

# Public Comment

## November 20<sup>th</sup> 2024

**From:** Bob Crossman

**To:** CTIO Board of Directors

**Date:** October 7<sup>th</sup> 2024

**Note:** Mr. Crossman also provided public comment remotely during the September 23<sup>rd</sup>, 2024 CTIO Board of Directors Meeting. The information below is an additional written comment that CTIO staff responded to.

**Subject:** Safety and Toll Enforcement Program

Mr Logan,

If my memory is correct - the Board stated they will not reply to questions I pose at Public Comment time but will reply to questions I pose via this email.

Below is the presentation I was going to make to the Board on the day I was "zoom'd" in but cut short for sake of time.

Please present to the Board.

Mrs. Stuart and other Board members, thank you for allowing me to present to you at Public Comment time.

My name is Bob Crossman and I am here to talk about express lane instructions, violations, and the unfairness of your current enforcement system.

I'd like to first to ask - is this a one-way conversation or -- if I pose a question to you will you answer it?

If I submit questions in writing will they be answered?

If I submit my comments in an email will they become part of record as if I was to talk today?

I could tell you about my case but it would be wasting my time and yours. I requested Mr Logan provide you a copy of Steve on your Sides telecast on TV the other night for you to review and I hope you did - my case is similar to everybody else's who has been given a citation for obeying what CDot's website said they could do and yet you're enforcing as illegal

I went through the 2 levels of appeal as others have done but I went one step further.

I considered an appeal in General District Court per the instructions in the FAQ section of the Express Lane Safety website.. I knew I would win based on the law.

I reached out to Xpress Lane Safety and requested the following information.

What county court do I go to even though I was in Douglas county?

Will I be able to recover my fine if I win my appeal?

Will I be able to recover the cost of the appeal if I win?

Although the incident occurred in Douglas County, they informed me to go to Jefferson County. When I emailed them again to request an explanation of why, they refused to reply. My concern was, why am I appearing before a judge in a county who has no jurisdiction regarding an incident that occurred in another county? And the law states they were wrong.

43-4-808. Toll highways - special provisions - limitations. Cites 3 times venue city county etc where violation occurred.

(I) The respective courts of the municipalities, counties, and cities and counties shall have jurisdiction to try all cases arising under municipal ordinances and state laws governing the use of a toll highway and arising under the toll evasion civil penalty rules enacted by the transportation enterprise. **Venue for any such case shall be in the municipality, county, or city and county where the alleged violation of a municipal ordinance, state law, or rule of the transportation enterprise occurred.**

(II) (I) The respective courts of the municipalities, counties, and cities and counties shall have jurisdiction to try all cases arising under municipal ordinances and state laws governing the use of a toll highway and arising under the toll evasion civil penalty rules enacted by the transportation enterprise. **Venue for any such case shall be in the municipality, county, or city and county where the alleged violation of a municipal ordinance, state law, or rule of the transportation enterprise occurred.**

(III) (VI) An administrative adjudication of a toll evasion by the transportation enterprise is subject to judicial review. **The administrative adjudication may be appealed as to matters of law and fact to the county court for the county in which the violation occurred.** The appeal shall be a de novo hearing.

(IV)

As to whether or not I could recover my fine if I won, they would not reply

I reached out to both Jefferson County and Douglas County to inquire if anyone knew if I could recover my fine and no one could provide an answer. No one was familiar with this process. Consult an attorney. Now an unfair fine gets hundreds of dollars of legal fees added to it. Really seems fair.

I obeyed the law as it was written on CDOT's website as others did. But I still got a fine and paid an additional fee for requesting an appeal.

Now there are a lot of things that can be done with this problem.

One is if you did a grace period because of possible confusion, (with the law must have allowed) why do you not just change that to a first offense situation where first offense for a vehicle is waived.

Or if every agrees there is confusion – suspend the fine process

Or why not allow me to appear before a regular judge who has the latitude to weigh the facts and the evidence and make a fair decision vs your administrative law judge who is limited in anything other than guilty or innocent and not the law..

Or provide clarity on the questions I asked on if I win do I get my fine & fees back.

But here's where it really gets interesting. I would like to quote someone.

"I've heard there's confusion about when you can enter and when you can exit, and we all know you can't cross the double lines and I have been in a carpool with someone who crossed the line with a dash line next to it, but it's not clear that that's a no-no and the same thing when you're exiting when you have a line on the left, that's a solid line and a dash line that means someone can enter. They can also exit because it's not a double line and that's what I'm hearing - so maybe these things have to be focused on for those who haven't used the managed lane yet." This person goes on to talk about everyone knows you can't cross a double solid line, but there are instances in general where you can cross a solid line

Does that comment ring a bell to anybody? That comment was made in your July meeting by. Karen Stuart, your Chairman.

