

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 10-0191.01 Jason Gelender

SENATE BILL 10-016

SENATE SPONSORSHIP

Williams, Romer, Spence

HOUSE SPONSORSHIP

Vaad, Fischer, Frangas, King S., McFadyen, McNulty, Merrifield, Tyler

Senate Committees

Transportation

House Committees

Local Government

Appropriations

A BILL FOR AN ACT

101 **CONCERNING MODIFICATION OF THE MANNER IN WHICH A CIVIL**
102 **PENALTY ASSESSMENT NOTICE OF TOLL EVASION EVIDENCED BY**
103 **AUTOMATIC VEHICLE IDENTIFICATION TECHNOLOGY IS**
104 **PROVIDED TO THE OWNER OF A VEHICLE SO IDENTIFIED.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Transportation Legislation Review Committee. The bill modifies the manner in which civil penalty assessment notices of toll evasion evidenced by automatic vehicle identification technology are provided to an owner of a vehicle so identified by:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
3rd Reading Unam ended
April 5, 2010

HOUSE
2nd Reading Unam ended
April 1, 2010

SENATE
3rd Reading Unam ended
February 15, 2010

SENATE
Am ended 2nd Reading
February 12, 2010

- ! Eliminating the requirement that a second civil penalty assessment notice be sent if the owner does not pay the civil penalty imposed by or otherwise respond to an initial civil penalty assessment notice; and
- ! Increasing the length of time to pay or otherwise respond to an initial civil penalty assessment notice from 20 to 30 days.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 43-4-506.5 (4) (f), (6) (a), and (6) (b), Colorado
3 Revised Statutes, are amended to read:

4 **43-4-506.5. Traffic laws - toll collection.** (4) (f) An
5 administrative adjudication of a toll evasion by an authority is subject to
6 judicial review. The administrative adjudication may be appealed as to
7 matters of law and fact to the county court for the county in which the
8 violation occurred. The appeal shall be a review of the record of the
9 administrative adjudication and not a de novo hearing.

10 (6) (a) In addition to the penalty assessment procedure provided
11 for in subsection (3) of this section, where an instance of toll evasion is
12 evidenced by automatic vehicle identification photography, or other
13 technology not involving a peace officer, a civil penalty assessment notice
14 may be issued and sent by first-class mail, or by any mail delivery service
15 offered by an entity other than the United States postal service that is
16 equivalent to or superior to first-class mail with respect to delivery speed,
17 reliability, and price, by the public highway authority to the registered
18 owner of the motor vehicle involved. ~~Such~~ THE notice shall contain the
19 name and address of the registered owner of the vehicle involved, the
20 license number of the vehicle involved, the time and location of the
21 violation, the amount of the penalty prescribed for the violation, a place
22 for the registered owner of the vehicle to execute a signed

1 acknowledgment of liability for the cited violation, and such other
2 information as may be required by law to constitute ~~such~~ THE notice as a
3 complaint to appear for adjudication of a toll evasion civil penalty
4 assessment. The registered owner of the vehicle involved in a toll
5 evasion shall be liable for the toll, fee, and civil penalty imposed by the
6 authority, except as otherwise provided by paragraph (a.5) of this
7 subsection (6). IF THE REGISTERED OWNER OF THE VEHICLE DOES NOT PAY
8 THE PRESCRIBED TOLL, FEE, AND CIVIL PENALTY WITHIN THIRTY DAYS OF
9 THE DATE OF THE CIVIL PENALTY ASSESSMENT NOTICE, THE NOTICE SHALL
10 CONSTITUTE A COMPLAINT TO APPEAR FOR ADJUDICATION OF A TOLL
11 EVASION IN COURT OR IN AN ADMINISTRATIVE TOLL ENFORCEMENT
12 PROCEEDING, AND THE REGISTERED OWNER OF THE VEHICLE SHALL,
13 WITHIN THE TIME SPECIFIED IN THE NOTICE, FILE AN ANSWER TO THE
14 COMPLAINT IN THE MANNER SPECIFIED IN THE NOTICE. IF THE REGISTERED
15 OWNER OF THE VEHICLE FAILS TO PAY IN FULL THE OUTSTANDING TOLL,
16 FEE, AND CIVIL PENALTY AS SET FORTH IN THE NOTICE OR TO APPEAR AND
17 ANSWER THE COMPLAINT AND REQUEST A HEARING AS SPECIFIED IN THE
18 NOTICE, A FINAL ORDER OF LIABILITY SHALL BE ENTERED AGAINST THE
19 REGISTERED OWNER OF THE VEHICLE FOR THE PURPOSES OF ENABLING THE
20 REGISTERED OWNER TO APPEAL PURSUANT TO PARAGRAPH (f) OF
21 SUBSECTION (4) OF THIS SECTION AND ALLOWING AN AUTHORITY TO
22 PROCEED TO JUDGMENT PURSUANT TO PARAGRAPH (e) OF SUBSECTION (4)
23 OF THIS SECTION.

