

BILL ANALYSIS

C.S.H.B. 3048
By: Phillips
Transportation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Toll roads and the various entities that operate toll roads have become an integral part of the state highway system. While the vast majority of toll road users pay the tolls, a small percentage of drivers habitually use these roads without paying. Efforts by the tollway authorities to compel these habitual violators to pay for using the roads have proven unsuccessful in many cases. Although, according to interested parties, the number of habitual violators is relatively small given the volume of traffic on such toll roads, the cost to tolling entities, which depend on toll revenue to pay debt, is significant. When these tolls remain unpaid by habitual violators, the cost shifts to individuals who pay tolls in a timely fashion.

Interested parties contend that the deterrent and enforcement options currently available to force habitual violators to pay tolls are insufficient to act as a deterrent and that the available remedies have proven ineffective in getting the most persistent toll violators to comply with the law.

Recognizing that certain other remedies have proven to be effective in this regard, C.S.H.B. 3048 seeks to provide additional enforcement options to compel habitual violators to pay what they owe for using toll roads.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3048 amends the Transportation Code to authorize a toll project entity to publish a list of the names of the registered owners or lessees of nonpaying vehicles who at the time of publication are liable for the payment of past due and unpaid tolls or administrative fees. The bill specifies that the list may include only the persons' names and, for each person listed, the city and state of the person's residence, the total number of events of nonpayment, and the total amount due for the tolls and administrative fees. The bill prohibits a toll project entity from including on such a list the name of a registered owner who remits a tax imposed on the gross rental receipts from the rental of a rented motor vehicle.

C.S.H.B. 3048 authorizes a toll project entity to enter into an agreement with the registered owner of a vehicle, for whom a single payment is not feasible, that allows the person to pay the total amount of outstanding tolls and administrative fees over a specified period. The bill sets out provisions relating to the requirements of the agreement and the actions the toll project entity is authorized to take if the registered owner fails to comply with the terms of the agreement, which under certain circumstances can include referring the matter to an attorney authorized to represent the entity for suit or collection. The bill authorizes the authorized attorney under those circumstances to file suit in a district court in the county in which the toll project entity's administrative offices are primarily located to recover the outstanding balance due and to recover specified fees and costs incurred on behalf of the entity in the proceeding in the same manner as

provided by general law for a private litigant.

C.S.H.B. 3048 authorizes a toll project entity, in lieu of mailing a written notice of nonpayment, to serve with a written notice of nonpayment in person an owner of a vehicle that is not registered in Texas, including the owner of a vehicle registered in another state of the United States, the United Mexican States, a state of the United Mexican States, or another country or territory. The bill authorizes such a notice of nonpayment to be served by an employee of a governmental entity operating an international bridge at the time a vehicle with a record of nonpayment seeks to enter or leave Texas. The bill requires that each notice include a warning that the failure to pay the amounts in the notice may result in the toll project entity's exercise of the habitual violator remedies under the bill's provisions. The bill makes it a misdemeanor offense punishable by a fine not to exceed \$250 for a person who is served a written notice of nonpayment to fail to pay the proper toll and administrative fee within the time specified in the notice. The bill makes each failure to pay a toll or administrative fee a separate offense. The bill requires the court in which an owner is convicted of such an offense to also collect the proper toll and administrative fee and forward the toll and fee to the toll project entity. The bill establishes certain defenses to prosecution for this offense.

C.S.H.B. 3048 establishes that, for purposes of its provisions, a habitual violator is a registered owner of a vehicle, of whom a toll project entity determines the following: the owner was issued at least two written notices of nonpayment that contained, in the aggregate, 100 or more events of nonpayment within a period of one year, with certain exceptions, and a warning that the failure to pay the amounts specified in the notices may result in the entity's exercise of habitual violator remedies; and the owner has not paid in full the total amount due for tolls and administrative fees for which notice was given. The bill requires a toll project entity, if the entity makes those determinations, to give written notice to the person at an address as prescribed by the bill and sets out notice requirements. The bill requires a hearing to be held if the entity receives a written request for a hearing not later than the 30th day after the date on which the person is presumed to have received the notice. The bill specifies that if a person does not request a hearing within the 30-day period, the entity's determination becomes final and not subject to appeal on the expiration of that period.

C.S.H.B. 3048 sets out provisions relating to jurisdiction and venue for such a hearing, a justice of the peace's payment for conducting such a hearing, the issues that must be proven at the hearing by a preponderance of evidence, and the manner in which such proof may be presented. The bill describes the conditions in such a hearing under which the entity's determination that a person is a habitual violator becomes final and under which the entity is required to rescind its determination. The bill clarifies that rescission of the determination does not limit the entity's authority to pursue collection of the outstanding tolls and administrative fees. The bill provides that a registered owner who requests a hearing and fails to appear without just cause waives the right to a hearing and specifies that the entity's determination is final and not subject to appeal. The bill authorizes a justice of the peace court to adopt administrative hearings processes to expedite such hearings.

C.S.H.B. 3048 sets out provisions under which a registered owner determined to be a habitual violator may appeal a justice of the peace's decision and describes the appeal process. The bill specifies the period during which a final determination that a person is a habitual violator remains in effect and requires the toll project entity, when a determination terminates, to send notice to appropriate persons and entities, as applicable, not later than the seventh day after the date of the termination.

C.S.H.B. 3048 authorizes a toll project entity, by order of its governing body, to prohibit the operation of a motor vehicle on a toll project of the entity if the registered owner of the vehicle has been finally determined to be a habitual violator and the entity has provided notice of the prohibition order to the registered owner. The bill sets out provisions relating to sending the notice and provides that the order prohibiting the operation of a motor vehicle on a toll project of

the entity may include the registered owner's name, the city and state of residence, and the license plate number of the nonpaying vehicle. The bill makes it a Class C misdemeanor offense to operate a motor vehicle on a toll project in violation of such an order.

C.S.H.B. 3048 authorizes a toll project entity, after a final determination that the registered owner of a vehicle is a habitual violator, to report the determination to a county-assessor collector or the Texas Department of Motor Vehicles (TxDMV) to cause the denial of vehicle registration as provided under the bill's provisions. The bill authorizes a peace officer to detain a motor vehicle observed by the officer to be operated in violation of an order prohibiting the operation of a motor vehicle on a toll project, authorizes the peace officer to direct the impoundment of the vehicle if certain conditions as prescribed by the bill are met, and sets out the conditions under which such an impounded vehicle may be released.

C.S.H.B. 3048 authorizes a toll project entity to seek habitual violator remedies against a lessee of a vehicle and not the registered owner if the toll project entity sends to the lessee, in accordance with applicable toll project entity law, at least two notices of nonpayment with specified contents. The bill requires the entity seeking those remedies against such a lessee to use the procedures as established by the bill's provisions as if the lessee were the registered owner.

C.S.H.B. 3048 sets out provisions relating to the method under which a toll project entity is authorized to seek habitual violator remedies against an owner of a vehicle that is not registered in Texas, including the owner of a vehicle registered in another state of the United States, the United Mexican States, a state of the United Mexican States, or another country or territory.

