

By: Hamric

H.B. No. 1826

A BILL TO BE ENTITLED

1 AN ACT

2 relating to enforcement of the collection of certain tolls;
3 providing a penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Subchapter C, Chapter 284, Transportation Code,
6 is amended by adding Sections 284.0701 and 284.0702 to read as
7 follows:

8 Sec. 284.0701. ADMINISTRATIVE FEE; NOTICE; OFFENSE. (a)
9 In the event of an offense committed under Section 284.070, on
10 issuance of a written notice of nonpayment, the registered owner of
11 the nonpaying vehicle is liable for the payment of both the proper
12 toll and an administrative fee.

13 (b) The county may impose and collect the administrative
14 fee, so as to recover the cost of collecting the unpaid toll, not to
15 exceed \$100. The county shall send a written notice of nonpayment
16 to the registered owner of the vehicle at that owner's address as
17 shown in the vehicle registration records of the department by
18 first-class mail not later than the 30th day after the date of the
19 alleged failure to pay and may require payment not sooner than the
20 30th day after the date the notice was mailed. The registered owner
21 shall pay a separate toll and administrative fee for each event of
22 nonpayment under Section 284.070.

23 (c) The registered owner of a vehicle for which the proper
24 toll was not paid who is mailed a written notice of nonpayment under

1 Subsection (b) and fails to pay the proper toll and administrative
2 fee within the time specified by the notice of nonpayment commits an
3 offense. Each failure to pay a toll or administrative fee under
4 this subsection is a separate offense.

5 (d) It is an exception to the application of Subsection (a)
6 or (c) if the registered owner of the vehicle transferred ownership
7 of the vehicle to another person before the event of nonpayment
8 under Section 284.070 occurred, submitted written notice of the
9 transfer to the department in accordance with Section 520.023, and
10 before the 30th day after the date the notice of nonpayment is
11 mailed, provides to the county the name and address of the person to
12 whom the vehicle was transferred. If the former owner of the
13 vehicle provides the required information within the period
14 prescribed, the county may send a notice of nonpayment to the person
15 to whom ownership of the vehicle was transferred at the address
16 provided by the former owner by first-class mail before the 30th day
17 after the date of receipt of the required information from the
18 former owner. The subsequent owner of the vehicle for which the
19 proper toll was not paid who is mailed a written notice of
20 nonpayment under this subsection and fails to pay the proper toll
21 and administrative fee within the time specified by the notice of
22 nonpayment commits an offense. The subsequent owner shall pay a
23 separate toll and administrative fee for each event of nonpayment
24 under Section 284.070. Each failure to pay a toll or administrative
25 fee under this subsection is a separate offense.

26 (e) An offense under this section is a misdemeanor
27 punishable by a fine not to exceed \$250.

1 (f) The court in which a person is convicted of an offense
2 under this section shall also collect the proper toll and
3 administrative fee and forward the toll and fee to the county.

4 (g) In this section, "registered owner" means the owner of a
5 vehicle as shown on the vehicle registration records of the
6 department or the analogous department or agency of another state
7 or country.

8 Sec. 284.0702. PRIMA FACIE EVIDENCE; DEFENSE. (a) In the
9 prosecution of an offense under Section 284.070 or 284.0701, proof
10 that the vehicle was driven or towed through the toll collection
11 facility without payment of the proper toll may be shown by a video
12 recording, photograph, electronic recording, or other appropriate
13 evidence, including evidence obtained by automated enforcement
14 technology.

15 (b) In the prosecution of an offense under Section
16 284.0701(c) or (d), a computer record of the department of the
17 registered owner of the vehicle is prima facie evidence of its
18 contents and that the defendant was the registered owner of the
19 vehicle when the underlying event of nonpayment under Section
20 284.070 occurred.

21 (c) It is a defense to prosecution under Section 284.0701(c)
22 or (d) that the vehicle in question was stolen before the failure to
23 pay the proper toll occurred and had not been recovered before the
24 failure to pay occurred, but only if the theft was reported to the
25 appropriate law enforcement authority before the earlier of:

- 26 (1) the occurrence of the failure to pay; or
27 (2) eight hours after the discovery of the theft.

1 SECTION 2. Section 284.202, Transportation Code, is amended
2 by adding Subsection (c) to read as follows:

3 (c) If the registered owner of the vehicle fails to pay a
4 toll or charge not later than the 10th day after the notice under
5 Subsection (b) is mailed, the commissioners court by order may
6 impose a reasonable fee for costs associated with collecting the
7 unpaid toll or charge.

