

## **BILL ANALYSIS**

Senate Research Center  
82R13309 ACP-F

C.S.S.B. 469  
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Transportation & Homeland Security  
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Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, statute authorizes the North Texas Tollway Authority to assess an administrative fee of up to \$100 per toll transaction and a subsequent fine of \$250 per transaction for late payments. With advancements in electronic tolling, using toll roads has become more convenient for residents, and an average invoice contains twelve transactions; however, because bills arrive in the mail days or weeks after a toll road trip, drivers sometimes unknowingly miss a payment. Violators should be held accountable, but the current penalty structure allows fines and fees to accumulate to the point that drivers are unable to afford them; an average invoice could cost a driver thousands of dollars for missing a payment.

C.S.S.B. 469 reduces the initial fee from \$100 to \$25 and makes the fee applicable to a monthly invoice instead of per transaction. The bill also makes the subsequent fine of \$250 applicable to a monthly invoice instead of per transaction.

C.S.S.B. 469 amends current law relating to the collection of unpaid tolls by a regional tollway authority.

### **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 366.003, Transportation Code, by adding Subdivision (10-a) to define "toll assessment facility."

SECTION 2. Amends Section 366.178, Transportation Code, by amending Subsections (a)-(g), (i), and (i-1) and adding Subsections (b-1), (b-2), (b-3), (b-4), (d-1), (d-2), (d-3), and (f-1), as follows:

(a) Requires a motor vehicle other than an authorized emergency vehicle, as defined by Section 541.201 (Vehicles), that passes through a toll assessment facility, rather than a toll collection facility, whether driven or towed, to pay the proper toll. Provides that the exemption from payment of a toll for an authorized emergency vehicle applies regardless of whether the vehicle is responding to an emergency, displaying a flashing light, or marked as a police or emergency vehicle.

(b) Provides that a person who fails or refuses to pay a toll provided for the use of a project is liable for a fine not to exceed \$250, plus any administrative fees, rather than an administrative fee, incurred in connection with the violation.

(b-1) Authorizes the regional tollway authority (authority), as an alternative to requiring payment of a toll at the time a vehicle is driven or towed through a toll assessment facility, to use video recordings, photography, electronic data, transponders, or other tolling methods to permit the registered owner of the nonpaying vehicle to pay the toll at a later date.

(b-2) Authorizes the authority, if the authority does not collect the proper toll at the time a vehicle is driven or towed through a toll assessment facility, to send an invoice by first class mail to the registered owner of the vehicle not later than the 30th day after the date the vehicle is driven or towed through the facility. Authorizes the invoice to include one or more tolls the registered owner of the nonpaying vehicle failed to pay for use of the project, and requires that the invoice specify the date by which the toll or tolls are required to be paid. Requires the registered owner, except as provided by Subsection (b-3), to pay the unpaid tolls included in the invoice not later than the 30th day after the date the invoice is mailed.

(b-3) Requires the registered owner, if the address to which the invoice issued under Subsection (b-2) is mailed to the registered owner is determined to be incorrect, to pay the invoice not later than the 30th day after the date the invoice is mailed to the correct address.

(b-4) Requires the authority, 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, to send the first notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle as provided by Subsection (d).

(c) Requires the registered owner of the nonpaying vehicle, on issuance of the first notice of nonpayment, rather than if a person fails to pay the proper toll on issuance of a notice of nonpayment, to pay both the unpaid tolls included in the invoice and an administrative fee, rather than the proper toll and an administrative fee. Authorizes the authority to charge only one administrative fee of not more than \$25 for the first notice of nonpayment that is sent to the registered owner of the nonpaying vehicle. Deletes existing text authorizing an authority to charge an administrative fee of not more than \$100 to recover the cost of collecting the unpaid toll. Makes nonsubstantive changes.

