

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL 1056

6 By: Fry

7 COMMITTEE SUBSTITUTE

8 An Act relating to the Oklahoma Electronic Toll
9 Collection Act; amending 47 O.S. 2011, Section 11-
10 1401.2, as last amended by Section 1, Chapter 129,
11 O.S.L. 2015 (47 O.S. Supp. 2015, Section 11-1401.2),
12 which relates to toll collection records; authorizing
13 certain allowances; and providing an effective date.

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

15 SECTION 1. AMENDATORY 47 O.S. 2011, Section 11-1401.2,
16 as last amended by Section 1, Chapter 129, O.S.L. 2015 (47 O.S.
17 Supp. 2015, Section 11-1401.2), is amended to read as follows:

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

19 1. "Authority" means the Oklahoma Turnpike Authority;

20 2. "Commission" means the Oklahoma Tax Commission;

21 3. "Electronic toll collection system" means a system of
22 collecting tolls or charges which is capable of charging an account
23 holder the appropriate toll or charge by transmission of information
24 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 the Oklahoma Tax Commission or
11 similar registering agency of any other state,
12 territory, district, province, nation or other
13 jurisdiction,

14 d. subject to the liability limitations set forth in
15 paragraph 12 of subsection B of this section, uses the
16 vehicle in its vehicle renting and/or leasing
17 businesses, or

18 e. is a person entitled to the use and possession of a
19 vehicle subject to a security interest in another
20 person;

21 5. "Photo-monitoring system" means a vehicle sensor installed
22 to work in conjunction with a toll collection facility which
23 automatically produces one or more photographs, one or more
24 microphotographs, a videotape or other recorded images of each

1 vehicle at the time it is used or operated on the turnpikes under
2 the Authority's jurisdiction;

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

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

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

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

23 B. 1. Notwithstanding any other provision of law, there shall
24 be imposed monetary liability on the owner of a vehicle for failure

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. The owner of a vehicle shall be liable for a civil penalty
5 imposed pursuant to this section if the vehicle was used or operated
6 with the permission of the owner, express or implied, in violation
7 of the toll collection regulations, and such violation is evidence
8 by information obtained from a photo-monitoring system. However, no
9 owner of a vehicle shall be liable for a penalty imposed pursuant to
10 this section where the operator of the vehicle has been convicted of
11 a violation of toll collection regulations for the same incident.

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

24

1 4. An owner found liable for a violation of toll collection
2 regulations pursuant to this section shall be liable for a monetary
3 penalty of Twenty-five Dollars (\$25.00) for each violation.
4 Liability for this monetary penalty does not abrogate an owner's
5 obligation to pay toll charges associated with the violation, and
6 the Authority may pursue collection of such unpaid toll charges
7 pursuant to this section.

8 5. An imposition of liability pursuant to this section shall be
9 based upon a preponderance of evidence as submitted. An imposition
10 of liability pursuant to this section shall not be deemed a
11 conviction as an operator and shall not be made part of the motor
12 vehicle operating record of the person upon whom such liability is
13 imposed nor shall it be used for insurance purposes in the provision
14 of motor vehicle insurance coverage.

15 6. a. A notice of toll evasion violation shall be sent by
16 regular first-class mail to each person alleged to be
17 liable as an owner for a violation of toll collection
18 regulations. The notice shall be mailed no later than
19 forty-five (45) days after the alleged violation. A
20 manual or automatic record of mailing prepared in the
21 ordinary course of business shall be prima facie
22 evidence of the receipt of the notice.

23 b. A notice of toll evasion violation shall contain the
24 name and address of the person alleged to be liable as

1 an owner for a violation of toll collection
2 regulations pursuant to this section, the registration
3 or the license tag number of the vehicle involved in
4 the violation, the location where the photo-monitoring
5 system recorded the vehicle's image, the date and time
6 of the image, the identification number of the photo-
7 monitoring system which recorded the image or other
8 document locator number and the nature of the
9 violation.

10 c. Notice of toll evasion violation shall be prepared and
11 mailed by the Authority or its agents and shall
12 contain information advising the person of the
13 applicable monetary penalty and method of payment
14 thereof and the manner and the time in which the
15 person may contest the liability alleged in the
16 notice. The notice of toll evasion violation shall
17 contain, or be accompanied with, an affidavit of
18 nonliability and information of what constitutes
19 nonliability, information as to the effect of
20 executing the affidavit and instructions for returning
21 the affidavit to the Authority and shall also contain
22 a warning to advise the persons charged that failure
23 to contest in the manner and time provided shall be
24 deemed an admission of liability and that the penalty

1 shall be imposed and may be collected as authorized by
2 law. In addition to the notice required by
3 subparagraph a of this paragraph, the Authority may
4 elect to send a subsequent notice of toll evasion
5 violation by certified mail. Such notice shall
6 contain a statement to the registered owner that,
7 unless the registered owner pays the toll evasion
8 penalty or contests the notice within twenty-one (21)
9 days after receipt of the certified mail notice of
10 toll evasion violation or completes and files the
11 affidavit of nonliability, the renewal of the vehicle
12 registration shall be contingent upon compliance with
13 the notice of toll evasion violation.

