

By: Hefner

H.B. No. 4580

A BILL TO BE ENTITLED

AN ACT

1
2 relating to toll collection and enforcement by toll project
3 entities; authorizing an administrative fee; imposing a civil
4 penalty.

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

6 ARTICLE 1. PAYMENT OF TOLLS

7 SECTION 1.01. Chapter 372, Transportation Code, is amended
8 by adding Subchapter B-1 to read as follows:

9 SUBCHAPTER B-1. TOLL COLLECTION AND ENFORCEMENT

10 Sec. 372.071. DEFINITION. In this subchapter, "registered
11 owner" means an owner as defined by Section 502.001.

12 Sec. 372.072. TOLL PAYMENT REQUIRED; EMERGENCY VEHICLES
13 EXEMPT. (a) The operator of a vehicle, other than an authorized
14 emergency vehicle as defined by Section 541.201, that is driven or
15 towed through a toll collection facility of a toll project shall pay
16 the proper toll. The exemption from payment of a toll for an
17 authorized emergency vehicle applies regardless of whether the
18 vehicle is:

- 19 (1) responding to an emergency;
20 (2) displaying a flashing light; or
21 (3) marked as an emergency vehicle.

22 (b) Notwithstanding Subsection (a), a toll project entity
23 may waive the requirement of the payment of a toll or may authorize
24 the payment of a reduced toll for any vehicle or class of vehicles.

1 Sec. 372.073. TOLL NOT PAID AT TIME OF USE; INVOICE. (a) As
2 an alternative to requiring payment of a toll at the time a vehicle
3 is driven or towed through a toll collection facility, a toll
4 project entity shall use video billing or other tolling methods to
5 permit the registered owner of the vehicle to pay the toll at a
6 later date.

7 (b) A toll project entity may use automated enforcement
8 technology, including video recordings, photography, electronic
9 data, and transponders, or other tolling methods to identify the
10 registered owner of the vehicle for purposes of billing,
11 collection, and enforcement activities.

12 (c) A toll project entity shall send by first class mail to
13 the registered owner of a vehicle a written invoice containing an
14 assessment for tolls incurred by the vehicle.

15 (d) A toll project entity shall send the invoice required
16 under Subsection (c) and related communications to:

17 (1) the registered owner's address as shown in the
18 vehicle registration records of the Texas Department of Motor
19 Vehicles or the analogous department or agency of another state or
20 country; or

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

23 (e) A toll project entity may provide that the invoice
24 required under Subsection (c), instead of being sent by first class
25 mail, be sent as an electronic record to a registered owner that
26 agrees to the terms of the electronic record transmission of the
27 information.

1 (f) A toll project entity that sends an initial invoice
2 required under Subsection (c) may not assess an additional fee
3 other than a postage fee to the amount owed by the owner of the
4 vehicle.

5 Sec. 372.074. INVOICE REQUIREMENTS; PAYMENT DUE DATE. An
6 invoice containing an assessment for the use of a toll project must:

7 (1) require payment not later than the 30th day after
8 the date the invoice is mailed; and

9 (2) conspicuously state:

10 (A) the amount due;

11 (B) the date by which the amount due must be paid;

12 (C) that failure to pay the amount due in the
13 required period will result in the assessment of an administrative
14 fee; and

15 (D) that failure to pay two or more invoices will
16 result in a civil penalty.

17 Sec. 372.075. PAYMENT OF TOLL INVOICE; ADMINISTRATIVE FEE.

18 (a) A person who receives an invoice under this subchapter for the
19 use of a toll project shall, not later than the due date specified
20 in the invoice:

21 (1) pay the amount owed as stated in the invoice; or

22 (2) send a written request to the toll project entity
23 for a review of the toll assessments contained in the invoice.

24 (b) If a person fails to comply with Subsection (a), a toll
25 project entity may add an administrative fee, not to exceed \$6, to
26 the amount the person owes. The toll project entity:

27 (1) must set the administrative fee by rule in an

1 amount that does not exceed the cost of collecting the toll; and

2 (2) may not charge a person more than \$48 in
3 administrative fees in a 12-month period.

4 (c) A toll project entity other than a county under Chapter
5 284 may contract, in accordance with Section 2107.003, Government
6 Code, with a person to collect unpaid tolls and any applicable
7 administrative fees from a person who has failed to pay at least six
8 consecutive months of unpaid tolls before referring the matter to a
9 court with jurisdiction over a civil penalty under Section 372.078.

10 (d) A toll project entity may not collect unpaid tolls and
11 administrative fees through an administrative adjudication hearing
12 conducted by the toll project entity or a person who contracts with
13 the toll project entity to conduct hearings.

