88R7020 CXP-D

By:  Klick H.B. No. 4864

A BILL TO BE ENTITLED

AN ACT

relating to the method of providing certain notices or invoices relating to toll collections by a toll project entity.

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

SECTION 1.  Sections 228.0545(c) and (e), Transportation Code, are amended to read as follows:

(c)  The department shall send by certified [~~first class~~] mail to the registered owner of a vehicle a written invoice containing an assessment for tolls incurred by the vehicle.

(e)  Notwithstanding Section 322.008(d), Business & Commerce Code, the [~~The~~] department may provide that the invoice under Subsection (c), instead of being sent by certified [~~first class~~] mail, be sent as an electronic record to a registered owner that agrees to the terms of the electronic record transmission of the information, provided that the notice is sent using a method approved by the department under Section 372.057(a)(2).

SECTION 2.  Sections 228.055(d-1) and (e), Transportation Code, are amended to read as follows:

(d-1)  If the lessor provides the required information within the period prescribed under Subsection (d), the department may send an invoice to the lessee at the address provided under Subsection (d) by certified [~~first class~~] mail before the 30th day after the date of receipt of the required information from the lessor.

(e)  It is an exception to liability of a vehicle's registered owner for a toll incurred by the vehicle if the registered owner of the vehicle transferred ownership of the vehicle to another person before the toll was incurred, submitted written notice of the transfer to the department in accordance with Section 501.147, and, before the 30th day after the date the invoice is mailed, provides to the department the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the department may send an invoice to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by certified [~~first class~~] mail before the 30th day after the date of receipt of the required information from the former owner. The department may send all subsequent invoices associated with the vehicle to the person to whom ownership of the vehicle was transferred at the address provided by the former owner or an alternate address provided by the subsequent owner or derived through other reliable means.

SECTION 3.  Section 228.056(b), Transportation Code, is amended to read as follows:

(b)  In the prosecution of an offense under Section 228.0547:

(1)  [~~it is presumed that the invoice containing the assessment for the toll was received on the fifth day after the date of mailing;~~

[~~(2)~~]  a computer record of the Texas Department of Motor Vehicles of the registered owner of the vehicle is prima facie evidence of its contents and that the defendant was the registered owner of the vehicle when the toll was incurred; and

(2) [~~(3)~~]  a copy of the rental, lease, or other contract document, or the electronic data provided to the department under Section 228.055(d), covering the vehicle on the date the toll was incurred is prima facie evidence of its contents and that the defendant was the lessee of the vehicle when the toll was incurred.

SECTION 4.  Sections 284.0701(b), (d-1), and (e), Transportation Code, are amended to read as follows:

(b)  The county may impose and collect the administrative cost so as to recover the expense of collecting the unpaid toll, not to exceed $100. The county shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the Texas Department of Motor Vehicles by certified [~~first-class~~] mail not later than the 30th day after the date of the alleged failure to pay and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070.

(d-1)  If the lessor provides the required information within the period prescribed under Subsection (d), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (d) by certified [~~first class~~] mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative cost for each event of nonpayment. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

(e)  It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 284.070 occurred, submitted written notice of the transfer to the Texas Department of Motor Vehicles in accordance with Section 501.147, and before the 30th day after the date the notice of nonpayment is mailed, provides to the county the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the county may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by certified [~~first-class~~] mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative cost within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative cost for each event of nonpayment under Section 284.070. Each failure to pay a toll or administrative cost under this subsection is a separate offense.

SECTION 5.  Sections 366.178(b-2), (b-4), (d-1), (d-2), (i-1), and (k), Transportation Code, are amended to read as follows:

(b-2)  If the authority does not collect the proper toll at the time a vehicle is driven or towed through a toll assessment facility, the authority shall send an invoice by certified [~~first class~~] mail to the registered owner of the vehicle. The invoice may include one or more tolls assessed by the authority for use of the project by the nonpaying vehicle and must specify the date by which the toll or tolls must be paid. Except as provided by Subsection (b-3), the registered owner shall pay the unpaid tolls included in the invoice not later than the 25th day after the date the invoice is mailed.

(b-4)  If the registered owner of the nonpaying vehicle fails to pay the unpaid tolls included in the invoice mailed under Subsection (b-2) or (b-3) by the date specified in the invoice, the authority shall send the first notice of nonpayment by certified [~~first class~~] mail to the registered owner of the nonpaying vehicle as provided by Subsection (d).

(d-1)  If the registered owner of the nonpaying vehicle fails to pay the unpaid tolls and the administrative fee by the date specified in the first notice of nonpayment, the authority shall send a second notice of nonpayment by certified [~~first class~~] mail to the registered owner of the nonpaying vehicle.  The second notice of nonpayment must specify the date by which payment must be made and may require payment of:

(1)  the unpaid tolls and administrative fee included in the first notice of nonpayment; and

(2)  an additional administrative fee of not more than $25 for each unpaid toll included in the notice, not to exceed a total of $200.

(d-2)  If the registered owner of the nonpaying vehicle fails to pay the amount included in the second notice of nonpayment by the date specified in that notice, the authority shall send a third notice of nonpayment by certified [~~first class~~] mail to the registered owner of the nonpaying vehicle.  The third notice of nonpayment must specify the date by which payment must be made and may require payment of:

(1)  the amount included in the second notice of nonpayment; and

(2)  any third-party collection service fees incurred by the authority.

