

BILL ANALYSIS

Senate Research Center
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There is currently a small percentage of drivers on the North Texas Toll Authority toll road system who are considered habitual toll violators for failure to pay tolls when using the highways. While the percentage of drivers is small, the amount of unpaid tolls from these habitual toll violators is a substantial portion of the toll authority's annual revenue used to repay bonds. The unpaid toll revenue may result in higher toll rates for the percentage of drivers who pay their tolls in a timely manner.

As proposed, S.B. 1329 amends current law relating to remedies for nonpayment of regional tollway authority tolls.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to a regional tollway authority organized under Chapter 366 (Regional Tollway Authorities), Transportation Code, in SECTION 2 (Section 366.452, Transportation Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 366.178(d-2) and (g), Transportation Code, as follows:

(d-2) Provides that the third notice of nonpayment of regional tollway authority tolls:

(1)-(2) Makes nonsubstantive changes; and

(3) must include a warning that the failure to pay the amounts specified in the notice may result in the regional tollway authority's (authority) exercise of habitual violator remedies under Subchapter I.

(g) Authorizes the court to collect the unpaid tolls, administrative fees, and third-party collection service fees incurred by the authority and forward the tolls and fees to the authority, rather than requires the court to 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. Deletes existing text prohibiting payment of the unpaid tolls, administrative fees, and third-party collection service fees by the registered owner from being waived by the court unless the court finds that the registered owner of the vehicle is indigent.

SECTION 2. Amends Chapter 366, Transportation Code, by adding Subchapter I, as follows:

SUBCHAPTER I. HABITUAL VIOLATOR REMEDIES

Sec. 366.451. NOTICE OF INTENTION TO SEEK ADMINISTRATIVE DECISION REGARDING HABITUAL VIOLATOR REMEDIES. (a) Authorizes an authority to 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 100 or more 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 the last address of the owner known to the authority, or the owner's address as recorded in the Texas Department of Motor Vehicles (TxDMV) vehicle registration records.

(b) Requires a notice issued under Subsection (a)(2) to:

(1) include the total amount of unpaid tolls 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) Authorizes registered owner to, 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 is authorized to exercise habitual violator remedies.

(b) Requires an authority to adopt rules for a hearing under this section. Requires the rules to:

(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 be represented by an attorney; and 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) Provides that 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 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 is authorized to exercise the habitual violator remedies without further proceedings or action.

Sec. 366.453. ADMINISTRATIVE DECISION. (a) Authorizes a hearing officer to 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 100 or more 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) (relating to providing that it is a defense to nonpayment under this section that the motor 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);

(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) Authorizes proof under Subsection (a) to be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence.

Sec. 366.454. APPEAL. (a) Authorizes a registered owner to appeal an administrative decision authorizing the exercise of habitual violator remedies by 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 paying the costs required by law for that court.

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

(c) Provides that 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: REFUSAL TO REGISTER VEHICLE. (a) Authorizes an authority to request that a county assessor-collector or TxDMV refuse under Section 502.010 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) Provides that a vehicle, for the purposes of this section, 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.

SECTION 3. Amends the heading to Section 502.010, Transportation Code, to read as follows:

Sec. 502.010. COUNTY SCOFFLAW OR TOLLWAY HABITUAL VIOLATOR.

SECTION 4. Amends Section 502.010, Transportation Code, by amending Subsections (a), (b), (d), and (g) and adding Subsection (c-1), as follows:

(a) Authorizes a county assessor-collector or TxDMV to refuse to register a motor vehicle if the assessor-collector or TxDMV receives information that the owner of the vehicle:

(1)-(2) Makes nonsubstantive changes; or

(3) is subject to an administrative decision under Section 366.453 that authorizes the use of habitual violator remedies by the authority against the owner.

(b) Authorizes a county to contract with TxDMV to provide information to TxDMV necessary to make a determination under Subsections (a)(1) and (2), rather than under Subsection (a). Authorizes an authority to contract with a county or TxDMV to provide information necessary to make a determination under Subsection (a)(3).

(c-1) Requires an authority that has a contract under Subsection (b) 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 subject to an administrative decision under Section 366.453.

(d) Prohibits the county assessor-collector or TxDMV, after notice is received under Subsection (c) or (c-1), from refusing to register the motor vehicle under Subsection (a).

(g) Provides that in this section:

(1) a fine, fee, or tax owed to a county is considered past due if it is unpaid 90 or more days after the date it is due; and

(2) Makes no change to this subdivision.

SECTION 5. Effective date: September 1, 2013.