

BILL ANALYSIS

S.B. 1792
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Transportation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

A number of drivers on toll roads across Texas refuse to pay the toll associated with these roads, and some of these drivers do this regularly. It has been estimated that there are tens of thousands of drivers who have more than 100 unpaid tolls on facilities in North Texas alone, costing the applicable toll project entities more than tens of millions of dollars in the past few years. It is also estimated that the vast majority of these individuals drive on these toll roads daily.

The authority that toll project entities in Texas have to pursue money owed by these habitual violators varies between entities and these entities have little or no authority to prohibit the continued use of the toll roads by these violators. S.B. 1792 seeks to address these issues by providing remedies for toll authorities with respect to individuals who habitually drive on toll roads without paying the associated toll.

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

S.B. 1792 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.

SB. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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.

S.B. 1792 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 county 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.

S.B. 1792 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.