(i-1)  If the lessor timely provides the required information under Subsection (i), the lessee of the vehicle on the date the unpaid toll was assessed is considered to be the registered owner of the vehicle for purposes of this section, and the authority shall follow the procedures provided by this section as if the lessee were the registered owner of the vehicle, including sending an invoice to the lessee by certified [~~first-class~~] mail not later than the 30th day after the date of the receipt of the information from the lessor.

(k)  Notwithstanding [~~As authorized under~~] Section 322.008(d) [~~322.008(d)(2)~~], Business & Commerce Code, an authority may provide information, including an invoice or notice, required under this section to be sent by certified [~~first class~~] mail instead as an electronic record:

(1)  if the recipient of the information agrees to the transmission of the information as an electronic record; [~~and~~]

(2)  on terms acceptable to the recipient; and

(3)  if the authority provides the information using a method approved by the department under Section 372.057(a)(2).

SECTION 6.  Sections 370.177(c), (e-1), (f), and (n), Transportation Code, are amended to read as follows:

(c)  The authority may impose and collect the administrative fee to recover the cost of collecting the unpaid toll, not to exceed $100. The authority shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the department by certified [~~first class~~] mail not later than the 30th day after the date of the alleged failure to pay and may require payment not sooner than the 30th day after the date the notice was mailed. The registered owner shall pay a separate toll and administrative fee for each event of nonpayment under Subsection (a).

(e-1)  If the lessor provides the required information within the period prescribed under Subsection (e), the authority may send a notice of nonpayment to the lessee at the address provided under Subsection (e) by certified [~~first class~~] mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(f)  It is an exception to the application of Subsection (b) or (d) that the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Subsection (a) occurred, submitted written notice of the transfer to the department in accordance with Section 501.147, and before the 30th day after the date the notice of nonpayment is mailed, provides to the authority the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the authority may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided by the former owner by certified [~~first class~~] mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative fee for each event of nonpayment under Subsection (a). Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(n)  Notwithstanding [~~As authorized under~~] Section 322.008(d) [~~322.008(d)(2)~~], Business & Commerce Code, an authority may provide an invoice or notice required under this section to be sent by certified [~~first class~~] mail instead as an electronic record:

(1)  if the recipient of the information agrees to the transmission of the information as an electronic record; [~~and~~]

(2)  on terms acceptable to the recipient; and

(3)  if the authority provides the information using a method approved by the department under Section 372.057(a)(2).

SECTION 7.  Section 372.057(a), Transportation Code, is amended to read as follows:

(a)  Except as provided by Subsection (b), an [~~An~~] invoice or notice provided to a person by a toll project entity must [~~may~~] be provided by:

(1)  certified [~~first class~~] mail; or

(2)  another method approved by the department:

(A)  that is delivered electronically and confirms the person received the invoice or notice; and

(B)  for which [~~e-mail if~~] the person has provided the necessary contact information [~~an e-mail address~~] to the entity and has elected to receive notice through that method [~~electronically~~].

SECTION 8.  Section 372.104(a), Transportation Code, is amended to read as follows:

(a)  If the registered owner of the vehicle fails to comply with the terms of an agreement described by Section 372.103, a toll project entity may send by certified [~~first class~~] mail to the person at the address shown on the agreement a written notice demanding payment of the outstanding balance due.

SECTION 9.  Sections 372.106(c) and (d), Transportation Code, are amended to read as follows:

(c)  The notice must:

(1)  be sent by certified [~~first class~~] mail [~~and is presumed received on the fifth day after the date the notice is mailed~~]; and

(2)  state:

(A)  the total number of events of nonpayment and the total amount due for tolls and administrative fees;

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

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

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

(d)  If not later than the 30th day after the date on which the person [~~is presumed to have~~] received the notice the toll project entity receives a written request for a hearing, a hearing shall be held as provided by Section 372.107.

SECTION 10.  Section 372.110(b), Transportation Code, is amended to read as follows:

(b)  The notice required by Subsection (a)(2) must be sent by certified [~~first class~~] mail to the registered owner at an address under Section 372.106(b) at least 10 days before the date the prohibition order takes effect [~~and is presumed received on the fifth day after the date the notice is mailed~~].

SECTION 11.  Section 372.116, Transportation Code, is amended to read as follows:

Sec. 372.116.  METHOD OF SENDING INVOICE OR NOTICE. Notwithstanding [~~As authorized under~~] Section 322.008(d) [~~322.008(d)(2)~~], Business & Commerce Code, a toll project entity may provide an invoice or notice required under this subchapter to be sent by certified [~~first class~~] mail instead as an electronic record:

(1)  if the recipient of the information agrees to the transmission of the information as an electronic record; [~~and~~]

(2)  on terms acceptable to the recipient; and

(3)  if the entity provides the information using a method approved by the department under Section 372.057(a)(2).

SECTION 12.  The changes in law made by this Act apply only to the collection of a toll incurred on or after the effective date of this Act. The collection of a toll incurred before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 13.  This Act takes effect September 1, 2023.