

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3558

By: Kendrix

AS INTRODUCED

An Act relating to Oklahoma Turnpike Authority; amending 47 O.S. 2021, Section 11-1401.2, as amended by Section 96, Chapter 282, O.S.L. 2022 (47 O.S. Supp. 2023, Section 11-1401.2), which relates to the Oklahoma Electronic Toll Collection Act; requiring certain billing information be cross-checked; authorizing the Oklahoma Turnpike Authority to promulgate certain rules or procedures; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 47 O.S. 2021, Section 11-1401.2, as amended by Section 96, Chapter 282, O.S.L. 2022 (47 O.S. Supp. 2023, Section 11-1401.2), is amended to read as follows:

Section 11-1401.2 A. For purposes of this section:

1. "Authority" means the Oklahoma Turnpike Authority;
2. "Department" means the Department of Public Safety;
3. "Electronic toll collection system" means a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which

1 information is used to charge the account the appropriate toll or
2 charge;

3 4. "Owner" means any person, corporation, partnership, firm,
4 agency, association, or organization who, at the time of the
5 violation and with respect to the vehicle identified in the notice
6 of toll evasion violation:

7 a. is the beneficial or equitable owner of the vehicle,

8 b. has title to the vehicle,

9 c. is the registrant or coregistrant of the vehicle which
10 is registered with Service Oklahoma or a similar
11 registering agency of any other state, territory,
12 district, province, nation or other jurisdiction,

13 d. uses the vehicle in its vehicle renting businesses, or

14 e. is a person entitled to the use and possession of a
15 vehicle subject to a security interest in another
16 person;

17 5. "Photo-monitoring system" means a vehicle sensor installed
18 to work in conjunction with a toll collection facility which
19 automatically produces one or more photographs, one or more
20 microphotographs, a videotape or other recorded images of each
21 vehicle at the time it is used or operated on the turnpikes under
22 the Authority's jurisdiction;

23 6. "Toll collection regulations" means those rules and
24 regulations of the Oklahoma Turnpike Authority or statutes providing
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1 for and requiring the payment of tolls and/or charges prescribed by
2 the Authority for the use of turnpikes under its jurisdiction or
3 those rules and regulations of the Authority or statutes making it
4 unlawful to refuse to pay or to evade or to attempt to evade the
5 payment of all or part of any toll and/or charge for the use of
6 turnpikes under the jurisdiction of the Authority;

7 7. "Toll evasion violation" means a failure to comply with the
8 Authority's toll collection regulations, including the failure to
9 pay an invoice submitted by the Authority via its video toll
10 collection system;

11 8. "Vehicle" means every device in, upon or by which a person
12 or property is or may be transported or drawn upon a highway, except
13 devices used exclusively upon stationary rails or tracks;

14 9. "Video toll collection system" means a photo-monitoring
15 system used to charge and collect tolls from owners of vehicles
16 imaged using the turnpike system. The owner of a vehicle imaged by
17 the photo-monitoring system may or may not be an Authority account
18 holder; and

19 10. "Video toll collection system account" means the
20 administrative assignment of all vehicles registered to an owner to
21 an account for efficient billing of the appropriate toll or charge
22 to an owner.

23 B. 1. Notwithstanding any other provision of law, there shall
24 be imposed monetary liability on the owner of a vehicle for failure
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1 of an operator thereof to comply with the toll collection
2 regulations of the Oklahoma Turnpike Authority in accordance with
3 the provisions of this section.

4 2. An owner's vehicle shall be registered with Service Oklahoma
5 or a similar registering agency of this state or any other state,
6 territory, district, province, nation or other jurisdiction that
7 permits access to owner registration information upon request by or
8 agreement with the Authority for the purpose of carrying out the
9 Authority's governmental functions. If a registering agency does
10 not permit access to the Authority, an owner may comply by direct
11 registration with the Authority.

12 3. a. The owner of a vehicle shall be liable for a civil
13 penalty imposed pursuant to this section if the
14 vehicle was used or operated with the permission of
15 the owner, express or implied, in violation of the
16 toll collection regulations, and such violation is
17 evidenced by information obtained from a photo-
18 monitoring system.

19 b. No owner of a vehicle shall be liable for a penalty
20 imposed pursuant to this section where the operator of
21 the vehicle has been convicted of failing to pay a
22 cash toll, in violation of toll collection
23 regulations, for the same incident.
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1 c. An owner or operator of a vehicle is subject to a
2 charge by the Department or other law enforcement
3 agency for an owner's failure to timely pay an invoice
4 for tolls and/or charges submitted by the Authority
5 through its video toll collection system.

