

CHAPTER 60

TRANSPORTATION

SENATE BILL 08-014

BY SENATOR(S) Williams, Gibbs, Spence, Takis, and Tochtrop;
also REPRESENTATIVE(S) Marostica, Primavera, Rice, Vaad, Casso, Hodge, Labuda, McFadyen, and Todd.

AN ACT

CONCERNING AUTHORIZATION FOR THE COLORADO TOLLING ENTERPRISE TO USE AN ADMINISTRATIVE TOLL ENFORCEMENT PROCESS SIMILAR TO THE ADMINISTRATIVE TOLL ENFORCEMENT PROCESS USED BY PUBLIC HIGHWAY AUTHORITIES.

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

SECTION 1. 43-4-811 (2), (3) (c), (3) (d), (4), (6) (a), (6) (b), and (6) (c), Colorado Revised Statutes, are amended, and the said 43-4-811 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

43-4-811. Traffic laws - toll collection - rules. (2) The enterprise may adopt, by resolution of the board, ~~regulations~~ **RULES** pertaining to the enforcement of toll collection and providing a civil penalty for toll evasion. The civil penalty established by the enterprise 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. The enterprise 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) (c) If a civil penalty assessment notice is issued, ~~such~~ **THE** 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 the person operating the motor vehicle involved, the license number of the motor vehicle, ~~such~~ **THE** person's driver's license number, the nature of the violation, the amount of the penalty prescribed for the violation, the date of the notice, a place for ~~such~~ **THE** person to execute a signed acknowledgment of ~~such~~ **THE** person's receipt of the civil penalty assessment notice, a place for ~~such~~ **THE** person to execute a signed acknowledgment of liability for the

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

cited violation, and such other information as may be required by law to constitute the notice as a complaint to appear ~~in court should~~ FOR ADJUDICATION OF A 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.

(d) 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 enterprise at the office of the enterprise either in person or by postmarking such payment within twenty days of the notice. 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 ~~in court~~ FOR ADJUDICATION OF A TOLL EVASION PURSUANT TO THIS SECTION, 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, ~~the city and county of Denver, and the city and county of Broomfield~~ AND CITIES AND COUNTIES have jurisdiction to try all cases arising under municipal ordinances and state laws governing the use of a toll highway and arising under the toll evasion civil penalty ~~regulations~~ RULES enacted by the enterprise. Venue for such cases shall be in the municipality, county, or city and county where the alleged violation of municipal ordinance, state law, or ~~regulation~~ RULE of the enterprise occurred.

(b) AT THE REQUEST OF THE JUDICIAL DEPARTMENT, THE ENTERPRISE 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 THE ENTERPRISE 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 TOLL HIGHWAY OPERATED BY THE ENTERPRISE.

(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 THE ENTERPRISE. THE HEARING OFFICER MAY BE AN ADMINISTRATIVE LAW JUDGE EMPLOYED BY THE STATE OR AN INDEPENDENT CONTRACTOR OF THE ENTERPRISE. 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. THE ENTERPRISE 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) THE ENTERPRISE 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 THE ENTERPRISE 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 OF THE RECORD OF THE ADMINISTRATIVE ADJUDICATION AND NOT A DE NOVO HEARING.

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

(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 enterprise to the registered owner of the motor vehicle involved. ~~Such~~ THE notice shall contain the name and address of the registered owner of the vehicle involved, the license number of the vehicle involved, the date of the notice, the time and location of the violation, the amount of the penalty prescribed for the violation, 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 the 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 ENTERPRISE, EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (a.5) OF THIS SUBSECTION (6).

(b) ~~Should~~ IF the prescribed penalty IS not ~~be~~ paid within twenty days of the notice, in order to ensure that adequate notice has been given, the enterprise 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~~ THE 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 provisions of paragraph (d) of subsection (3) of this section concerning payment of the prescribed penalty, and failure to pay, shall apply to penalty assessment notices mailed by the enterprise pursuant to this subsection (6).~~

(7) A COURT WITH JURISDICTION IN A TOLL EVASION CASE PURSUANT TO PARAGRAPH (a) OF SUBSECTION (4) OF THIS SECTION OR THE ENTERPRISE, IF IT HAS 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 FAILURE TO PAY THE TOLL, FEE, AND CIVIL PENALTY FOR ANY TOLL EVASION. UPON RECEIPT OF A CERTIFIED REPORT FROM A COURT OR THE ENTERPRISE 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 ENTERPRISE, THE DEPARTMENT SHALL NOT RENEW THE REGISTRATION OF THE VEHICLE UNTIL THE TOLL, FEE, AND CIVIL PENALTY ARE PAID IN FULL. THE ENTERPRISE 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 2. Effective date. This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution, (August 6, 2008, if adjournment sine die is on May 7, 2008); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: March 24, 2008