

1 HB361
2 190553-2
3 By Representatives Sessions, McMillan, Davis and Wilcox
4 RFD: Public Safety and Homeland Security
5 First Read: 01-FEB-18

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8 SYNOPSIS: This bill would provide for certain
9 technical revisions of Act 2017-375 concerning the
10 assessment of administrative fees for any unpaid
11 toll violation.

12 This bill would provide for the suspension
13 of a registered owner's vehicle registration and
14 clarify the assessment of administrative fees for
15 failure to pay a toll violation.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 Relating to roads and bridges; to amend Act
22 2017-375, 2017 Regular Session, now appearing as Sections
23 23-2-167, 23-2-168, 23-2-169, 23-2-172, 23-2-173, and
24 23-2-175, Code of Alabama 1975, to provide for certain
25 technical revisions concerning the assessment of
26 administrative fees for unpaid toll violations; and to provide
27 for the suspension of a registered owner's vehicle

1 registration and clarify the assessment of administrative fees
2 for failure to a pay a toll violation.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Act 2017-375, 2017 Regular Session, now
5 appearing as Sections 23-2-167, 23-2-168, 23-2-169, 23-2-172,
6 23-2-173, and 23-2-175, Code of Alabama 1975, is amended to
7 read as follows:

8 "§23-2-167.

9 "As used in this article, the following words shall
10 have the following meanings:

11 "(1) AUTHORITY. The Alabama Toll Road, Bridge and
12 Tunnel Authority, as defined in Section 23-2-142.

13 "(2) DEPARTMENT. The Department of Transportation.

14 "(3) ELECTRONIC TOLL COLLECTION. A method of
15 collecting tolls or charges which is capable of charging an
16 account holder the appropriate toll or charge including, but
17 not limited to, either of the following:

18 "a. The transmission of information from an
19 electronic device on a motor vehicle to the toll system, which
20 information is used to charge the account the appropriate toll
21 or charge.

22 "b. The transmission of license plate information
23 from a photo-monitoring system to the toll system, which
24 information is used to charge the account the appropriate toll
25 or charge.

26 "(4) ELECTRONIC TRANSMISSION. Any process of
27 communication not directly involving the physical transfer of

1 paper that is suitable for the retention, retrieval, and
2 reproduction of information by the recipient.

3 "(5) LESSOR. Any person, corporation, firm,
4 partnership, agency, association, or organization renting or
5 leasing vehicles to a lessee under a rental agreement, lease,
6 or otherwise wherein the lessee has the exclusive use of the
7 vehicle for any period of time.

8 "(6) LESSEE. Any person, corporation, firm,
9 partnership, agency, association, or organization that rents,
10 leases, or contracts for the use of one or more vehicles and
11 has exclusive use of the vehicles for any period of time.

12 "(7) OPERATOR. Any person who is or was driving a
13 vehicle that is or was the subject of a toll violation, but
14 who is not the owner of the vehicle.

15 "(8) OWNER. Any person or entity who, at the time of
16 a toll violation and with respect to the vehicle involved in
17 the violation, is the registrant or coregistrant of the
18 vehicle with the Motor Vehicle Division, of the Department of
19 Revenue, or with another state, territory, district, province,
20 nation, or jurisdiction.

21 "(9) PAYMENT. Paying a toll by cash, by permitting a
22 charge against a valid account with the authority, department,
23 or private toll entity, or by any other means of payment
24 approved by the authority, department, or private toll entity.

25 "(10) PHOTO-MONITORING SYSTEM. A vehicle sensor
26 installed to work in conjunction with a toll collection
27 facility which automatically produces one or more photographs,

1 one or more microphotographs, a videotape, or other recorded
2 images of a vehicle at the time it passes through a toll
3 collection point. Information obtained by a photo-monitoring
4 system may be used to charge the account of an account holder
5 or to identify violations of toll collection regulations.

6 "(11) PRIVATE TOLL ENTITY. An individual, group of
7 individuals, partnership, corporation, limited liability
8 company, association, or any other legal entity licensed
9 pursuant to Section 23-1-81 or Section 23-2-144(12), to
10 operate toll collection facilities.

