

HB5297



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5297

by Rep. John C. D'Amico

SYNOPSIS AS INTRODUCED:

605 ILCS 10/10

from Ch. 121, par. 100-10

Amends the Toll Highway Act. In a Section concerning enforcement, changes "vehicle" to "motor vehicle", and provides that "motor vehicle" does not include trailers.

LRB100 17171 LNS 32326 b

FISCAL NOTE ACT
MAY APPLY

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 motor
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 motor vehicle's operation on a toll
20 highway without the required toll having been paid, as detected
21 by the Authority's video or photo surveillance system. In cases
22 in which the operator of the motor vehicle is not the
23 registered motor vehicle owner, the establishment of ownership

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

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

13 The Authority may maintain a listing or searchable database
14 on its website of persons or entities that have been issued one
15 or more final orders of liability with a total amount due of
16 more than \$1,000 for tolls, fines, unpaid late fees, or
17 administrative costs that remain unpaid after the exhaustion
18 of, or the failure to exhaust, the judicial review procedures
19 under the Administrative Review Law. Each entry may include the
20 person's or entity's name as listed on the final order of
21 liability.

22 Any outstanding toll, fine, additional late payment fine,
23 other sanction, or costs imposed, or part of any fine, other
24 sanction, or costs imposed, remaining unpaid after the
25 exhaustion of, or the failure to exhaust, judicial review
26 procedures under the Administrative Review Law are a debt due

1 and owing the Authority and may be collected in accordance with
2 applicable law. After expiration of the period in which
3 judicial review under the Administrative Review Law may be
4 sought, unless stayed by a court of competent jurisdiction, a
5 final order of the Authority under this subsection (a-5) may be
6 enforced in the same manner as a judgment entered by a court of
7 competent jurisdiction. Notwithstanding any other provision of
8 this Act, the Authority may, with the approval of the Attorney
9 General, retain a law firm or law firms with expertise in the
10 collection of government fines and debts for the purpose of
11 collecting fines, costs, and other moneys due under this
12 subsection (a-5).

13 A system of civil administrative adjudication may also
14 provide for a program of motor vehicle immobilization, tow, or
15 impoundment for the purpose of facilitating enforcement of any
16 final order or orders of the Authority under this subsection
17 (a-5) that result in a finding or liability for 5 or more
18 violations after expiration of the period in which judicial
19 review under the Administrative Review Law may be sought. The
20 registered motor vehicle owner of a motor vehicle immobilized,
21 towed, or impounded for nonpayment of a final order of the
22 Authority under this subsection (a-5) shall have the right to
23 request a hearing before the Authority's civil administrative
24 adjudicatory system to challenge the validity of the
25 immobilization, tow, or impoundment. This hearing, however,
26 shall not constitute a readjudication of the merits of

1 previously adjudicated notices. Judicial review of all final
2 orders of the Authority under this subsection (a-5) shall be
3 conducted in the circuit court of the county in which the
4 administrative decision was rendered in accordance with the
5 Administrative Review Law.

6 No commercial entity that is the lessor of a motor vehicle
7 under a written lease agreement shall be liable for an
8 administrative notice of violation for toll evasion issued
9 under this subsection (a-5) involving that motor vehicle during
10 the period of the lease if the lessor provides a copy of the
11 leasing agreement to the Authority within 30 days of the issue
12 date on the notice of violation. The leasing agreement also
13 must contain a provision or addendum informing the lessee that
14 the lessee is liable for payment of all tolls and any fines for
15 toll evasion. Each entity must also post a sign at the leasing
16 counter notifying the lessee of that liability. The copy of the
17 leasing agreement provided to the Authority must contain the
18 name, address, and driver's license number of the lessee, as
19 well as the check-out and return dates and times of the motor
20 vehicle and the motor vehicle license plate number and motor
21 vehicle make and model.

22 As used in this subsection (a-5), "lessor" includes
23 commercial leasing and rental entities but does not include
24 public passenger motor vehicle entities.

25 The Authority shall establish an amnesty program for
26 violations adjudicated under this subsection (a-5). Under the

1 program, any person who has an outstanding notice of violation
2 for toll evasion or a final order of a hearing officer for toll
3 evasion dated prior to the effective date of this amendatory
4 Act of the 94th General Assembly and who pays to the Authority
5 the full percentage amounts listed in this paragraph remaining
6 due on the notice of violation or final order of the hearing
7 officer and the full fees and costs paid by the Authority to
8 the Secretary of State relating to suspension proceedings, if
9 applicable, on or before 5:00 p.m., Central Standard Time, of
10 the 60th day after the effective date of this amendatory Act of
11 the 94th General Assembly shall not be required to pay more
12 than the listed percentage of the original fine amount and
13 outstanding toll as listed on the notice of violation or final
14 order of the hearing officer and the full fees and costs paid
15 by the Authority to the Secretary of State relating to
16 suspension proceedings, if applicable. The payment percentage
17 scale shall be as follows: a person with 25 or fewer violations
18 shall be eligible for amnesty upon payment of 50% of the
19 original fine amount and the outstanding tolls; a person with
20 more than 25 but fewer than 51 violations shall be eligible for
21 amnesty upon payment of 60% of the original fine amount and the
22 outstanding tolls; and a person with 51 or more violations
23 shall be eligible for amnesty upon payment of 75% of the
24 original fine amount and the outstanding tolls. In such a
25 situation, the Executive Director of the Authority or his or
26 her designee is authorized and directed to waive any late fine

