

BILL ANALYSIS

S.B. 959
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Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, state law limits the ability of the Texas Department of Transportation (TxDOT) to implement certain policies and procedures that could ultimately lead to a more effective and efficient toll collection and enforcement process. S.B. 959 seeks to clarify TxDOT's authority related to its toll operation system, particularly the current collection processes and administrative and enforcement activities. S.B. 959 helps provide clarification when using video billing for toll transactions. The bill also includes language to clarify certain toll operation functions, such as providing refunds after a customer closes an account and how vehicles with multiple axles are processed by the system.

TxDOT currently offers video billing to its customers, which allows customers to drive on a toll road without paying the toll at the time the road is used. A photograph of the vehicle's license plate is captured and a bill is sent to the registered owner of the vehicle at a later date. Under current law, TxDOT is required to mail violation notices to the registered owner of the vehicle at the primary address shown in the Department of Motor Vehicle's registration records; however, many of those addresses are inaccurate and some are the addresses of a previous owner of the vehicle. S.B. 959 amends the Transportation Code to authorize TxDOT to send notices of nonpayment to an alternate address provided by the owner or derived through other reliable means.

Further, TxDOT charges a separate administrative fee for each unpaid toll transaction. During one trip on a toll facility, a customer may pass through multiple tolling points. Even though unpaid toll transactions are ultimately grouped together for collection purposes, TxDOT does not have the authority to charge a single administrative fee that covers multiple events of nonpayment. S.B. 959 expressly authorizes TxDOT to impose one administrative fee that covers multiple events of nonpayment.

In addition, TxDOT has been approached by the City of Austin Department of Aviation with regard to the possibility of using TxTag customer accounts to pay for parking services. S.B. 959 expressly authorizes TxDOT to enter into an agreement with a governmental or private entity regarding the use of a transponder issued by TxDOT and the corresponding electronic toll collection customer account to pay for parking services offered by the entity.

Finally, S.B. 959 expressly authorizes TxDOT to refund to the customer the balance of funds in an electronic toll collection customer account after the closure of the account, as well as provides that automated enforcement technology may also be used for purposes of producing, depicting, photographing or recording an image that depicts the part of a vehicle necessary to establish the classification of the vehicle and the proper toll to be charge, the license plate number, and the state of registration as well as images showing the vehicle dimensions, the presence of a trailer, and the number of axles.

S.B. 959 amends current law relating to toll collection and enforcement.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 228.001, Transportation Code, by adding Subdivision (3-a) to define "registered owner."

SECTION 2. Amends Section 228.054(a), Transportation Code, to create an exception to this subsection under Section 228.0545.

SECTION 3. Amends Subchapter B, Chapter 228, Transportation Code, by adding Section 228.0545, as follows:

Sec. 228.0545. ALTERNATIVE TOLLING METHODS. (a) Authorizes the Texas Department of Transportation (TxDOT), as an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll collection facility, to use video billing or other tolling methods to permit the registered owner of the vehicle to pay the toll at a later date.

(b) Authorizes TxDOT to use automated enforcement technology authorized under Section 228.058 (Automated Enforcement Technology) to identify the registered owner of the vehicle for purposes of billing, collection, and enforcement activities.

(c) Requires TxDOT to send by first class mail to the registered owner of the vehicle a written notice of the total amount due. Requires that the notice specify the date, which may not be earlier than the 30th day after the date the notice is mailed, by which the amount due is required to be paid. Requires the registered owner to pay the amount due on or before the date specified in the notice.

(d) Requires TxDOT to send the notice required under Subsection (c) and subsequent notices to:

(1) the registered owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles (TxDMV) or the analogous department or agency of another state or country; or

(2) an alternate address provided by the owner or derived through other reliable means.

