

By: Phillips

H.B. No. 2983

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the electronic transmission of motor vehicle rental
3 information in connection with the payment of tolls.

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

5 SECTION 1. Section 228.055, Transportation Code, is amended
6 by amending Subsection (d) and adding Subsection (d-1) to read as
7 follows:

8 (d) It is an exception to the application of Subsection (a)
9 or (c) if the registered owner of the vehicle is a lessor of the
10 vehicle and not later than the 30th day after the date the notice of
11 nonpayment is mailed provides to the department:

12 (1) a copy of the rental, lease, or other contract
13 document covering the vehicle on the date of the nonpayment under
14 Section 228.054, with the name and address of the lessee clearly
15 legible; or

16 (2) electronic data, other than a photocopy or scan of
17 a rental or lease contract, that contains the information required
18 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
19 the date of the nonpayment under Section 228.054.

20 (d-1) If the lessor provides the required information
21 within the period prescribed under Subsection (d), the department
22 may send a notice of nonpayment to the lessee at the address
23 provided under Subsection (d) [~~shown on the contract document~~] by
24 first class mail before the 30th day after the date of receipt of

1 the required information from the lessor. The lessee of the
2 vehicle for which the proper toll was not paid who is mailed a
3 written notice of nonpayment under this subsection and fails to pay
4 the proper toll and administrative fee within the time specified by
5 the notice of nonpayment commits an offense. The lessee shall pay
6 a separate toll and administrative fee for each event of
7 nonpayment. Each failure to pay a toll or administrative fee under
8 this subsection is a separate offense.

9 SECTION 2. Sections 228.056(b) and (c), Transportation
10 Code, are amended to read as follows:

11 (b) In the prosecution of an offense under Section
12 228.055(c), (d-1) [~~(d)~~], or (e):

13 (1) it is presumed that the notice of nonpayment was
14 received on the fifth day after the date of mailing;

15 (2) a computer record of the department of the
16 registered owner of the vehicle is prima facie evidence of its
17 contents and that the defendant was the registered owner of the
18 vehicle when the underlying event of nonpayment under Section
19 228.054 occurred; and

20 (3) a copy of the rental, lease, or other contract
21 document, or the electronic data provided to the department under
22 Section 228.055(d), covering the vehicle on the date of the
23 underlying event of nonpayment under Section 228.054 is prima facie
24 evidence of its contents and that the defendant was the lessee of
25 the vehicle when the underlying event of nonpayment under Section
26 228.054 occurred.

27 (c) It is a defense to prosecution under Section 228.055(c),

1 (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen
2 before the failure to pay the proper toll occurred and had not been
3 recovered before the failure to pay occurred, but only if the theft
4 was reported to the appropriate law enforcement authority before
5 the earlier of:

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

8 SECTION 3. Section 284.0701, Transportation Code, is
9 amended by amending Subsection (d) and adding Subsection (d-1) to
10 read as follows:

11 (d) It is an exception to the application of Subsection (a)
12 or (c) if the registered owner of the vehicle is a lessor of the
13 vehicle and not later than the 30th day after the date the notice of
14 nonpayment is mailed provides to the authority:

15 (1) a copy of the rental, lease, or other contract
16 document covering the vehicle on the date of the nonpayment under
17 Section 284.070, with the name and address of the lessee clearly
18 legible; or

19 (2) electronic data, other than a photocopy or scan of
20 a rental or lease contract, that contains the information required
21 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
22 the date of the nonpayment under Section 284.070.

23 (d-1) If the lessor provides the required information
24 within the period prescribed under Subsection (d), the authority
25 may send a notice of nonpayment to the lessee at the address
26 provided under Subsection (d) [~~shown on the contract document~~] by
27 first class mail before the 30th day after the date of receipt of

1 the required information from the lessor. The lessee of the vehicle
2 for which the proper toll was not paid who is mailed a written
3 notice of nonpayment under this subsection and fails to pay the
4 proper toll and administrative cost within the time specified by
5 the notice of nonpayment commits an offense. The lessee shall pay a
6 separate toll and administrative cost for each event of nonpayment.
7 Each failure to pay a toll or administrative cost under this
8 subsection is a separate offense.

9 SECTION 4. Sections 284.0702(b) and (c), Transportation
10 Code, are amended to read as follows:

11 (b) In the prosecution of an offense under Section
12 284.0701(c), (d-1) [~~(d)~~], or (e):

13 (1) [~~1~~] a computer record of the department of the
14 registered owner of the vehicle is prima facie evidence of its
15 contents and that the defendant was the registered owner of the
16 vehicle when the underlying event of nonpayment under Section
17 284.070 occurred; and

18 (2) a copy of the rental, lease, or other contract
19 document, or the electronic data provided to the authority under
20 Section 284.0701(d), covering the vehicle on the date of the
21 underlying event of nonpayment under Section 284.070 is prima facie
22 evidence of its contents and that the defendant was the lessee of
23 the vehicle when the underlying event of nonpayment under Section
24 284.070 occurred.

