

## CHAPTER 225

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**TRANSPORTATION**


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## SENATE BILL 05-097

BY SENATOR(S) Williams, May R., Spence, Tupa, Wiens, and Teck;  
 also REPRESENTATIVE(S) Sullivan, Harvey, Hodge, Liston, Merrifield, Todd, Berens, and Green.

## AN ACT

## CONCERNING THE ADJUDICATION OF TOLL EVASION CASES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 43-4-506.5 (2), (3) (b), (3) (c), (4), (6) (a), (6) (b), and (6) (c), Colorado Revised Statutes, are amended to read:

**43-4-506.5. Traffic laws - toll collection.** (2) Any authority may adopt, by resolution of its board, ~~regulations~~ RULES pertaining to the enforcement of toll collection AND EVASION and providing a civil penalty for toll evasion. The civil penalty established by an authority for any toll evasion shall be not less than ten dollars nor more than one hundred dollars in addition to any costs imposed by a court. An authority may use state of the art technology, including, but not limited to, automatic vehicle identification photography, to aid in the collection of tolls and enforcement of toll violations. THE USE OF STATE OF THE ART TECHNOLOGY TO AID IN ENFORCEMENT OF TOLL VIOLATIONS SHALL BE GOVERNED SOLELY BY THIS SECTION.

(3) (b) At any time that a person is cited for toll evasion, the person operating the motor vehicle involved shall be given either a notice in the form of a civil penalty assessment notice or a municipal summons and complaint. If a civil penalty assessment is issued, such notice shall be tendered by a peace officer as described in section 16-2.5-101, C.R.S., and shall contain the name and address of such person, the license number of the motor vehicle involved, the number of such person's driver's license, the nature of the violation, the amount of the penalty prescribed for the violation, the date of the notice, a place for such person to execute a signed acknowledgment of such person's receipt of the civil penalty assessment notice, a place for such person to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute such

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

notice as a complaint to appear ~~in court should~~ FOR ADJUDICATION OF TOLL EVASION PURSUANT TO THIS SECTION IF the prescribed TOLL, FEE, AND CIVIL penalty ARE not ~~be~~ paid within twenty days. Every cited person shall execute the signed acknowledgment of the person's receipt of the civil penalty assessment notice.

(c) The acknowledgment of liability shall be executed at the time the cited person pays the prescribed penalty. The person cited shall pay the TOLL, FEE, AND civil penalty authorized by the authority involved at the office of such authority, either in person or by postmarking such payment within twenty days of the citation. If the person cited does not pay the prescribed TOLL, FEE, AND CIVIL penalty within twenty days of the notice, the civil penalty assessment notice shall constitute a complaint to appear FOR ADJUDICATION OF TOLL EVASION in court OR IN AN ADMINISTRATIVE TOLL ENFORCEMENT PROCEEDING, and the person cited shall, within the time specified in the civil penalty assessment notice, file an answer to this complaint ~~with the county court for the county in which the civil penalty assessment was issued~~ IN THE MANNER SPECIFIED IN THE NOTICE.

(4) (a) The respective courts of the municipalities, counties, and ~~the city and county of Denver~~ CITIES AND COUNTIES are given jurisdiction to try all cases arising under municipal ordinances and state laws governing the use of a public highway operated by an authority and arising under the toll evasion civil penalty regulations enacted by authorities. Venue for such cases shall be in the municipality, county, or city and county where the alleged violation of municipal ordinance or state law or of the authority regulation occurred.

(b) AT THE REQUEST OF THE JUDICIAL DEPARTMENT, AN AUTHORITY SHALL CONSIDER ESTABLISHING AN ADMINISTRATIVE TOLL ENFORCEMENT PROCESS AND MAY, BY RESOLUTION, ADOPT RULES CREATING SUCH A PROCESS. THE RULES PERTAINING TO THE ADMINISTRATIVE ENFORCEMENT OF TOLL EVASION SHALL REQUIRE NOTICE TO THE PERSON CITED FOR TOLL EVASION AND PROVIDE TO THE PERSON AN OPPORTUNITY TO APPEAR AT AN OPEN HEARING CONDUCTED BY AN IMPARTIAL HEARING OFFICER AND A RIGHT TO APPEAL THE FINAL ADMINISTRATIVE DETERMINATION OF TOLL EVASION TO THE COUNTY COURT FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED.