SECTION 4. Amends Sections 228.055, Transportation Code, by amending Subsections (a), (b), (d), (e), and (h), as follows:

(a) Provides that in the event of nonpayment of the toll as required by Section 228.054 (Failure or Refusal to Pay Toll; Offense) or 228.0545, on issuance of a written notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of both the proper toll and an administrative fee. Makes a nonsubstantive change.

(b) Requires TxDOT to send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of TxDMV or the analogous department or agency of another state or country or at an alternate address provided by the owner or derived through other reliable means. Requires that the notice of nonpayment be sent by first class mail and authorizes it to require payment not sooner than the 30th day after the date the notice was mailed. Requires the registered owner to pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 or 228.0545.

(d) Provides that 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 TxDOT:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 228.054 or the date the vehicle was driven or

towed through a toll collection facility that results in a notice issued under Section 228.0545, with the name and address of the lessee clearly legible; or

(2) electronic data, in a format agreed on by TxDOT 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) (relating to maintaining a record of the number of the license plate for certain motor vehicles), (2) (relating to maintaining a record of the name and address of certain persons), and (3) (relating to maintaining a record of the license number of certain persons) covering the vehicle on the date of the nonpayment under Section 228.054 or the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545.

(e) Provides that it is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 228.054 occurred or before the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545, submitted written notice of the transfer to TxDOT in accordance with Section 520.023 (Powers and Duties of Department on Transfer of Used Vehicle), and, before the 30th day after the date the notice of nonpayment is mailed, provides to TxDOT the name and address of the person to whom the vehicle was transferred. Authorizes TxDOT to send all subsequent notices of nonpayment associated with the vehicle to the person to whom ownership of the vehicle was transferred at the address provided by the former owner or an alternate address provided by the subsequent owner of the vehicle or derived through other reliable means. Requires the subsequent owner of the vehicle to pay a separate toll and administrative fee for each event of nonpayment under Section 228.054 or 228.0545. Makes a nonsubstantive change.

(h) Authorizes TxDOT, notwithstanding the requirement in Subsections (b), (d-1) (relating to sending a notice of nonpayment to a lessee and requiring payment), and (e) for payment of a separate administrative fee for each event of nonpayment under Section 228.054 or 228.0545, to impose one administrative fee that covers multiple events of nonpayment. Deletes existing Subsection (h) defining "registered owner" in this section.

SECTION 5. Amends Section 228.056(b), Transportation Code, as follows:

(b) Provides that in the prosecution of an offense under Section 228.055(c), (d-1), or (e):

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

(2) a computer record of TxDMV 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 228.054 occurred or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545; and

(3) a copy of the rental, lease, or other contract document, or the electronic data provided to TxDOT under Section 228.055(d), covering the vehicle on the date of the underlying event of nonpayment under Section 228.054 or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545 is prima facie evidence of its contents and that the defendant was the registered lessee of the vehicle when the underlying event of nonpayment under Section 228.054 occurred or on the date the vehicle was driven or towed through a toll collection facility that results in a notice issued under Section 228.0545.

SECTION 6. Amends Section 228.057, Transportation Code, by adding Subsections (g) and (h), as follows:

(g) Authorizes TxDOT, following closure of an electronic toll collection customer account and at the request of the account holder, to refund the balance of funds in the account after satisfaction of any outstanding tolls and fees.

(h) Authorizes TxDOT to enter into an agreement with a governmental or private entity regarding the use of a transponder issued by TxDOT and the corresponding electronic toll collection customer account to pay for parking services offered by the entity.

SECTION 7. Amends Section 228.058(b), Transportation Code, as follows:

(b) Authorizes automated enforcement technology approved by TxDOT under Subsection (a) to be used only for the purpose of producing, depicting, photographing, or recording an image that depicts that portion of a vehicle necessary to establish the classification of vehicle and the proper toll to be charged, the license plate number, and the state of registration, including an image:

(1) of a license plate attached to the front or rear of a vehicle; and

(2) showing the vehicle dimensions, the presence of a trailer, and the number of axles.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: upon passage or September 1, 2011.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2011.