

1-1 By: Phillips (Senate Sponsor - Hegar) H.B. No. 2983
1-2 (In the Senate - Received from the House April 23, 2009;
1-3 May 1, 2009, read first time and referred to Committee on
1-4 Transportation and Homeland Security; May 7, 2009, reported
1-5 adversely, with favorable Committee Substitute by the following
1-6 vote: Yeas 8, Nays 0; May 7, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2983 By: Watson

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

1-10 relating to the electronic transmission of motor vehicle rental
1-11 information in connection with the payment of tolls.

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

1-13 SECTION 1. Section 228.055, Transportation Code, is amended
1-14 by amending Subsection (d) and adding Subsection (d-1) to read as
1-15 follows:

1-16 (d) It is an exception to the application of Subsection (a)
1-17 or (c) if the registered owner of the vehicle is a lessor of the
1-18 vehicle and not later than the 30th day after the date the notice of
1-19 nonpayment is mailed provides to the department:

1-20 (1) a copy of the rental, lease, or other contract
1-21 document covering the vehicle on the date of the nonpayment under
1-22 Section 228.054, with the name and address of the lessee clearly
1-23 legible; or

1-24 (2) electronic data, in a format agreed on by the
1-25 department and the lessor, other than a photocopy or scan of a
1-26 rental or lease contract, that contains the information required
1-27 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
1-28 the date of the nonpayment under Section 228.054.

1-29 (d-1) If the lessor provides the required information
1-30 within the period prescribed under Subsection (d), the department
1-31 may send a notice of nonpayment to the lessee at the address
1-32 provided under Subsection (d) [~~shown on the contract document~~] by
1-33 first class mail before the 30th day after the date of receipt of
1-34 the required information from the lessor. The lessee of the
1-35 vehicle for which the proper toll was not paid who is mailed a
1-36 written notice of nonpayment under this subsection and fails to pay
1-37 the proper toll and administrative fee within the time specified by
1-38 the notice of nonpayment commits an offense. The lessee shall pay
1-39 a separate toll and administrative fee for each event of
1-40 nonpayment. Each failure to pay a toll or administrative fee under
1-41 this subsection is a separate offense.

1-42 SECTION 2. Sections 228.056(b) and (c), Transportation
1-43 Code, are amended to read as follows:

1-44 (b) In the prosecution of an offense under Section
1-45 228.055(c), (d-1) [~~(d)~~], or (e):

1-46 (1) it is presumed that the notice of nonpayment was
1-47 received on the fifth day after the date of mailing;

1-48 (2) a computer record of the department of the
1-49 registered owner of the vehicle is prima facie evidence of its
1-50 contents and that the defendant was the registered owner of the
1-51 vehicle when the underlying event of nonpayment under Section
1-52 228.054 occurred; and

1-53 (3) a copy of the rental, lease, or other contract
1-54 document, or the electronic data provided to the department under
1-55 Section 228.055(d), covering the vehicle on the date of the
1-56 underlying event of nonpayment under Section 228.054 is prima facie
1-57 evidence of its contents and that the defendant was the lessee of
1-58 the vehicle when the underlying event of nonpayment under Section
1-59 228.054 occurred.

1-60 (c) It is a defense to prosecution under Section 228.055(c),
1-61 (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen
1-62 before the failure to pay the proper toll occurred and had not been
1-63 recovered before the failure to pay occurred, but only if the theft
1-64 was reported to the appropriate law enforcement authority before

2-1 the earlier of:

- 2-2 (1) the occurrence of the failure to pay; or
- 2-3 (2) eight hours after the discovery of the theft.

2-4 SECTION 3. Section 284.0701, Transportation Code, is
2-5 amended by amending Subsection (d) and adding Subsection (d-1) to
2-6 read as follows:

2-7 (d) It is an exception to the application of Subsection (a)
2-8 or (c) if the registered owner of the vehicle is a lessor of the
2-9 vehicle and not later than the 30th day after the date the notice of
2-10 nonpayment is mailed provides to the authority:

2-11 (1) a copy of the rental, lease, or other contract
2-12 document covering the vehicle on the date of the nonpayment under
2-13 Section 284.070, with the name and address of the lessee clearly
2-14 legible; or

2-15 (2) electronic data, other than a photocopy or scan of
2-16 a rental or lease contract, that contains the information required
2-17 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
2-18 the date of the nonpayment under Section 284.070.

2-19 (d-1) If the lessor provides the required information
2-20 within the period prescribed under Subsection (d), the authority
2-21 may send a notice of nonpayment to the lessee at the address
2-22 provided under Subsection (d) [~~shown on the contract document~~] by
2-23 first class mail before the 30th day after the date of receipt of
2-24 the required information from the lessor. The lessee of the vehicle
2-25 for which the proper toll was not paid who is mailed a written
2-26 notice of nonpayment under this subsection and fails to pay the
2-27 proper toll and administrative cost within the time specified by
2-28 the notice of nonpayment commits an offense. The lessee shall pay a
2-29 separate toll and administrative cost for each event of nonpayment.
2-30 Each failure to pay a toll or administrative cost under this
2-31 subsection is a separate offense.

