

By: _____

____.B. No. ____

A BILL TO BE ENTITLED

AN ACT

relating to regional tollway authorities' enforcement of remedies regarding habitual toll violators.

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

SECTION 1. Section 366.003, Transportation Code, is amended by renumbering Subdivision (1) as (1-a) and adding a new Subdivision (1) to read as follows:

(1) "Administrative decision " means a decision rendered in accordance with Section 366.1781 finding that an authority's exercise against an habitual violator of the habitual violator remedies is valid and proper.

SECTION 2. Section 366.003, Transportation Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Habitual violator remedies" means the remedies described in Sections 366.1781(1), (m) and (o).

SECTION 3. Section 366.178(g), Transportation Code, is amended to read as follows:

(g) The court of the local jurisdiction in which the unpaid toll was assessed may assess and collect the fine in addition to any court costs. The court may ~~[shall]~~ collect the unpaid tolls, administrative fees, and third-party collection service fees incurred by the authority ~~[on or before the date the fines and court costs are collected by the court]~~ and forward the tolls and fees to the authority. ~~[Payment of the unpaid tolls, administrative fees, and third-party collection service fees by the registered owner may not be waived by the court unless the~~

~~court finds that the registered owner of the vehicle is indigent.]~~

SECTION 4. Chapter 366, Transportation Code, is amended by adding Section 366.1781, to read as follows:

Sec. 366.1781. HABITUAL VIOLATOR. (a) This section shall apply to the registered owner of a vehicle, and to other persons described in Subsection (m), if 100 or more tolls were included in the amount owing under one or more third notices of nonpayment issued to that registered owner under Section 366.178(d-2) and the amount owing under such notices was not paid in full by the dates specified in the third notices of nonpayment and remains not fully paid.

(b) It is a condition to an authority's exercise of powers under this section that each third notice of nonpayment issued under Section 366.178(d-2) to the registered owner of a vehicle shall include a warning that the failure to pay the amounts in such notices may result in the authority's exercise of the habitual violator remedies.

(c) If 100 or more tolls were included in the amount not paid in full by the dates specified in one or more third notices of nonpayment sent to a registered owner under Section 366.178(d-2) and remain not fully paid, the authority may notify the registered owner that the authority intends to seek an administrative decision finding that the authority's exercise against the registered owner of the habitual violator remedies is valid and proper. The notice shall be sent by first-class mail to the last address of the owner known to the authority or to the owner's address as recorded in the Texas Department of Motor Vehicles vehicle registration records. If the lessor timely provides the required information under Subsection (q), the lessee of the vehicle on the dates the unpaid tolls were assessed is considered to be the registered owner of the vehicle for the 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 notice by first-class mail addressed to the lessee of the vehicle at the lessee's last address provided by the lessor of the vehicle or to the lessee's last address known to the authority.

(d) A notice issued under Subsection (c) shall include the total amount of unpaid tolls and fees not paid in full by the dates specified in one or more third notices of nonpayment sent to the registered owner that remains unpaid and shall advise the registered owner that:

(1) if rendered, an administrative decision will remain in effect until all unpaid tolls and fees owed to the authority by the registered owner are paid or are otherwise addressed to the satisfaction of the authority in its sole discretion;

(2) the registered owner is entitled to a hearing pursuant to Subsection (e) to contest a proposed administrative decision; and

(3) if rendered, an administrative decision may result in the authority's exercise of the habitual violator remedies.

(e) An authority by rule shall establish a hearing process by which the registered owner may contest a proposed administrative decision. Rules shall include the issues that shall be germane to a hearing, reasonable rules of procedure, and the process for an administrative decision to be rendered, and shall provide that:

(1) an administrative decision will not go into effect until after the opportunity for a hearing has expired;

(2) the registered owner is entitled to a hearing before a hearing officer who shall be an independent contractor retained by the authority solely to serve as a hearing officer. The hearing officer's compensation by the authority shall not be related to the outcome of the hearings before the hearing officer;

(3) the registered owner has a right to be represented by an attorney;

(4) the registered owner has the right to offer witnesses, propound evidence, cross-examine witnesses and make opening and closing statements; and

(5) the hearing officer shall be vested with discretion to control the scope and duration of the proceedings and to exclude oral or written evidence that the hearing officer determines is irrelevant, immaterial, or unduly repetitious.

