

BILL ANALYSIS

S.B. 1464
By: Lindsay
Transportation
Committee Report (Amended)

BACKGROUND AND PURPOSE

Senate Bill 1464 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, SB 1464 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 COSTS; NOTICE; OFFENSE.

- (a) Provides that, in the event of an offense committed under Section 284.070 (Nonpayment of Toll; Offense), on issuance of a written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of both the proper toll and an administrative cost.
- (b) Authorizes the county to impose and collect the administrative cost, so as to recover the expense of collecting the unpaid toll, not to exceed \$100. Requires the county to send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of Texas Department of Transportation (TxDOT) by first-class mail not later than the 30th day after the date of the alleged failure to pay, and authorizes the county to require payment not sooner than the 30th day after the date the notice was mailed. Requires the registered owner to pay a separate toll and administrative cost for each event of nonpayment under Section 284.070.
- (c) Provides that 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) and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. Provides that each failure to pay a toll or administrative cost under this subsection is a separate offense.
- (d) Makes an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the authority a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 284.070, with the name and address of the lessee clearly legible. Authorizes the authority, if the lessor provides the required information with the period prescribed, to send a notice

of nonpayment to the lessee at the address shown on the contract document by first class mail before the 30th day after the date of receipt of the required information from the lessor. Provides that the lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. Requires the lessee to pay a separate toll and administrative cost for each event of nonpayment. Provides that each failure to pay a toll or administrative cost under this subsection is a separate offense.

- (e) Makes an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070 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), and before the 30th day after the date the notice of nonpayment is mailed, provides to the county the 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 at the address provided by the former owner by first-class mail before the 30th day after the date of receipt of the required information from the former owner. Provides that the subsequent owner of the vehicle for which the proper toll was not paid who is mailed written notice of nonpayment and fails to pay the toll and cost within the specified time commits an offense. Requires the subsequent owner to pay a separate toll and cost for each event of nonpayment. Provides that each failure to pay a toll or cost under this subsection is a separate offense.
- (f) Provides that an offense under this section is a misdemeanor punishable by a fine not to exceed \$250.
- (g) Requires the court in which a person is convicted of an offense under this section to also collect the proper toll and cost and forward them to the county.
- (h) Defines "registered owner."

Sec. 284.0702. PRIMA FACIE EVIDENCE; DEFENSE.

- (a) Authorizes the use of video recording, photograph, electronic recording, or other appropriate evidence, including evidence obtained by automated enforcement technology, to prove a vehicle was driven or towed through the toll collection facility without payment of the proper toll in the prosecution of an offense under Section 284.070 or 284.0701.
- (b) Provides that a TxDOT computer record of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the underlying event of nonpayment of the toll occurred.
- (c) Provides that it is a defense to prosecution under section 284.0701(c), (d), or (e) that the vehicle in question was stolen and had not been recovered before the failure to pay the toll occurred, but only if the theft was reported to the appropriate law enforcement authority by a certain time.

SECTION 2. Amends Section 284.202, Transportation Code, by adding Subsection (c), to authorize a commissioners court by order to impose a reasonable cost for expenses associated with collecting the unpaid toll or charge if the registered owner of the vehicle fails to pay a toll or charge by a certain time.

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

Sec. 284.2031. CIVIL AND CRIMINAL ENFORCEMENT FEE.

- (a) Authorizes a county to impose, in addition to other costs, \$1 as a court cost on conviction to a defendant convicted of an offense under Section 284.070, 284.0701, 284.203, and 284.208 in an action brought by the county or district attorney.
- (b) Provides that in this section a person is considered convicted if a sentence is imposed on the person or the court defers final disposition of the person's case.
- (c) Requires money 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 attorney and authorizes it only to be used to defray the salaries and expenses of the prosecutor's office. Provides that in no event may the county or district attorney supplement the attorney's own salary from this fund.

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

- (a) Removes a reference to a toll to be paid by electronic means.
- (b) Makes a conforming change.

SECTION 5. Amends Section 284.206, Transportation Code, to make conforming changes.

SECTION 6. Amends Subchapter D, Chapter 284, Transportation Code, by adding Section 284.213, as follows:

Sec. 284.213. SEIZURE OF TRANSPONDERS.

- (a) Defines "transponder." Provides that a transponder is insufficiently funded when there are no remaining funds in the account in connection with which the transponder was issued.
- (b) Authorizes any peace officer of this state to seize a stolen or insufficiently funded transponder and return it to the county, except that an insufficiently funded transponder may not be seized sooner than the 30th day after the date the county has sent a notice of delinquency to the holder of the account.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2003.

EFFECTIVE DATE

September 1, 2003

EXPLANATION OF AMENDMENTS

Committee Amendment No. 1 strikes language from Section 3 imposing a \$1 court cost on convictions in an administrative hearing. The Committee Amendment inserts language into Section 6 imposing a \$1 court cost on convictions in an administrative hearing; requires such court costs collected 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 expanses of the prosecutor's office, but in no event may the applicable attorney supplement the attorney's own salary; and, rennumbers remaining sections of the bill accordingly.