I'm 78 and this is the first time I think I have used express lanes on C470 – what a learning experience

Now my question is this - with the erroneous information on CDOT's websites and with the boards admission that there is confusion - why did I pay a fine and why are other citizens possibly paying fines. I'm sure you'll say it's because of the law.

So my questions are

1. Can you tell me what communication the Board has had with the legislature regarding changes to the law. - because you say you can't do anything because of the law. Who did you speak with?
2. Considering the Board openly admits there is confusion in the July meeting youtube video, Can you tell me if the Board has requested suspending fines until they feel CDOT and others responsible have updated their websites to correct their errors or is 40 Million in fines motivating them and the legislation to do nothing.
3. Who does the CITO Board report to? A name, or the name of a committee and who is in charge of the committee?

4. Has a list of issues with the safety enforcement system been developed with an action plan to resolve those issues?
5. Can you explain in detail on somebody's website (CDOT, Express Lane Safety, Etc) whether you fine and cost of appealing through the county courts will be refund if you win your appeal? Instructing an individual to consult with an attorney is an abusive reply because it forces them to pay even more on an unjust fine.
6. Can somebody explain - other than statue- why these citations are not handled in traffic court by the judge of that county?
7. . Your chairman admits - there is confusion .... - so bottom line , what are doing to resolve the issue that has cost others already and will cost others in the future.

Thanks

Bob Crossman

804-347-3568

C: Steve on your Side - channel 9 news

## **Response**

**Sent:** October 10<sup>th</sup>, 2024

**To:** Mr. Crossman

**From:** Simon Logan, CTIO Board Secretary

### **Public Comment November 20th, 2024**

**Topic:** Safety and Toll Enforcement Program

Thank you for reaching out with your feedback.

The Safety and Toll Enforcement Program's goal is to increase safety and ensure accurate toll collection by reducing weaving into and out of the Express Lanes outside of designated entrance and exit points. We have already seen an 80% reduction in violations in the corridors where the system is in place.

CTIO disagrees with your characterization of director comments in the CTIO Board of Directors regular meeting to the extent your questions imply that they somehow acknowledged a majority of drivers are confused as to how and where they may enter and exit Express Lanes or that all of the violations are "errors." In fact, the vast majority of Colorado drivers and Express Lane users have not received a civil penalty at all demonstrating that there is not mass confusion. Prior to enforcement, less than 10% of Express Lanes users

were committing violations. We have significantly driven down that number so that it is an even smaller minority of Express Lanes users.

CTIO has placed signage all along its roadways noting entrance and exit points. The road striping is another way that drivers can understand the entrance and exit points. Before implementing the program on roadway segments, CTIO has an extensive public outreach campaign around the program to make people aware of it, and all first-time violations are waived for the first 30 days when the system is added to a new corridor (as long as they have not received a violation in the past).

Once you are outside this 30-day window, we have a process for disputing the civil penalty (shared with you previously), in which you can request a hearing with an independent Hearing Officer. This administrative adjudication process was set up pursuant to Colo. Rev. Stat. § 43-4-808(d)(II). However, final orders issued by Hearing Officers after an adjudication may be appealed to the county court in which the violation occurred. For ethical reasons, CTIO cannot provide customers with legal advice, including the potential ramifications and/or costs associated with such appeal. The Courts typically have self-help materials and information available for people to educate them on the county court process.

### **Violation criteria**

CTIO reviews the information submitted by customers disputing a civil penalty and does dismiss civil penalties without going to a hearing. Currently, by law, CTIO only dismisses a violation if it meets one of the following criteria, as defined by Colo. Rev. Stat. § 43-4-808(f)(II)(B) and other applicable law:

- Vehicle was stolen.
- I have never owned this vehicle.
- Vehicle was rented at the time of the violation.
- No longer own this vehicle.
- Vehicle owner is deceased.
- Vehicle was leased at the time of the violation.
- Bankruptcy.

### **Engagement with the legislature**

To date, CTIO has not had conversations with the legislature regarding changes to Colo. Rev. Stat. § 43-4-808(f), under which the Safety & Toll Enforcement Program is administered.

### **Program evaluation**

Here is the link to the program evaluation [document](#) shared with you previously. It contains 54 slides that cover the following:

- Program Overview and Background
- Public Outreach and Communication

- Program by the Numbers
- Feedback Received
- Ingress and Egress zones study
- Dispute resolution
- Next Steps

A list of action items were identified on slide 51.

### **CTIO Board Oversight**

CTIO operates as a government-owned business within the Colorado Department of Transportation. Colo. Rev. Stat. § 43-4-806(2)(a)(I). Four of the seven members of CTIO's Board are appointed by the Governor. Three members are appointed by the Transportation Commission. The Board serves at the pleasure of the appointing authority.