1   AN ACT

2   relating to the electronic transmission of motor vehicle rental

3   information in connection with the payment of tolls.

4   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5   SECTION 1.   Section 228.055, Transportation Code, is amended

6   by amending Subsection (d) and adding Subsection (d-1) to read as

7   follows:

8   (d)   It is an exception to the application of Subsection (a)

9   or (c) if the registered owner of the vehicle is a lessor of the

10 vehicle and not later than the 30th day after the date the notice of

11 nonpayment is mailed provides to the department:

12   (1)   a copy of the rental, lease, or other contract

13 document covering the vehicle on the date of the nonpayment under

14 Section 228.054, with the name and address of the lessee clearly

15 legible; or

16   (2)   electronic data, in a format agreed on by the

17 department and the lessor, other than a photocopy or scan of a

18 rental or lease contract, that contains the information required

19 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on

20 the date of the nonpayment under Section 228.054.

21   (d-1)   If the lessor provides the required information

22 within the period prescribed under Subsection (d), the department

23 may send a notice of nonpayment to the lessee at the address

24 provided under Subsection (d) [shown on the contract document] by

1

1 first class mail before the 30th day after the date of receipt of

2 the required information from the lessor. The lessee of the

3 vehicle for which the proper toll was not paid who is mailed a

4 written notice of nonpayment under this subsection and fails to pay

5 the proper toll and administrative fee within the time specified by

6 the notice of nonpayment commits an offense. The lessee shall pay

7 a separate toll and administrative fee for each event of

8 nonpayment. Each failure to pay a toll or administrative fee under

9 this subsection is a separate offense.

10   SECTION 2. Sections 228.056(b) and (c), Transportation

11 Code, are amended to read as follows:

12   (b) In the prosecution of an offense under Section

13 228.055(c), (d-1) [(d)], or (e):

14   (1) it is presumed that the notice of nonpayment was

15 received on the fifth day after the date of mailing;

16   (2) a computer record of the department of the

17 registered owner of the vehicle is prima facie evidence of its

18 contents and that the defendant was the registered owner of the

19 vehicle when the underlying event of nonpayment under Section

20 228.054 occurred; and

21   (3) a copy of the rental, lease, or other contract

22 document, or the electronic data provided to the department under

23 Section 228.055(d), covering the vehicle on the date of the

24 underlying event of nonpayment under Section 228.054 is prima facie

25 evidence of its contents and that the defendant was the lessee of

26 the vehicle when the underlying event of nonpayment under Section

27 228.054 occurred.

1   (c) It is a defense to prosecution under Section 228.055(c),

2 (d-1) [~~(d)~~], or (e) that the motor vehicle in question was stolen

3 before the failure to pay the proper toll occurred and had not been

4 recovered before the failure to pay occurred, but only if the theft

5 was reported to the appropriate law enforcement authority before

6 the earlier of:

7   (1) the occurrence of the failure to pay; or

8   (2) eight hours after the discovery of the theft.

9   SECTION 3. Section 284.0701, Transportation Code, is

10 amended by amending Subsection (d) and adding Subsection (d-1) to

11 read as follows:

12   (d) It is an exception to the application of Subsection (a)

13 or (c) if the registered owner of the vehicle is a lessor of the

14 vehicle and not later than the 30th day after the date the notice of

15 nonpayment is mailed provides to the authority:

16   (1) a copy of the rental, lease, or other contract

17 document covering the vehicle on the date of the nonpayment under

18 Section 284.070, with the name and address of the lessee clearly

19 legible; or

20   (2) electronic data, other than a photocopy or scan of

21 a rental or lease contract, that contains the information required

22 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on

23 the date of the nonpayment under Section 284.070.

24   (d-1) If the lessor provides the required information

25 within the period prescribed under Subsection (d), the authority

26 may send a notice of nonpayment to the lessee at the address

27 provided under Subsection (d) [~~shown on the contract document~~] by

1 first class mail before the 30th day after the date of receipt of

2 the required information from the lessor. The lessee of the vehicle

3 for which the proper toll was not paid who is mailed a written

4 notice of nonpayment under this subsection and fails to pay the

5 proper toll and administrative cost within the time specified by

6 the notice of nonpayment commits an offense. The lessee shall pay a

7 separate toll and administrative cost for each event of nonpayment.

8 Each failure to pay a toll or administrative cost under this

9 subsection is a separate offense.

10   SECTION 4. Sections 284.0702(b) and (c), Transportation

11 Code, are amended to read as follows:

12   (b) In the prosecution of an offense under Section

13 284.0701(c), (d-1) [(d)], or (e):

14   (1)[,] a computer record of the department of the

15 registered owner of the vehicle is prima facie evidence of its

16 contents and that the defendant was the registered owner of the

17 vehicle when the underlying event of nonpayment under Section

18 284.070 occurred; and

19   (2) a copy of the rental, lease, or other contract

20 document, or the electronic data provided to the authority under

21 Section 284.0701(d), covering the vehicle on the date of the

22 underlying event of nonpayment under Section 284.070 is prima facie

23 evidence of its contents and that the defendant was the lessee of

24 the vehicle when the underlying event of nonpayment under Section

25 284.070 occurred.