C.S.H.B. 3048 specifies that a toll project entity's use of habitual violator remedies is cumulative of other remedies and is optional and that nothing in the bill's provisions prohibits an entity from exercising any other enforcement remedies available under provisions applicable to more than one type of toll project or other law.

C.S.H.B. 3048 authorizes a county assessor-collector or TxDMV to refuse to register or renew the registration of a motor vehicle if it has received written notice from a toll project entity that the owner of the vehicle has been finally determined to be a habitual violator. The bill requires a toll project entity to notify a county assessor-collector or TxDMV, as applicable, that a person for whom the assessor-collector or TxDMV has refused to register a vehicle is no longer determined to be a habitual violator or an appeal has been perfected and the appellant has posted any bond required to stay the entity's exercise of habitual violator remedies pending the appeal. The bill specifies that these provisions do not apply to a vehicle being registered by a person who sells motor vehicles.

C.S.H.B. 3048 amends the Government Code to authorize a reasonable fee not to exceed \$100 to be collected as court costs for determining whether a person is a habitual violator.

EFFECTIVE DATE

January 1, 2014.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3048 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Subchapter B, Chapter 228,	SECTION 1. Chapter 372, Transportation

Transportation Code, is amended by adding Sections 228.060, 228.061, and 228.062 to read as follows:

No equivalent provision.

No equivalent provision.

Sec. 228.060. PUBLICATION OF NONPAYING VEHICLE INFORMATION.

Notwithstanding the confidentiality of electronic toll collection customer account information under Section 228.057(e), the department may publish a list of the names of the registered owners or lessees of nonpaying vehicles who at the time of publication are liable for the payment of a past due and unpaid toll or administrative fee.

The list may include only the persons' names and, for each person listed:

- (1) the city and state of the person's residence;
- (2) the total number of events of nonpayment under Section 228.054 or 228.0545; and
- (3) the total amount due for the tolls and administrative fees.

Sec. 228.061. TOLL VIOLATION PAYMENT PLAN. The department may enter into an agreement with the registered owner of a vehicle allowing the person to pay the total amount of outstanding tolls and administrative fees over a specified period. The agreement must be in writing and specify the amount due for tolls and administrative fees, the duration of the agreement, and the amount of each payment.

Sec. 228.062. DEFAULT; SUIT TO RECOVER OUTSTANDING BALANCE DUE. (a) If the registered owner of the vehicle fails to comply with the terms of an

Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. NONPAYMENT OF TOLLS; REMEDIES

Sec. 372.101. APPLICABILITY. This subchapter does not apply to a county acting under Chapter 284.

Sec. 372.102. PUBLICATION OF NONPAYING VEHICLE INFORMATION.

(a) Notwithstanding the confidentiality of electronic toll collection customer account information, including confidentiality under Sections 228.057(e), 366.179(d), and 370.178(d), a toll project entity may publish a list of the names of the registered owners or lessees of nonpaying vehicles who at the time of publication are liable for the payment of past due and unpaid tolls or administrative fees.

The list may include only the persons' names and, for each person listed:

- (1) the city and state of the person's residence;
- (2) the total number of events of nonpayment; and
- (3) the total amount due for the tolls and administrative fees.

(b) A toll project entity may not include on a list published under Subsection (a) the name of a registered owner who remits a tax imposed under Section 152.026, Tax Code.

Sec. 372.103. TOLL VIOLATION PAYMENT PLAN. A toll project entity may enter into an agreement with the registered owner of a vehicle, for whom a single payment is not feasible, that allows the person to pay the total amount of outstanding tolls and administrative fees over a specified period. The agreement must be in writing and specify the amount due for tolls and administrative fees, the duration of the agreement, and the amount of each payment.

Sec. 372.104. DEFAULT; SUIT TO RECOVER OUTSTANDING BALANCE DUE. (a) If the registered owner of the vehicle fails to comply with the terms of an

agreement described by Section 228.061, the department may send by first class mail to the person at the address shown on the agreement a written notice demanding payment of the outstanding balance due.

(b) If the registered owner fails to pay the outstanding balance due on or before the 30th day after the date on which the notice is mailed, the department may refer the matter to the attorney general for suit or collection.

(c) The attorney general may file suit in a district court in Travis County to recover the outstanding balance due.

The attorney general may recover reasonable attorney's fees, investigative costs, and court costs incurred on behalf of the department in the proceeding in the same manner as provided by general law for a private litigant.

(See SECTION 6 below for added Sec. 370.1771, Transportation Code, Nonpayment By Vehicles Not Registered in This State.)

(See SECTION 2 below for added Sec. 228.301, Transportation Code, Habitual Violator.)

(See SECTION 2 below for added Sec. 228.302, Transportation Code, Hearing.)

(See SECTION 2 below for added Sec. 228.303, Transportation Code, Appeal.)

(See SECTION 4 below for added Sec. 366.454, Transportation Code, Appeal.)

(See SECTION 7 below for added Sec. 370.454, Transportation Code, Appeal.)

(See SECTION 2 below for added Sec. 228.304, Transportation Code, Period Determination Is Effective.)

(See SECTION 2 below for added Sec. 228.305, Transportation Code, Order Prohibiting Operation Of Motor Vehicle On Toll Project; Offense.)

agreement described by Section 372.103, a toll project entity may send by first class mail to the person at the address shown on the agreement a written notice demanding payment of the outstanding balance due.

(b) If the registered owner fails to pay the outstanding balance due on or before the 30th day after the date on which the notice is mailed, the toll project entity may, in addition to other remedies available to the entity, refer the matter to an attorney authorized to represent the toll project entity for suit or collection.

(c) The authorized attorney may file suit in a district court in the county in which the toll project entity's administrative offices are primarily located to recover the outstanding balance due.

The authorized attorney may recover reasonable attorney's fees, investigative costs, and court costs incurred on behalf of the toll project entity in the proceeding in the same manner as provided by general law for a private litigant.

(See below for added Sec. 372.105, Transportation Code, Nonpayment By Vehicles Not Registered In This State.)

(See below for added Sec. 372.106, Transportation Code, Habitual Violator.)

(See below for added Sec. 372.107, Transportation Code, Hearing.)

(See below for added Sec. 372.108, Transportation Code, Appeal.)

(See below for added Sec. 372.108, Transportation Code, Appeal.)

(See below for added Sec. 372.108, Transportation Code, Appeal.)

(See below for added Sec. 372.109, Transportation Code, Period Determination Is Effective.)

(See below for added Sec. 372.110, Transportation Code, Order Prohibiting Operation Of Motor Vehicle On Toll Project; Offense.)

(See SECTION 2 below for added Sec. 228.306, Transportation Code, Denial Of Vehicle Registration.)

No equivalent provision.

(See below for added Sec. 372.111, Transportation Code, Denial Of Motor Vehicle Registration.)