2-32 SECTION 4. Sections 284.0702(b) and (c), Transportation
2-33 Code, are amended to read as follows:

2-34 (b) In the prosecution of an offense under Section
2-35 284.0701(c), (d-1) [~~(d)~~], or (e):

2-36 (1) [✓] a computer record of the department of the
2-37 registered owner of the vehicle is prima facie evidence of its
2-38 contents and that the defendant was the registered owner of the
2-39 vehicle when the underlying event of nonpayment under Section
2-40 284.070 occurred; and

2-41 (2) a copy of the rental, lease, or other contract
2-42 document, or the electronic data provided to the authority under
2-43 Section 284.0701(d), covering the vehicle on the date of the
2-44 underlying event of nonpayment under Section 284.070 is prima facie
2-45 evidence of its contents and that the defendant was the lessee of
2-46 the vehicle when the underlying event of nonpayment under Section
2-47 284.070 occurred.

2-48 (c) It is a defense to prosecution under Section
2-49 284.0701(c), (d-1) [~~(d)~~], or (e) that the vehicle in question was
2-50 stolen before the failure to pay the proper toll occurred and had
2-51 not been recovered before the failure to pay occurred, but only if
2-52 the theft was reported to the appropriate law enforcement authority
2-53 before the earlier of:

- 2-54 (1) the occurrence of the failure to pay; or
- 2-55 (2) eight hours after the discovery of the theft.

2-56 SECTION 5. Section 366.178, Transportation Code, is amended
2-57 by amending Subsections (f) and (i) and adding Subsection (i-1) to
2-58 read as follows:

2-59 (f) In the prosecution of a violation for nonpayment, proof
2-60 that the vehicle passed through a toll collection facility without
2-61 payment of the proper toll together with proof that the defendant
2-62 was the registered owner or the driver of the vehicle when the
2-63 failure to pay occurred, establishes the nonpayment of the
2-64 registered owner. The proof may be by testimony of a peace officer
2-65 or authority employee, video surveillance, or any other reasonable
2-66 evidence, including a copy of the rental, lease, or other contract
2-67 document or the electronic data provided to the authority under
2-68 Subsection (i) that shows the defendant was the lessee of the
2-69 vehicle when the underlying event of nonpayment occurred.

3-1 (i) A registered owner who is the lessor of a vehicle for
3-2 which a notice of nonpayment has been issued is not liable if, not
3-3 later than the 30th day after the date the notice of nonpayment is
3-4 mailed, the registered owner provides to the authority:

3-5 (1) a copy of the rental, lease, or other contract
3-6 document [~~lease agreement~~] covering the vehicle on the date of the
3-7 nonpayment, with the [~~The~~] name and address of the lessee [~~must~~
3-8 ~~be~~] clearly legible; or

3-9 (2) electronic data, other than a photocopy or scan of
3-10 a rental or lease contract, that contains the information required
3-11 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
3-12 the date of the nonpayment under this section.

3-13 (i-1) If the lessor timely provides the required
3-14 information under Subsection (i), the lessee of the vehicle on the
3-15 date of the violation is considered to be the owner of the vehicle
3-16 for purposes of this section. The lessee is subject to prosecution
3-17 for failure to pay the proper toll if the authority sends a notice
3-18 of nonpayment to the lessee by first-class mail not later than the
3-19 30th day after the date of the receipt of the information from the
3-20 lessor.

3-21 SECTION 6. Section 370.177, Transportation Code, is amended
3-22 by amending Subsections (e), (g), and (i) and adding Subsection
3-23 (e-1) to read as follows:

3-24 (e) It is an exception to the application of Subsection (b)
3-25 or (d) that the registered owner of the vehicle is a lessor of the
3-26 vehicle and not later than the 30th day after the date the notice of
3-27 nonpayment is mailed provides to the authority:

3-28 (1) a copy of the rental, lease, or other contract
3-29 document covering the vehicle on the date of the nonpayment under
3-30 Subsection (a), with the name and address of the lessee clearly
3-31 legible; or

3-32 (2) electronic data, other than a photocopy or scan of
3-33 a rental or lease contract, that contains the information required
3-34 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
3-35 the date of the nonpayment under Subsection (a).

3-36 (e-1) If the lessor provides the required information
3-37 within the period prescribed under Subsection (e), the authority
3-38 may send a notice of nonpayment to the lessee at the address
3-39 provided under Subsection (e) [~~shown on the contract document~~] by
3-40 first class mail before the 30th day after the date of receipt of
3-41 the required information from the lessor. The lessee of the vehicle
3-42 for which the proper toll was not paid who is mailed a written
3-43 notice of nonpayment under this subsection and fails to pay the
3-44 proper toll and administrative fee within the time specified by the
3-45 notice of nonpayment commits an offense. The lessee shall pay a
3-46 separate toll and administrative fee for each event of nonpayment.
3-47 Each failure to pay a toll or administrative fee under this
3-48 subsection is a separate offense.

3-49 (g) An offense under Subsection (d), (e-1) [~~(e)~~], or (f) is
3-50 a misdemeanor punishable by a fine not to exceed \$250.

3-51 (i) In the prosecution of an offense under this section,
3-52 proof that the vehicle passed through a toll collection facility
3-53 without payment of the proper toll together with proof that the
3-54 defendant was the registered owner or the driver of the vehicle when
3-55 the failure to pay occurred, establishes the nonpayment of the
3-56 registered owner. The proof may be by testimony of a peace officer
3-57 or authority employee, video surveillance, or any other reasonable
3-58 evidence, including:

3-59 (1) evidence obtained by automated enforcement
3-60 technology that the authority determines is necessary, including
3-61 automated enforcement technology described by Sections 228.058(a)
3-62 and (b); or

3-63 (2) a copy of the rental, lease, or other contract
3-64 document or the electronic data provided to the authority under
3-65 Subsection (e) that shows the defendant was the lessee of the
3-66 vehicle when the underlying event of nonpayment occurred.

3-67 SECTION 7. This Act takes effect September 1, 2009.

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