

BILL ANALYSIS

H.B. 1826
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Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

House Bill 1826 authorizes the Harris County Toll Road Authority and the Harris County Commissioners Court to impose an administrative fee to cover the cost of collecting unpaid tolls. In addition, HB 1826 clarifies administrative hearing procedures for collecting unpaid tolls, establishes a salary and expense fund for the Harris County Attorney funded by a penalty on toll violators, and authorizes the seizure of transponders as a remedy for unpaid toll violations.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 284, Transportation Code, by adding Sections 284.0701 and 284.0702 as follows:

Sec. 284.0701. ADMINISTRATIVE FEE; NOTICE; OFFENSE

Section 284.0701(a): establishes, in the event of an offense committed under Section 284.070¹, Transportation Code, that upon issuance of written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for payment of both the proper toll and an administrative fee.

Section 284.0701(b): authorizes the county to impose and collect an administrative fee not to exceed \$100 in order to recover the cost of collecting the unpaid toll; requires the county to send written notice of nonpayment to the vehicle owner by first-class mail not later than 30 days after the date of alleged failure to pay, and limits county's requirement of payment to not sooner than 30 days after the date notice was mailed; and, requires the registered owner of the vehicle to pay a separate toll and administrative fee for each nonpayment toll.

Section 284.0701(c): creates an offense where the registered owner of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under Subsection (b) fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment; and, creates a separate offense for each instance of failure to pay under this subsection.

Section 284.0701(d): establishes an exception to Subsection (a) or (c) where the registered owner of a vehicle for which the proper toll not paid: transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070¹ occurred, submitted written notice of the transfer to TXDOT in accordance with Section 520.023 (*Powers and Duties of Department on Transfer of Used Vehicle*), Transportation Code, and provided to the county, within 30 days after the

date notice of nonpayment was mailed, the county name and address of the person to whom the vehicle was transferred; authorizes the county, if the former owner of the vehicle provides the required information within the period prescribed, to send a notice of nonpayment to the person to whom ownership of the vehicle was transferred within 30 days after the date of receipt of the required information from the former owner; creates an offense where the registered owner of a vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under Subsection (b) fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment; and, creates a separate offense for each instance of failure to pay under this subsection.

Section 284.0701(e): establishes a violation of this section as a misdemeanor offense punishable by a fine not to exceed \$250.

Section 284.0701(f): requires the court in which a person is convicted of an offense under this section to also collect the proper toll and administrative fee and forward such to the county.

Section 284.0701(g): defines “registered owner” as the owner of a vehicle as indicated in the vehicle registration records of TXDOT or comparable foreign agency.

Sec. 284.0702. PRIMA FACIE EVIDENCE; DEFENSE

Section 284.0702(a): authorizes in the prosecution of an offense under Sections 284.070¹ and 284.0701, Transportation Code, the use of video recording, photograph, electronic recording, or other appropriate evidence, including evidence obtained by automated enforcement technology.

Section 284.0702(b): establishes as prima facie evidence the contents of a TXDOT computer record indicating that the defendant was the registered owner of the vehicle when the underlying nonpayment of the toll event occurred.

Section 284.0702(c): establishes as a defense to prosecution under Section 284.0701(c) or (d), proof the vehicle in question was stolen and had not been recovered prior to when the underlying nonpayment of the toll event occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:

- (1) the occurrence of nonpayment; or
- (2) within eight hours after discovery of theft.

SECTION 2. Amends Section 284.202, Transportation Code, by adding Subsection (c) as follows:

Section 284.202(c): authorizes a commissioner's court by order to impose a reasonable fee for costs associated with collecting the unpaid toll or charge if the registered owner of the vehicle fails to pay a toll.

SECTION 3. Amends Subchapter D, Chapter 284, Transportation Code, by adding Section 284.2031 as follows:

Sec. 284.2031. CIVIL AND CRIMINAL ENFORCEMENT FEE

Section 284.2031(a): authorizes a county to charge a fee of \$1 as a cost of court to a defendant convicted of an offense under Section 284.070, 284.0701, or 284.203².

Section 284.2031(b): establishes conviction if:

- (1) a sentence is imposed on a person;
- (2) the court defers final disposition of the person's case.

Section 284.2031(c): requires fees collected under Subsection (a) to be deposited in the county treasury in a special fund to be administered by the county or district attorney; requires expenditures from this fund to be at the sole discretion of the applicable attorney and requires distributions be used only to defray

the salaries and expenses of the prosecutor's office, but in no event may the applicable attorney supplement the attorney's own salary.

SECTION 4. Amends Section 284.204, Subsections (a) and (b), Transportation Code, as follows:

- Section 284.204(a): removes a reference to an electronic toll.
- Section 284.204(b): incorporates the fee structures recited in Sections 284.202 and 284.2031, Transportation Code, as added by this Act.

SECTION 5. Amends Section 284.206, Transportation Code, as follows:

- Section 284.206(a): creates Subsection (a) and expands, in an administrative hearing, the presumption of operation of the motor vehicle to include the person who allowed *the operation of* the vehicle, rather than just the person who allowed *another person to operate* the vehicle.
- Section 284.206(b): creates Subsection (b) and establishes as prima facie evidence the contents of a TXDOT computer record indicating that the defendant was the registered owner of the vehicle when the underlying nonpayment of the toll event occurred.
- Section 284.206(c): authorizes as a showing of proof the use of video recording, photograph, electronic recording, or other appropriate evidence, including evidence obtained by automated enforcement technology.
- Section 284.206(d): establishes as a defense to prosecution under Subchapter D, Chapter 284, Transportation Code, proof the vehicle in question was stolen and had not been recovered prior to when the underlying nonpayment of the toll event occurred, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:
 - (1) the occurrence of nonpayment; or
 - (2) within eight hours after discovery of theft.

SECTION 6. Amends Section 284.208(a), Transportation Code, as follows:

- Section 284.208(a)(2): incorporates fees into written decision of an administrative hearing officer.

SECTION 7. Amends Subchapter D, Chapter 284, Transportation Code, by adding Section 284.213 as follows:

Sec. 284.213. SEIZURE OF TRANSPONDERS

- Section 284.213(a): defines "transponder" as a device within a motor vehicle capable of transmitting toll assessment information; and, establishes a transponder as inefficiently funded where no funds remain in the assessable account.
- Section 284.213(b): authorizes any peace officer in Texas to seize a stolen or insufficiently funded transponder and return such to the county, except that an insufficiently funded transponder may not be seized sooner within 30 days after the date the county has sent a notice of delinquency to the holder of the account.

SECTION 8.

- (a) This Act applies only to an offense committed on or after the effective date of this Act; and, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.
- (b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed.

EFFECTIVE DATE

September 1, 2003