11 "(12) TOLL. Charges prescribed by the authority,
12 department, or private toll entity for the use of any toll
13 road, bridge, causeway or tunnel under the jurisdiction of the
14 authority or department or under the ownership or operation of
15 a private toll entity.

16 "(13) TOLL VIOLATION. The passage of a vehicle
17 through a toll collection point without payment of the
18 required toll.

19 "~~(14) VEHICLE or MOTOR VEHICLE. Any motor-propelled~~
20 ~~device in, upon, or by which any person or property is~~
21 ~~transported or drawn upon a road or highway, except devices~~
22 ~~used exclusively upon stationary rails or tracks~~ A motor
23 vehicle as defined in Section 40-12-240.

24 "§23-2-168.

25 "(a) The authority, department, private toll entity,
26 or an agent or representative thereof may collect a toll ~~fee~~
27 by utilizing a system of collection that is capable of

1 charging an account holder the required toll ~~fee~~ by
2 transmission of information from an electronic toll collection
3 device on a ~~motor~~ vehicle. In addition, for any ~~motor~~ vehicle
4 that does not use an electronic toll collection device, the
5 authority, department, private toll entity, or an agent or
6 representative thereof may utilize a photo-monitoring or other
7 electronic system for toll ~~fee~~ collection.

8 "(b) Any person or entity desiring to pay tolls
9 electronically shall apply to the authority, department,
10 private toll entity, or an agent or representative thereof to
11 become an account holder. The authority, department, private
12 toll entity, or an agent or representative thereof, in its
13 discretion, may deny the application of a person or entity.
14 The denial and reason therefor shall be sent to the applicant
15 by first-class mail or electronic transmission.

16 "(c) A person or entity whose application is
17 accepted shall execute an account holder's agreement. The
18 terms of the account holder's agreement shall be established
19 by the authority, department, private toll entity, or an agent
20 or representative thereof.

21 "(d) If a motor vehicle passes through a toll
22 collection point and the toll ~~fee~~ is not paid through an
23 electronic toll collection device or otherwise, the authority,
24 department, private toll entity, or an agent or representative
25 thereof shall first use the photo-monitoring or other
26 electronic system for the toll road, bridge, causeway, or
27 tunnel to determine if the registered owner of the motor

1 vehicle has established an account for the payment of the
2 toll. If an account has been established, the authority,
3 department, private toll entity, or an agent or representative
4 thereof shall charge the account holder the required toll ~~fee~~.
5 If an established account cannot be located, or if an
6 established account cannot be charged the required toll, the
7 authority, department, private toll entity, or an agent or
8 representative thereof may attempt to collect the toll as a a
9 toll violation as provided in Section 23-2-169.

10 "§23-2-169.

11 "(a) The owner and operator of a vehicle driven on a
12 toll road, bridge, causeway, or tunnel and through a toll
13 collection point without payment of the required toll is
14 jointly and severally liable to the authority, department, or
15 private toll entity to pay the required toll, administrative
16 fees, and civil penalty as provided in this article. The
17 authority, department, or private toll entity or an agent or
18 representative thereof may pursue collection of the required
19 toll as provided for in this article.

20 "(b) A certified written report or ~~a facsimile~~ an
21 electronic copy thereof, sworn to or affirmed by the
22 authority, department, private toll entity, or an agent or
23 representative thereof that a toll violation has occurred,
24 based upon inspection of photographs, microphotographs,
25 videotape, or other recorded images produced by a photo or
26 other monitoring system, is prima facie evidence of the

1 violation and is admissible as evidence in any proceeding
2 charging a toll violation pursuant to this article.

3 "(c) Upon receipt of a ~~certified~~ written or
4 electronic statement from the department, authority, or
5 private toll entity referencing the license plate registration
6 number of a vehicle alleged to be involved in a toll
7 violation, the Alabama State Law Enforcement Agency shall
8 provide the department, authority, or private toll entity with
9 the name and address of the ~~registered~~ owner or operator of
10 the subject vehicle. Alternatively, the department, authority,
11 or private toll entity may enter into an agreement with any
12 municipal law enforcement agency, ~~or~~ county sheriff, or other
13 entity to provide the registered owner information pursuant to
14 this subsection.