1 amount above the applicable percentage of the original fine
2 amount. Partial payment of the amount due shall not be a basis
3 to extend the amnesty payment deadline nor shall it act to
4 relieve the person of liability for payment of the late fine
5 amount. In order to receive amnesty, the full amount of the
6 applicable percentage of the original fine amount and
7 outstanding toll remaining due on the notice of violation or
8 final order of the hearing officer and the full fees and costs
9 paid by the Authority to the Secretary of State relating to
10 suspension proceedings, if applicable, must be paid in full by
11 5:00 p.m., Central Standard Time, of the 60th day after the
12 effective date of this amendatory Act of the 94th General
13 Assembly. This amendatory Act of the 94th General Assembly has
14 no retroactive effect with regard to payments already tendered
15 to the Authority that were full payments or payments in an
16 amount greater than the applicable percentage, and this Act
17 shall not be the basis for either a refund or a credit. This
18 amendatory Act of the 94th General Assembly does not apply to
19 toll evasion citations issued by the Illinois State Police or
20 other authorized law enforcement agencies and for which payment
21 may be due to or through the clerk of the circuit court. The
22 Authority shall adopt rules as necessary to implement the
23 provisions of this amendatory Act of the 94th General Assembly.
24 The Authority, by a resolution of the Board of Directors, shall
25 have the discretion to implement similar amnesty programs in
26 the future. The Authority, at its discretion and in

1 consultation with the Attorney General, is further authorized
2 to settle an administrative fine or penalty if it determines
3 that settling for less than the full amount is in the best
4 interests of the Authority after taking into account the
5 following factors: (1) the merits of the Authority's claim
6 against the respondent; (2) the amount that can be collected
7 relative to the administrative fine or penalty owed by the
8 respondent; (3) the cost of pursuing further enforcement or
9 collection action against the respondent; (4) the likelihood of
10 collecting the full amount owed; and (5) the burden on the
11 judiciary. The provisions in this Section may be extended to
12 other toll facilities in the State of Illinois through a duly
13 executed agreement between the Authority and the operator of
14 the toll facility.

15 (b) To prescribe rules and regulations applicable to
16 traffic on highways under the jurisdiction of the Authority,
17 concerning:

18 (1) Types of motor vehicles permitted to use such
19 highways or parts thereof, and classification of such motor
20 vehicles;

21 (2) Designation of the lanes of traffic to be used by
22 the different types of motor vehicles permitted upon said
23 highways;

24 (3) Stopping, standing, and parking of motor vehicles;

25 (4) Control of traffic by means of police officers or
26 traffic control signals;

1 (5) Control or prohibition of processions, convoys,
2 and assemblages of motor vehicles and persons;

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

5 (7) Control of the access, entrance, and exit of motor
6 vehicles and persons to and from said highways; and

7 (8) Preparation, location and installation of all
8 traffic signs; and to prescribe further rules and
9 regulations applicable to such traffic, concerning matters
10 not provided for either in the foregoing enumeration or in
11 the Illinois Vehicle Code. Notice of such rules and
12 regulations shall be posted conspicuously and displayed at
13 appropriate points and at reasonable intervals along said
14 highways, by clearly legible markers or signs, to provide
15 notice of the existence of such rules and regulations to
16 persons traveling on said highways. At each toll station,
17 the Authority shall make available, free of charge,
18 pamphlets containing all of such rules and regulations.

19 (c) The Authority, in fixing the rate for tolls for the
20 privilege of using the said toll highways, is authorized and
21 directed, in fixing such rates, to base the same upon annual
22 estimates to be made, recorded and filed with the Authority.
23 Said estimates shall include the following: The estimated total
24 amount of the use of the toll highways; the estimated amount of
25 the revenue to be derived therefrom, which said revenue, when
26 added to all other receipts and income, will be sufficient to

1 pay the expense of maintaining and operating said toll
2 highways, including the administrative expenses of the
3 Authority, and to discharge all obligations of the Authority as
4 they become due and payable.

5 (d) To accept from any municipality or political
6 subdivision any lands, easements or rights in land needed for
7 the operation, construction, relocation or maintenance of any
8 toll highways, with or without payment therefor, and in its
9 discretion to reimburse any such municipality or political
10 subdivision out of its funds for any cost or expense incurred
11 in the acquisition of land, easements or rights in land, in
12 connection with the construction and relocation of the said
13 toll highways, widening, extending roads, streets or avenues in
14 connection therewith, or for the construction of any roads or
15 streets forming extension to and connections with or between
16 any toll highways, or for the cost or expense of widening,
17 grading, surfacing or improving any existing streets or roads
18 or the construction of any streets and roads forming extensions
19 of or connections with any toll highways constructed,
20 relocated, operated, maintained or regulated hereunder by the
21 Authority. Where property owned by a municipality or political
22 subdivision is necessary to the construction of an approved
23 toll highway, if the Authority cannot reach an agreement with
24 such municipality or political subdivision and if the use to
25 which the property is being put in the hands of the
26 municipality or political subdivision is not essential to the

1 existence or the administration of such municipality or
2 political subdivision, the Authority may acquire the property
3 by condemnation.

4 As used in this Section, "motor vehicle" does not include
5 trailers.

6 (Source: P.A. 98-559, eff. 1-1-14; 99-214, eff. 1-1-16.)