

AN ACT

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

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

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

(d) It is 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 department:

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

(2) electronic data, in a format agreed on by the department and the lessor, other than a photocopy or scan of a rental or lease contract, that contains the information required under Sections 521.460(c)(1), (2), and (3) covering the vehicle on the date of the nonpayment under Section 228.054.

(d-1) If the lessor provides the required information within the period prescribed under Subsection (d), the department may send a notice of nonpayment to the lessee at the address provided under Subsection (d) [~~shown on the contract document~~] by

1 first class mail before the 30th day after the date of receipt of  
2 the required information from the lessor. The lessee of the  
3 vehicle for which the proper toll was not paid who is mailed a  
4 written notice of nonpayment under this subsection and fails to pay  
5 the proper toll and administrative fee within the time specified by  
6 the notice of nonpayment commits an offense. The lessee shall pay  
7 a separate toll and administrative fee for each event of  
8 nonpayment. Each failure to pay a toll or administrative fee under  
9 this subsection is a separate offense.

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

12 (b) In the prosecution of an offense under Section  
13 228.055(c), (d-1) [~~(d)~~], or (e):

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

16 (2) 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  
20 228.054 occurred; and

21 (3) a copy of the rental, lease, or other contract  
22 document, or the electronic data provided to the department under  
23 Section 228.055(d), covering the vehicle on the date of the  
24 underlying event of nonpayment under Section 228.054 is prima facie  
25 evidence of its contents and that the defendant was the lessee of  
26 the vehicle when the underlying event of nonpayment under Section  
27 228.054 occurred.

1 (c) It is a defense to prosecution under Section 228.055(c),  
2 (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen  
3 before the failure to pay the proper toll occurred and had not been  
4 recovered before the failure to pay occurred, but only if the theft  
5 was reported to the appropriate law enforcement authority before  
6 the earlier of:

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

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

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

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

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

24 (d-1) If the lessor provides the required information  
25 within the period prescribed under Subsection (d), the authority  
26 may send a notice of nonpayment to the lessee at the address  
27 provided under Subsection (d) [~~shown on the contract document~~] by

1 first class mail before the 30th day after the date of receipt of  
2 the required information from the lessor. The lessee of the vehicle  
3 for which the proper toll was not paid who is mailed a written  
4 notice of nonpayment under this subsection and fails to pay the  
5 proper toll and administrative cost within the time specified by  
6 the notice of nonpayment commits an offense. The lessee shall pay a  
7 separate toll and administrative cost for each event of nonpayment.  
8 Each failure to pay a toll or administrative cost under this  
9 subsection is a separate offense.

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

12 (b) In the prosecution of an offense under Section  
13 284.0701(c), (d-1) [~~(d)~~], or (e):

14 (1) [7] a computer record of the department of the  
15 registered owner of the vehicle is prima facie evidence of its  
16 contents and that the defendant was the registered owner of the  
17 vehicle when the underlying event of nonpayment under Section  
18 284.070 occurred; and

19 (2) a copy of the rental, lease, or other contract  
20 document, or the electronic data provided to the authority under  
21 Section 284.0701(d), covering the vehicle on the date of the  
22 underlying event of nonpayment under Section 284.070 is prima facie  
23 evidence of its contents and that the defendant was the lessee of  
24 the vehicle when the underlying event of nonpayment under Section  
25 284.070 occurred.

26 (c) It is a defense to prosecution under Section  
27 284.0701(c), (d-1) [~~(d)~~], or (e) that the vehicle in question was

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

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

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

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

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

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

1 ~~be~~] clearly legible; or

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

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

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

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

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

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

1 the date of the nonpayment under Subsection (a).

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

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

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

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

1 and (b); or

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

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



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President of the Senate

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Speaker of the House

I certify that H.B. No. 2983 was passed by the House on April 22, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2983 on May 23, 2009, by the following vote: Yeas 138, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 2983 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor