

1 **SENATE FLOOR VERSION**

2 February 25, 2016

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1056

By: Fry

6
7 [Oklahoma Electronic Toll Collection Act -
8 collection records - effective date]
9

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

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

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

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

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

17 3. "Electronic toll collection system" means a system of
18 collecting tolls or charges which is capable of charging an account
19 holder the appropriate toll or charge by transmission of information
20 from an electronic device on a motor vehicle to the toll lane, which
21 information is used to charge the account the appropriate toll or
22 charge;

23 4. "Owner" means any person, corporation, partnership, firm,
24 agency, association, or organization who, at the time of the

1 violation and with respect to the vehicle identified in the notice
2 of toll evasion violation:

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

4 b. has title to the vehicle,

5 c. is the registrant or coregistrant of the vehicle which
6 is registered with the Oklahoma Tax Commission or
7 similar registering agency of any other state,
8 territory, district, province, nation or other
9 jurisdiction,

10 d. subject to the liability limitations set forth in
11 paragraph 12 of subsection B of this section, uses the
12 vehicle in its vehicle renting and/or leasing
13 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

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; and

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.

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

24

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

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

21 4. An owner found liable for a violation of toll collection
22 regulations pursuant to this section shall be liable for a monetary
23 penalty of Twenty-five Dollars (\$25.00) for each violation.
24 Liability for this monetary penalty does not abrogate an owner's

1 obligation to pay toll charges associated with the violation, and
2 the Authority may pursue collection of such unpaid toll charges
3 pursuant to this section.

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

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

19 b. A notice of toll evasion violation shall contain the
20 name and address of the person alleged to be liable as
21 an owner for a violation of toll collection
22 regulations pursuant to this section, the registration
23 or the license tag number of the vehicle involved in
24 the violation, the location where the photo-monitoring

1 system recorded the vehicle's image, the date and time
2 of the image, the identification number of the photo-
3 monitoring system which recorded the image or other
4 document locator number and the nature of the
5 violation.

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

1 violation by certified mail. Such notice shall
2 contain a statement to the registered owner that,
3 unless the registered owner pays the toll evasion
4 penalty or contests the notice within twenty-one (21)
5 days after receipt of the certified mail notice of
6 toll evasion violation or completes and files the
7 affidavit of nonliability, the renewal of the vehicle
8 registration shall be contingent upon compliance with
9 the notice of toll evasion violation.

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

14 e. If the registered owner fails to pay the toll evasion
15 penalty as required in this section, or fails to
16 contest the notice of toll evasion violation issued
17 pursuant to subparagraph c of this paragraph as
18 provided in subparagraph a of paragraph 7 of this
19 subsection, the registered owner shall be deemed
20 liable for the violation by operation of law. The
21 toll evasion penalty and any administrative fees or
22 charges shall be considered a debt due and owing the
23 Authority by the registered owner and the Authority

1 may proceed to collect such penalty, fees or charges
2 under paragraph 9 of this subsection.

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

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

22 (2) if the person contesting a notice of toll evasion
23 violation is not satisfied with the results of
24 the investigation provided for in division (1) of

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

12 b. The administrative review procedure shall consist of
13 the following:

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

20 (2) upon ten (10) days' written notice mailed to the
21 contestant, the administrative review shall be
22 conducted before an examiner designated to
23 conduct review by the Authority's governing body
24 or Director of the Oklahoma Turnpike Authority.

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

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

22 (4) the review shall be conducted in accordance with
23 paragraph 5 of this subsection and in accordance
24 with the written procedure established by the

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

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

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

1 judicial officials at the direction of the district
2 court.

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

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

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

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

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

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

19 12. An owner of a vehicle to which a notice of toll evasion
20 violation was issued pursuant to paragraph 6 of this subsection
21 shall not be liable for the violation of the toll collection
22 regulations provided that the owner sends to the Authority the
23 affidavit of nonliability described in paragraph 6 of this
24 subsection, within twenty-one (21) days after receiving the original

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

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

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

22 15. Notwithstanding any other provision of law, all
23 photographs, microphotographs, videotape or other recorded images
24 prepared pursuant to this section shall be for the exclusive use of

1 the Authority in the discharge of its duties under this section and
2 shall not be open to the public nor be used in any court in any
3 action or proceeding pending therein unless the action or proceeding
4 relates to:

5 a. the imposition of or indemnification for liability
6 pursuant to this section, or

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

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

21 ~~16.~~

22 17. a. Except as provided in subparagraph c of this
23 paragraph, the Commission shall refuse to renew the
24 registration of any vehicle if the registered owner or

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

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

18 c. The Commission shall renew the registration of any
19 vehicle if the applicant provides the Commission with
20 the notice of disposition of toll evasion violation
21 issued pursuant to subparagraph b of this paragraph
22 for clearing all outstanding toll evasion penalties,
23 fees and assessments, as shown by the records of the
24

1 Commission, and the applicant has met all other
2 requirements for registration.

3 ~~17.~~ 18. The Commission shall include on each vehicle
4 registration renewal notice issued for use at the time of renewal,
5 or on an accompanying document, an itemization of unpaid toll
6 evasion penalties, fees and assessments, showing the amount thereof
7 and the date of toll evasion relating thereto, which the registered
8 owner or lessee is required to pay pursuant to paragraph 16 of this
9 subsection.

10 ~~18.~~

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

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

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

23 ~~20.~~ 21. Whenever a vehicle is transferred or not renewed for
24 two renewal periods and the former registered owner or lessee of the

1 vehicle owes a toll evasion penalty and administrative fees for a
2 notice of toll evasion violation filed with the Commission pursuant
3 to paragraph 9 of this subsection, the Commission shall notify the
4 Authority of that fact and is not required thereafter to attempt
5 collection of the toll evasion penalty and administrative fees.

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, 2016.

14 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY
15 February 25, 2016 - DO PASS AS AMENDED
16
17
18
19
20
21
22
23
24