8 SECTION 3. Subchapter D, Chapter 284, Transportation Code,
9 is amended by adding Section 284.2031 to read as follows:

10 Sec. 284.2031. CIVIL AND CRIMINAL ENFORCEMENT FEE. (a) A
11 county may charge a fee of \$1 as a cost of court to a defendant
12 convicted of an offense under Section 284.070, 284.0701, or 284.203
13 in an action brought by the county or district attorney.

14 (b) In this section, a person is considered convicted if:

15 (1) a sentence is imposed on the person; or

16 (2) the court defers final disposition of the person's
17 case.

18 (c) Fees collected under Subsection (a) shall be deposited
19 in the county treasury in a special fund to be administered by the
20 county attorney or district attorney. Expenditures from this fund
21 shall be at the sole discretion of the attorney and may be used only
22 to defray the salaries and expenses of the prosecutor's office, but
23 in no event may the county attorney or district attorney supplement
24 his or her own salary from this fund.

25 SECTION 4. Sections 284.204(a) and (b), Transportation
26 Code, are amended to read as follows:

27 (a) The commissioners court of a county may adopt an

1 administrative adjudication hearing procedure for a person who is
2 suspected of having violated an order adopted under Section
3 284.202(a) on at least two separate occasions within a 12-month
4 period [~~in connection with a toll to be paid by electronic means~~].

5 (b) A hearing procedure adopted under Subsection (a) must
6 provide:

7 (1) a period for a person charged with violating the
8 order:

9 (A) to pay the toll or charge plus administrative
10 costs and fees authorized by Sections 284.202 and 284.2031; or

11 (B) to request a hearing;

12 (2) for appointment of one or more hearing officers
13 with authority to administer oaths and issue orders compelling the
14 attendance of witnesses and the production of documents; and

15 (3) for the amount and disposition of civil fines,
16 costs, and fees.

17 SECTION 5. Section 284.206, Transportation Code, is amended
18 to read as follows:

19 Sec. 284.206. ADMINISTRATIVE HEARING: PRESUMPTION;
20 EVIDENCE OF OWNERSHIP. (a) In an administrative adjudication
21 hearing under this subchapter it is presumed that[+]

22 [~~(1)~~] the registered owner of the motor vehicle that
23 is the subject of the hearing is the person who operated or allowed
24 the operation of [~~another person to operate~~] the motor vehicle in
25 violation of the order. [~~+~~ and]

26 (b) A [~~(2)~~ a] computer record of the department of the
27 registered vehicle owner is prima facie evidence of its contents

1 and that the defendant was the registered owner of the vehicle at
2 the time the violation occurred.

3 (c) Proof of the violation of the order may be shown by a
4 video recording, photograph, electronic recording, or other
5 appropriate evidence, including evidence obtained by automated
6 enforcement technology.

7 (d) It is a defense to prosecution under this subchapter
8 that the vehicle in question was stolen before the failure to pay
9 the proper toll occurred and had not been recovered before the
10 failure to pay occurred, but only if the theft was reported to the
11 appropriate law enforcement authority before the earlier of:

- 12 (1) the occurrence of the failure to pay; or
13 (2) eight hours after the discovery of the theft.

14 SECTION 6. Section 284.208(a), Transportation Code, is
15 amended to read as follows:

16 (a) The hearing officer shall issue a decision stating:

17 (1) whether the person charged is liable for a
18 violation of the order; and

19 (2) the amount of the fine, ~~and~~ costs, and fees to be
20 assessed against the person.

21 SECTION 7. Subchapter D, Chapter 284, Transportation Code,
22 is amended by adding Section 284.213 to read as follows:

23 Sec. 284.213. SEIZURE OF TRANSPONDERS. (a) For purposes of
24 this section, "transponder" means a device, placed on or within a
25 motor vehicle, that is capable of transmitting information used to
26 assess or to collect tolls. A transponder is insufficiently funded
27 when there are no remaining funds in the account in connection with

1 which the transponder was issued.

2 (b) Any peace officer of this state may seize a stolen or
3 insufficiently funded transponder and return it to the county,
4 except that an insufficiently funded transponder may not be seized
5 sooner than the 30th day after the date the county has sent a notice
6 of delinquency to the holder of the account.

7 SECTION 8. (a) The change in law made by this Act applies
8 only to an offense committed on or after the effective date of this
9 Act. For purposes of this section, an offense is committed before
10 the effective date of this Act if any element of the offense occurs
11 before that date.

12 (b) An offense committed before the effective date of this
13 Act is covered by the law in effect when the offense was committed,
14 and the former law is continued in effect for that purpose.

15 SECTION 9. This Act takes effect September 1, 2003.