Sec. 372.112. IMPOUNDMENT OF MOTOR VEHICLE. (a) A peace officer may detain a motor vehicle observed by the officer to be operated in violation of an order under Section 372.110(a) and may direct the impoundment of the vehicle if:
(1) the vehicle was previously operated on a toll project in violation of an order issued under Section 372.110(a); and
(2) personal notice to the registered owner of the vehicle of the toll project entity's intent to have the vehicle impounded on a second or subsequent violation of Section 372.110(a) was provided:
(A) at the time of the hearing under Section 372.107;
(B) at the time of the previous traffic stop involving a violation of Section 372.110(a);
or
(C) by personal service.
(b) A vehicle impounded under this section may be released after:
(1) payment by or on behalf of the registered owner of all towing, storage, and impoundment charges; and
(2) a determination by the toll project entity that all unpaid tolls and fees owed to the entity by the registered owner are paid or are otherwise addressed to the satisfaction of the toll project entity in the toll project entity's sole discretion.

(See SECTION 4 below for added Sec. 370.457, Transportation Code, Habitual Violator Remedies Against Lessee Of Vehicle.)

(See below for added Sec. 372.113, Transportation Code, Habitual Violator Remedies Against Lessee of Vehicle.)

(See SECTION 7 below for added Sec. 370.457, Transportation Code, Habitual Violator Remedies Against Lessee Of Vehicle.)

(See below for added Sec. 372.113, Transportation Code, Habitual Violator Remedies Against Lessee of Vehicle.)

(See SECTION 7 below for added Sec. 370.458, Transportation Code, Habitual Violator Remedies Against Owners Of Vehicles Not Registered In This State.)

(See below for added Sec. 372.114, Transportation Code, Habitual Violator Remedies Against Owners Of Vehicles Not Registered In This State.)

(See SECTION 7 below for added Sec. 370.459, Transportation Code, Use of Habitual Violator Remedies Optional.)

(See below for added Sec. 372.115, Transportation Code, Use of Remedies Optional.)

SECTION 2. Chapter 228, Transportation Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. HABITUAL VIOLATOR REMEDIES

Sec. 228.301. HABITUAL VIOLATOR.

(a) For purposes of this subchapter, a habitual violator is a registered owner of a vehicle who the department determines:

(1) was issued at least two written notices of nonpayment in accordance with Section 228.055 for ten or more days of nonpayment under Section 228.054 or 228.0545 within a period of one year; and

(2) has not paid in full the total amount due for tolls and administrative fees under those notices.

(b) If the department makes a determination under Subsection (a), the department shall give written notice to the person at:

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

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

(c) The notice must:

(1) be sent by first class mail and is presumed received on the fifth day after the date the notice is mailed; and

(2) state:

(A) the total number of dates of nonpayment under Section 228.054 or 228.0545 and the total amount due for tolls and administrative fees;

(B) the date of the determination under Subsection (a);

(C) the right of the person to request a hearing on the determination; and

(Text of added Sec. 372.106, Transportation Code, from SECTION 1 above.)

Sec. 372.106. HABITUAL VIOLATOR.

(a) For purposes of this subchapter, a habitual violator is a registered owner of a vehicle who a toll project entity determines:

(1) was issued at least two written notices of nonpayment that contained:

(A) in the aggregate, 100 or more events of nonpayment within a period of one year, not including events of nonpayment for which:

(i) the registered owner has provided to the toll project entity information establishing that the vehicle was subject to a lease at the time of the nonpayment, as provided by applicable toll project entity law; or

(ii) a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law; and

(B) a warning that the failure to pay the amounts specified in the notices may result in the toll project entity's exercise of habitual violator remedies; and

(2) has not paid in full the total amount due for tolls and administrative fees under those notices.

(b) If the toll project entity makes a determination under Subsection (a), the toll project entity shall give written notice to the person at:

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

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

(c) The notice must:

(1) be sent by first class mail and is presumed received on the fifth day after the date the notice is mailed; and

(2) state:

(A) the total number of events of nonpayment and the total amount due for tolls and administrative fees;

(B) the date of the determination under Subsection (a);

(C) the right of the person to request a hearing on the determination; and

(D) the procedure for requesting a hearing, including the period during which the request must be made.

(d) If not later than the 30th day after the date on which the person is presumed to have received the notice the department receives a written request for a hearing, a hearing shall be held as provided by Section 228.302. A hearing request received within the period provided by this subsection stays the effect of the department's determination until the date of the final decision of the justice of the peace under Section 228.302.

(e) If the person does not request a hearing within the period provided by Subsection (d), the department's determination becomes final on the expiration of that period.

Sec. 228.302. HEARING. (a) A justice court has jurisdiction to conduct a hearing in accordance with this section.

(b) A hearing requested under Section 228.301 shall be conducted in a justice court:

(1) in the county in which the toll collection facilities where the events of nonpayment occurred are located; or

(2) if events of nonpayment occurred in more than one county, the county in which the toll collection facilities where a majority of the events of nonpayment occurred are located.

(c) The justice of the peace is entitled to receive a fee not to exceed \$100 for conducting the hearing. The party that does not prevail under the justice's finding under Subsection (f) is liable for payment of the fee.

(d) The issues that must be proven at the hearing by a preponderance of the evidence are:

(1) whether the registered owner was issued at least two written notices of nonpayment in accordance with Section 228.055 for 10 or more days of nonpayment under Section 228.054 or 228.0545 within a period of one year; and

(D) the procedure for requesting a hearing, including the period during which the request must be made.

(d) If not later than the 30th day after the date on which the person is presumed to have received the notice the toll project entity receives a written request for a hearing, a hearing shall be held as provided by Section 372.107.

(e) If the person does not request a hearing within the period provided by Subsection (d), the toll project entity's determination becomes final and not subject to appeal on the expiration of that period.

(Text of added Sec. 372.107, Transportation Code, from SECTION 1 above.)

Sec. 372.107. HEARING. (a) A justice court has jurisdiction to conduct a hearing in accordance with this section.

(b) A hearing requested under Section 372.106 shall be conducted in a justice court in a county in which the toll collection facilities where at least 25 percent of the events of nonpayment occurred are located.

(c) The justice of the peace is entitled to receive a fee not to exceed \$100 for conducting the hearing. The party that does not prevail under the justice's finding under Subsection (f) is liable for payment of the fee.

(d) The issues that must be proven at the hearing by a preponderance of the evidence are:

(1) whether the registered owner was issued at least two written notices of nonpayment for an aggregate of 100 or more events of nonpayment within a period of one year, not including events of nonpayment for which:

(A) the registered owner has provided to the toll project entity information establishing that the vehicle was subject to a lease at the time of the nonpayment, as provided by applicable toll project entity

(2) whether the total amount due for tolls and administrative fees specified in those notices was not paid in full by the dates specified in the notices and remains not fully paid.

(e) Proof under Subsection (d) may be by oral testimony, documentary evidence, video surveillance, or any other reasonable evidence.

(f) If the justice of the peace finds in the affirmative on each issue in Subsection (d), the department's determination that the registered owner is a habitual violator is sustained and becomes final. If the justice does not find in the affirmative on each issue in Subsection (d), the department shall rescind its determination under Section 228.301.