(c) IF AN AUTHORITY ESTABLISHES AN ADMINISTRATIVE TOLL ENFORCEMENT PROCESS, NO COURT OF A MUNICIPALITY, COUNTY, OR CITY AND COUNTY SHALL HAVE JURISDICTION TO HEAR TOLL EVASION CASES ARISING ON A PUBLIC HIGHWAY OPERATED BY THE AUTHORITY.

(d) A TOLL EVASION CASE MAY BE ADJUDICATED BY AN IMPARTIAL HEARING OFFICER IN AN ADMINISTRATIVE HEARING CONDUCTED PURSUANT TO THIS SECTION AND THE RULES PROMULGATED BY AN AUTHORITY. THE HEARING OFFICER MAY BE AN ADMINISTRATIVE LAW JUDGE EMPLOYED BY THE STATE OR AN INDEPENDENT CONTRACTOR OF THE AUTHORITY. THE CONTRACT FOR AN INDEPENDENT CONTRACTOR SHALL GRANT TO THE HEARING OFFICER THE SAME DEGREE OF INDEPENDENCE GRANTED TO AN ADMINISTRATIVE LAW JUDGE EMPLOYED BY THE STATE. AN AUTHORITY MAY ENTER INTO CONTRACTS PURSUANT TO SECTION 29-1-203, C.R.S., FOR JOINT ADJUDICATION OF TOLL EVASION CASES PURSUANT TO THIS SECTION.

(e) AN AUTHORITY MAY FILE A CERTIFIED COPY OF AN ORDER IMPOSING A TOLL, FEE, AND CIVIL PENALTY THAT IS ENTERED BY THE HEARING OFFICER IN AN ADJUDICATION OF A TOLL EVASION WITH THE CLERK OF THE COUNTY COURT IN THE COUNTY IN WHICH THE VIOLATION OCCURRED AT ANY TIME AFTER THE ORDER IS ENTERED. THE CLERK SHALL RECORD THE ORDER IN THE JUDGMENT BOOK OF THE COURT AND ENTER IT IN THE JUDGMENT DOCKET. THE ORDER SHALL THENCEFORTH HAVE THE EFFECT OF A JUDGMENT OF THE COUNTY COURT, AND EXECUTION MAY ISSUE ON THE ORDER OUT OF THE COURT AS IN OTHER CASES.

(f) AN ADMINISTRATIVE ADJUDICATION OF A TOLL EVASION BY AN AUTHORITY IS SUBJECT TO JUDICIAL REVIEW. THE ADMINISTRATIVE ADJUDICATION MAY BE APPEALED AS TO MATTERS OF LAW AND FACT TO THE COUNTY COURT FOR THE COUNTY IN WHICH THE VIOLATION OCCURRED. THE APPEAL SHALL BE A REVIEW ON THE RECORD OF THE ADMINISTRATIVE ADJUDICATION AND NOT A DE NOVO HEARING.

(g) NOTWITHSTANDING THE SPECIFIC REMEDIES PROVIDED BY THIS SECTION, AN AUTHORITY SHALL HAVE EVERY REMEDY AVAILABLE UNDER THE LAW TO ENFORCE UNPAID TOLLS AND FEES AS DEBTS OWED TO THE AUTHORITY.

(6) (a) In addition to the penalty assessment procedure provided for in subsection (3) of this section, where an instance of toll evasion is evidenced by automatic vehicle identification photography, or other technology not involving a peace officer, a civil penalty assessment notice may be issued and sent by first-class mail, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to first-class mail with respect to delivery speed, reliability, and price, by the public highway authority to the registered owner of the motor vehicle involved. Such notice shall contain the name and address of the registered owner of the vehicle involved, the license number of the vehicle involved, the time and location of the violation, the amount of the penalty prescribed for the violation, a place for ~~such person~~ THE REGISTERED OWNER OF THE VEHICLE to execute a signed acknowledgment of liability for the cited violation, and such other information as may be required by law to constitute such notice as a complaint to appear ~~in court~~ FOR ADJUDICATION OF A TOLL EVASION CIVIL PENALTY ASSESSMENT. THE REGISTERED OWNER OF THE VEHICLE INVOLVED IN A TOLL EVASION SHALL BE LIABLE FOR THE TOLL, FEE, AND CIVIL PENALTY IMPOSED BY THE AUTHORITY, EXCEPT AS OTHERWISE PROVIDED BY PARAGRAPH (a.5) OF THIS SUBSECTION (6).