(d) Requires the authority, unless an authority requires additional time to send a notice of nonpayment because of events outside the authority's reasonable control, to send the first notice of nonpayment not later than the 30th day after the date the 30-day period expires for the registered owner to pay the invoice issued under Subsection (b-2) or (b-3). Requires that the first notice of nonpayment require payment of the unpaid tolls included in the invoice and the administrative fee before the 30th day after the date the first notice of nonpayment is mailed, rather than requires that the notice of nonpayment under Subsection (c)(1) be sent by first-class mail, and is prohibited from requiring payment of the proper toll and administrative fee before the 30th day after the date the notice is mailed. Deletes existing text requiring the registered owner to pay a separate toll and administrative fee for each nonpayment.

(d-1) Requires the authority, 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, to send a second notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle. Requires that the second notice of nonpayment specify the date by which payment is required to be made and authorizes the notice to include an invoice for the unpaid tolls and administrative fee included in the first notice of nonpayment, and 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) Requires the authority, 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, to send a third notice of nonpayment by first class mail to the registered owner of the nonpaying vehicle. Requires that the third notice of nonpayment specify the date by which payment is required to be made and authorizes the notice to include an invoice for:

- (1) the amount included in the second notice of nonpayment; and
- (2) any third-party collection service fees incurred by the authority.

(d-3) Authorizes the authority to contract, in accordance with Section 2107.003 (Collection by Attorney General or Outside Agent), Government Code, with a person to collect unpaid tolls and administrative fees before referring the matter to a court with jurisdiction over the offense.

(e) Authorizes the owner, if the registered owner of the nonpaying vehicle fails to pay the third notice of nonpayment by the date specified in the notice, to be cited by the Department of Public Safety of the State of Texas (DPS) as for other traffic violations as provided by law, and requires the owner to pay a fine of not more than \$250 for each nonpayment of a toll, rather than requires the owner, if the registered owner of the nonpaying vehicle fails to pay the proper toll and administrative fee in the time specified by the notice, to be cited by DPS as for other traffic violations as provided by law, and requires the owner to pay a fine of not more than \$250 for each nonpayment.

(f) Provides that, except as provided by Subsection (f-1), in the prosecution of a violation for nonpayment, proof that the vehicle passed through a toll assessment facility, rather than a toll collection facility, and that the applicable toll was not paid before the date specified in the third notice of nonpayment, together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. Provides that proof 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 (i) that shows the defendant was the lessee of the vehicle when the underlying event of nonpayment occurred.

(f-1) Provides that nonpayment by the registered owner of the vehicle may be established by:

- (1) a copy of a written agreement between the authority and the registered owner for the payment of unpaid tolls and administrative fees; and
- (2) evidence that the registered owner is in default under the agreement.

(g) Authorizes the court of the local jurisdiction in which the violation occurs to assess and collect the fine in addition to any court costs. Requires the court to collect the unpaid tolls, rather than the proper toll, and administrative fees, rather than fee, and third-party collection service fees incurred by the authority on or before the fines and court costs are collected by the court and forward the toll and fees to the authority. Prohibits payment of the unpaid tolls, administrative fees, and third-party collection service fees by the registered owner from being waived by the court unless the court finds that the registered owner of the vehicle is indigent.

(i) Provides that a registered owner who is the lessor of a vehicle for which an invoice is mailed under Subsection (b-2) or (b-3), rather than for which a notice of nonpayment has been issued, is not liable if, not later than the 30th day after the date the invoice, rather than notice of nonpayment, is mailed, the registered owner provides to the authority:

- (1) a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment, 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) (requiring each person who rents a motor vehicle to another to maintain a record of the number of the license plate issued for the motor vehicle), (2) (requiring each person who rents a motor vehicle to another to maintain a record of the name and address of the person to whom the vehicle is rented), and (3) (requiring each person who rents a motor vehicle to another to maintain a record of the license

number to whom the vehicle is rented) covering the vehicle on the date of the nonpayment under this section.

(i-1) Provides that, if the lessor timely provides the required information under Subsection (i), the lessee of the vehicle on the date of the violation is considered to be the registered owner of the vehicle for purposes of this section, and the authority is required to 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 first-class mail not later than the 30th day after the date of the receipt of the information from the lessor. Deletes existing text providing that the lessee is subject to prosecution for failure to pay the proper toll if the authority sends a notice of nonpayment to the lessee within a certain time frame.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.