26   (c) It is a defense to prosecution under Section

27 284.0701(c), (d-1) [(d)], or (e) that the vehicle in question was

1 stolen before the failure to pay the proper toll occurred and had

2 not been recovered before the failure to pay occurred, but only if

3 the theft was reported to the appropriate law enforcement authority

4 before the earlier of:

5   (1) the occurrence of the failure to pay; or

6   (2) eight hours after the discovery of the theft.

7   SECTION 5. Section 366.178, Transportation Code, is amended

8 by amending Subsections (f) and (i) and adding Subsection (i-1) to

9 read as follows:

10   (f) In the prosecution of a violation for nonpayment, proof

11 that the vehicle passed through a toll collection facility without

12 payment of the proper toll together with proof that the defendant

13 was the registered owner or the driver of the vehicle when the

14 failure to pay occurred, establishes the nonpayment of the

15 registered owner. The proof may be by testimony of a peace officer

16 or authority employee, video surveillance, or any other reasonable

17 evidence, including a copy of the rental, lease, or other contract

18 document or the electronic data provided to the authority under

19 Subsection (i) that shows the defendant was the lessee of the

20 vehicle when the underlying event of nonpayment occurred.

21   (i) A registered owner who is the lessor of a vehicle for

22 which a notice of nonpayment has been issued is not liable if, not

23 later than the 30th day after the date the notice of nonpayment is

24 mailed, the registered owner provides to the authority:

25   (1) a copy of the rental, lease, or other contract

26 document [lease agreement] covering the vehicle on the date of the

27 nonpayment, with the [. The] name and address of the lessee [must

5

1 ~~be~~] clearly legible; or

2   (2) electronic data, other than a photocopy or scan of

3 a rental or lease contract, that contains the information required

4 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on

5 the date of the nonpayment under this section.

6   (i-1) If the lessor timely provides the required

7 information under Subsection (i), the lessee of the vehicle on the

8 date of the violation is considered to be the owner of the vehicle

9 for purposes of this section. The lessee is subject to prosecution

10 for failure to pay the proper toll if the authority sends a notice

11 of nonpayment to the lessee by first-class mail not later than the

12 30th day after the date of the receipt of the information from the

13 lessor.

14   SECTION 6. Section 370.177, Transportation Code, is amended

15 by amending Subsections (e), (g), and (i) and adding Subsection

16 (e-1) to read as follows:

17   (e) It is an exception to the application of Subsection (b)

18 or (d) that the registered owner of the vehicle is a lessor of the

19 vehicle and not later than the 30th day after the date the notice of

20 nonpayment is mailed provides to the authority:

21   (1) a copy of the rental, lease, or other contract

22 document covering the vehicle on the date of the nonpayment under

23 Subsection (a), with the name and address of the lessee clearly

24 legible; or

25   (2) electronic data, other than a photocopy or scan of

26 a rental or lease contract, that contains the information required

27 under Sections 521.460(c)(1), (2), and (3) covering the vehicle on

1 the date of the nonpayment under Subsection (a).

2   (e-1) If the lessor provides the required information

3 within the period prescribed under Subsection (e), the authority

4 may send a notice of nonpayment to the lessee at the address

5 provided under Subsection (e) [shown on the contract document] by

6 first class mail before the 30th day after the date of receipt of

7 the required information from the lessor. The lessee of the vehicle

8 for which the proper toll was not paid who is mailed a written

9 notice of nonpayment under this subsection and fails to pay the

10 proper toll and administrative fee within the time specified by the

11 notice of nonpayment commits an offense. The lessee shall pay a

12 separate toll and administrative fee for each event of nonpayment.

13 Each failure to pay a toll or administrative fee under this

14 subsection is a separate offense.

15   (g) An offense under Subsection (d), (e-1) [(e)], or (f) is

16 a misdemeanor punishable by a fine not to exceed $250.

17   (i) In the prosecution of an offense under this section,

18 proof that the vehicle passed through a toll collection facility

19 without payment of the proper toll together with proof that the

20 defendant was the registered owner or the driver of the vehicle when

21 the failure to pay occurred, establishes the nonpayment of the

22 registered owner. The proof may be by testimony of a peace officer

23 or authority employee, video surveillance, or any other reasonable

24 evidence, including:

25   (1) evidence obtained by automated enforcement

26 technology that the authority determines is necessary, including

27 automated enforcement technology described by Sections 228.058(a)

1 and (b); or

2   (2) a copy of the rental, lease, or other contract

3 document or the electronic data provided to the authority under

4 Subsection (e) that shows the defendant was the lessee of the

5 vehicle when the underlying event of nonpayment occurred.

6   SECTION 7. This Act takes effect September 1, 2009.

_____   _____   H.B. No. 2983

President of the Senate   Speaker of the House

      I certify that H.B. No. 2983 was passed by the House on April 22, 2009, by the following vote: Yeas 149, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2983 on May 23, 2009, by the following vote: Yeas 138, Nays 0, 1 present, not voting.

_____

Chief Clerk of the House

      I certify that H.B. No. 2983 was passed by the Senate, with amendments, on May 21, 2009, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: **19 JUN '09**

Date

Governor