6 4. A certificate, sworn to or affirmed by an agent of the
7 Authority, or facsimile thereof, based upon inspection of
8 photographs, microphotographs, videotape or other recorded images
9 produced by a photo-monitoring system shall be prima facie evidence
10 of the facts contained therein and shall be admissible in any
11 proceeding charging a violation of toll collection regulations. The
12 photographs, microphotographs, videotape or other recorded images
13 evidencing such a violation shall be available for inspection and
14 admission into evidence in any proceeding to adjudicate the
15 liability for the violation. Each photo-monitoring system shall be
16 checked bimonthly for accuracy, and shall be maintained, adjusted or
17 replaced if necessary to ensure the systems are operating properly.

18 5. An owner found liable for a violation of toll collection
19 regulations pursuant to this section shall be liable for a monetary
20 penalty of Twenty-five Dollars (\$25.00) for each violation.

21 Liability for this monetary penalty does not abrogate an owner's
22 obligation to pay toll charges associated with the violation, and
23 the Authority may pursue collection of such unpaid toll charges
24 pursuant to this section.

1 6. An imposition of liability pursuant to this section shall be
2 based upon a preponderance of evidence as submitted. An imposition
3 of liability pursuant to this section shall not be deemed a
4 conviction as an operator and shall not be made part of the motor
5 vehicle operating record of the person upon whom such liability is
6 imposed nor shall it be used for insurance purposes in the provision
7 of motor vehicle insurance coverage.

8 7. a. A notice of toll evasion violation shall be sent by
9 regular first-class mail to each person alleged to be
10 liable as an owner for a violation of toll collection
11 regulations. The notice shall be mailed no later than
12 forty-five (45) days after the alleged violation. A
13 manual or automatic record of mailing prepared in the
14 ordinary course of business shall be prima facie
15 evidence of the receipt of the notice.

16 b. A notice of toll evasion violation shall contain the
17 name and address of the person alleged to be liable as
18 an owner for a violation of toll collection
19 regulations pursuant to this section, the registration
20 or the license tag number of the vehicle involved in
21 the violation, the location where the photo-monitoring
22 system recorded the vehicle's image, the date and time
23 of the image, the identification number of the photo-
24 monitoring system which recorded the image or other
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1 document locator number and the nature of the
2 violation.

3 c. Notice of toll evasion violation shall be prepared and
4 mailed by the Authority or its agents and shall
5 contain information advising the person of the
6 applicable monetary penalty and method of payment
7 thereof and the manner and the time in which the
8 person may contest the liability alleged in the
9 notice. The notice of toll evasion violation shall
10 contain, or be accompanied with, an affidavit of
11 nonliability and information of what constitutes
12 nonliability, information as to the effect of
13 executing the affidavit and instructions for returning
14 the affidavit to the Authority and shall also contain
15 a warning to advise the persons charged that failure
16 to contest in the manner and time provided shall be
17 deemed an admission of liability and that the penalty
18 shall be imposed and may be collected as authorized by
19 law. In addition to the notice required by
20 subparagraph a of this paragraph, the Authority may
21 elect to send a subsequent notice of toll evasion
22 violation by certified mail or other comparable form
23 of private or public delivery service. Such notice
24 shall contain a statement to the registered owner
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1 that, unless the registered owner pays the toll
2 evasion penalty or contests the notice within twenty-
3 one (21) days after receipt of the certified mail
4 notice of toll evasion violation or completes and
5 files the affidavit of nonliability, the renewal of
6 the vehicle registration shall be contingent upon
7 compliance with the notice of toll evasion violation.

8 d. If the toll evasion penalty is received by the
9 Authority and there is no contest as to that toll
10 evasion violation, the proceedings under this section
11 shall terminate.

12 e. If the registered owner fails to pay the toll evasion
13 penalty as required in this section, or fails to
14 contest the notice of toll evasion violation issued
15 pursuant to subparagraph c of this paragraph as
16 provided in subparagraph a of paragraph 8 of this
17 subsection, the registered owner shall be deemed
18 liable for the violation by operation of law. The
19 toll evasion penalty and any administrative fees or
20 charges shall be considered a debt due and owing the
21 Authority by the registered owner and the Authority
22 may proceed to collect such penalty, fees or charges
23 under paragraph 10 of this subsection.

