By: Hall S.B. No. 440

A BILL TO BE ENTITLED

AN ACT

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

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

ARTICLE 1. PAYMENT OF TOLLS

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

SUBCHAPTER B-1. TOLL COLLECTION AND ENFORCEMENT

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

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

(1) responding to an emergency;

(2) displaying a flashing light; or

(3) marked as an emergency vehicle.

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

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

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

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

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

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

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

(e) A toll project entity may provide that the invoice required under Subsection (c), instead of being sent by 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.

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

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

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

(2) conspicuously state:

(A) the amount due;

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

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

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

Sec. 372.075. PAYMENT OF TOLL INVOICE; ADMINISTRATIVE FEE. (a) A person who receives an invoice under this subchapter for the use of a toll project shall, not later than the due date specified in the invoice:

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

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

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

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

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

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

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

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

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

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

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

penalty may be assessed in a 12-month period. An appropriate district or county attorney may sue to collect the civil penalty and the underlying toll and administrative fee.

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

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

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

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

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

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

Sec. 372.079. EXCEPTIONS TO TOLL LIABILITY: LEASED, TRANSFERRED, OR STOLEN VEHICLE. (a) 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 is a lessor of the vehicle and not later than the 30th day after the date the invoice containing an assessment of the toll is mailed provides to the appropriate toll project entity:

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

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

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

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

(c) 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:

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

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

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

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

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

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

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

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

(A) the time the toll was incurred; or

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

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

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

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

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

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

SECTION 1.02. Section 372.058, Transportation Code, is transferred to Subchapter B-1, Chapter 372, Transportation Code, as added by this Act, redesignated as Section 372.082, Transportation Code, and amended to read as follows:

Sec. 372.082 [~~372.058~~]. INFORMATION SHARING AND CONTRACTS BETWEEN TOLL PROJECT ENTITIES. (a) Notwithstanding the confidentiality of electronic toll collection customer account information, including confidentiality under Sections 228.057(e), 366.179(d), [~~370.177(m),~~] 370.178(d), [~~and~~] 372.051(a), and 372.081, a toll project entity with an electronic toll collection customer may provide to another toll project entity electronic toll collection customer account information for the purposes of customer service, toll collection, enforcement, or reporting requirements.

(b) The provision of electronic toll collection customer account information under Subsection (a) must ensure the confidentiality of all account information.

(c) A contract between toll project entities for the collection of tolls must[~~:~~

[~~(1) specify which entity is responsible for making the determinations, sending notices, and taking other actions, as applicable, under Section 372.055; and~~

[~~(2)~~] include terms to ensure that customers do not receive invoices from more than one entity for the same transaction.

ARTICLE 2. CONFORMING CHANGES

SECTION 2.01. Section 228.059, Transportation Code, is amended to read as follows:

Sec. 228.059. TOLL COLLECTION AND ENFORCEMENT BY OTHER ENTITY. (a) An entity operating a toll lane pursuant to Section 228.007(b) or under an agreement under Subchapter E, Chapter 223, has, with regard to toll collection and enforcement for that toll lane, the same powers and duties as the department under this chapter and Subchapter B-1, Chapter 372, except as provided by Subsection (b). The entity may use revenues for improvement, extension, expansion, or maintenance of the toll lane.

(b) Notwithstanding any [~~Sections 228.0545, 228.0546, and 228.0547 or~~] other law, a toll collected pursuant to an agreement for tolling services with a toll project entity, as defined by Section 371.001, other than the department is governed by the fee and fine structure of the entity issuing the initial toll invoice.

SECTION 2.02. The heading to Subchapter D, Chapter 284, Transportation Code, is amended to read as follows:

SUBCHAPTER D. MISCELLANEOUS TOLL COLLECTION PROVISIONS

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

SECTION 2.03. The heading to Section 284.2031,

Transportation Code, is amended to read as follows:

Sec. 284.2031. CIVIL [~~AND CRIMINAL~~] ENFORCEMENT: FINE.

SECTION 2.04. Section 284.2031(a), Transportation Code, is amended to read as follows:

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

SECTION 2.05. Section 366.038(h), Transportation Code, is amended to read as follows:

(h) For purposes of Subchapter C, Chapter 372, a toll project for which an authority provides tolling services under a tolling services agreement is considered a toll project of the authority and the authority is considered the toll project entity with respect to all rights and remedies arising under that subchapter regarding the toll project. The authority may not stop [~~, detain, or impound~~] a motor vehicle as authorized under that subchapter on a toll project's active traffic lanes unless a tolling service agreement addresses that action.

SECTION 2.06. Subchapter E, Chapter 366, Transportation Code, is amended by adding Section 366.186 to read as follows:

Sec. 366.186. OTHER POWERS AND DUTIES RELATED TO TOLL COLLECTION AND ENFORCEMENT. In addition to the other powers and duties provided by this chapter and Chapter 372, an authority has the same powers and duties as the department under Chapter 228, a county under Chapter 284, and a regional mobility authority under

Chapter 370 regarding the authority's toll collection and enforcement powers for:

(1) the authority's turnpike projects; and

(2) other toll projects developed, financed, constructed, or operated under an agreement, including a comprehensive development agreement, with the authority.

SECTION 2.07. Subchapter E, Chapter 370, Transportation Code, is amended by adding Section 370.194 to read as follows:

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

(1) the authority's turnpike projects; and

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

SECTION 2.08. The heading to Subchapter C, Chapter 372, Transportation Code, is amended to read as follows:

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

SECTION 2.09. The heading to Section 372.105, Transportation Code, is amended to read as follows:

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

SECTION 2.10. Sections 372.105(a) and (b), Transportation Code, are amended to read as follows:

(a) A toll project entity may, in lieu of mailing an invoice [~~a written notice of nonpayment~~], serve with an invoice [~~a written notice of nonpayment~~] in person an owner of a vehicle that is not registered in this state, 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. An invoice [~~A notice of nonpayment~~] may also 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 this state.

(b) An invoice [~~Each written notice of nonpayment~~] issued under Subsection (a) must be paid not later than the due date specified in the invoice [~~shall 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 this subchapter~~].

SECTION 2.11. Section 541.201(13-a), Transportation Code, is amended to read as follows:

(13-a) "Police vehicle" means a vehicle used by a peace officer, as defined by Article 2A.001, Code of Criminal Procedure, for law enforcement purposes that:

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

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

(C) is:

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

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

ARTICLE 3. REPEALERS

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

(1) Section 228.001(3-a);

(2) Sections 228.054, 228.0545, 228.0546, 228.0547, 228.055, and 228.056;

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

(4) Section 284.2031(b);

(5) Section 366.178;

(6) Section 370.177;

(7) Sections 372.054, 372.055, 372.0555, 372.056, 372.057, 372.102, 372.106, 372.107, 372.108, 372.109, 372.110, 372.111, 372.112, 372.113, 372.114, and 372.115;

(8) Sections 372.105(c), (d), (e), and (f); and

(9) Section 502.011.

ARTICLE 4. TRANSITION; EFFECTIVE DATE

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

SECTION 4.02. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2027.