Rescission of the determination under Section 228.301 does not limit the department's authority to pursue collection of the outstanding tolls and administrative fees in accordance with Section 228.055.

(g) A registered owner who requests a hearing and fails to appear without just cause waives the right to a hearing and the department's determination is final.

Sec. 228.303. APPEAL. (a) A registered owner may appeal the justice of the peace's decision by filing a petition not later than the 30th day after the date on which the decision is rendered:

(1) in the county court at law of the county in which the justice of the peace precinct is located; or

(2) if there is no county court at law in that county, in the county court.

(b) The registered owner must send a file-stamped copy of the petition, certified by the clerk of the court, to the department by certified mail.

law; or

(B) a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law; and

(2) whether the total amount due for tolls and administrative fees specified in those notices was not paid in full by the dates specified in the notices and remains not fully paid.

(e) Proof under Subsection (d) may be by oral testimony, documentary evidence, video surveillance, or any other reasonable evidence.

(f) If the justice of the peace finds in the affirmative on each issue in Subsection (d), the toll project entity's determination that the registered owner is a habitual violator is sustained and becomes final. If the justice does not find in the affirmative on each issue in Subsection (d), the toll project entity shall rescind its determination that the registered owner is a habitual violator. Rescission of the determination does not limit the toll project entity's authority to pursue collection of the outstanding tolls and administrative fees.

(g) A registered owner who requests a hearing and fails to appear without just cause waives the right to a hearing, and the toll project entity's determination is final and not subject to appeal.

(h) A justice of the peace court may adopt administrative hearings processes to expedite hearings conducted under this section.

(Text of added Sec. 372.108, Transportation Code, from SECTION 1 above.)

Sec. 372.108. APPEAL. (a) A registered owner may appeal the justice of the peace's decision by filing a petition not later than the 30th day after the date on which the decision is rendered:

(1) in the county court at law of the county in which the justice of the peace precinct is located; or

(2) if there is no county court at law in that county, in the county court.

(b) The registered owner must send a file-stamped copy of the petition, certified by the clerk of the court, to the toll project entity by certified mail not later than the

(c) The court shall notify the department of the hearing not later than the 31st day before the date the court sets for the hearing.

(d) A trial on appeal is a trial de novo.

Sec. 228.304. PERIOD DETERMINATION IS EFFECTIVE. (a) A final determination under Section 228.301 or 228.302 that a person is a habitual violator remains in effect until:

(1) the total amount due for the person's tolls and administrative fees is paid; or
(2) the department, in its sole discretion, determines that the amount has been otherwise addressed.

(b) When a determination terminates, the department immediately shall send notice of the termination:

(1) to the registered owner who is the subject of the determination; and

(2) if the department provided notice to a county assessor-collector or the Texas Department of Motor Vehicles under Section 502.011, to that county assessor-collector or the Texas Department of Motor Vehicles, as appropriate.

Sec. 228.305. ORDER PROHIBITING OPERATION OF MOTOR VEHICLE ON TOLL PROJECT; OFFENSE. (a) The department, by order of the commission, may prohibit the operation of a motor vehicle on a toll project of the department if:

(1) the registered owner of the vehicle has been finally determined to be a habitual

30th day after the date the appeal petition is filed.

(c) The court shall notify the toll project entity of the hearing not later than the 31st day before the date the court sets for the hearing.

(d) A trial on appeal is a trial de novo on the issues under Section 372.107(d).

(e) Neither the filing of the appeal petition nor service of notice of the appeal stays the toll project entity's exercise of the habitual violator remedies unless the person who files the appeal posts a bond with the toll project entity issued by a sufficient surety in the total amount of unpaid tolls and fees owed by the registered owner to the toll project entity.

(Text of added Sec. 372.109, Transportation Code, from SECTION 1 above.)

Sec. 372.109. PERIOD DETERMINATION IS EFFECTIVE. (a) A final determination that a person is a habitual violator remains in effect until:

(1) the total amount due for the person's tolls and administrative fees is paid; or
(2) the toll project entity, in its sole discretion, determines that the amount has been otherwise addressed.

(b) When a determination terminates, the toll project entity shall, not later than the seventh day after the date of the termination, send notice of the termination:

(1) to the person who is the subject of the determination at an address under Section 372.106(b); and

(2) if the toll project entity provided notice to a county assessor-collector or the Texas Department of Motor Vehicles under Section 502.011, to that county assessor-collector or that department, as appropriate.

(Text of added Sec. 372.110, Transportation Code, from SECTION 1 above.)

Sec. 372.110. ORDER PROHIBITING OPERATION OF MOTOR VEHICLE ON TOLL PROJECT; OFFENSE. (a) A toll project entity, by order of its governing body, may prohibit the operation of a motor vehicle on a toll project of the toll project entity if:

(1) the registered owner of the vehicle has been finally determined to be a habitual

violator under Section 228.060 or 228.061; and

(2) the department has provided notice of the prohibition order to the registered owner.

(b) The notice required by Subsection (a)(2) must be sent by first class mail to the registered owner at least 10 days before the date the prohibition order takes effect and is presumed received on the fifth day after the date the notice is mailed.

(c) Notwithstanding the confidentiality of electronic toll collection customer account information under Section 228.057, the order described in Subsection (a) may include the person's name, the city and state of residence, and the license plate number of the nonpaying vehicle.

(d) A person commits an offense under Section 30.05, Penal Code, if the person operates a motor vehicle on a toll project in violation of an order issued under Subsection (a).

Sec. 228.306. DENIAL OF VEHICLE REGISTRATION. After a final determination under Section 228.301 or 228.302 that the registered owner of the vehicle is a habitual violator, the department may report the determination to a county-assessor collector or the Texas Department of Motor Vehicles in order to cause the denial of registration of the owner's vehicle, as provided by Section 502.011.

SECTION 3. Sections 366.178(d-2) and (g), Transportation Code, are amended to read as follows:

(d-2) If the registered owner of the nonpaying vehicle fails to pay the amount included in the second notice of nonpayment by the date specified in that notice, the authority shall send a third notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle. The third notice of nonpayment:

(1) must specify the date by which payment must be made;

(2) [and] may require payment of:

(A) [(+)] the amount included in the second notice of nonpayment; and

violator; and

(2) the toll project entity has provided notice of the prohibition order to the registered owner.

(b) The notice required by Subsection (a)(2) must be sent by first class mail to the registered owner at an address under Section 372.106(b) at least 10 days before the date the prohibition order takes effect and is presumed received on the fifth day after the date the notice is mailed.

(c) Notwithstanding any provisions of law governing the confidentiality of electronic toll collection customer account information, the order described in Subsection (a) may include the registered owner's name, the city and state of residence, and the license plate number of the nonpaying vehicle.

(d) A person commits an offense if the person operates a motor vehicle on a toll project in violation of an order issued under Subsection (a). An offense under this subsection is a Class C misdemeanor.

(Text of added Sec. 372.111, Transportation Code, from SECTION 1 above.)