14 d. If the toll evasion penalty is received by the
15 Authority and there is no contest as to that toll
16 evasion violation, the proceedings under this section
17 shall terminate.

18 e. If the registered owner fails to pay the toll evasion
19 penalty as required in this section, or fails to
20 contest the notice of toll evasion violation issued
21 pursuant to subparagraph c of this paragraph as
22 provided in subparagraph a of paragraph 7 of this
23 subsection, the registered owner shall be deemed
24 liable for the violation by operation of law. The

1 toll evasion penalty and any administrative fees or
2 charges shall be considered a debt due and owing the
3 Authority by the registered owner and the Authority
4 may proceed to collect such penalty, fees or charges
5 under paragraph 9 of this subsection.

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

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

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

15 b. The administrative review procedure shall consist of
16 the following:

17 (1) the person requesting an administrative review
18 shall indicate to the Authority his or her
19 election for a review by mail or personal
20 conference and may provide materials in support
21 of the contest of the results of the
22 investigation,

23 (2) upon ten (10) days' written notice mailed to the
24 contestant, the administrative review shall be

1 conducted before an examiner designated to
2 conduct review by the Authority's governing body
3 or Director of the Oklahoma Turnpike Authority.
4 In addition to any other requirements of
5 employment, an examiner shall demonstrate those
6 qualifications, training, and objectivity
7 prescribed by the Authority's governing body or
8 Director as are necessary and which are
9 consistent with the duties and responsibilities
10 set forth in this section and Section 11-1401.1
11 et seq. of this title,

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

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

13 8. a. Within twenty (20) days after receipt of the final
14 decision described in division (4) of subparagraph b
15 of paragraph 7 of this subsection, the contestant may
16 seek review by filing an appeal to the district court
17 having jurisdiction in the county in which the
18 contestant lives, where the same shall be heard on the
19 record. A copy of the notice of appeal shall be
20 served in person or by first-class mail upon the
21 Authority by the contestants. For purposes of
22 computing the twenty-day period, the Code of Civil
23 Procedure, Section 2006 of Title 12 of the Oklahoma
24 Statutes, shall be applicable.

1 b. The conduct of the hearing on appeal under this
2 section is a subordinate judicial duty which may be
3 performed by referees, masters or other subordinate
4 judicial officials at the direction of the district
5 court.

6 c. If no notice of appeal of the Authority's decision is
7 filed within the period set forth in subparagraph a of
8 this paragraph, the examiner's decision shall be
9 deemed final.

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

13 a. the Authority may file an itemization of unpaid toll
14 evasion penalties and administrative and service fees
15 with the Commission for collection at the time of
16 registration of the vehicle pursuant to paragraph 17
17 of this subsection, or

18 b. the Authority may contract with a collection agency to
19 collect unpaid toll evasion penalties, fees, and
20 charges.

21 10. The Authority shall not file a civil judgment with the
22 district court relating to a toll evasion violation which has been
23 filed with the Commission unless the Authority has determined that
24 the registration of the vehicle has not been renewed for sixty (60)

1 days beyond the renewal date and the notice has not been mailed by
2 the Commission pursuant to paragraph 17 of this subsection.

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

21 12. An owner of a vehicle to which a notice of toll evasion
22 violation was issued pursuant to paragraph 6 of this subsection
23 shall not be liable for the violation of the toll collection
24 regulations provided that the owner sends to the Authority the

1 affidavit of nonliability described in paragraph 6 of this
2 subsection, within twenty-one (21) days after receiving the original
3 notice of toll evasion violation. Failure to send such information
4 within the time period shall render the owner liable for the penalty
5 prescribed by this section. If the owner complies with the
6 provisions of this subsection, the operator of the vehicle on the
7 date of the violation shall be subject to liability for the
8 violation of toll collection regulations, provided that the
9 Authority mails a notice of toll evasion violation to the operator
10 within ten (10) days after receipt of such information.

