

HB5313



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5313

by Rep. Marlow H. Colvin

SYNOPSIS AS INTRODUCED:

605 ILCS 10/10

from Ch. 121, par. 100-10

Amends the Toll Highway Act. Limits the liability of a commercial entity that is the lessor of a vehicle under a written lease agreement if the lessor provides a copy of the leasing agreement to the Toll Highway Authority within 60 days (instead of 21 days) of the issue date on the notice of violation. Effective immediately.

LRB095 18250 LCT 44334 b

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Toll Highway Act is amended by changing
5 Section 10 as follows:

6 (605 ILCS 10/10) (from Ch. 121, par. 100-10)

7 Sec. 10. The Authority shall have power:

8 (a) To pass resolutions, make by-laws, rules and
9 regulations for the management, regulation and control of its
10 affairs, and to fix tolls, and to make, enact and enforce all
11 needful rules and regulations in connection with the
12 construction, operation, management, care, regulation or
13 protection of its property or any toll highways, constructed or
14 reconstructed hereunder.

15 (a-5) To fix, assess, and collect civil fines for a
16 vehicle's operation on a toll highway without the required toll
17 having been paid. The Authority may establish by rule a system
18 of civil administrative adjudication to adjudicate only
19 alleged instances of a vehicle's operation on a toll highway
20 without the required toll having been paid, as detected by the
21 Authority's video or photo surveillance system. In cases in
22 which the operator of the vehicle is not the registered vehicle
23 owner, the establishment of ownership of the vehicle creates a

1 rebuttable presumption that the vehicle was being operated by
2 an agent of the registered vehicle owner. If the registered
3 vehicle owner liable for a violation under this Section was not
4 the operator of the vehicle at the time of the violation, the
5 owner may maintain an action for indemnification against the
6 operator in the circuit court. Rules establishing a system of
7 civil administrative adjudication must provide for written
8 notice, by first class mail or other means provided by law, to
9 the address of the registered owner of the cited vehicle as
10 recorded with the Secretary of State or to the lessee of the
11 cited vehicle at the last address known to the lessor of the
12 cited vehicle at the time of the lease, of the alleged
13 violation and an opportunity to be heard on the question of the
14 violation and must provide for the establishment of a toll-free
15 telephone number to receive inquiries concerning alleged
16 violations. The notice shall also inform the registered vehicle
17 owner that failure to contest in the manner and time provided
18 shall be deemed an admission of liability and that a final
19 order of liability may be entered on that admission. A duly
20 authorized agent of the Authority may perform or execute the
21 preparation, certification, affirmation, or mailing of the
22 notice. A notice of violation, sworn or affirmed to or
23 certified by a duly authorized agent of the Authority, or a
24 facsimile of the notice, based upon an inspection of
25 photographs, microphotographs, videotape, or other recorded
26 images produced by a video or photo surveillance system, shall

1 be admitted as prima facie evidence of the correctness of the
2 facts contained in the notice or facsimile. Only civil fines,
3 along with the corresponding outstanding toll, and costs may be
4 imposed by administrative adjudication. A fine may be imposed
5 under this paragraph only if a violation is established by a
6 preponderance of the evidence. Judicial review of all final
7 orders of the Authority under this paragraph shall be conducted
8 in the circuit court of the county in which the administrative
9 decision was rendered in accordance with the Administrative
10 Review Law.

11 Any outstanding toll, fine, additional late payment fine,
12 other sanction, or costs imposed, or part of any fine, other
13 sanction, or costs imposed, remaining unpaid after the
14 exhaustion of, or the failure to exhaust, judicial review
15 procedures under the Administrative Review Law are a debt due
16 and owing the Authority and may be collected in accordance with
17 applicable law. After expiration of the period in which
18 judicial review under the Administrative Review Law may be
19 sought, unless stayed by a court of competent jurisdiction, a
20 final order of the Authority under this subsection (a-5) may be
21 enforced in the same manner as a judgment entered by a court of
22 competent jurisdiction. Notwithstanding any other provision of
23 this Act, the Authority may, with the approval of the Attorney
24 General, retain a law firm or law firms with expertise in the
25 collection of government fines and debts for the purpose of
26 collecting fines, costs, and other moneys due under this

1 subsection (a-5).