Sec. 372.111. DENIAL OF MOTOR VEHICLE REGISTRATION. After a final determination that the registered owner of a motor vehicle is a habitual violator, the toll project entity may report the determination to a county assessor-collector or the Texas Department of Motor Vehicles in order to cause the denial of vehicle registration as provided by Section 502.011.

No equivalent provision.

(B) [(2)] any third-party collection service fees incurred by the authority; and
(3) must include a warning that the failure to pay the amounts specified in the notice may result in the authority's exercise of habitual violator remedies under Subchapter I.

(g) The court of the local jurisdiction in which the unpaid toll was assessed may assess and collect the fine in addition to any court costs. The court may ~~shall~~ collect the unpaid tolls, administrative fees, and third-party collection service fees incurred by the authority ~~[on or before the date the fines and court costs are collected by the court]~~ and forward the tolls and fees to the authority. ~~[Payment of the unpaid tolls, administrative fees, and third party collection service fees by the registered owner may not be waived by the court unless the court finds that the registered owner of the vehicle is indigent.]~~

SECTION 4. Chapter 366, Transportation Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. HABITUAL VIOLATOR REMEDIES

Sec. 366.451. NOTICE OF INTENTION TO SEEK ADMINISTRATIVE DECISION REGARDING HABITUAL VIOLATOR REMEDIES.

(a) An authority may seek an administrative decision to determine whether habitual violator remedies under this subchapter may be exercised against the registered owner of a vehicle if the authority sends to the owner:

(1) one or more third notices of nonpayment containing the warning under Section 366.178(d-2)(3) indicating that a vehicle or vehicles of the owner incurred 10 or more days of tolls that were not paid in full by the dates specified in the notices and that remain not fully paid; and

(2) notice of the authority's intent to seek an administrative decision by first class mail to:

(A) the last address of the owner known to the authority; or

(B) the owner's address as recorded in the Texas Department of Motor Vehicles vehicle registration records.

(b) A notice issued under Subsection (a)(2) must:

(1) include the total amount of unpaid tolls

No equivalent provision.

and fees not paid in full as specified in one or more third notices of nonpayment; and
(2) advise the registered owner that:
(A) the registered owner is entitled to a hearing under Section 366.452 to contest a proposed administrative decision; and
(B) the authority may exercise habitual violator remedies against the owner if the administrative decision authorizes the exercise of those remedies, and the administrative decision will remain in effect until all unpaid tolls and fees owed to the authority by the owner are paid or are otherwise addressed to the satisfaction of the authority in the authority's sole discretion.

Sec. 366.452. HEARING. (a) A registered owner may, not later than the 30th day after the date of the notice under Section 366.451, request a hearing on the issue of whether the authority may exercise habitual violator remedies.

(b) An authority shall adopt rules for a hearing under this section. The rules must:

(1) specify issues that are germane to a hearing;

(2) include reasonable rules of procedure;

(3) include the process through which an administrative decision is issued;

(4) prohibit an administrative decision from going into effect before the opportunity for a hearing has expired;

(5) require that a hearing officer be an independent contractor retained by the authority solely to serve as a hearing officer;

(6) prohibit compensation of the hearing officer by the authority that is related to the outcome of the hearings before the hearing officer;

(7) provide that the registered owner has a right to:

(A) be represented by an attorney; and

(B) offer witnesses and evidence, cross-examine witnesses, and make opening and closing statements; and

(8) vest the hearing officer with discretion to control the scope and duration of the proceedings and to exclude oral or written evidence that the hearing officer determines is irrelevant, immaterial, or unduly repetitious.

(c) A registered owner who fails to request a hearing within the time specified under Subsection (a) or appear at a scheduled hearing is considered to have waived the

No equivalent provision.

right to a hearing and consented to the administrative decision, and:

(1) the hearing officer shall issue an administrative decision authorizing the exercise of habitual violator remedies under this subchapter if the hearing officer makes the findings described by Section 366.453(a); and

(2) if the hearing officer issues an administrative decision authorizing the exercise of habitual violator remedies, the authority may exercise the habitual violator remedies without further proceedings or action.

Sec. 366.453. ADMINISTRATIVE DECISION. (a) A hearing officer may issue an administrative decision authorizing the authority to exercise habitual violator remedies only if a preponderance of the evidence demonstrates that:

(1) one or more third notices of nonpayment containing the warning under Section 366.178(d-2)(3) were sent to the registered owner indicating that a vehicle or vehicles of the owner incurred 10 or more days of unpaid authority tolls, not including any unpaid tolls for which the defense of theft of the vehicle has been proven under Section 366.178(h);

(2) the vehicle or vehicles were owned by the registered owner at the time of passage through a toll assessment facility; and

(3) the amounts in the third notice or notices of nonpayment were not paid in full by the dates specified in the notices and remain not fully paid.

(b) Proof under Subsection (a) may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including, for the purposes of pursuing habitual violator remedies against a lessee under Section 366.457, a copy of a contract document or electronic data described by Section 366.178(i).

Sec. 366.454. APPEAL. (a) A registered owner may appeal an administrative decision authorizing the exercise of habitual violator remedies by:

(1) filing, not later than the 30th day after the date on which the decision is rendered, a petition with the clerk of a district court in

No equivalent provision.

(Text of added Sec. 372.108, Transportation Code, from SECTION 1 above.)

Sec. 372.108. APPEAL. (a) A registered owner may appeal the justice of the peace's decision by filing a petition not later than the 30th day after the date on which the decision is rendered:

(1) in the county court at law of the county in which the justice of the peace precinct is

the county in which the authority's administrative offices are located; and
(2) paying the costs required by law for that court.

(b) The court in which an appeal petition is filed shall schedule a hearing and notify each party of the date, time, and place of the hearing.

(c) Neither the filing of the appeal petition nor service of notice of the appeal stays the authority's exercise of the habitual violator remedies unless the person who files the appeal posts a bond with the authority issued by a sufficient surety in the total amount of unpaid tolls and fees owed by the registered owner to the authority.

Sec. 366.455. HABITUAL VIOLATOR REMEDY: CRIMINAL TRESPASS. (a) When an administrative decision authorizing the exercise of habitual violator remedies is in effect, the authority may provide the registered owner by any means the notice required under Section 30.05, Penal Code, for the offense of criminal trespass, including by service on the registered owner by a peace officer who stops or detains a vehicle for a traffic or other violation or who renders aid to the vehicle. The notice may forbid the registered owner's entry onto any portion of a turnpike project designated by the authority as a controlled-access toll road under Section 366.180, and the owner commits an offense under Section 30.05, Penal Code, by the owner's entry onto the turnpike project without effective consent.

(b) In addition to an authority's exercise of its rights under Subsection (a) against a registered owner, the authority may exercise those rights against a person who drives a vehicle owned by the registered owner by providing the driver with the criminal trespass notice described in Subsection (a). The driver commits an offense under Section 30.05, Penal Code, by the driver's subsequent entry onto the portion of the turnpike project described in the notice.

located; or

(2) if there is no county court at law in that county, in the county court.