15 "(d) If a vehicle passes through a toll collection
16 point without payment of the required toll and no account is
17 available to which a charge may be applied, the authority,
18 department, private toll entity, or an agent or representative
19 thereof shall issue and send by first-class mail or electronic
20 transmission:

21 "(1) A First ~~Notice to Pay~~ Toll Invoice Notice to
22 the ~~registered~~ owner or operator of a vehicle which is
23 identified as having been involved in a toll violation or
24 violations. The ~~first notice~~ First Toll Invoice Notice shall
25 require payment to the authority, department, or private toll
26 entity of the required ~~toll~~ tolls incurred over the previous
27 billing period established by the authority, department, or

1 private toll entity and may require payment of an
2 administrative fee not to exceed five dollars (\$5) per Toll
3 Invoice Notice ~~plus an administrative fee of five dollars~~
4 ~~(\$5)~~. Such payment shall be made within 30 days of the mailing
5 or electronic transmission of the notice. This First ~~Notice to~~
6 ~~Pay Toll Invoice Notice~~ shall be sent by the authority,
7 department, private toll entity, or its agent within 60 days
8 after receipt of the motor vehicle registration information
9 from the Alabama State Law Enforcement Agency, a municipal law
10 enforcement agency, ~~or~~ the county sheriff, or other entity.

11 "(2) A Second ~~Notice to Pay Toll Invoice Notice~~ to
12 the registered owner or operator of a vehicle who has failed
13 to respond to a First ~~Notice to Pay Toll Invoice Notice~~ within
14 the required time period. The second notice shall require
15 payment to the authority, department, or private toll entity
16 of the required ~~toll tolls, plus~~ and may require payment of an
17 administrative fee not to exceed fifty dollars (\$50) per Toll
18 Invoice Notice as set by the authority, department, or private
19 toll entity within 30 days of the mailing or electronic
20 transmission of the notice.

21 "(3) A Failure to Pay a Toll ~~citation~~ Citation to
22 the owner or operator of a vehicle who has failed to respond
23 to the ~~second notice~~ Second Toll Invoice Notice within the
24 required time period. The ~~citation~~ Failure to Pay Citation
25 shall require payment to the authority, department, or private
26 toll entity of the required toll, ~~plus~~ and may require payment
27 of an administrative fee not to exceed one hundred dollars

1 (\$100) as set by the authority, department, or private toll
2 entity within 30 days of the mailing or electronic
3 transmission of the notice of citation. In addition, the
4 citation shall also notify the ~~The~~ owner or operator ~~shall be~~
5 ~~notified~~ that failure to pay the citation within the required
6 time period may result in either of the following:

7 a. The suspension of the vehicle registration or,
8 after a judgement, suspension of the driving privilege of the
9 registered owner of the vehicle.

10 b. ~~may result in the~~ The authority, department,
11 private toll entity, or an agent or representative thereof
12 filing a civil suit in the municipal court of the city in
13 which the violation has occurred or district court of the
14 county in which the violation occurred to collect the toll and
15 all applicable fees and penalties allowed pursuant to this
16 article.

17 "(e) Administrative fees assessed under subsection
18 (d) are not cumulative. The maximum aggregate administrative
19 fee allowed increases from five dollars (\$5) to fifty dollars
20 (\$50) to one hundred dollars (\$100) with each notice issued.
21 An additional administrative fee of up to five dollars (\$5)
22 ~~shall~~ may be assessed on each citation and paid to the law
23 enforcement agency or other entity providing the registered
24 owner information to the department, authority, or private
25 toll entity.

26 "(f) The notices and citation required by this
27 subsection shall also contain the following information:

1 "(1) The name and address of the person or entity
2 alleged to be liable for a failure to pay a toll pursuant to
3 this section.

4 "(2) The license plate registration number of the
5 vehicle involved in the toll violation.

6 "(3) The location where the toll violation occurred.

7 "(4) The date and time of the toll violation.

8 "(5) The identification of the photo or other
9 monitoring system which recorded the violation or other
10 document locator.

11 "(6) Information advising of the manner and time in
12 which liability may be contested.

