

1-1 By: Lindsay S.B. No. 1464  
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read  
1-3 first time and referred to Committee on Infrastructure Development  
1-4 and Security; April 24, 2003, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;  
1-6 April 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1464 By: Lindsay

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to enforcement of the collection of certain tolls;  
1-11 providing a penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subchapter C, Chapter 284, Transportation Code,  
1-14 is amended by adding Sections 284.0701 and 284.0702 to read as  
1-15 follows:

1-16 Sec. 284.0701. ADMINISTRATIVE COSTS; NOTICE; OFFENSE.

1-17 (a) In the event of an offense committed under Section 284.070, on  
1-18 issuance of a written notice of nonpayment, the registered owner of  
1-19 the nonpaying vehicle is liable for the payment of both the proper  
1-20 toll and an administrative cost.

1-21 (b) The county may impose and collect the administrative  
1-22 cost so as to recover the expense of collecting the unpaid toll, not  
1-23 to exceed \$100. The county shall send a written notice of  
1-24 nonpayment to the registered owner of the vehicle at that owner's  
1-25 address as shown in the vehicle registration records of the  
1-26 department by first-class mail not later than the 30th day after the  
1-27 date of the alleged failure to pay and may require payment not  
1-28 sooner than the 30th day after the date the notice was mailed. The  
1-29 registered owner shall pay a separate toll and administrative cost  
1-30 for each event of nonpayment under Section 284.070.

1-31 (c) The registered owner of a vehicle for which the proper  
1-32 toll was not paid who is mailed a written notice of nonpayment under  
1-33 Subsection (b) and fails to pay the proper toll and administrative  
1-34 cost within the time specified by the notice of nonpayment commits  
1-35 an offense. Each failure to pay a toll or administrative cost under  
1-36 this subsection is a separate offense.

1-37 (d) It is an exception to the application of Subsection (a)  
1-38 or (c) if the registered owner of the vehicle is a lessor of the  
1-39 vehicle and not later than the 30th day after the date the notice of  
1-40 nonpayment is mailed provides to the authority a copy of the rental,  
1-41 lease, or other contract document covering the vehicle on the date  
1-42 of the nonpayment under Section 284.070, with the name and address  
1-43 of the lessee clearly legible. If the lessor provides the required  
1-44 information within the period prescribed, the authority may send a  
1-45 notice of nonpayment to the lessee at the address shown on the  
1-46 contract document by first class mail before the 30th day after the  
1-47 date of receipt of the required information from the lessor. The  
1-48 lessee of the vehicle for which the proper toll was not paid who is  
1-49 mailed a written notice of nonpayment under this subsection and  
1-50 fails to pay the proper toll and administrative cost within the time  
1-51 specified by the notice of nonpayment commits an offense. The  
1-52 lessee shall pay a separate toll and administrative cost for each  
1-53 event of nonpayment. Each failure to pay a toll or administrative  
1-54 cost under this subsection is a separate offense.

1-55 (e) It is an exception to the application of Subsection (a)  
1-56 or (c) if the registered owner of the vehicle transferred ownership  
1-57 of the vehicle to another person before the event of nonpayment  
1-58 under Section 284.070 occurred, submitted written notice of the  
1-59 transfer to the department in accordance with Section 520.023, and  
1-60 before the 30th day after the date the notice of nonpayment is  
1-61 mailed, provides to the county the name and address of the person to  
1-62 whom the vehicle was transferred. If the former owner of the  
1-63 vehicle provides the required information within the period

prescribed, the county may 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. The subsequent owner 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. The subsequent owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

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

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

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

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

(b) In the prosecution of an offense under Section 284.0701(c), (d), or (e), a computer record of the department 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 under Section 284.070 occurred.

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

(1) the occurrence of the failure to pay; or

(2) eight hours after the discovery of the theft.

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

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

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

Sec. 284.2031. CIVIL AND CRIMINAL ENFORCEMENT COST. (a) A county may 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, or 284.203 in an action brought by the county or district attorney.

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

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

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

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

SECTION 4. Subsections (a) and (b), Section 284.204, Transportation Code, are amended to read as follows:

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

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

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

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

(B) to request a hearing;

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

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

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

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

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

(b) A ~~[(2)]~~ ~~a~~ computer record of the department of the registered vehicle owner is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle at the time the violation occurred.

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

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

(1) the occurrence of the failure to pay; or

(2) eight hours after the discovery of the theft.

SECTION 6. Subchapter D, Chapter 284, Transportation Code, is amended by adding Section 284.213 to read as follows:

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

(b) Any peace officer of this state may 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. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, 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 covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2003.

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