2 A system of civil administrative adjudication may also
3 provide for a program of vehicle immobilization, tow, or
4 impoundment for the purpose of facilitating enforcement of any
5 final order or orders of the Authority under this subsection
6 (a-5) that result in a finding or liability for 5 or more
7 violations after expiration of the period in which judicial
8 review under the Administrative Review Law may be sought. The
9 registered vehicle owner of a vehicle immobilized, towed, or
10 impounded for nonpayment of a final order of the Authority
11 under this subsection (a-5) shall have the right to request a
12 hearing before the Authority's civil administrative
13 adjudicatory system to challenge the validity of the
14 immobilization, tow, or impoundment. This hearing, however,
15 shall not constitute a readjudication of the merits of
16 previously adjudicated notices. Judicial review of all final
17 orders of the Authority under this subsection (a-5) shall be
18 conducted in the circuit court of the county in which the
19 administrative decision was rendered in accordance with the
20 Administrative Review Law.

21 No commercial entity that is the lessor of a vehicle under
22 a written lease agreement shall be liable for an administrative
23 notice of violation for toll evasion issued under this
24 subsection (a-5) involving that vehicle during the period of
25 the lease if the lessor provides a copy of the leasing
26 agreement to the Authority within 60 ~~21~~ days of the issue date

1 on the notice of violation. The leasing agreement also must
2 contain a provision or addendum informing the lessee that the
3 lessee is liable for payment of all tolls and any fines for
4 toll evasion. Each entity must also post a sign at the leasing
5 counter notifying the lessee of that liability. The copy of the
6 leasing agreement provided to the Authority must contain the
7 name, address, and driver's license number of the lessee, as
8 well as the check-out and return dates and times of the vehicle
9 and the vehicle license plate number and vehicle make and
10 model.

11 As used in this subsection (a-5), "lessor" includes
12 commercial leasing and rental entities but does not include
13 public passenger vehicle entities.

14 The Authority shall establish an amnesty program for
15 violations adjudicated under this subsection (a-5). Under the
16 program, any person who has an outstanding notice of violation
17 for toll evasion or a final order of a hearing officer for toll
18 evasion dated prior to the effective date of this amendatory
19 Act of the 94th General Assembly and who pays to the Authority
20 the full percentage amounts listed in this paragraph remaining
21 due on the notice of violation or final order of the hearing
22 officer and the full fees and costs paid by the Authority to
23 the Secretary of State relating to suspension proceedings, if
24 applicable, on or before 5:00 p.m., Central Standard Time, of
25 the 60th day after the effective date of this amendatory Act of
26 the 94th General Assembly shall not be required to pay more

1 than the listed percentage of the original fine amount and
2 outstanding toll as listed on the notice of violation or final
3 order of the hearing officer and the full fees and costs paid
4 by the Authority to the Secretary of State relating to
5 suspension proceedings, if applicable. The payment percentage
6 scale shall be as follows: a person with 25 or fewer violations
7 shall be eligible for amnesty upon payment of 50% of the
8 original fine amount and the outstanding tolls; a person with
9 more than 25 but fewer than 51 violations shall be eligible for
10 amnesty upon payment of 60% of the original fine amount and the
11 outstanding tolls; and a person with 51 or more violations
12 shall be eligible for amnesty upon payment of 75% of the
13 original fine amount and the outstanding tolls. In such a
14 situation, the Executive Director of the Authority or his or
15 her designee is authorized and directed to waive any late fine
16 amount above the applicable percentage of the original fine
17 amount. Partial payment of the amount due shall not be a basis
18 to extend the amnesty payment deadline nor shall it act to
19 relieve the person of liability for payment of the late fine
20 amount. In order to receive amnesty, the full amount of the
21 applicable percentage of the original fine amount and
22 outstanding toll remaining due on the notice of violation or
23 final order of the hearing officer and the full fees and costs
24 paid by the Authority to the Secretary of State relating to
25 suspension proceedings, if applicable, must be paid in full by
26 5:00 p.m., Central Standard Time, of the 60th day after the