13 "(7) Notice that failure to contest liability in the
14 manner and time provided in this section is an admission of
15 liability.

16 "(8) Notice that failure to pay a toll and any
17 applicable fees may result in the suspension of driver's
18 license and vehicle registration.

19 "(g) A manual, automatic, or electronic record of
20 the mailing or transmission of the notices or citation
21 prepared in the ordinary course of business is prima facie
22 evidence of the mailing or transmission of the notices or
23 citation.

24 "§23-2-172.

25 "(a) Enforcement by suspension of vehicle
26 registration.

1 "(1) If the authority, department, or private toll
2 entity or its agent or representative has issued a Failure to
3 Pay a Toll Citation in accordance with Section 23-2-169, and
4 the owner fails to pay the citation within the time period
5 provided in that section, the authority, department, or
6 private toll entity or its agent or representative may forward
7 the Failure to Pay a Toll Citation to the department which
8 shall notify the Alabama Department of Revenue to request the
9 suspension of the vehicle registration of the owner. The
10 Alabama Department of Revenue shall update the state
11 registration records to reflect the suspension and provide
12 local licensing officials with notice of the suspension. The
13 suspension provided in this subsection shall not be subject to
14 appeal pursuant to Chapter 2A, Title 40.

15 "(2) Upon suspension of vehicle registration, the
16 authority, department, or private toll entity or its agent or
17 representative, shall notify the owner that the vehicle
18 registration has been suspended and provide information
19 advising the owner of reinstatement and appeal procedures.

20 "(3) Reinstatement and appeals.

21 "a. Prior to registering the vehicle, any person
22 seeking reinstatement of a suspended vehicle registration
23 shall pay all outstanding tolls and assessed administrative
24 fees to the authority, department, or private toll entity or
25 the authorized registration official. If payment is made to
26 the authority, department, or private toll entity, any person
27 may provide evidence of the payment satisfying the tolls and

1 assessed administrative fees to the registration official for
2 the reinstatement of the suspended vehicle registration. If
3 payment is made to the authorized registration official, the
4 authorized registration official may retain 10 percent of the
5 assessed administrative fees to cover the cost of collecting
6 and forwarding the outstanding tolls and fees and shall
7 forward the outstanding tolls, the Failure to Pay a Toll
8 Citation information, and remaining assessed administrative
9 fees to the Comptroller to be deposited in the State Treasury
10 to the credit of the State Highway Fund as established by
11 Section 23-1-62. The department shall then disburse the
12 outstanding tolls and assessed administrative fees to the
13 appropriate authority, department, or private toll entity that
14 is due the tolls and assessed administrative fees.

15 "b. Any person receiving notice of vehicle
16 registration suspension may file a civil suit within 60 days
17 of the notice in a court of appropriate jurisdiction to appeal
18 the citation upon which the suspension is based using the
19 defenses provided in Section 23-2-171.

20 "c. The payment or nonpayment of all outstanding
21 tolls and assessed administrative fees for reinstatement of
22 vehicle registration as set out in subsection (a) shall not
23 wave, be a condition of, or affect a person's right to file a
24 civil suit in a court of appropriate jurisdiction to appeal
25 the payment of the tolls and assessed administrative fees
26 using the defenses provided in Section 23-2-171.

1 "(4) When a nonresident is issued a Failure to Pay
2 Toll Citation and the nonresident fails to pay the citation
3 within the time period provided in the citation, the
4 appropriate authority, department, or private toll entity or
5 his or her designee may transmit a certified copy of the
6 record of the action to the official in charge of the issuance
7 of vehicle registration certificates in the state in which the
8 nonresident resides, if the law of the other state provides
9 for similar action to that provided for in this section.

10 "~~(a)~~(b) Enforcement by suspension of driver's
11 license or operating privilege.

12 "(1) If the authority, department, or private toll
13 entity or its agent or representative has pursued payment of
14 the citation by civil suit pursuant to Section 23-2-170 and a
15 municipal or district court determines that the person or
16 entity charged with liability under this article is liable,
17 the court shall enter a judgment against the person or entity
18 and mail a copy of the judgment thereto. The court shall
19 collect the unpaid tolls and administrative fee. The court may
20 impose court costs and a civil penalty of up to one hundred
21 dollars (\$100) for each violation. Tolls, fees, and penalties
22 shall be forwarded to the entity administering the tolls at
23 the facility where the violation occurred.

