

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 454
By: Armbrister
State Affairs
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, Texas law does not allow for the use of video or photographic technology for enforcement for toll road violations. C.S.S.B. 454 allows the Texas Department of Transportation (TxDot) and the Texas Turnpike Authority (TTA) to implement an automated enforcement procedure for toll facilities on the state highway system through the use of photo and video technology. This bill only allows this technology to be used for the enforcement of toll violations. C.S.S.B. 454 also makes it an offense to operate a vehicle on a state highway facility without paying the proper toll.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 224.155, Transportation Code, as follows:

Sec. 224.155. New heading: FAILURE OR REFUSAL TO PAY TOLL; OFFENSE. Requires the operator of a vehicle, rather than any motor vehicle, other than an authorized emergency vehicle, rather than a police or emergency vehicle, that is driven or towed through a toll collection facility to pay the proper toll. Provides that the operator of a vehicle who does not pay the toll commits a misdemeanor offense punishable by a fine not to exceed \$250. Defines "authorized emergency vehicle."

SECTION 2. Amends 224.156, Transportation Code, as follows:

Sec. 224.156. New heading: ADMINISTRATIVE FEE; NOTICE; OFFENSE. Provides that in the event of a nonpayment of the proper toll as required by Section 224.155, on issuance of a written, rather than proper, notice of nonpayment, the registered owner of the nonpaying vehicle is liable for the payment of, rather than legally bound to pay, both the proper toll and an administrative fee. Authorizes the Texas Transportation Commission (commission) by rule and a transportation corporation by order of its board of directors to respectively impose and collect, rather than fix, an administrative fee, not to exceed \$100, to recover the cost of collecting an unpaid toll. Requires the Texas Department of Transportation (department) to 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 first-class mail. Provides that the registered owner of a vehicle for which the proper toll was not paid, who is mailed a written notice of nonpayment under Subsection (b) and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. Provides that each failure to pay a toll or administrative fee under this subsection is a separate offense. Deletes text regarding the nonpayment of a toll or administrative fee.

Provides that it is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and, not later than the 30th day after the date the notice

of nonpayment is mailed, provides to the department or the transportation corporation a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 224.155, with the name and address of the lessee clearly legible. Authorizes the department or the transportation corporation to send a notice of nonpayment to the lessee at the address shown on the contract document, if the lessor sends required information within the time prescribed, by first-class mail before the 30th day after the date of receipt of the required information from the lessor. Provides that if the lessee who failed to pay the toll does not respond to the mailed written notice of nonpayment by paying the proper toll and administrative fee within the time specified by notice, the lessee commits an offense. Requires the lessee to pay a separate toll and administrative fee for each event of nonpayment under Section 224.155.

Provides that 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 224.155 occurred, submitted written notice of the transfer to the department in accordance with Section 520.023, and, before the 30th day after the date the notice of nonpayment is mailed, provides the department or transportation corporation with the name and address of the person whom the vehicle was transferred. Authorizes the department or the transportation corporation to send a notice of nonpayment to the current owner of the vehicle at the address provided by the former owner, if the former owner provides required information within the time prescribed, by first-class mail before the 30th day after the date of receipt of the required information from the former owner. Provides that if the current owner of the vehicle who failed to pay the toll does not respond to the mailed written notice of nonpayment by paying the proper toll and administrative fee within the time specified by notice, the current owner commits an offense. Requires the lessee to pay a separate toll and administrative fee for each event of nonpayment under Section 224.155.

Provides that an offense under this section is a misdemeanor punishable by a fine not to exceed \$250. Requires the court in which a person is convicted of an offense under this section to collect the proper toll and administrative fee and forward the toll and fee to the department or to the transportation corporation. Defines “registered owner.” Makes conforming changes.

SECTION 3. Amends Section 224.157, Transportation Code, as follows:

Sec. 224.157. New heading: PRESUMPTIONS; PRIMA FACIE EVIDENCE; DEFENSES. Authorizes the proof that the vehicle was driven or towed through the toll collection facility without payment of the proper toll to be shown by certain electronic devices for the purposes of prosecuting an offense under Section 224.155 or 224.156. Provides that in the prosecution of an offense under Section 224.156(c), (d), or (e), certain information was obtained. Provides that it is a defense to prosecution, rather than nonpayment, under Section 224.156(c), (d), or (e), rather than 224.155 or 224.156, that the vehicle, rather than motor vehicle, in question was stolen before the date that the failure to pay the proper toll occurred and had not been recovered before the failure to pay occurred, but only if the theft was reported to the appropriate law enforcement authority by a certain time. Deletes text that establishes the nonpayment of a registered owner. Deletes text regarding the responsibility of the court to collect toll and fees. Deletes text regarding the responsibilities of the lessor of a vehicle.

SECTION 4. Amends Section 224.158(b), Transportation Code, by authorizing any peace, rather than law enforcement, officer of this state to seize a stolen or insufficiently funded transponder and return it to the department or the transportation corporation, except not sooner than 30 days after the date a notice of delinquency was sent to the holder of the account. Deletes text regarding the authority of the Department of Public Safety.

SECTION. 5. Amends Chapter 224F, Transportation Code, by adding Section 224.160, as follows:

Sec. 224.160. AUTOMATED ENFORCEMENT TECHNOLOGY. Authorizes the commission to use automated enforcement technology including certain electronic devices to obtain the identification of the license plate of a vehicle to aid in the collection of tolls and in the enforcement of toll violation, including tolls on temporary toll projects. Prohibits this section from authorizing the use of automated enforcement technology for any other purpose, and prohibits information obtained by this technology from being used in the prosecution of an offense other than under Section 224.155 or 224.156.

SECTION 6. Amends Section 361.252, Transportation Code, as follows:

Sec. 361.252. New heading: FAILURE OR REFUSAL TO PAY TOLL; OFFENSE. Makes conforming changes.

SECTION 7. Amends Section 361.253, Transportation Code, as follows:

Sec. 361.253. New heading: ADMINISTRATIVE FEE; NOTICE; OFFENSE. Makes conforming changes regarding the lessor and former owner of a vehicle, to conform with SECTION 2 (Section 224.156, Transportation Code), referencing Section 361.252. Makes conforming changes.

SECTION 8. Amends Section 361.254, Transportation Code, as follows:

Sec. 361.254. New heading: PRESUMPTIONS; PRIMA FACIE EVIDENCE; DEFENSES. Makes conforming changes regarding the prosecution of an offense, to conform with SECTION 3 (Section 224.157, Transportation Code,) referencing Sections 361.252 and 361.253. Makes conforming changes regarding the responsibilities of the authority with the deletions in SECTION 3 (Section 224.157, Transportation Code).

SECTION 9. Amends Section 361.255(b), Transportation Code, by making conforming changes.

SECTION 10. Amends Chapter 361G, Transportation Code, by adding Section 361.256, as follows:

Sec. 361.256. AUTOMATED ENFORCEMENT TECHNOLOGY. Prohibits evidence obtained from technology approved by the authority under Subsection (a) from being used in the prosecution of an offense other than under Section 361.252 or 361.253. Makes conforming changes.

SECTION 11. Amends Section 391.068, Transportation Code, to require a permit issued by a political subdivision of this state to comply with the requirements of 23 C.F.R Sections 750.707(d) (1) and (6).

SECTION 12. Makes application of the Act prospective.

SECTION 13. Effective date: September 1, 2001.

SUMMARY OF COMMITTEE CHANGES

Differs from As Filed version by adding a new SECTION 11 to set requirements for issued permits. Renumbers proposed SECTIONS 11 and 12 as 12 and 13.