

By: Paxton

S.B. No. 1329

A BILL TO BE ENTITLED

1 AN ACT
2 relating to remedies for nonpayment of regional tollway authority
3 tolls.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sections 366.178(d-2) and (g), Transportation
6 Code, are amended to read as follows:

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

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

14 (2) ~~and~~ may require payment of:

15 (A) ~~(1)~~ the amount included in the second
16 notice of nonpayment; and

17 (B) ~~(2)~~ any third-party collection service
18 fees incurred by the authority; and

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

22 (g) The court of the local jurisdiction in which the unpaid
23 toll was assessed may assess and collect the fine in addition to any
24 court costs. The court may ~~shall~~ collect the unpaid tolls,

1 administrative fees, and third-party collection service fees
2 incurred by the authority [~~on or before the date the fines and court~~
3 ~~costs are collected by the court~~] and forward the tolls and fees to
4 the authority. [~~Payment of the unpaid tolls, administrative fees,~~
5 ~~and third-party collection service fees by the registered owner may~~
6 ~~not be waived by the court unless the court finds that the~~
7 ~~registered owner of the vehicle is indigent.~~]

8 SECTION 2. Chapter 366, Transportation Code, is amended by
9 adding Subchapter I to read as follows:

10 SUBCHAPTER I. HABITUAL VIOLATOR REMEDIES

11 Sec. 366.451. NOTICE OF INTENTION TO SEEK ADMINISTRATIVE
12 DECISION REGARDING HABITUAL VIOLATOR REMEDIES. (a) An authority
13 may seek an administrative decision to determine whether habitual
14 violator remedies under this subchapter may be exercised against
15 the registered owner of a vehicle if the authority sends to the
16 owner:

17 (1) one or more third notices of nonpayment containing
18 the warning under Section 366.178(d-2)(3) indicating that a vehicle
19 or vehicles of the owner incurred 100 or more tolls that were not
20 paid in full by the dates specified in the notices and that remain
21 not fully paid; and

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

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

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

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

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

5 (2) advise the registered owner that:

6 (A) the registered owner is entitled to a hearing
7 under Section 366.452 to contest a proposed administrative
8 decision; and

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

16 Sec. 366.452. HEARING. (a) A registered owner may, not
17 later than the 30th day after the date of the notice under Section
18 366.451, request a hearing on the issue of whether the authority may
19 exercise habitual violator remedies.

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

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

23 (2) include reasonable rules of procedure;

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

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

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

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

7 (7) provide that the registered owner has a right to:
8 (A) be represented by an attorney; and
9 (B) offer witnesses and evidence, cross-examine
10 witnesses, and make opening and closing statements; and

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

15 (c) A registered owner who fails to request a hearing within
16 the time specified under Subsection (a) or appear at a scheduled
17 hearing is considered to have waived the right to a hearing and
18 consented to the administrative decision, and:

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

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

27 Sec. 366.453. ADMINISTRATIVE DECISION. (a) A hearing

1 officer may issue an administrative decision authorizing the
2 authority to exercise habitual violator remedies only if a
3 preponderance of the evidence demonstrates that:

4 (1) one or more third notices of nonpayment containing
5 the warning under Section 366.178(d-2)(3) were sent to the
6 registered owner indicating that a vehicle or vehicles of the owner
7 incurred 100 or more unpaid authority tolls, not including any
8 unpaid tolls for which the defense of theft of the vehicle has been
9 proven under Section 366.178(h);

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

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

16 (b) Proof under Subsection (a) may be by testimony of a
17 peace officer or authority employee, video surveillance, or any
18 other reasonable evidence.

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

22 (1) filing, not later than the 30th day after the date
23 on which the decision is rendered, a petition with the clerk of a
24 district court in the county in which the authority's
25 administrative offices are located; and

26 (2) paying the costs required by law for that court.

27 (b) The court in which an appeal petition is filed shall

1 schedule a hearing and notify each party of the date, time, and
2 place of the hearing.

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

9 Sec. 366.455. HABITUAL VIOLATOR REMEDY: REFUSAL TO REGISTER
10 VEHICLE. (a) An authority may request that a county
11 assessor-collector or the Texas Department of Motor Vehicles refuse
12 under Section 502.010 to register any vehicle that is owned by a
13 person subject to an administrative decision authorizing the
14 exercise of habitual violator remedies by the authority.

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

19 SECTION 3. The heading to Section 502.010, Transportation
20 Code, is amended to read as follows:

21 Sec. 502.010. COUNTY SCOFFLAW OR TOLLWAY HABITUAL VIOLATOR.

22 SECTION 4. Section 502.010, Transportation Code, is amended
23 by amending Subsections (a), (b), (d), and (g) and adding
24 Subsection (c-1) to read as follows:

25 (a) A county assessor-collector or the department may
26 refuse to register a motor vehicle if the assessor-collector or the
27 department receives information that the owner of the vehicle:

1 (1) owes the county money for a fine, fee, or tax that
2 is past due; ~~[or]~~

3 (2) failed to appear in connection with a complaint,
4 citation, information, or indictment in a court in the county in
5 which a criminal proceeding is pending against the owner; or

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

9 (b) A county may contract with the department to provide
10 information to the department necessary to make a determination
11 under Subsections (a)(1) and (2) ~~[Subsection (a)]~~. A regional
12 tollway authority may contract with a county or the department to
13 provide information necessary to make a determination under
14 Subsection (a)(3).

15 (c-1) A regional tollway authority that has a contract under
16 Subsection (b) shall notify a county assessor-collector or the
17 department, as applicable, that a person for whom the
18 assessor-collector or the department has refused to register a
19 vehicle is no longer subject to an administrative decision under
20 Section 366.453.

21 (d) After notice is received under Subsection (c) or (c-1),
22 the county assessor-collector or the department may not refuse to
23 register the motor vehicle under Subsection (a).

24 (g) In this section:

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

1 (2) registration of a motor vehicle includes renewal
2 of the registration of the vehicle.

3 SECTION 5. This Act takes effect September 1, 2013.