

CHAPTER 150

TRANSPORTATION

SENATE BILL 10-016

BY SENATOR(S) Williams, Romer, Spence;
also REPRESENTATIVE(S) Vaad, Fischer, Frangas, King S., McFadyen, McNulty, Merrifield, Tyler, Liston, Looper.

AN ACT

CONCERNING MODIFICATION OF THE MANNER IN WHICH A CIVIL PENALTY ASSESSMENT NOTICE OF TOLL EVASION EVIDENCED BY AUTOMATIC VEHICLE IDENTIFICATION TECHNOLOGY IS PROVIDED TO THE OWNER OF A VEHICLE SO IDENTIFIED.

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

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

43-4-506.5. Traffic laws - toll collection. (4) (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 of the record of the administrative adjudication and not~~ a de novo hearing.

(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~~ THE 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 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~~ THE notice as a complaint to appear for adjudication of a toll evasion civil penalty assessment.

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

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). IF THE REGISTERED OWNER OF THE VEHICLE DOES NOT PAY THE PRESCRIBED TOLL, FEE, AND CIVIL PENALTY WITHIN THIRTY DAYS OF THE DATE OF THE CIVIL PENALTY ASSESSMENT NOTICE, THE 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 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 AS SET FORTH IN THE NOTICE OR TO APPEAR AND ANSWER THE COMPLAINT AND REQUEST A HEARING AS SPECIFIED IN THE NOTICE, A FINAL ORDER OF LIABILITY SHALL BE ENTERED AGAINST THE REGISTERED OWNER OF THE VEHICLE FOR THE PURPOSES OF ENABLING THE REGISTERED OWNER TO APPEAL PURSUANT TO PARAGRAPH (f) OF SUBSECTION (4) OF THIS SECTION AND ALLOWING AN AUTHORITY TO PROCEED TO JUDGMENT PURSUANT TO PARAGRAPH (e) OF SUBSECTION (4) OF THIS SECTION.

~~(b) If the prescribed penalty is not 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 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.~~

SECTION 2. 43-4-808 (2) (d) (VI), (2) (f) (I), and (2) (f) (IV), Colorado Revised Statutes, are amended to read:

43-4-808. Toll highways - special provisions - limitations. (2) (d) (VI) An administrative adjudication of a toll evasion by the transportation 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.

(f) (I) In addition to the penalty assessment procedure provided for in paragraph (c) of this subsection (2), 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 transportation enterprise to the registered owner of the motor vehicle involved. 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 date, 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 for adjudication of a toll evasion civil penalty assessment. Except as otherwise provided in subparagraphs (II) and (III) of this paragraph (f), the registered owner of the vehicle involved in a toll evasion shall be presumed liable for the toll, fee, or civil penalty imposed by the transportation enterprise. IF THE REGISTERED OWNER OF THE VEHICLE DOES NOT PAY THE PRESCRIBED TOLL, FEE, OR CIVIL PENALTY WITHIN THIRTY DAYS OF THE DATE OF THE CIVIL PENALTY ASSESSMENT NOTICE, THE 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 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, OR CIVIL PENALTY AS SET FORTH IN THE NOTICE OR TO APPEAR AND ANSWER THE COMPLAINT AND REQUEST A HEARING AS SPECIFIED IN THE NOTICE, A FINAL ORDER OF LIABILITY SHALL BE ENTERED AGAINST THE REGISTERED OWNER OF THE VEHICLE FOR THE PURPOSES OF ENABLING THE REGISTERED OWNER TO APPEAL PURSUANT TO SUBPARAGRAPH (VI) OF PARAGRAPH (d) OF THIS SUBSECTION (2) AND ALLOWING THE TRANSPORTATION ENTERPRISE TO PROCEED TO JUDGMENT PURSUANT TO SUBPARAGRAPH (V) OF PARAGRAPH (d) OF THIS SUBSECTION (2).

(IV) ~~If the prescribed penalty is not paid within twenty days of the notice, in order to ensure that adequate notice has been given, the transportation 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 subparagraph (I) of this paragraph (f). The notice shall specify that the 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, or 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, or 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.~~

SECTION 3. Applicability. This act shall apply to incidents of toll evasion evidenced by automatic vehicle identification technology, or other technology not involving a peace officer, on or after the effective date of this act.

SECTION 4. 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: April 21, 2010