25 (c) It is a defense to prosecution under Section
26 284.0701(c), (d-1) [~~(d)~~], or (e) that the vehicle in question was
27 stolen before the failure to pay the proper toll occurred and had

1 not been recovered before the failure to pay occurred, but only if
2 the theft was reported to the appropriate law enforcement authority
3 before the earlier of:

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

6 SECTION 5. Section 366.178, Transportation Code, is amended
7 by amending Subsections (f) and (i) and adding Subsection (i-1) to
8 read as follows:

9 (f) In the prosecution of a violation for nonpayment, proof
10 that the vehicle passed through a toll collection facility without
11 payment of the proper toll together with proof that the defendant
12 was the registered owner or the driver of the vehicle when the
13 failure to pay occurred, establishes the nonpayment of the
14 registered owner. The proof may be by testimony of a peace officer
15 or authority employee, video surveillance, or any other reasonable
16 evidence, including a copy of the rental, lease, or other contract
17 document or the electronic data provided to the authority under
18 Subsection (i) that shows the defendant was the lessee of the
19 vehicle when the underlying event of nonpayment occurred.

20 (i) A registered owner who is the lessor of a vehicle for
21 which a notice of nonpayment has been issued is not liable if, not
22 later than the 30th day after the date the notice of nonpayment is
23 mailed, the registered owner provides to the authority:

- 24 (1) a copy of the rental, lease, or other contract
25 document [~~lease agreement~~] covering the vehicle on the date of the
26 nonpayment, with the [~~The~~] name and address of the lessee [~~must~~
27 ~~be~~] clearly legible; or

1 (2) electronic data, other than a photocopy or scan of
2 a rental or lease contract, that contains the information required
3 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
4 the date of the nonpayment under this section.

5 (i-1) If the lessor timely provides the required
6 information under Subsection (i), the lessee of the vehicle on the
7 date of the violation is considered to be the owner of the vehicle
8 for purposes of this section. The lessee is subject to prosecution
9 for failure to pay the proper toll if the authority sends a notice
10 of nonpayment to the lessee by first-class mail not later than the
11 30th day after the date of the receipt of the information from the
12 lessor.

13 SECTION 6. Section 370.177, Transportation Code, is amended
14 by amending Subsections (e), (g), and (i) and adding Subsection
15 (e-1) to read as follows:

16 (e) It is an exception to the application of Subsection (b)
17 or (d) that the registered owner of the vehicle is a lessor of the
18 vehicle and not later than the 30th day after the date the notice of
19 nonpayment is mailed provides to the authority:

20 (1) a copy of the rental, lease, or other contract
21 document covering the vehicle on the date of the nonpayment under
22 Subsection (a), with the name and address of the lessee clearly
23 legible; or

24 (2) electronic data, other than a photocopy or scan of
25 a rental or lease contract, that contains the information required
26 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
27 the date of the nonpayment under Subsection (a).

1 (e-1) If the lessor provides the required information
2 within the period prescribed under Subsection (e), the authority
3 may send a notice of nonpayment to the lessee at the address
4 provided under Subsection (e) [~~shown on the contract document~~] by
5 first class mail before the 30th day after the date of receipt of
6 the required information from the lessor. The lessee of the vehicle
7 for which the proper toll was not paid who is mailed a written
8 notice of nonpayment under this subsection and fails to pay the
9 proper toll and administrative fee within the time specified by the
10 notice of nonpayment commits an offense. The lessee shall pay a
11 separate toll and administrative fee for each event of nonpayment.
12 Each failure to pay a toll or administrative fee under this
13 subsection is a separate offense.

14 (g) An offense under Subsection (d), (e-1) [~~(e)~~], or (f) is
15 a misdemeanor punishable by a fine not to exceed \$250.

16 (i) In the prosecution of an offense under this section,
17 proof that the vehicle passed through a toll collection facility
18 without payment of the proper toll together with proof that the
19 defendant was the registered owner or the driver of the vehicle when
20 the failure to pay occurred, establishes the nonpayment of the
21 registered owner. The proof may be by testimony of a peace officer
22 or authority employee, video surveillance, or any other reasonable
23 evidence, including:

24 (1) evidence obtained by automated enforcement
25 technology that the authority determines is necessary, including
26 automated enforcement technology described by Sections 228.058(a)
27 and (b); or

1 (2) a copy of the rental, lease, or other contract
2 document or the electronic data provided to the authority under
3 Subsection (e) that shows the defendant was the lessee of the
4 vehicle when the underlying event of nonpayment occurred.

5 SECTION 7. This Act takes effect September 1, 2009.