1 effective date of this amendatory Act of the 94th General
2 Assembly. This amendatory Act of the 94th General Assembly has
3 no retroactive effect with regard to payments already tendered
4 to the Authority that were full payments or payments in an
5 amount greater than the applicable percentage, and this Act
6 shall not be the basis for either a refund or a credit. This
7 amendatory Act of the 94th General Assembly does not apply to
8 toll evasion citations issued by the Illinois State Police or
9 other authorized law enforcement agencies and for which payment
10 may be due to or through the clerk of the circuit court. The
11 Authority shall adopt rules as necessary to implement the
12 provisions of this amendatory Act of the 94th General Assembly.
13 The Authority, by a resolution of the Board of Directors, shall
14 have the discretion to implement similar amnesty programs in
15 the future. The Authority, at its discretion and in
16 consultation with the Attorney General, is further authorized
17 to settle an administrative fine or penalty if it determines
18 that settling for less than the full amount is in the best
19 interests of the Authority after taking into account the
20 following factors: (1) the merits of the Authority's claim
21 against the respondent; (2) the amount that can be collected
22 relative to the administrative fine or penalty owed by the
23 respondent; (3) the cost of pursuing further enforcement or
24 collection action against the respondent; (4) the likelihood of
25 collecting the full amount owed; and (5) the burden on the
26 judiciary. The provisions in this Section may be extended to

1 other toll facilities in the State of Illinois through a duly
2 executed agreement between the Authority and the operator of
3 the toll facility.

4 (b) To prescribe rules and regulations applicable to
5 traffic on highways under the jurisdiction of the Authority,
6 concerning:

7 (1) Types of vehicles permitted to use such highways or
8 parts thereof, and classification of such vehicles;

9 (2) Designation of the lanes of traffic to be used by
10 the different types of vehicles permitted upon said
11 highways;

12 (3) Stopping, standing, and parking of vehicles;

13 (4) Control of traffic by means of police officers or
14 traffic control signals;

15 (5) Control or prohibition of processions, convoys,
16 and assemblages of vehicles and persons;

17 (6) Movement of traffic in one direction only on
18 designated portions of said highways;

19 (7) Control of the access, entrance, and exit of
20 vehicles and persons to and from said highways; and

21 (8) Preparation, location and installation of all
22 traffic signs; and to prescribe further rules and
23 regulations applicable to such traffic, concerning matters
24 not provided for either in the foregoing enumeration or in
25 the Illinois Vehicle Code. Notice of such rules and
26 regulations shall be posted conspicuously and displayed at

1 appropriate points and at reasonable intervals along said
2 highways, by clearly legible markers or signs, to provide
3 notice of the existence of such rules and regulations to
4 persons traveling on said highways. At each toll station,
5 the Authority shall make available, free of charge,
6 pamphlets containing all of such rules and regulations.

7 (c) The Authority, in fixing the rate for tolls for the
8 privilege of using the said toll highways, is authorized and
9 directed, in fixing such rates, to base the same upon annual
10 estimates to be made, recorded and filed with the Authority.
11 Said estimates shall include the following: The estimated total
12 amount of the use of the toll highways; the estimated amount of
13 the revenue to be derived therefrom, which said revenue, when
14 added to all other receipts and income, will be sufficient to
15 pay the expense of maintaining and operating said toll
16 highways, including the administrative expenses of the
17 Authority, and to discharge all obligations of the Authority as
18 they become due and payable.

19 (d) To accept from any municipality or political
20 subdivision any lands, easements or rights in land needed for
21 the operation, construction, relocation or maintenance of any
22 toll highways, with or without payment therefor, and in its
23 discretion to reimburse any such municipality or political
24 subdivision out of its funds for any cost or expense incurred
25 in the acquisition of land, easements or rights in land, in
26 connection with the construction and relocation of the said

1 toll highways, widening, extending roads, streets or avenues in
2 connection therewith, or for the construction of any roads or
3 streets forming extension to and connections with or between
4 any toll highways, or for the cost or expense of widening,
5 grading, surfacing or improving any existing streets or roads
6 or the construction of any streets and roads forming extensions
7 of or connections with any toll highways constructed,
8 relocated, operated, maintained or regulated hereunder by the
9 Authority. Where property owned by a municipality or political
10 subdivision is necessary to the construction of an approved
11 toll highway, if the Authority cannot reach an agreement with
12 such municipality or political subdivision and if the use to
13 which the property is being put in the hands of the
14 municipality or political subdivision is not essential to the
15 existence or the administration of such municipality or
16 political subdivision, the Authority may acquire the property
17 by condemnation.

18 (Source: P.A. 94-636, eff. 8-22-05.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.