

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 co-registrant of the vehicle
10 which is registered with the Oklahoma Tax Commission
11 or 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 in violation of toll
2 collection regulations;

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; and

11 7. "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 B. 1. Notwithstanding any other provision of law, there shall
15 be imposed monetary liability on the owner of a vehicle for failure
16 of an operator thereof to comply with the toll collection
17 regulations of the Oklahoma Turnpike Authority in accordance with
18 the provisions of this section.

19 2. The owner of a vehicle shall be liable for a civil penalty
20 imposed pursuant to this section if the vehicle was used or operated
21 with the permission of the owner, express or implied, in violation
22 of the toll collection regulations, and such violation is evidence
23 by information obtained from a photo-monitoring system. However, no
24 owner of a vehicle shall be liable for a penalty imposed pursuant to

1 this section where the operator of the vehicle has been convicted of
2 a violation of toll collection regulations for the same incident.

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

16 4. An owner found liable for a violation of toll collection
17 regulations pursuant to this section for a first violation shall be
18 liable for a monetary penalty of Twenty-five Dollars (\$25.00); for a
19 second violation within eighteen (18) months of the first violation,
20 shall be liable for a monetary penalty of Fifty Dollars (\$50.00);
21 and for a third or any subsequent violation within eighteen (18)
22 months of the first violation, shall be liable for a monetary
23 penalty of Seventy-five Dollars (\$75.00).

24

1 5. 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 6. a. A notice of toll evasion violation shall be sent by
9 ~~registered mail~~ first-class mail to each person
10 alleged to be liable as an owner for a violation of
11 toll collection regulations. The notice shall be
12 mailed no later than forty-five (45) days after the
13 alleged violation. A manual or automatic record of
14 mailing prepared in the ordinary course of business
15 shall be prima facie evidence of the receipt of the
16 notice.

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

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1 which recorded the violation or other document locator
2 number.

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. ~~Additionally, the~~ In addition to the notice
20 required by subparagraph a of this paragraph, the
21 Authority may elect to send a subsequent notice of
22 toll evasion violation by certified mail. Such notice
23 shall contain a ~~notice~~ statement to the registered
24 owner that, unless the registered owner pays the toll

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

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

11 e. If the registered owner fails to pay the toll evasion
12 penalty as required in this section, or fails to
13 contest the notice of toll evasion violation issued
14 pursuant to subparagraph c of this paragraph as
15 provided in subparagraph a of paragraph 7 of this
16 subsection, the registered owner shall be deemed
17 liable for the violation by operation of law. The
18 toll evasion penalty and any administrative fees or
19 charges shall be considered a debt due and owing the
20 Authority by the registered owner and the Authority
21 may proceed to collect such penalty, fees or charges
22 under paragraph 9 of this subsection.

23 7. a. Within twenty-one (21) days after receipt of the
24 notice of toll evasion violation a person may contest

1 a 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 ~~act~~ Section and Section 11-
4 1401.1 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 the Commission
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 5 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 8. a. Within twenty (20) days after receipt of the final
7 decision described in division (4) of subparagraph b
8 of paragraph 7 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 9. Except as otherwise provided in paragraphs 10 and 11 of this
4 subsection, the Authority shall proceed under one or more of the
5 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 17
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 10. 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 the Commission 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 the Commission pursuant to paragraph 17 of this subsection.

20 11. 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

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 12. An owner of a vehicle to which a notice of toll evasion
15 violation was issued pursuant to paragraph 6 of this subsection
16 shall not be liable for the violation of the toll collection
17 regulations provided that the owner sends to the Authority the
18 affidavit of nonliability described in paragraph 6 of this
19 subsection, within twenty-one (21) days after receiving the original
20 notice of toll evasion violation. Failure to send such information
21 within the time period shall render the owner liable for the penalty
22 prescribed by this section. If the owner complies with the
23 provisions of this subsection, the operator of the vehicle on the
24 date of the violation shall be subject to liability for the

1 violation of toll collection regulations, provided that the
2 Authority mails a notice of toll evasion violation to the operator
3 within ten (10) days after receipt of such information.

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

13 14. 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 15. 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 the imposition of or indemnification for liability
23 pursuant to this section. The Authority shall not sell, distribute
24 or make available in any way, the names and addresses of electronic

1 toll collection system account holders, without the consent of the
2 account holders, to any entity that will use the information for any
3 commercial purpose.

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

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

24

1 c. The Commission shall renew the registration of any
2 vehicle if the applicant provides the Commission with
3 the notice of disposition of toll evasion violation
4 issued pursuant to subparagraph b of this paragraph
5 for clearing all outstanding toll evasion penalties,
6 fees and assessments, as shown by the records of the
7 Commission, and the applicant has met all other
8 requirements for registration.

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

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

1 penalties, fees and assessments are paid to the
2 Commission, the Commission shall inform the Authority
3 which of its notices of toll evasion violation have
4 been collected.

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

21 19. The Commission shall assess a fee for the recording of the
22 notice of toll evasion violation, which is given to the Commission
23 pursuant to paragraph 9 of this subsection, in an amount, as
24 determined by the Commission, that is sufficient to provide a total

1 amount equal to at least its actual costs of administering
2 paragraphs 16, 17 and 20 of this subsection.

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

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

17 SECTION 2. This act shall become effective November 1, 2012.

18
19 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
20 04/10/2012 - DO PASS.

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