

By: Watson

S.B. No. 1793

A BILL TO BE ENTITLED

AN ACT

relating to remedies for nonpayment of tolls of Texas Department of Transportation toll projects; authorizing a fee and certain investigative and court costs.

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

SECTION 1. Subchapter B, Chapter 228, Transportation Code, is amended by adding Sections 228.060, 228.061, and 228.062 to read as follows:

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

1 administrative fees over a specified period. The agreement must be  
2 in writing and specify the amount due for tolls and administrative  
3 fees, the duration of the agreement, and the amount of each payment.

4 Sec. 228.062. DEFAULT; SUIT TO RECOVER OUTSTANDING BALANCE  
5 DUE. (a) If the registered owner of the vehicle fails to comply  
6 with the terms of an agreement described by Section 228.061, the  
7 department may send by first class mail to the person at the address  
8 shown on the agreement a written notice demanding payment of the  
9 outstanding balance due.

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

14 (c) The attorney general may file suit in a district court  
15 in Travis County to recover the outstanding balance due. The  
16 attorney general may recover reasonable attorney's fees,  
17 investigative costs, and court costs incurred on behalf of the  
18 department in the proceeding in the same manner as provided by  
19 general law for a private litigant.

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

22 SUBCHAPTER G. HABITUAL VIOLATOR REMEDIES

23 Sec. 228.301. HABITUAL VIOLATOR. (a) For purposes of this  
24 subchapter, a habitual violator is a registered owner of a vehicle  
25 who the department determines:

26 (1) was issued at least two written notices of  
27 nonpayment in accordance with Section 228.055 for 100 or more

1 events of nonpayment under Section 228.054 or 228.0545 within a  
2 period of one year; and

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

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

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

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

13 (c) The notice must:

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

16 (2) state:

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

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

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

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

26 (d) If not later than the 30th day after the date on which  
27 the person is presumed to have received the notice the department

1 receives a written request for a hearing, a hearing shall be held as  
2 provided by Section 228.302. A hearing request received within the  
3 period provided by this subsection stays the effect of the  
4 department's determination until the date of the final decision of  
5 the justice of the peace under Section 228.302.

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

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

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

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

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

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

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

24 (1) whether the registered owner was issued at least  
25 two written notices of nonpayment in accordance with Section  
26 228.055 for 100 or more events of nonpayment under Section 228.054  
27 or 228.0545 within a period of one year; and

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

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

7           (f) If the justice of the peace finds in the affirmative on  
8 each issue in Subsection (d), the department's determination that  
9 the registered owner is a habitual violator is sustained and  
10 becomes final. If the justice does not find in the affirmative on  
11 each issue in Subsection (d), the department shall rescind its  
12 determination under Section 228.301. Rescission of the  
13 determination under Section 228.301 does not limit the department's  
14 authority to pursue collection of the outstanding tolls and  
15 administrative fees in accordance with Section 228.055.

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

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

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

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

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

1 by certified mail.

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

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

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

9 (1) the total amount due for the person's tolls and  
10 administrative fees is paid; or

11 (2) the department, in its sole discretion, determines  
12 that the amount has been otherwise addressed.

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

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

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

21 Sec. 228.305. DENIAL OF VEHICLE REGISTRATION. After a  
22 final determination under Section 228.301 or 228.302 that the  
23 registered owner of the vehicle is a habitual violator, the  
24 department may report the determination to a county-assessor  
25 collector or the Texas Department of Motor Vehicles in order to  
26 cause the denial of registration of the owner's vehicle, as  
27 provided by Section 502.011.

1 SECTION 3. Subchapter A, Chapter 502, Transportation Code,  
2 is amended by adding Section 502.011 to read as follows:

3 Sec. 502.011. REFUSAL TO REGISTER VEHICLE FOR NONPAYMENT OF  
4 TOLL OR ADMINISTRATIVE FEE. A county assessor-collector or the  
5 department shall refuse to register or renew the registration of a  
6 motor vehicle if the county assessor-collector or department has  
7 received written notice from the Texas Department of Transportation  
8 that the owner of the vehicle has been finally determined to be a  
9 habitual violator under Section 228.301 or 228.302 and has not  
10 received notice that the determination has terminated.

11 SECTION 4. Subchapter B, Chapter 103, Government Code, is  
12 amended by adding Section 103.0321 to read as follows:

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

18 SECTION 5. In making a determination that a person is a  
19 habitual violator under Section 228.301(a), Transportation Code,  
20 as added by this Act, the Texas Department of Transportation may  
21 include consideration of any events of nonpayment under Section  
22 228.054 or 228.0545, Transportation Code, including events of  
23 nonpayment that occurred before the effective date of this Act.

24 SECTION 6. This Act takes effect January 1, 2014.