14 Sec. 372.076. PAYMENT PLAN. In the second invoice for
15 unpaid tolls sent to a person by a toll project entity, the toll
16 project entity shall provide to the person the option to pay the
17 tolls through a payment plan.

18 Sec. 372.077. NOTICE OF RETURNED PAYMENT. A toll project
19 entity must immediately notify the holder of an electronic toll
20 collection customer account that a payment by the credit card or
21 debit card associated with the account was declined or could not
22 otherwise be processed.

23 Sec. 372.078. CIVIL PENALTY FOR FAILURE TO PAY TWO OR MORE
24 INVOICES. (a) Except as provided by Subsection (c), a person who
25 receives two or more invoices for unpaid tolls and who has not paid
26 the amounts due on or before the due dates specified in the invoices
27 is subject to a civil penalty of \$25. Only one civil penalty may be

1 assessed in a six-month period. An appropriate district or county
2 attorney may sue to collect the civil penalty and the underlying
3 toll and administrative fee.

4 (b) In determining liability for a civil penalty under this
5 section, it is presumed that the unpaid invoices were received on
6 the fifth day after the date of mailing.

7 (c) A person who enters into a payment plan under Section
8 372.076 is subject to a civil penalty under Subsection (a) only if
9 the person fails to make a payment required by the payment plan.

10 (d) It is a defense to liability for a civil penalty under
11 this section that the person:

12 (1) is not liable for payment of each toll assessed in
13 the unpaid invoices; or

14 (2) paid the amount owed in the invoices pertaining to
15 each toll assessed in the invoices for which the person is liable.

16 (e) The court in which a person is found liable for a civil
17 penalty under Subsection (a) shall collect the civil penalty,
18 unpaid tolls, administrative fees, and any additional court costs
19 and forward the amounts to the appropriate toll project entity.

20 Sec. 372.079. EXCEPTIONS TO TOLL LIABILITY: LEASED,
21 TRANSFERRED, OR STOLEN VEHICLE. (a) It is an exception to
22 liability of a vehicle's registered owner for a toll incurred by the
23 vehicle if the registered owner of the vehicle is a lessor of the
24 vehicle and not later than the 30th day after the date the invoice
25 containing an assessment of the toll is mailed provides to the
26 appropriate toll project entity:

27 (1) a copy of the rental, lease, or other contract

1 document covering the vehicle on the date the toll was incurred,
2 with the name and address of the lessee clearly legible; or

3 (2) electronic data, in a format agreed on by the toll
4 project entity and the lessor, other than a photocopy or scan of a
5 rental or lease contract, that contains the information required
6 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on
7 the date the toll was incurred.

8 (b) If the lessor provides the required information within
9 the period prescribed under Subsection (a), the toll project entity
10 may send an invoice to the lessee at the address provided under
11 Subsection (a) by first class mail not later than the 30th day after
12 the date of receipt of the required information from the lessor.

13 (c) It is an exception to liability of a vehicle's
14 registered owner for a toll incurred by the vehicle if the
15 registered owner of the vehicle:

16 (1) transferred ownership of the vehicle to another
17 person before the toll was incurred;

18 (2) submitted written notice of the transfer to the
19 Texas Department of Motor Vehicles in accordance with Section
20 501.147; and

21 (3) not later than the 30th day after the date the
22 invoice is mailed, provides to the appropriate toll project entity
23 the name and address of the person to whom the vehicle was
24 transferred.

25 (d) If the former owner of the vehicle provides the required
26 information within the period prescribed under Subsection (c), the
27 toll project entity may send an invoice to the person to whom

1 ownership of the vehicle was transferred at the address provided by
2 the former owner by first class mail not later than the 30th day
3 after the date of receipt of the required information from the
4 former owner.

5 (e) It is an exception to liability of a vehicle's
6 registered owner for a toll incurred by the vehicle if:

7 (1) the vehicle in question was stolen before the toll
8 was incurred and was not recovered by the time the toll was
9 incurred; and

10 (2) the theft was reported to the appropriate law
11 enforcement authority before the earlier of:

12 (A) the time the toll was incurred; or

13 (B) eight hours after the discovery of the theft.

14 Sec. 372.080. PRESUMPTION. Proof that a vehicle passed
15 through a toll collection facility without payment of the proper
16 toll, together with proof that the invoice recipient was the
17 registered owner or the driver of the vehicle when the toll was
18 incurred, creates a presumption that the invoice recipient is
19 liable for the toll incurred by the vehicle. The proof may be by a
20 written statement of a peace officer or toll project entity
21 employee, video surveillance, or any other reasonable evidence,
22 including:

23 (1) evidence obtained by automated enforcement
24 technology that the toll project entity determines is necessary,
25 including automated enforcement technology described by Section
26 372.073(b); or

27 (2) a copy of the rental, lease, or other contract

1 document or the electronic data provided to the toll project entity
2 under Section 372.079(a) that shows that the invoice recipient was
3 the lessee of the vehicle when the toll was incurred.