1 8. a. Within twenty-one (21) days after receipt of a notice
2 of toll evasion violation a person may contest a
3 notice of toll evasion violation. In that case, the
4 Authority shall do the following:

5 (1) the Authority shall investigate the circumstances
6 of the notice with respect to the contestant's
7 written explanation of reasons for contesting the
8 toll evasion violation. If, based upon the
9 results of the investigation, the Authority is
10 satisfied that the violation did not occur or
11 that the registered owner was not responsible for
12 the violation, the Authority shall maintain an
13 adequate record of the findings of the
14 investigation. Within thirty (30) days of
15 receipt of a notice of contest the Authority
16 shall complete such investigation and mail the
17 results of the investigation to the person who
18 contested the notice of toll evasion violation,
19 and

20 (2) if the person contesting a notice of toll evasion
21 violation is not satisfied with the results of
22 the investigation provided for in division (1) of
23 this subparagraph, the person may, within fifteen
24 (15) days of the mailing of the results of the
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1 investigation, deposit the amount of the toll
2 evasion penalty and request an administrative
3 review. An administrative review shall be held
4 within ninety (90) calendar days following the
5 receipt of a request for an administrative
6 review, excluding any continuance time. The
7 person requesting the review may request and
8 shall be allowed one continuance, not to exceed
9 twenty-one (21) calendar days.

10 b. The administrative review procedure shall consist of
11 the following:

12 (1) the person requesting an administrative review
13 shall indicate to the Authority his or her
14 election for a review by mail or personal
15 conference and may provide materials in support
16 of the contest of the results of the
17 investigation,

18 (2) upon ten (10) days' written notice mailed to the
19 contestant, the administrative review shall be
20 conducted before an examiner designated to
21 conduct review by the Authority's governing body
22 or Director of the Oklahoma Turnpike Authority.
23 In addition to any other requirements of
24 employment, an examiner shall demonstrate those
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1 qualifications, training, and objectivity
2 prescribed by the Authority's governing body or
3 Director as are necessary and which are
4 consistent with the duties and responsibilities
5 set forth in this section and Section 11-1401.1
6 et seq. of this title,

7 (3) the officer or person authorized to issue a
8 notice of toll evasion violation shall be
9 required to participate in an administrative
10 review. The Authority shall not be required to
11 produce any evidence other than the notice of
12 toll evasion violation or copy thereof, a
13 photograph of the rear of the vehicle,
14 information received from Service Oklahoma
15 identifying the registered owner of the vehicle,
16 and a notarized statement from the person
17 reporting the violations. The documentation in
18 proper form shall be considered prima facie
19 evidence of the violation, and

20 (4) the review shall be conducted in accordance with
21 paragraph 6 of this subsection and in accordance
22 with the written procedure established by the
23 Authority which shall ensure fair and impartial
24 review of contested toll evasion violations. The
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1 examiner's final decision shall be in writing and
2 shall be delivered personally or by registered
3 mail to the contestant within ten (10) days of
4 the review. A manual or automatic record of
5 mailing prepared in the ordinary course of
6 business shall be prima facie evidence of the
7 receipt of such decision.

8 9. a. Within twenty (20) days after receipt of the final
9 decision described in division (4) of subparagraph b
10 of paragraph 8 of this subsection, the contestant may
11 seek review by filing an appeal to the district court
12 having jurisdiction in the county in which the
13 contestant lives, where the same shall be heard on the
14 record. A copy of the notice of appeal shall be
15 served in person or by first-class mail upon the
16 Authority by the contestants. For purposes of
17 computing the twenty-day period, the Code of Civil
18 Procedure, Section 2006 of Title 12 of the Oklahoma
19 Statutes, shall be applicable.

20 b. The conduct of the hearing on appeal under this
21 section is a subordinate judicial duty which may be
22 performed by referees, masters or other subordinate
23 judicial officials at the direction of the district
24 court.

1 c. If no notice of appeal of the Authority's decision is
2 filed within the period set forth in subparagraph a of
3 this paragraph, the examiner's decision shall be
4 deemed final.

