

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 741

By: Woods

AS INTRODUCED

An Act relating to the Oklahoma Electronic Toll Collection Act; amending 47 O.S. 2021, Section 11-1401.2, as amended by Section 96, Chapter 282, O.S.L. 2022 (47 O.S. Supp. 2022, Section 11-1401.2), which relates to collection of tolls; creating certain exemption; 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. 2022, 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 information is used to charge the account the appropriate toll or charge;

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

- 5 a. is the beneficial or equitable owner of the vehicle,
- 6 b. has title to the vehicle,
- 7 c. is the registrant or coregistrant of the vehicle which
8 is registered with Service Oklahoma or a similar
9 registering agency of any other state, territory,
10 district, province, nation or other jurisdiction,
- 11 d. uses the vehicle in its vehicle renting businesses, or
- 12 e. is a person entitled to the use and possession of a
13 vehicle subject to a security interest in another
14 person;

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

21 6. "Toll collection regulations" means those rules and
22 regulations of the Oklahoma Turnpike Authority or statutes providing
23 for and requiring the payment of tolls and/or charges prescribed by
24 the Authority for the use of turnpikes under its jurisdiction or

1 those rules and regulations of the Authority or statutes making it
2 unlawful to refuse to pay or to evade or to attempt to evade the
3 payment of all or part of any toll and/or charge for the use of
4 turnpikes under the jurisdiction of the Authority;

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

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

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

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

21 B. 1. Notwithstanding any other provision of law, there shall
22 be imposed monetary liability on the owner of a vehicle for failure
23 of an operator thereof to comply with the toll collection

1 regulations of the Oklahoma Turnpike Authority in accordance with
2 the provisions of this section.

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

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

18 b. No owner of a vehicle shall be liable for a penalty
19 imposed pursuant to this section where the operator of
20 the vehicle has been convicted of failing to pay a
21 cash toll, in violation of toll collection
22 regulations, for the same incident.

23 c. An owner or operator of a vehicle is subject to a
24 charge by the Department or other law enforcement
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1 agency for an owner's failure to timely pay an invoice
2 for tolls and/or charges submitted by the Authority
3 through its video toll collection system.

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

16 5. An owner found liable for a violation of toll collection
17 regulations pursuant to this section shall be liable for a monetary
18 penalty of Twenty-five Dollars (\$25.00) for each violation.
19 Liability for this monetary penalty does not abrogate an owner's
20 obligation to pay toll charges associated with the violation, and
21 the Authority may pursue collection of such unpaid toll charges
22 pursuant to this section.

23 6. An imposition of liability pursuant to this section shall be
24 based upon a preponderance of evidence as submitted. An imposition

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

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

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

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

1 one (21) days after receipt of the certified mail
2 notice of toll evasion violation or completes and
3 files the affidavit of nonliability, the renewal of
4 the vehicle registration shall be contingent upon
5 compliance with the notice of toll evasion violation.

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

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

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

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

18 (2) if the person contesting a notice of toll evasion
19 violation is not satisfied with the results of
20 the investigation provided for in division (1) of
21 this subparagraph, the person may, within fifteen
22 (15) days of the mailing of the results of the
23 investigation, deposit the amount of the toll
24 evasion penalty and request an administrative

1 review. An administrative review shall be held
2 within ninety (90) calendar days following the
3 receipt of a request for an administrative
4 review, excluding any continuance time. The
5 person requesting the review may request and
6 shall be allowed one continuance, not to exceed
7 twenty-one (21) calendar days.

8 b. The administrative review procedure shall consist of
9 the following:

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

16 (2) upon ten (10) days' written notice mailed to the
17 contestant, the administrative review shall be
18 conducted before an examiner designated to
19 conduct review by the Authority's governing body
20 or Director of the Oklahoma Turnpike Authority.
21 In addition to any other requirements of
22 employment, an examiner shall demonstrate those
23 qualifications, training, and objectivity
24 prescribed by the Authority's governing body or

1 Director as are necessary and which are
2 consistent with the duties and responsibilities
3 set forth in this section and Section 11-1401.1
4 et seq. of this title,

- 5 (3) the officer or person authorized to issue a
6 notice of toll evasion violation shall be
7 required to participate in an administrative
8 review. The Authority shall not be required to
9 produce any evidence other than the notice of
10 toll evasion violation or copy thereof, a
11 photograph of the rear of the vehicle,
12 information received from Service Oklahoma
13 identifying the registered owner of the vehicle,
14 and a notarized statement from the person
15 reporting the violations. The documentation in
16 proper form shall be considered prima facie
17 evidence of the violation, and
- 18 (4) the review shall be conducted in accordance with
19 paragraph 6 of this subsection and in accordance
20 with the written procedure established by the
21 Authority which shall ensure fair and impartial
22 review of contested toll evasion violations. The
23 examiner's final decision shall be in writing and
24 shall be delivered personally or by registered

1 mail to the contestant within ten (10) days of
2 the review. A manual or automatic record of
3 mailing prepared in the ordinary course of
4 business shall be prima facie evidence of the
5 receipt of such decision.

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

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

23 c. If no notice of appeal of the Authority's decision is
24 filed within the period set forth in subparagraph a of

1 this paragraph, the examiner's decision shall be
2 deemed final.

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

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

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

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

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

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

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

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

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

21 a. the imposition of or indemnification for liability
22 pursuant to this section, or

23 b. an investigation or prosecution for a criminal
24 violation of the laws of the State of Oklahoma. Such

1 records shall be available to a law enforcement
2 officer or law enforcement agency for law enforcement
3 purposes related to an investigation or prosecution of
4 a criminal violation of the laws of the State of
5 Oklahoma pursuant to a duly issued search warrant,
6 subpoena, or order of the court requiring such
7 disclosure to a law enforcement officer or agency.

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

13 18. a. Except as provided in subparagraph c of this
14 paragraph, Service Oklahoma shall refuse to renew the
15 registration of any vehicle if the registered owner or
16 lessee has been mailed by certified mail a notice of
17 toll evasion violation as provided in subparagraph c
18 of paragraph 7 of this subsection, the Authority has
19 transmitted to Service Oklahoma an itemization of
20 unpaid toll evasion penalties, including
21 administrative fees, pursuant to paragraph 10 of this
22 subsection, and the toll evasion penalty and
23 administrative fee have not been paid pursuant to
24 paragraph 9 of this subsection, unless the full amount

1 of all outstanding toll evasion penalties and
2 administrative fees, as shown by records of Service
3 Oklahoma are paid to Service Oklahoma at the time of
4 application for renewal.

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

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

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

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

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

1 Authority the amounts due the Authority for unpaid
2 tolls, administrative fees, other costs incurred by
3 the Authority that are related to toll evasion,
4 process service fees, and fees and collection costs
5 related to civil debt collection.

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

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

20 This legislation shall not be construed to affect in any way the
21 power which the Oklahoma Turnpike Authority possesses to establish
22 tolls and other charges in connection with their turnpike
23 facilities, including the authority to establish a one-way toll
24 collection system for any of its facilities or a toll discount

1 structure for certain classes of patrons using any of its
2 facilities.

3 C. All school buses, as defined in Section 1-160 of this title,
4 shall be exempt from being required to pay any toll or charge for
5 use of any turnpike of this state.

6 SECTION 2. This act shall become effective November 1, 2023.

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