4 Sec. 372.081. CONFIDENTIALITY OF INFORMATION RELATED TO
5 TOLL COLLECTION AND ENFORCEMENT. Information collected for the
6 purposes of this subchapter, including contact, payment, and other
7 account information and trip data, is confidential and not subject
8 to disclosure under Chapter 552, Government Code.

9 ARTICLE 2. CONFORMING CHANGES

10 SECTION 2.01. Section 102.0213, Government Code, is amended
11 to read as follows:

12 Sec. 102.0213. COURT COSTS ON CONVICTION: TRANSPORTATION
13 CODE. A person convicted of an offense shall pay the following
14 under the Transportation Code, in addition to all other costs:

15 (1) court cost on conviction of a misdemeanor under
16 Subtitle C, Title 7, Transportation Code (Sec. 542.403,
17 Transportation Code) . . . \$3;

18 (2) cost for impoundment of vehicle (Sec. 601.263,
19 Transportation Code) . . . \$15 per day; and

20 (3) a civil [~~and criminal~~] enforcement cost on a
21 finding of liability for a civil penalty in connection with an
22 assessed [~~conviction of an offense of, or related to, the~~
23 ~~nonpayment of a~~] toll in certain counties (Sec. 284.2031,
24 Transportation Code) . . . \$1.

25 SECTION 2.02. Section 228.059, Transportation Code, is
26 amended to read as follows:

27 Sec. 228.059. TOLL COLLECTION AND ENFORCEMENT BY OTHER

1 ENTITY. An entity operating a toll lane pursuant to Section
2 228.007(b) has, with regard to toll collection and enforcement for
3 that toll lane, the same powers and duties as the department under
4 this chapter and Subchapter B-1, Chapter 372. The entity may use
5 revenues for improvement, extension, expansion, or maintenance of
6 the toll lane.

7 SECTION 2.03. The heading to Subchapter D, Chapter 284,
8 Transportation Code, is amended to read as follows:

9 SUBCHAPTER D. MISCELLANEOUS TOLL COLLECTION PROVISIONS

10 [~~UNAUTHORIZED USE OF TOLL ROADS IN CERTAIN COUNTIES~~]

11 SECTION 2.04. The heading to Section 284.2031,
12 Transportation Code, is amended to read as follows:

13 Sec. 284.2031. CIVIL [~~AND CRIMINAL~~] ENFORCEMENT COST.

14 SECTION 2.05. Section 284.2031(a), Transportation Code, is
15 amended to read as follows:

16 (a) A county may impose, in addition to other costs, \$1 as a
17 court cost on the imposition of a civil penalty [~~conviction to a~~
18 ~~defendant convicted of an offense~~] under Section 372.078 [~~284.070,~~
19 ~~284.0701, or 284.203~~] in an action brought by the county or district
20 attorney.

21 SECTION 2.06. Section 366.038(h), Transportation Code, is
22 amended to read as follows:

23 (h) For purposes of Subchapter C, Chapter 372, a toll
24 project for which an authority provides tolling services under a
25 tolling services agreement is considered a toll project of the
26 authority and the authority is considered the toll project entity
27 with respect to all rights and remedies arising under that

1 subchapter regarding the toll project. The authority may not stop
2 [~~, detain, or impound~~] a motor vehicle as authorized under that
3 subchapter on a toll project's active traffic lanes unless a
4 tolling service agreement addresses that action.

5 SECTION 2.07. Subchapter E, Chapter 366, Transportation
6 Code, is amended by adding Section 366.186 to read as follows:

7 Sec. 366.186. OTHER POWERS AND DUTIES RELATED TO TOLL
8 COLLECTION AND ENFORCEMENT. In addition to the other powers and
9 duties provided by this chapter and Chapter 372, an authority has
10 the same powers and duties as the department under Chapter 228, a
11 county under Chapter 284, and a regional mobility authority under
12 Chapter 370 regarding the authority's toll collection and
13 enforcement powers for:

- 14 (1) the authority's turnpike projects; and
15 (2) other toll projects developed, financed,
16 constructed, or operated under an agreement, including a
17 comprehensive development agreement, with the authority.