(b) ~~Should~~ IF THE prescribed penalty IS not ~~be~~ paid within twenty days, in order to ensure that adequate notice has been given, the public highway authority shall send a second penalty assessment notice by certified mail, return receipt requested, or by any mail delivery service offered by an entity other than the United States postal service that is equivalent to or superior to certified mail, return receipt requested, with respect to receipt verification and delivery speed, reliability, and price, containing the same information as set forth in paragraph (a) of this subsection (6). Such notice shall specify that the ~~alleged violator~~ REGISTERED OWNER OF THE VEHICLE may pay the same penalty assessment at any time prior to the scheduled hearing. IF THE REGISTERED OWNER OF THE VEHICLE DOES NOT PAY THE PRESCRIBED TOLL, FEE, AND CIVIL PENALTY WITHIN TWENTY DAYS OF THE NOTICE, THE CIVIL PENALTY ASSESSMENT NOTICE SHALL CONSTITUTE A COMPLAINT TO APPEAR FOR ADJUDICATION OF A TOLL EVASION IN COURT OR IN AN ADMINISTRATIVE TOLL ENFORCEMENT PROCEEDING, AND THE REGISTERED OWNER OF THE VEHICLE SHALL, WITHIN THE TIME

SPECIFIED IN THE CIVIL PENALTY ASSESSMENT NOTICE, FILE AN ANSWER TO THE COMPLAINT IN THE MANNER SPECIFIED IN THE NOTICE. IF THE REGISTERED OWNER OF THE VEHICLE FAILS TO PAY IN FULL THE OUTSTANDING TOLL, FEE, AND CIVIL PENALTY SET FORTH IN THE NOTICE OR TO APPEAR AND ANSWER THE NOTICE AS SPECIFIED IN THE NOTICE, THE REGISTERED OWNER OF THE VEHICLE SHALL BE DEEMED TO HAVE ADMITTED LIABILITY AND TO HAVE WAIVED THE RIGHT TO A HEARING, AND A FINAL ORDER OF LIABILITY IN DEFAULT AGAINST THE REGISTERED OWNER OF THE VEHICLE MAY BE ENTERED.

~~(c) The provision of paragraph (c) of subsection (3) of this section relating to payment of the prescribed penalty, and failure to pay, shall apply to penalty assessment notices mailed by the public highway authority.~~

**SECTION 2.** 43-4-506.5 (7), Colorado Revised Statutes, is amended to read:

**43-4-506.5. Traffic laws - toll collection.** (7) A court ~~shall~~ WITH JURISDICTION IN A TOLL EVASION CASE PURSUANT TO PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION OR AN AUTHORITY WITH JURISDICTION IN A TOLL EVASION CASE PURSUANT TO PARAGRAPH (b) OF SUBSECTION (4) OF THIS SECTION MAY report to the department of revenue any outstanding judgment or warrant or any ~~default judgment for purposes of section 42-2-107 (5), C.R.S.~~ FAILURE TO PAY THE TOLL, FEE, AND CIVIL PENALTY for any toll evasion. ~~including the driver's license number and the date of birth of the cited person.~~ UPON RECEIPT OF A CERTIFIED REPORT FROM A COURT OR AN AUTHORITY STATING THAT THE OWNER OF A REGISTERED VEHICLE HAS FAILED TO PAY A TOLL, FEE, AND CIVIL PENALTY RESULTING FROM A FINAL ORDER ENTERED BY THE AUTHORITY, THE DEPARTMENT SHALL NOT RENEW THE VEHICLE REGISTRATION OF THE VEHICLE, UNTIL THE TOLL, FEE, AND CIVIL PENALTY ARE PAID IN FULL. THE AUTHORITY SHALL CONTRACT WITH AND COMPENSATE A VENDOR APPROVED BY THE DEPARTMENT FOR THE DIRECT COSTS ASSOCIATED WITH THE NONRENEWAL OF A VEHICLE REGISTRATION PURSUANT TO THIS SUBSECTION (7). The department has no authority to assess any points against a license under section 42-2-127, C.R.S., upon entry of a conviction or judgment for any toll evasion.

**SECTION 3. Repeal.** 42-4-1709 (7) (a) (VII), Colorado Revised Statutes, is repealed.

**SECTION 4. Effective date - applicability.** Section 2 of this act shall take effect April 1, 2006, and the remainder of this act shall take effect on passage. The provisions of this act shall apply to toll evasion offenses committed on or after the effective date of section 1 of this act.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2005