(b) The registered owner must send a file-stamped copy of the petition, certified by the clerk of the court, to the toll project entity by certified mail not later than the 30th day after the date the appeal petition is filed.

(c) The court shall notify the toll project entity of the hearing not later than the 31st day before the date the court sets for the hearing.

(d) A trial on appeal is a trial de novo on the issues under Section 372.107(d).

(e) Neither the filing of the appeal petition nor service of notice of the appeal stays the toll project entity's exercise of the habitual violator remedies unless the person who files the appeal posts a bond with the toll project entity issued by a sufficient surety in the total amount of unpaid tolls and fees owed by the registered owner to the toll project entity.

No equivalent provision.

(c) Nothing in this section limits an authority's rights under Section 30.05, Penal Code.

Sec. 366.456. HABITUAL VIOLATOR REMEDY: REFUSAL TO REGISTER VEHICLE. (a) An authority may request that a county assessor-collector or the Texas Department of Motor Vehicles refuse under Section 502.011 to register any vehicle that is owned by a person subject to an administrative decision authorizing the exercise of habitual violator remedies by the authority.

(b) For the purposes of this section, a vehicle is considered to be owned by a person if the person holds legal title to the vehicle, regardless of whether the person obtains legal title before or after an administrative decision is issued.

Sec. 366.457. HABITUAL VIOLATOR REMEDIES AGAINST LESSEE OF VEHICLE.

(a) An authority may seek an administrative decision authorizing the exercise of habitual violator remedies against a lessee of a vehicle and not the registered owner if the authority, as authorized under Section 366.178(i-1), sends to the lessee one or more third notices of nonpayment containing the warning under Section 366.178(d-2)(3) indicating that a vehicle or vehicles of the owner incurred 10 or more days of unpaid tolls that:

(1) were not paid in full by the dates specified in the notice or notices and that remain not fully paid; and

(2) were incurred during the period of the lease as shown in the contract document or electronic data submitted to the authority under Section 366.178(i).

(b) An authority seeking an administrative decision against a lessee under Subsection (a) shall use the procedures of this subchapter as if the lessee were the registered owner.

No equivalent provision.

(Text of added Sec. 372.113, Transportation Code, from SECTION 1 above.)

Sec. 372.113. HABITUAL VIOLATOR REMEDIES AGAINST LESSEE OF VEHICLE.

(a) A toll project entity may seek habitual violator remedies against a lessee of a vehicle and not the registered owner if the toll project entity sends to the lessee, in accordance with applicable toll project entity law, at least two notices of nonpayment containing:

(1) the warning under Section 372.106(a)(1)(B); and

(2) in the aggregate, 100 or more events of nonpayment in the period of one year, not including events of nonpayment for which a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law, that:

(A) were not paid in full by the dates specified in the notices and that remain not fully paid; and

(B) were incurred during the period of the lease as shown in a lease contract document provided by the registered owner to the toll project entity as provided by applicable toll project entity law.

(b) A toll project entity seeking habitual violator remedies against a lessee under Subsection (a) shall use the procedures of this subchapter as if the lessee were the registered owner.

SECTION 5. Section 370.177, Transportation Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The notice under Subsection (c) must include a warning that the failure to pay the amounts specified in the notice may result in the authority's exercise of habitual violator remedies under Subchapter L.

SECTION 6. Subchapter E, Chapter 370, Transportation Code, is amended by adding Section 370.1771 to read as follows:

Sec. 370.1771. NONPAYMENT BY VEHICLES NOT REGISTERED IN THIS STATE.

(a) An authority may, in lieu of mailing a written notice of nonpayment under Section 370.177(c), serve with a written notice of nonpayment in person an owner of a vehicle that is not registered in this state, including the owner of a vehicle registered in another state of the United States, the United Mexican States, a state of the United Mexican States, or another country or territory.

A notice of nonpayment may also be served by an employee of a governmental entity operating an international bridge at the time a vehicle with a record of nonpayment seeks to enter or leave this state.

(b) Each written notice of nonpayment issued under Subsection (a) shall include a warning that the failure to pay the amounts in the notice may result in the authority's exercise of the habitual violator remedies under Section 370.455.

(c) A person who is served a written notice of nonpayment under Subsection (a) and fails to pay the proper toll and administrative fee within the time specified in the notice commits an offense. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(d) An offense under Subsection (c) is a misdemeanor punishable by a fine not to exceed \$250. The court in which a person is convicted of an offense under this section shall also collect the proper toll and administrative fee and forward the toll and fee to the authority.

(e) Section 370.177(e) applies to an offense under Subsection (c), except that the person must provide the contract document or electronic data not later than the 30th day

No equivalent provision.

(Text of added Sec. 372.105, Transportation Code, from SECTION 1 above.)

Sec. 372.105. NONPAYMENT BY VEHICLES NOT REGISTERED IN THIS STATE.

(a) A toll project entity may, in lieu of mailing a written notice of nonpayment, serve with a written notice of nonpayment in person an owner of a vehicle that is not registered in this state, including the owner of a vehicle registered in another state of the United States, the United Mexican States, a state of the United Mexican States, or another country or territory.

A notice of nonpayment may also be served by an employee of a governmental entity operating an international bridge at the time a vehicle with a record of nonpayment seeks to enter or leave this state.

(b) Each written notice of nonpayment issued under Subsection (a) shall include a warning that the failure to pay the amounts in the notice may result in the toll project entity's exercise of the habitual violator remedies under this subchapter.

(c) An owner who is served a written notice of nonpayment under Subsection (a) and fails to pay the proper toll and administrative fee within the time specified in the notice commits an offense. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(d) An offense under Subsection (c) is a misdemeanor punishable by a fine not to exceed \$250. The court in which an owner is convicted of an offense under this section shall also collect the proper toll and administrative fee and forward the toll and fee to the toll project entity.

after the date notice is served under Subsection (a).
(f) Sections 370.177(i) and (j) apply to an offense under this section.

(e) It is a defense to prosecution under Subsection (c) that the 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 served under Subsection (a) provides to the toll project entity proof that meets applicable toll project entity law establishing that the vehicle was leased to another person at the time of the nonpayment.

(f) It is a defense to prosecution under Subsection (c) that the vehicle in question was stolen before the failure to pay the proper toll occurred and was not recovered by the time of the failure to pay, but only if the theft was reported to the appropriate law enforcement authority before the earlier of:
(1) the occurrence of the failure to pay; or
(2) eight hours after the discovery of the theft.

SECTION 7. Chapter 370, Transportation Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. HABITUAL VIOLATOR REMEDIES

Sec. 370.451. NOTICE OF INTENTION TO SEEK ADMINISTRATIVE DECISION REGARDING HABITUAL VIOLATOR REMEDIES. (a) An authority may seek an administrative decision to determine whether habitual violator remedies under this subchapter may be exercised against the registered owner of a vehicle if the authority sends to the owner:

(1) one or more notices of nonpayment containing the warning under Section 370.177(c-1) indicating that a vehicle or vehicles of the owner incurred 10 or more days that were not paid in full by the dates specified in the notices and that remain not fully paid; and

(2) notice of the authority's intent to seek an administrative decision by first class mail to:
(A) the last address of the owner known to the authority; or

(B) the owner's address as recorded in the Texas Department of Motor Vehicles vehicle registration records.