24 "~~(b)~~(2) Upon failure to satisfy a judgment brought
25 under Section 23-2-170 within 60 days of its entry and upon
26 the written request of the authority, department, private toll
27 entity, or an agent or representative thereof, it shall be the

1 duty of the clerk of the court, or of the judge of a court
2 which has no clerk in which the judgment is rendered within
3 this state, to forward a certified copy of the judgment to the
4 Secretary of the Alabama State Law Enforcement Agency or his
5 or her designee after the expiration of the 60 days.

6 "~~(c)~~ (3) The Secretary of the Alabama State Law
7 Enforcement Agency or his or her designee, upon the receipt of
8 a certified copy of a judgment described in Section 23-2-172
9 (b) (2), shall suspend the license of any resident and the
10 operating privilege, as defined in Section 32-7-2(6) of any
11 nonresident, against whom judgment was rendered.

12 "~~(d)~~ (4) The resident's license and the nonresident's
13 operating privilege shall remain suspended until the judgment
14 described in Section 23-2-172(b) (2) is satisfied and evidence
15 of its satisfaction has been presented to the Alabama State
16 Law Enforcement Agency.

17 "~~(e)~~ (5) When a nonresident's operating privilege is
18 suspended pursuant to this section, the Secretary of the
19 Alabama State Law Enforcement Agency or his or her designee
20 shall transmit a certified copy of the record of such action
21 to the official in charge of the issuance of driver's licenses
22 in the state in which such nonresident resides, if the law of
23 such other state provides for action in relation thereto
24 similar to that provided for in this section.

25 "~~(f)~~ (6) Any person seeking reinstatement of a
26 driving license suspended pursuant to this section shall also
27 comply with the requirements provided in Section 32-6-17.

1 "§23-2-173.

2 "(a) The ~~Department of Transportation~~ department is
3 ~~hereby empowered to~~ may enter into agreements, when not in
4 conflict with law, with other states or jurisdictions for
5 reciprocal enforcement of toll violations.

6 "(b) An agreement made under this section shall
7 provide that drivers licensed and vehicles registered in the
8 state, while operating on the highways of another
9 jurisdiction, shall receive benefits, privileges, and
10 exemptions of a similar kind with regard to toll enforcement
11 as are extended to drivers and vehicles licensed or registered
12 in the other jurisdiction while operated in the state.

13 "(c) A reciprocal agreement under this section may
14 provide for enforcement of toll violations by refusal or
15 suspension of the license of the driver or registration of the
16 vehicle in accordance with Section 23-2-172.

17 "(d) The reciprocal violation enforcement agreement
18 between the department and the governmental entity of another
19 state or jurisdiction shall agree upon fees and costs
20 associated with collecting unpaid tolls and ~~drivers~~ driver's
21 license and vehicle registration suspensions in their
22 respective jurisdictions.

23 "Notwithstanding Section 23-2-174, electronic
24 toll collection data may be used for vehicle registration
25 verification by the Alabama Department of Revenue and other
26 states that have entered into information exchange agreements
27 with the Alabama Department of Revenue.

1 "(f) The enforcement provisions of Sections
2 23-2-169(d) (3) and 23-2-172 shall not apply to toll violations
3 occurring in any other state or jurisdiction until and if the
4 department enters a reciprocal agreement under the authority
5 of this section with such other state or jurisdiction.

6 "§23-2-175.

7 "The following vehicles are exempt from paying tolls
8 imposed pursuant to this article:

9 "(1) School buses transporting school children for a
10 school event.

11 "(2) Emergency and law enforcement vehicles while
12 actively engaged.

13 "~~(3) Vehicles deemed exempt for a specific toll~~
14 ~~facility by the entity administering tolls.~~ Any other vehicle
15 as determined by the authority, department, private toll
16 entity, or its agent or representative."

17 Section 2. This act shall become effective on the
18 first day of the third month following its passage and
19 approval by the Governor, or its otherwise becoming law.