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

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

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1 15. Notwithstanding any other provision of law, all
2 photographs, microphotographs, videotape or other recorded images
3 prepared pursuant to this section shall be for the exclusive use of
4 the Authority in the discharge of its duties under this section and
5 shall not be open to the public nor be used in any court in any
6 action or proceeding pending therein unless the action or proceeding
7 relates to:

8 a. the imposition of or indemnification for liability
9 pursuant to this section, or

10 b. an investigation or prosecution for a criminal
11 violation of the laws of the State of Oklahoma. Such
12 records shall be available to a law enforcement
13 officer or law enforcement agency for law enforcement
14 purposes related to an investigation or prosecution of
15 a criminal violation of the laws of the State of
16 Oklahoma pursuant to a duly issued search warrant,
17 subpoena, or order of the court requiring such
18 disclosure to a law enforcement officer or agency.

19 16. The Authority shall not sell, distribute or make available
20 in any way, the names and addresses of video toll collection system
21 and electronic toll collection system account holders or Authority
22 patrons, without the consent of the account holders or patrons, to
23 any entity that will use the information for any commercial purpose.

24 ~~16.~~

1 17. a. Except as provided in subparagraph c of this
2 paragraph, the Commission shall refuse to renew the
3 registration of any vehicle if the registered owner or
4 lessee has been mailed by certified mail a notice of
5 toll evasion violation as provided in subparagraph c
6 of paragraph 6 of this subsection, the Authority has
7 transmitted to the Commission an itemization of unpaid
8 toll evasion penalties, including administrative fees,
9 pursuant to paragraph 9 of this subsection, and the
10 toll evasion penalty and administrative fee have not
11 been paid pursuant to paragraph 8 of this subsection,
12 unless the full amount of all outstanding toll evasion
13 penalties and administrative fees, as shown by records
14 of the Commission are paid to the Commission at the
15 time of application for renewal.

16 b. The Authority shall issue a notice of disposition of
17 toll evasion violation to a lessor, if the lessor
18 provides the Authority with the name, address, and
19 driver's license number of the lessee at the time of
20 the occurrence of the toll evasion violation.

21 c. The Commission shall renew the registration of any
22 vehicle if the applicant provides the Commission with
23 the notice of disposition of toll evasion violation
24 issued pursuant to subparagraph b of this paragraph

1 for clearing all outstanding toll evasion penalties,
2 fees and assessments, as shown by the records of the
3 Commission, and the applicant has met all other
4 requirements for registration.

5 ~~17.~~ 18. The Commission shall include on each vehicle
6 registration renewal notice issued for use at the time of renewal,
7 or on an accompanying document, an itemization of unpaid toll
8 evasion penalties, fees and assessments, showing the amount thereof
9 and the date of toll evasion relating thereto, which the registered
10 owner or lessee is required to pay pursuant to paragraph 16 of this
11 subsection.

12 ~~18.~~

13 19. a. Except as provided in subparagraph b of this
14 paragraph, the Commission shall remit all toll evasion
15 penalties, fees and assessments collected, after
16 deducting the administrative fee authorized by
17 paragraph 19 of this subsection, for each notice of
18 toll evasion violation for which toll evasion
19 penalties, fees and assessments have been collected
20 pursuant to paragraph 16 of this subsection, to the
21 Authority. Within forty-five (45) days from the time
22 penalties, fees and assessments are paid to the
23 Commission, the Commission shall inform the Authority
24

1 which of its notices of toll evasion violation have
2 been collected.

3 b. For each notice of toll evasion violation for which
4 toll evasion penalties, fees and assessments have been
5 collected by the Commission pursuant to paragraph 16
6 of this subsection, the Authority is due an amount
7 equal to the sum of the unpaid toll, administrative
8 fees, other costs incurred by the Authority that are
9 related to toll evasion, process service fees, and
10 fees and collection costs related to civil debt
11 collection. After deducting the Commission's
12 administrative fee authorized by paragraph 19 of this
13 subsection, the Commission shall promptly pay to the
14 Authority the amounts due the Authority for unpaid
15 tolls, administrative fees, other costs incurred by
16 the Authority that are related to toll evasion,
17 process service fees, and fees and collection costs
18 related to civil debt collection.

19 ~~19.~~ 20. The Commission shall assess a fee for the recording of
20 the notice of toll evasion violation, which is given to the
21 Commission pursuant to paragraph 9 of this subsection, in an amount,
22 as determined by the Commission, that is sufficient to provide a
23 total amount equal to at least its actual costs of administering
24 paragraphs 16, 17 and 20 of this subsection.

1 ~~20.~~ 21. Whenever a vehicle is transferred or not renewed for
2 two renewal periods and the former registered owner or lessee of the
3 vehicle owes a toll evasion penalty and administrative fees for a
4 notice of toll evasion violation filed with the Commission pursuant
5 to paragraph 9 of this subsection, the Commission shall notify the
6 Authority of that fact and is not required thereafter to attempt
7 collection of the toll evasion penalty and administrative fees.

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

15 SECTION 2. This act shall become effective November 1, 2016.

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