(b) A notice issued under Subsection (a)(2) must:

No equivalent provision.

(1) include the dates of nonpayment and the total amount of unpaid tolls and fees not paid in full as specified in one or more notices of nonpayment; and

(2) advise the registered owner that:

(A) the registered owner is entitled to a hearing under Section 370.452 to contest a proposed administrative decision; and

(B) the authority may exercise habitual violator remedies against the owner if the administrative decision authorizes the exercise of those remedies, and the administrative decision will remain in effect until all unpaid tolls and fees owed to the authority by the owner are paid or are otherwise addressed to the satisfaction of the authority in the authority's sole discretion.

Sec. 370.452. HEARING. (a) A registered owner may, not later than the 30th day after the date of the notice under Section 370.451, request a hearing on the issue of whether the authority may exercise habitual violator remedies.

(b) An authority shall by written policy establish a hearing process under this section. The policy must:

(1) specify issues that are germane to a hearing;

(2) include reasonable rules of procedure;

(3) include the process through which an administrative decision is issued;

(4) prohibit an administrative decision from going into effect before the opportunity for a hearing has expired;

(5) require that a hearing officer be an independent contractor retained by the authority solely to serve as a hearing officer;

(6) prohibit compensation of the hearing officer by the authority that is related to the outcome of the hearings before the hearing officer;

(7) provide that the registered owner has a right to:

(A) be represented by an attorney; and

(B) offer witnesses and evidence, cross-examine witnesses, and make opening and closing statements; and

(8) vest the hearing officer with discretion to control the scope and duration of the proceedings and to exclude oral or written evidence that the hearing officer determines is irrelevant, immaterial, or unduly repetitious.

(c) A registered owner who fails to request

No equivalent provision.

a hearing within the time specified or appear at a scheduled hearing is considered to have waived the right to a hearing and consented to the administrative decision, and:

(1) the hearing officer shall issue an administrative decision authorizing the exercise of habitual violator remedies under this subchapter if the hearing officer makes the findings described by Section 370.453(a); and

(2) if the hearing officer issues an administrative decision authorizing the exercise of habitual violator remedies, the authority may exercise the habitual violator remedies without further proceedings or action.

Sec. 370.453. ADMINISTRATIVE DECISION. (a) A hearing officer may issue an administrative decision authorizing the authority to exercise habitual violator remedies only if a preponderance of the evidence demonstrates that:

(1) one or more notices of nonpayment containing the warning under Section 370.177(c-1) were sent to the registered owner indicating that a vehicle or vehicles of the owner incurred 10 or more days of unpaid authority tolls, not including any unpaid tolls for which the defense of theft of the vehicle has been proven under Section 370.177(j);

(2) the vehicle or vehicles were owned by the registered owner at the time of passage through a toll collection facility; and

(3) the amounts in the notice or notices of nonpayment were not paid in full by the dates specified in the notices and remain not fully paid.

(b) Proof under Subsection (a) may be by testimony of a peace officer or authority employee, video surveillance, other evidence establishing that a vehicle owned by a registered owner passed through a toll collection facility, or any other reasonable evidence, including, for the purposes of pursuing habitual violator remedies against a lessee under Section 370.457, a copy of a contract document or electronic data described by Section 370.177(e).

Sec. 370.454. APPEAL. (a) A registered owner may appeal an administrative decision authorizing the exercise of habitual

No equivalent provision.

(Text of added Sec. 372.108, Transportation Code, from SECTION 1 above.)

Sec. 372.108. APPEAL. (a) A registered owner may appeal the justice of the peace's decision by filing a petition not later than

violator remedies by:

(1) filing, not later than the 30th day after the date on which the decision is rendered, a petition with the clerk of a district court in the county in which the authority's administrative offices are located; and
(2) paying the costs required by law for that court.

(b) The court in which an appeal petition is filed shall schedule a hearing and notify each party of the date, time, and place of the hearing.

(c) Neither the filing of the appeal petition nor service of notice of the appeal stays the authority's exercise of the habitual violator remedies unless the person who files the appeal posts a bond with the authority issued by a sufficient surety in the total amount of unpaid tolls and fees owed by the registered owner to the authority.

Sec. 370.455. HABITUAL VIOLATOR REMEDY: CRIMINAL TRESPASS. (a) When an administrative decision authorizing the exercise of habitual violator remedies is in effect, the authority may provide the registered owner by any means the notice required under Section 30.05, Penal Code, for the offense of criminal trespass, including by service on the registered owner by a peace officer who stops or detains a vehicle for a traffic or other violation or who renders aid to the vehicle. The notice may forbid the registered owner's entry onto any portion of a turnpike project designated by the authority as a controlled-access toll road under Section 370.179, and the owner commits an offense under Section 30.05, Penal Code, by the owner's entry onto the turnpike project without effective consent.

(b) In addition to an authority's exercise of its rights under Subsection (a) against a registered owner, the authority may exercise those rights against a person who drives a vehicle owned by the registered owner by providing the driver with the criminal trespass notice described in Subsection (a).

the 30th day after the date on which the decision is rendered:

(1) in the county court at law of the county in which the justice of the peace precinct is located; or

(2) if there is no county court at law in that county, in the county court.

(b) The registered owner must send a file-stamped copy of the petition, certified by the clerk of the court, to the toll project entity by certified mail not later than the 30th day after the date the appeal petition is filed.

(c) The court shall notify the toll project entity of the hearing not later than the 31st day before the date the court sets for the hearing.

(d) A trial on appeal is a trial de novo on the issues under Section 372.107(d).

(e) Neither the filing of the appeal petition nor service of notice of the appeal stays the toll project entity's exercise of the habitual violator remedies unless the person who files the appeal posts a bond with the toll project entity issued by a sufficient surety in the total amount of unpaid tolls and fees owed by the registered owner to the toll project entity.

No equivalent provision.

The driver commits an offense under Section 30.05, Penal Code, by the driver's subsequent entry onto the portion of the turnpike project described in the notice.

(c) Nothing in this section limits an authority's rights under Section 30.05, Penal Code.

Sec. 370.456. HABITUAL VIOLATOR REMEDY: REFUSAL TO REGISTER VEHICLE. (a) An authority may notify a county assessor-collector or the Texas Department of Motor Vehicles under Section 502.011 that the owner of a vehicle is subject to an administrative decision authorizing the exercise of habitual violator remedies by the authority.

(b) For the purposes of this section, a vehicle is considered to be owned by a person if the person holds legal title to the vehicle, regardless of whether the person obtains legal title before or after an administrative decision is issued.

Sec. 370.457. HABITUAL VIOLATOR REMEDIES AGAINST LESSEE OF VEHICLE.

