

1-1 By: Wentworth S.B. No. 959
1-2 (In the Senate - Filed February 25, 2011; March 8, 2011,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; March 28, 2011, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 9, Nays
1-6 0; March 28, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 959 By: Wentworth

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

1-10 relating to toll collection and enforcement.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 228.001, Transportation Code, is amended
1-13 by adding Subdivision (3-a) to read as follows:

1-14 (3-a) "Registered owner" means an owner as defined in
1-15 Section 502.001.

1-16 SECTION 2. Subsection (a), Section 228.054, Transportation
1-17 Code, is amended to read as follows:

1-18 (a) Except as provided by Subsection (e) or Section
1-19 228.0545, the operator of a vehicle, other than an authorized
1-20 emergency vehicle, as defined by Section 541.201, that is driven or
1-21 towed through a toll collection facility shall pay the proper toll.
1-22 The exemption from payment of a toll for an authorized emergency
1-23 vehicle applies regardless of whether the vehicle is:

- 1-24 (1) responding to an emergency;
- 1-25 (2) displaying a flashing light; or
- 1-26 (3) marked as an emergency vehicle.

1-27 SECTION 3. Subchapter B, Chapter 228, Transportation Code,
1-28 is amended by adding Section 228.0545 to read as follows:

1-29 Sec. 228.0545. ALTERNATIVE TOLLING METHODS. (a) As an
1-30 alternative to requiring payment of a toll at the time a vehicle is
1-31 driven or towed through a toll collection facility, the department
1-32 may use video billing or other tolling methods to permit the
1-33 registered owner of the vehicle to pay the toll at a later date.

1-34 (b) The department may use automated enforcement technology
1-35 authorized under Section 228.058 to identify the registered owner
1-36 of the vehicle for purposes of billing, collection, and enforcement
1-37 activities.

1-38 (c) The department shall send by first class mail to the
1-39 registered owner of the vehicle a written notice of the total amount
1-40 due. The notice must specify the date, which may not be earlier
1-41 than the 30th day after the date the notice is mailed, by which the
1-42 amount due must be paid. The registered owner shall pay the amount
1-43 due on or before the date specified in the notice.

1-44 (d) The department shall send the notice required under
1-45 Subsection (c) and subsequent notices to:

1-46 (1) the registered owner's address as shown in the
1-47 vehicle registration records of the Texas Department of Motor
1-48 Vehicles or the analogous department or agency of another state or
1-49 country; or

1-50 (2) an alternate address provided by the owner or
1-51 derived through other reliable means.

1-52 SECTION 4. Subsections (a), (b), (d), (e), and (h), Section
1-53 228.055, Transportation Code, are amended to read as follows:

1-54 (a) In the event of nonpayment of the ~~proper~~ toll as
1-55 required by Section 228.054 or 228.0545, on issuance of a written
1-56 notice of nonpayment, the registered owner of the nonpaying vehicle
1-57 is liable for the payment of both the proper toll and an
1-58 administrative fee.

1-59 (b) The department may impose and collect the
1-60 administrative fee, so as to recover the cost of collecting the
1-61 unpaid toll, not to exceed \$100. The department shall send a
1-62 written notice of nonpayment to the registered owner of the vehicle
1-63 at that owner's address as shown in the vehicle registration

2-1 records of the Texas Department of Motor Vehicles or the analogous
 2-2 department or agency of another state or country or at an alternate
 2-3 address provided by the owner or derived through other reliable
 2-4 means. The notice of nonpayment shall be sent by first class mail
 2-5 and may require payment not sooner than the 30th day after the date
 2-6 the notice was mailed. The registered owner shall pay a separate
 2-7 toll and administrative fee for each event of nonpayment under
 2-8 Section 228.054 or 228.0545.

2-9 (d) It is an exception to the application of Subsection (a)
 2-10 or (c) if the registered owner of the vehicle is a lessor of the
 2-11 vehicle and not later than the 30th day after the date the notice of
 2-12 nonpayment is mailed provides to the department:

2-13 (1) a copy of the rental, lease, or other contract
 2-14 document covering the vehicle on the date of the nonpayment under
 2-15 Section 228.054 or the date the vehicle was driven or towed through
 2-16 a toll collection facility that results in a notice issued under
 2-17 Section 228.0545, with the name and address of the lessee clearly
 2-18 legible; or

2-19 (2) electronic data, in a format agreed on by the
 2-20 department and the lessor, other than a photocopy or scan of a
 2-21 rental or lease contract, that contains the information required
 2-22 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
 2-23 the date of the nonpayment under Section 228.054 or the date the
 2-24 vehicle was driven or towed through a toll collection facility that
 2-25 results in a notice issued under Section 228.0545.