5 10. Except as otherwise provided in paragraphs 11 and 12 of
6 this subsection, the Authority shall proceed under one or more of
7 the following options to collect an unpaid toll evasion penalty:

8 a. the Authority may file an itemization of unpaid toll
9 evasion penalties and administrative and service fees
10 with the Commission for collection at the time of
11 registration of the vehicle pursuant to paragraph 19
12 of this subsection, or

13 b. the Authority may contract with a collection agency to
14 collect unpaid toll evasion penalties, fees, and
15 charges.

16 11. The Authority shall not file a civil judgment with the
17 district court relating to a toll evasion violation which has been
18 filed with Service Oklahoma unless the Authority has determined that
19 the registration of the vehicle has not been renewed for sixty (60)
20 days beyond the renewal date and the notice has not been mailed by
21 Service Oklahoma pursuant to paragraph 19 of this subsection.

22 12. If an owner receives a notice of toll evasion violation
23 pursuant to this paragraph for any time period during which the
24 vehicle was reported to the police department as having been stolen,
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1 it shall be a valid defense to an allegation of liability for a
2 violation of toll collection regulations that the vehicle had been
3 reported to the police as stolen prior to the time the violation
4 occurred and had not been recovered by such time. If an owner
5 receives a notice of toll evasion violation pursuant to this
6 paragraph for any time period during which the vehicle was stolen,
7 but not yet reported to the police as having been stolen, it shall
8 be a valid defense to an allegation of liability for a violation of
9 toll collection regulations pursuant to this paragraph that the
10 vehicle was reported as stolen within two (2) hours after the
11 discovery of the theft by the owner. For purposes of asserting the
12 defense provided by this subsection it shall be sufficient that a
13 certified copy of the police report of the stolen vehicle be sent by
14 first-class mail to the Authority and the district court having
15 jurisdiction.

16 13. Subject to the review procedures contained in paragraph 8
17 of this subsection, an owner of a vehicle to which a notice of toll
18 evasion violation was issued pursuant to paragraph 7 of this
19 subsection shall not be liable for the violation of the toll
20 collection regulations provided that the owner sends to the
21 Authority the affidavit of nonliability described in paragraph 7 of
22 this subsection, within twenty-one (21) days after receiving the
23 original notice of toll evasion violation. Failure to send such
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1 information within the time period shall render the owner liable for
2 the penalty prescribed by this section.

3 14. In connection with the preparation and mailing of a notice
4 of toll evasion violation, the Authority shall ensure adequate and
5 timely notice to all video toll collection system and electronic
6 toll collection system account holders to inform them when their
7 accounts are delinquent. An owner who is an account holder under
8 the video toll collection system or electronic toll collection
9 system shall not be found liable for a violation of this section
10 unless the Authority has first sent a notice of delinquency to the
11 account holder and the account holder was in fact delinquent at the
12 time of the violation.

13 15. Nothing in this section shall be construed to limit the
14 liability of an operator of a vehicle for any violation of toll
15 collection laws or regulations.

16 16. Notwithstanding any other provision of law, all
17 photographs, microphotographs, videotape or other recorded images
18 prepared pursuant to this section shall be for the exclusive use of
19 the Authority in the discharge of its duties under this section and
20 shall not be open to the public nor be used in any court in any
21 action or proceeding pending therein unless the action or proceeding
22 relates to:

- 23 a. the imposition of or indemnification for liability
24 pursuant to this section, or
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1 b. an investigation or prosecution for a criminal
2 violation of the laws of the State of Oklahoma. Such
3 records shall be available to a law enforcement
4 officer or law enforcement agency for law enforcement
5 purposes related to an investigation or prosecution of
6 a criminal violation of the laws of the State of
7 Oklahoma pursuant to a duly issued search warrant,
8 subpoena, or order of the court requiring such
9 disclosure to a law enforcement officer or agency.

10 17. The Authority shall not sell, distribute or make available
11 in any way, the names and addresses of video toll collection system
12 and electronic toll collection system account holders or Authority
13 patrons, without the consent of the account holders or patrons, to
14 any entity that will use the information for any commercial purpose.

15 18. a. Except as provided in subparagraph c of this
16 paragraph, Service Oklahoma shall refuse to renew the
17 registration of any vehicle if the registered owner or
18 lessee has been mailed by certified mail a notice of
19 toll evasion violation as provided in subparagraph c
20 of paragraph 7 of this subsection, the Authority has
21 transmitted to Service Oklahoma an itemization of
22 unpaid toll evasion penalties, including
23 administrative fees, pursuant to paragraph 10 of this
24 subsection, and the toll evasion penalty and
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1 administrative fee have not been paid pursuant to
2 paragraph 9 of this subsection, unless the full amount
3 of all outstanding toll evasion penalties and
4 administrative fees, as shown by records of Service
5 Oklahoma are paid to Service Oklahoma at the time of
6 application for renewal.

