

By: Hegar

S.B. No. 1610

A BILL TO BE ENTITLED

AN ACT

relating to liability of vehicle lessees for unpaid 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) an electronic document, other than a photocopy or scan of a rental or lease contract, that contains the information required by Sections 521.460(c)(1)-(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 by Subsection (d), the department may send a notice of nonpayment to the lessee at the address provided in the document under that subsection ~~[shown on the contract document]~~ by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle

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

8 SECTION 2. Section 228.056(b), Transportation Code, is
9 amended to read as follows:

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

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

14 (2) 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
18 228.054 occurred; and

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

26 SECTION 3. Section 284.0701, Transportation Code, is
27 amended by amending Subsection (d) and adding Subsection (d-1) to

1 read as follows:

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

6 (1) a copy of the rental, lease, or other contract
7 document covering the vehicle on the date of the nonpayment under
8 Section 284.070, with the name and address of the lessee clearly
9 legible; or

10 (2) an electronic document, other than a photocopy or
11 scan of a rental or lease contract, that contains the information
12 required by Sections 521.460(c)(1)-(3) covering the vehicle on the
13 date of the nonpayment under Section 284.070.

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

27 SECTION 4. Section 284.0702(b), Transportation Code, is

1 amended to read as follows:

2 (b) In the prosecution of an offense under Section
3 284.0701(c), (d-1) [~~(d)~~], or (e):

4 (1) [~~1~~] a computer record of the department of the
5 registered owner of the vehicle is prima facie evidence of its
6 contents and that the defendant was the registered owner of the
7 vehicle when the underlying event of nonpayment under Section
8 284.070 occurred; and

9 (2) a copy of the rental, lease, or other contract
10 document, or an electronic document provided to the authority under
11 Section 284.0701(d) is prima facie evidence of its contents and
12 that the defendant was the lessee of the vehicle when the underlying
13 event of nonpayment under Section 284.070 occurred.

14 SECTION 5. Section 366.178, Transportation Code, is amended
15 by amending Subsections (f) and (i) and adding Subsection (j) to
16 read as follows:

17 (f) In the prosecution of a violation for nonpayment, proof
18 that the vehicle passed through a toll collection facility without
19 payment of the proper toll together with proof that the defendant
20 was the registered owner or the lessee [~~driver~~] of the vehicle when
21 the failure to pay occurred, establishes the nonpayment of the
22 registered owner or lessee. The proof may be by testimony of a
23 peace officer or authority employee, video surveillance, or any
24 other reasonable evidence, including a copy of a rental, lease, or
25 other contract document, or an electronic document provided to the
26 authority under Subsection (i) showing that the defendant was the
27 lessee of the vehicle when the underlying event of nonpayment

1 occurred.

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

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

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

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

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

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

1 nonpayment is mailed provides to the authority:

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

6 (2) an electronic document, other than a photocopy or
7 scan of a rental or lease contract, that contains the information
8 required by Sections 521.460(c)(1)-(3) covering the vehicle on the
9 date of the nonpayment under Subsection (a).

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

23 (i) In the prosecution of an offense under this section,
24 proof that the vehicle passed through a toll collection facility
25 without payment of the proper toll together with proof that the
26 defendant was the registered owner or the lessee [~~driver~~] of the
27 vehicle when the failure to pay occurred, establishes the

1 nonpayment of the registered owner or lessee. The proof may be by
2 testimony of a peace officer or authority employee, video
3 surveillance, or any other reasonable evidence, including:

4 (1) evidence obtained by automated enforcement
5 technology that the authority determines is necessary, including
6 automated enforcement technology described by Sections 228.058(a)
7 and (b); or

8 (2) a copy of the rental, lease, or other contract
9 document, or an electronic document provided to the authority under
10 Subsection (e) showing that the defendant was the lessee of the
11 vehicle when the underlying event of nonpayment occurred.

12 SECTION 7. The change in law made by this Act applies only
13 to a nonpayment of a toll that occurs on or after the effective date
14 of this Act. A nonpayment of a toll that occurs before the
15 effective date of this Act is covered by the law in effect when the
16 nonpayment occurred, and the former law is continued in effect for
17 that purpose.

18 SECTION 8. This Act takes effect September 1, 2009.