-protection issue" under the U.S. Constitution.

Albo said he would agree with that view if the fee were imposed as criminal punishment. "But it's not," he said. "It's a variable registration fee based on the lousiness of your record. We're giving people with good driving records a reduction in their fee. And we can't charge a registration fee on people from [New York](#) flying through Virginia."

Lead-footed drivers should not hold their breath waiting for the legal challenge. Davis said it would have to plow through the state's administrative process before making it to the courts and would be followed by levels of appeals. It would take years.

The fees were included in a larger package passed by the General Assembly to try to address the burgeoning congestion across the state. When Albo and Rust submitted the fee proposals as legislation by themselves in previous years, they were shot down.

"My job as a delegate is to make people slow down and build some roads," Albo said. "This bill does both."

Rust and Albo said [New Jersey](#) imposes similar fees to great effect. New Jersey was "pretty convinced it improved safety on the roads," Rust said.

New Jersey calls the fees "surcharges" and raises about \$130 million from them annually, Cathleen Lewis, state motor vehicle agency spokeswoman, said. The money is not specifically earmarked for transportation and has been collected since 1983. The number of points drivers have accrued has decreased since 1983, Lewis said, but there is no study linking the decrease directly to the surcharges. New Jersey charges all drivers, not just residents.

And most of New Jersey's surcharges are much smaller: \$100 for driving without a license, compared with \$900 in Virginia. But a first conviction for driving while intoxicated in New Jersey brings a \$3,000 hit vs. \$2,250 in Virginia.

In Virginia, the fee can be paid over three years. After the first third is paid at the courthouse, the other two are to be billed by the state [Department of Motor Vehicles](#). DMV officials have not determined how that will work, a spokeswoman said.

Faced with the prospect of financially poorer drivers losing their licenses when they cannot pay a fee, judges might start suspending part or all of the original fines, Alexandria Commonwealth's Attorney Randolph S. Sengel said. The result "might be increased transportation funding offset by decreased general fund revenue," he said.

"For someone who's living near the poverty line, or even making \$30,000," said Fairfax public defender Todd G. Petit, fees of \$1,000 or more might have "a significant impact," and failure to pay them might lead to losing a license, a job and income. "These appear to be punitive measures that are being hidden in civil fees. If we gave the judges discretion to do what is necessary and proportionate, then we can raise the money without disproportionately affecting the poor."

Lawyers said that more defendants will hire lawyers than before, that the lawyers will charge more money because the stakes are higher and that more cases will be appealed to circuit courts.

"It's basically the Lawyer Full Employment Act," cracked one Fairfax lawyer, who spoke on the condition of anonymity because he stands to benefit from the new law.

But, Albo said: "it's basically a voluntary tax. If you don't commit a crime on the streets, or run up a huge amount of points, you don't pay anything. We believe its main effect will be to get people to stop driving like maniacs."