7 b. The Authority shall issue a notice of disposition of
8 toll evasion violation to a lessor, if the lessor
9 provides the Authority with the name, address, and
10 driver license number of the lessee at the time of the
11 occurrence of the toll evasion violation.

12 c. Service Oklahoma shall renew the registration of any
13 vehicle if the applicant provides Service Oklahoma
14 with the notice of disposition of toll evasion
15 violation issued pursuant to subparagraph b of this
16 paragraph for clearing all outstanding toll evasion
17 penalties, fees and assessments, as shown by the
18 records of Service Oklahoma, and the applicant has met
19 all other requirements for registration.

20 19. Service Oklahoma shall include on each vehicle registration
21 renewal notice issued for use at the time of renewal, or on an
22 accompanying document, an itemization of unpaid toll evasion
23 penalties, fees and assessments, showing the amount thereof and the
24 date of toll evasion relating thereto, which the registered owner or
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1 lessee is required to pay pursuant to paragraph 18 of this
2 subsection.

3 20. a. Except as provided in subparagraph b of this
4 paragraph, Service Oklahoma shall remit all toll
5 evasion penalties, fees and assessments collected,
6 after deducting the administrative fee authorized by
7 paragraph 21 of this subsection, for each notice of
8 toll evasion violation for which toll evasion
9 penalties, fees and assessments have been collected
10 pursuant to paragraph 18 of this subsection, to the
11 Authority. Within forty-five (45) days from the time
12 penalties, fees and assessments are paid to Service
13 Oklahoma, Service Oklahoma shall inform the Authority
14 which of its notices of toll evasion violation have
15 been collected.

16 b. For each notice of toll evasion violation for which
17 toll evasion penalties, fees and assessments have been
18 collected by Service Oklahoma pursuant to paragraph 17
19 of this subsection, the Authority is due an amount
20 equal to the sum of the unpaid toll, administrative
21 fees, other costs incurred by the Authority that are
22 related to toll evasion, process service fees, and
23 fees and collection costs related to civil debt
24 collection. After deducting Service Oklahoma's
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1 administrative fee authorized by paragraph 21 of this
2 subsection, Service Oklahoma shall promptly pay to the
3 Authority the amounts due the Authority for unpaid
4 tolls, administrative fees, other costs incurred by
5 the Authority that are related to toll evasion,
6 process service fees, and fees and collection costs
7 related to civil debt collection.

8 21. Service Oklahoma shall assess a fee for the recording of
9 the notice of toll evasion violation, which is given to Service
10 Oklahoma pursuant to paragraph 10 of this subsection, in an amount,
11 as determined by Service Oklahoma, that is sufficient to provide a
12 total amount equal to at least its actual costs of administering
13 paragraphs 18, 19 and 22 of this subsection.

14 22. Whenever a vehicle is transferred or not renewed for two
15 renewal periods and the former registered owner or lessee of the
16 vehicle owes a toll evasion penalty and administrative fees for a
17 notice of toll evasion violation filed with Service Oklahoma
18 pursuant to paragraph 10 of this subsection, Service Oklahoma shall
19 notify the Authority of that fact and is not required thereafter to
20 attempt collection of the toll evasion penalty and administrative
21 fees.

22 23. To prevent errors in billing for toll violations, before
23 any PlatePay invoice may be sent to a party, the vehicle
24 registration information obtained from the data collected by
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1 PlatePay shall be cross-checked against the database of vehicles
2 registered for a PIKEPASS to ensure the vehicle invoiced by PlatePay
3 is not registered for a PIKEPASS. The Oklahoma Turnpike Authority
4 is authorized to promulgate any rules or procedures necessary to
5 effectuate the provisions of this paragraph.

6 This legislation shall not be construed to affect in any way the
7 power which the Oklahoma Turnpike Authority possesses to establish
8 tolls and other charges in connection with their turnpike
9 facilities, including the authority to establish a one-way toll
10 collection system for any of its facilities or a toll discount
11 structure for certain classes of patrons using any of its
12 facilities.

13 SECTION 2. This act shall become effective November 1, 2024.

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