(a) An authority may seek an administrative decision authorizing the exercise of habitual violator remedies against a lessee of a vehicle and not the registered owner if the authority, as authorized under Section 370.177(e-1), sends to the lessee one or more notices of nonpayment containing the warning under Section 370.177(c-1) indicating that a vehicle or vehicles of the owner incurred 100 or more tolls that:

(1) were not paid in full by the dates specified in the notice or notices and that remain not fully paid; and

(2) were incurred during the period of the lease as shown in the contract document or electronic data submitted to the authority under Section 370.177(e).

(b) An authority seeking an administrative decision against a lessee under Subsection (a) shall use the procedures of this

No equivalent provision.

(Text of added Sec. 372.113, Transportation Code, from SECTION 1 above.)

Sec. 372.113. HABITUAL VIOLATOR REMEDIES AGAINST LESSEE OF VEHICLE.

(a) A toll project entity may seek habitual violator remedies against a lessee of a vehicle and not the registered owner if the toll project entity sends to the lessee, in accordance with applicable toll project entity law, at least two notices of nonpayment containing:

(1) the warning under Section 372.106(a)(1)(B); and

(2) in the aggregate, 100 or more events of nonpayment in the period of one year, not including events of nonpayment for which a defense of theft at the time of the nonpayment has been established as provided by applicable toll project entity law, that:

(A) were not paid in full by the dates specified in the notices and that remain not fully paid; and

(B) were incurred during the period of the lease as shown in a lease contract document provided by the registered owner to the toll project entity as provided by applicable toll project entity law.

(b) A toll project entity seeking habitual violator remedies against a lessee under Subsection (a) shall use the procedures of

subchapter as if the lessee were the registered owner.

Sec. 370.458. HABITUAL VIOLATOR REMEDIES AGAINST OWNERS OF VEHICLES NOT REGISTERED IN THIS STATE. (a) An authority may seek an administrative decision under Section 370.453 to determine whether habitual violator remedies under Section 370.455 may be exercised against a person described by Section 370.1771(a) if:

(1) the person is served with five or more written notices of nonpayment under Section 370.1771(a) and the amount owing under the notices was not paid in full by the dates specified in the notices and remains not fully paid; and

(2) notice of the authority's intent to seek an administrative decision containing the information under Section 370.451(b) was served on the person in the manner described by Section 370.1771(a) for a notice of nonpayment.

(b) A person described by Section 370.1771(a) may request a hearing under Section 370.452 not later than the 30th day after the date of the notice under Subsection (a)(2).

(c) In making an administrative decision under Section 370.453 against a person described by Section 370.1771(a), a hearing officer must find that the requirements of Subsection (a) (1) have been met in lieu of the finding otherwise required under Section 370.453(a)(1).

Sec. 370.459. USE OF HABITUAL VIOLATOR REMEDIES OPTIONAL. An authority's use of habitual violator remedies under this subchapter is optional, and nothing in this subchapter prohibits an authority from exercising any other enforcement remedies available under this chapter or other law, including Section 370.177(1).

SECTION 8. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.011 to read as follows:

this subchapter as if the lessee were the registered owner.

(Text of added Sec. 372.114, Transportation Code, from SECTION 1 above.)

Sec. 372.114. HABITUAL VIOLATOR REMEDIES AGAINST OWNERS OF VEHICLES NOT REGISTERED IN THIS STATE. (a) A toll project entity may seek habitual violator remedies against a person described by Section 372.105(a) if:

(1) the person is served with five or more written notices of nonpayment under Section 372.105(a) and the amount owing under the notices was not paid in full by the dates specified in the notices and remains not fully paid; and

(2) notice of the toll project entity's intent to seek habitual violator remedies was served on the person in the manner described by Section 372.105(a) for a notice of nonpayment.

(b) A person described by Section 372.105(a) may request a hearing under Section 372.107 not later than the 30th day after the date of the notice under Subsection (a)(2).

(c) In making a finding under Section 372.107 against a person described by Section 372.105(a), a justice of the peace must find that the requirements of Subsection (a) have been met in lieu of the findings otherwise required under Section 372.107(d).

(Text of added Sec. 372.115, Transportation Code, from SECTION 1 above.)

Sec. 372.115. USE OF REMEDIES OPTIONAL. A toll project entity's use of remedies under this subchapter is cumulative of other remedies and is optional, and nothing in this subchapter prohibits a toll project entity from exercising any other enforcement remedies available under this chapter or other law.

SECTION 2. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.011 to read as follows:

Sec. 502.011. REFUSAL TO REGISTER VEHICLE FOR NONPAYMENT OF TOLL OR ADMINISTRATIVE FEE.

(a) A county assessor-collector or the department **shall** refuse to register or renew the registration of a motor vehicle if it has received written notice from the Texas Department of Transportation, a regional tollway authority, or a regional mobility authority that the owner of the vehicle, as applicable:

(1) has been finally determined to be a habitual violator under Section 228.301 or 228.302; or

(2) is subject to an administrative decision that authorizes the use of habitual violator remedies against the owner.

(b) **The Texas Department of Transportation, a regional tollway authority, or a regional mobility authority shall notify a county assessor-collector or the department, as applicable, that:**

(1) a person for whom the assessor-collector or the department has refused to register a vehicle is no longer determined to be a habitual violator **or subject to an administrative decision, as applicable; or**

(2) an appeal has been perfected and the appellant has posted any bond required to stay the department's or authority's exercise of habitual violator remedies pending the appeal.

SECTION 9. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.0321 to read as follows:

Sec. 103.0321. MISCELLANEOUS FEES AND COSTS: TRANSPORTATION CODE. A reasonable fee not to exceed \$100 may be collected under Section **228.302(c)**, Transportation Code, as court costs for determining whether a person is a habitual violator for purposes of Subchapter G, Chapter **228**, Transportation Code.

SECTION 10. This Act takes effect January 1, 2014.

Sec. 502.011. REFUSAL TO REGISTER VEHICLE FOR NONPAYMENT OF TOLL OR ADMINISTRATIVE FEE.

(a) A county assessor-collector or the department **may** refuse to register or renew the registration of a motor vehicle if it has received written notice from a toll project entity that the owner of the vehicle has been finally determined to be a habitual violator under **Subchapter C, Chapter 372.**

(b) **A toll project entity shall notify a county assessor-collector or the department, as applicable, that:**

(1) a person for whom the assessor-collector or the department has refused to register a vehicle is no longer determined to be a habitual violator; or

(2) an appeal has been perfected and the appellant has posted any bond required to stay the toll project entity's exercise of habitual violator remedies pending the appeal.

(c) **This section does not apply to the registration of a motor vehicle under Section 501.0234.**

SECTION 3. Subchapter B, Chapter 103, Government Code, is amended by adding Section 103.0321 to read as follows:

Sec. 103.0321. MISCELLANEOUS FEES AND COSTS: TRANSPORTATION CODE. A reasonable fee not to exceed \$100 may be collected under Section **372.107(c)**, Transportation Code, as court costs for determining whether a person is a habitual violator for purposes of Subchapter C, Chapter **372**, Transportation Code.

SECTION 4. Same as introduced version.

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