(f) Proof of the following elements is sufficient to cause an administrative decision to be rendered:

(1) 100 or more tolls incurred for the passage through a toll assessment facility of a vehicle or vehicles owned by the registered owner at the time of passage were included in one or more third notices of nonpayment sent to the registered owner in accordance with Section 366.178(d-2); and

(2) the amounts in such third notice or notices of nonpayment were not paid in full by the dates specified in the notices and remain not fully paid.

(g) Proof under Subsection (f) may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including a copy of the rental, lease, or other contract document or the electronic data provided to the authority under Subsection (q) that shows the person subject to the hearing was the lessee of the vehicle when the unpaid toll was assessed.

(h) The hearing officer will render the administrative decision if a preponderance of the evidence at the hearing satisfies the requirements of Subsection (f) or will determine that the authority's exercise of the habitual violator remedies is not valid and proper in this instance.

(i) A registered owner may appeal an administrative decision by filing not later than the 30th day after the date on which the decision is rendered a petition with the clerk of a

Collin County district court and paying the costs required by law for that court. The court in which an appeal petition is filed shall schedule a hearing and notify each party of the date, time, and place of the hearing.

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

(k) A registered owner who fails to request a hearing within the time specified by the authority in the notice issued under Subsection (c), which shall not be less than 30 days after the date of such notice, or appear at a scheduled hearing is deemed to have waived the right to a hearing and to have consented to the administrative decision, and the hearing officer shall render the administrative decision, and the authority may exercise the habitual violator remedies, without further proceedings or action.

(l) When an administrative decision is in effect, the authority may provide the registered owner with a notice by any means that provides the notice required under Section 30.05, Penal Code, for the offense of criminal trespass. Without limiting the foregoing, such criminal trespass notice may be served on the registered owner by a peace officer who stops or detains a vehicle for a traffic or other violation or who renders aid to such vehicle. The notice may forbid the registered owner's entry onto any portion of a turnpike project designated by the authority as a controlled-access toll road under Section 366.180, and such owner commits an offense under Section 30.05, Penal Code, by the owner's entry thereon without effective consent.

(m) In addition to an authority's exercise of its rights under Subsection (l) against a registered owner, when an administrative decision is in effect the authority may exercise

those rights against a person who drives a vehicle owned by a registered owner subject to an administrative decision by providing the driver with the criminal trespass notice described in that subsection, and such driver commits an offense under Section 30.05, Penal Code, by the driver's subsequent entry onto the controlled-access portion of a turnpike project described in such notice.

(n) Nothing in this section limits an authority's rights under Section 30.05, Penal Code.

(o) The authority may request a county assessor-collector or the Department of Motor Vehicles to refuse under Section 502.010 to register any vehicle that is owned by a person subject to an administrative decision. For the purposes of this section, a vehicle shall be deemed to be owned by a person for so long as the person holds legal title to the vehicle, including vehicles to which the person obtains legal title after an administrative decision is rendered.

(p) A registered owner shall not be responsible under this section for a toll assessed for the passage through a toll assessment facility of a vehicle registered to the registered owner if:

(1) the vehicle was stolen when it passed through the toll assessment facility, and

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

(A) the vehicle's passage through the toll assessment facility; or

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

(q) A registered owner who is the lessor of a vehicle for which an invoice is mailed under Section 366.178(b-2) or Section 366.178(b-3) is not liable under this section for a toll assessed when the owner's vehicle was leased to another person, if, not later than the 30th day after the date the invoice is mailed, the registered owner provided to the authority:

(1) a copy of the rental, lease, or other contract document covering the vehicle on the date the unpaid toll was assessed, with the name and address of the lessee clearly legible; or

(2) electronic data, 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 unpaid toll was assessed under this section.

SECTION 5. SECTION 502.010, Transportation Code is amended by amending Subsections (a), (b), and (c) to read as follows:

Sec. 502.010. [~~COUNTY~~] SCOFFLAW. (a) A county assessor-collector or the department may refuse to register a motor vehicle if the assessor-collector or the department receives information that the owner of the vehicle:

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

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

(3) is subject to an administrative decision rendered under Section 366.1781, Transportation Code.

(b) A county may contract with the department to provide information to the department necessary to make a determination under Subsection (a)(1) and (a)(2). A regional tollway authority may contract with the department or a county to provide information necessary to make a determination under Subsection (a)(3).

(c) A county or regional tollway authority that has a contract under Subsection (b) shall notify the department regarding a person for whom the county assessor-collector or the department has refused to register a motor vehicle on:

(1) the person's payment or other means of discharge of the past due fine, fees, tolls, [~~fee~~], or tax; or

(2) perfection of an appeal of the case contesting payment of the fine, fees, tolls, [~~fee~~₇] or tax.