2-26 (e) It is an exception to the application of Subsection (a)
 2-27 or (c) if the registered owner of the vehicle transferred ownership
 2-28 of the vehicle to another person before the event of nonpayment
 2-29 under Section 228.054 occurred or before the date the vehicle was
 2-30 driven or towed through a toll collection facility that results in a
 2-31 notice issued under Section 228.0545, submitted written notice of
 2-32 the transfer to the department in accordance with Section 520.023,
 2-33 and, before the 30th day after the date the notice of nonpayment is
 2-34 mailed, provides to the department the name and address of the
 2-35 person to whom the vehicle was transferred. If the former owner of
 2-36 the vehicle provides the required information within the period
 2-37 prescribed, the department may send a notice of nonpayment to the
 2-38 person to whom ownership of the vehicle was transferred at the
 2-39 address provided by the former owner by first class mail before the
 2-40 30th day after the date of receipt of the required information from
 2-41 the former owner. The department may send all subsequent notices of
 2-42 nonpayment associated with the vehicle to the person to whom
 2-43 ownership of the vehicle was transferred at the address provided by
 2-44 the former owner or an alternate address provided by the subsequent
 2-45 owner or derived through other reliable means. The subsequent
 2-46 owner of the vehicle for which the proper toll was not paid who is
 2-47 mailed a written notice of nonpayment under this subsection and
 2-48 fails to pay the proper toll and administrative fee within the time
 2-49 specified by the notice of nonpayment commits an offense. The
 2-50 subsequent owner shall pay a separate toll and administrative fee
 2-51 for each event of nonpayment under Section 228.054 or 228.0545.
 2-52 Each failure to pay a toll or administrative fee under this
 2-53 subsection is a separate offense.

2-54 (h) Notwithstanding the requirement in Subsections (b),
 2-55 (d-1), and (e) for payment of a separate administrative fee for each
 2-56 event of nonpayment under Section 228.054 or 228.0545, the
 2-57 department may impose one administrative fee that covers multiple
 2-58 events of nonpayment [In this section, "registered owner" means
 2-59 the owner of a vehicle as shown on the vehicle registration records
 2-60 of the Texas Department of Motor Vehicles or the analogous
 2-61 department or agency of another state or country].

2-62 SECTION 5. Subsection (b), Section 228.056, Transportation
 2-63 Code, is amended to read as follows:

2-64 (b) In the prosecution of an offense under Section
 2-65 228.055(c), (d-1), or (e):

2-66 (1) it is presumed that the notice of nonpayment was
 2-67 received on the fifth day after the date of mailing;

2-68 (2) a computer record of the Texas Department of Motor
 2-69 Vehicles of the registered owner of the vehicle is prima facie

3-1 evidence of its contents and that the defendant was the registered
3-2 owner of the vehicle when the underlying event of nonpayment under
3-3 Section 228.054 occurred or on the date the vehicle was driven or
3-4 towed through a toll collection facility that results in a notice
3-5 issued under Section 228.0545; and

3-6 (3) a copy of the rental, lease, or other contract
3-7 document, or the electronic data provided to the department under
3-8 Section 228.055(d), covering the vehicle on the date of the
3-9 underlying event of nonpayment under Section 228.054 or on the date
3-10 the vehicle was driven or towed through a toll collection facility
3-11 that results in a notice issued under Section 228.0545 is prima
3-12 facie evidence of its contents and that the defendant was the lessee
3-13 of the vehicle when the underlying event of nonpayment under
3-14 Section 228.054 occurred or when the vehicle was driven or towed
3-15 through a toll collection facility that results in a notice issued
3-16 under Section 228.0545.

3-17 SECTION 6. Section 228.057, Transportation Code, is amended
3-18 by adding Subsections (g) and (h) to read as follows:

3-19 (g) The department may, following closure of an electronic
3-20 toll collection customer account and at the request of the account
3-21 holder, refund the balance of funds in the account after
3-22 satisfaction of any outstanding tolls and fees.

3-23 (h) The department may enter into an agreement with a
3-24 governmental or private entity regarding the use of a transponder
3-25 issued by the department and the corresponding electronic toll
3-26 collection customer account to pay for parking services offered by
3-27 the entity.

3-28 SECTION 7. Subsection (b), Section 228.058, Transportation
3-29 Code, is amended to read as follows:

3-30 (b) Automated enforcement technology approved by the
3-31 department under Subsection (a) may be used only for the purpose of
3-32 producing, depicting, photographing, or recording an image that
3-33 depicts that portion of a vehicle necessary to establish the
3-34 classification of vehicle and the proper toll to be charged, the
3-35 license plate number, and the state of registration, including an
3-36 image:

3-37 (1) of a license plate attached to the front or rear of
3-38 a vehicle; and

3-39 (2) showing the vehicle dimensions, the presence of a
3-40 trailer, and the number of axles.

3-41 SECTION 8. The changes in law made by this Act apply only to
3-42 an offense committed on or after the effective date of this Act. An
3-43 offense committed before the effective date of this Act is governed
3-44 by the law in effect on the date the offense was committed, and the
3-45 former law is continued in effect for that purpose. For purposes of
3-46 this section, an offense was committed before the effective date of
3-47 this Act if any element of the offense occurred before that date.

3-48 SECTION 9. This Act takes effect immediately if it receives
3-49 a vote of two-thirds of all the members elected to each house, as
3-50 provided by Section 39, Article III, Texas Constitution. If this
3-51 Act does not receive the vote necessary for immediate effect, this
3-52 Act takes effect September 1, 2011.

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