18 SECTION 2.08. Subchapter E, Chapter 370, Transportation
19 Code, is amended by adding Section 370.194 to read as follows:

20 Sec. 370.194. OTHER POWERS AND DUTIES RELATED TO TOLL
21 COLLECTION AND ENFORCEMENT. In addition to the other powers and
22 duties provided by this chapter and Chapter 372, an authority has
23 the same powers and duties as the department under Chapter 228, a
24 county under Chapter 284, and a regional tollway authority under
25 Chapter 366 regarding the authority's toll collection and
26 enforcement powers for:

- 27 (1) the authority's turnpike projects; and

1 (2) other toll projects developed, financed,
2 constructed, or operated under an agreement with the authority or
3 another entity.

4 SECTION 2.09. The heading to Subchapter C, Chapter 372,
5 Transportation Code, is amended to read as follows:

6 SUBCHAPTER C. ADDITIONAL REMEDIES AND PROCEDURES FOR NONPAYMENT OF
7 TOLLS: CERTAIN TOLL PROJECT ENTITIES [~~REMEDIES~~]

8 SECTION 2.10. The heading to Section 372.105,
9 Transportation Code, is amended to read as follows:

10 Sec. 372.105. INVOICES PROVIDED IN PERSON FOR USE OF TOLL
11 PROJECT [NONPAYMENT] BY VEHICLES NOT REGISTERED IN THIS STATE.

12 SECTION 2.11. Sections 372.105(a) and (b), Transportation
13 Code, are amended to read as follows:

14 (a) A toll project entity may, in lieu of mailing an invoice
15 [~~a written notice of nonpayment~~], serve with an invoice [~~a written~~
16 ~~notice of nonpayment~~] in person an owner of a vehicle that is not
17 registered in this state, including the owner of a vehicle
18 registered in another state of the United States, the United
19 Mexican States, a state of the United Mexican States, or another
20 country or territory. An invoice [~~A notice of nonpayment~~] may also
21 be served by an employee of a governmental entity operating an
22 international bridge at the time a vehicle with a record of
23 nonpayment seeks to enter or leave this state.

24 (b) An invoice [~~Each written notice of nonpayment~~] issued
25 under Subsection (a) must be paid not later than the due date
26 specified in the invoice [~~shall include a warning that the failure~~
27 ~~to pay the amounts in the notice may result in the toll project~~

1 ~~entity's exercise of the habitual violator remedies under this~~
2 ~~subchapter].~~

3 SECTION 2.12. Section 541.201(13-a), Transportation Code,
4 is amended to read as follows:

5 (13-a) "Police vehicle" means a vehicle used by a
6 peace officer, as defined by Article 2.12, Code of Criminal
7 Procedure, for law enforcement purposes that:

8 (A) is owned or leased by a governmental entity;

9 (B) is owned or leased by the police department
10 of a private institution of higher education that commissions peace
11 officers under Section 51.212, Education Code; or

12 (C) is:

13 (i) a private vehicle owned or leased by the
14 peace officer; and

15 (ii) approved for use for law enforcement
16 purposes by the head of the law enforcement agency that employs the
17 peace officer, or by that person's designee, provided that use of
18 the private vehicle must, if applicable, comply with any rule
19 adopted by the commissioners court of a county under Section
20 170.001, Local Government Code, and that the private vehicle may
21 not be considered an authorized emergency vehicle for exemption
22 purposes under Section 372.072 [~~228.054, 284.070, 366.178, or~~
23 ~~370.177~~], Transportation Code, unless the vehicle is marked.

24 ARTICLE 3. REPEALERS

25 SECTION 3.01. The following provisions of the
26 Transportation Code are repealed:

27 (1) Sections 228.001(3-a), 228.054, 228.0545,

1 228.0546, 228.0547, 228.055, and 228.056;

2 (2) Sections 284.070, 284.0701, 284.0702, 284.202,
3 284.203, 284.2031(b), 284.2032, 284.204, 284.205, 284.206,
4 284.207, 284.208, 284.209, 284.210, 284.211, and 284.212;

5 (3) Section 366.178;

6 (4) Section 370.177;

7 (5) Sections 372.105(c), (d), (e), and (f);

8 (6) Sections 372.102, 372.106, 372.107, 372.108,
9 372.109, 372.110, 372.111, 372.112, 372.113, 372.114, and 372.115;
10 and

11 (7) Section 502.011.

12 ARTICLE 4. TRANSITION; EFFECTIVE DATE

13 SECTION 4.01. The changes in law made by this Act apply only
14 to a toll incurred on or after the effective date of this Act. A
15 toll incurred before the effective date of this Act is governed by
16 the law in effect on the date the toll was incurred, and the former
17 law is continued in effect for that purpose.

18 SECTION 4.02. This Act takes effect September 1, 2019.