24 (b) ~~If the prescribed penalty is not paid within twenty days, in~~
25 ~~order to ensure that adequate notice has been given, the public highway~~
26 ~~authority shall send a second penalty assessment notice by certified mail,~~
27 ~~return receipt requested, or by any mail delivery service offered by an~~

1 entity other than the United States postal service that is equivalent to or
2 superior to certified mail, return receipt requested, with respect to receipt
3 verification and delivery speed, reliability, and price, containing the same
4 information as set forth in paragraph (a) of this subsection (6). Such
5 notice shall specify that the registered owner of the vehicle may pay the
6 same penalty assessment at any time prior to the scheduled hearing. If the
7 registered owner of the vehicle does not pay the prescribed toll, fee, and
8 civil penalty within twenty days of the notice, the civil penalty assessment
9 notice shall constitute a complaint to appear for adjudication of a toll
10 evasion in court or in an administrative toll enforcement proceeding, and
11 the registered owner of the vehicle shall, within the time specified in the
12 civil penalty assessment notice, file an answer to the complaint in the
13 manner specified in the notice. If the registered owner of the vehicle fails
14 to pay in full the outstanding toll, fee, and civil penalty set forth in the
15 notice or to appear and answer the notice as specified in the notice, the
16 registered owner of the vehicle shall be deemed to have admitted liability
17 and to have waived the right to a hearing, and a final order of liability in
18 default against the registered owner of the vehicle may be entered.

19 **SECTION 2.** 43-4-808 (2) (d) (VI), (2) (f) (I), and (2) (f) (IV),
20 Colorado Revised Statutes, are amended to read:

21 **43-4-808. Toll highways - special provisions - limitations.**
22 (2) (d) (VI) An administrative adjudication of a toll evasion by the
23 transportation enterprise is subject to judicial review. The administrative
24 adjudication may be appealed as to matters of law and fact to the county
25 court for the county in which the violation occurred. The appeal shall be
26 a review of the record of the administrative adjudication and not a de
27 novo hearing.

1 (f) (I) In addition to the penalty assessment procedure provided
2 for in paragraph (c) of this subsection (2), where an instance of toll
3 evasion is evidenced by automatic vehicle identification photography or
4 other technology not involving a peace officer, a civil penalty assessment
5 notice may be issued and sent by first-class mail, or by any mail delivery
6 service offered by an entity other than the United States postal service
7 that is equivalent to or superior to first-class mail with respect to delivery
8 speed, reliability, and price, by the transportation enterprise to the
9 registered owner of the motor vehicle involved. The notice shall contain
10 the name and address of the registered owner of the vehicle involved, the
11 license number of the vehicle involved, the date of the notice, the date,
12 time, and location of the violation, the amount of the penalty prescribed
13 for the violation, a place for such person to execute a signed
14 acknowledgment of liability for the cited violation, and such other
15 information as may be required by law to constitute the notice as a
16 complaint to appear for adjudication of a toll evasion civil penalty
17 assessment. Except as otherwise provided in subparagraphs (II) and (III)
18 of this paragraph (f), the registered owner of the vehicle involved in a toll
19 evasion shall be presumed liable for the toll, fee, or civil penalty imposed
20 by the transportation enterprise. IF THE REGISTERED OWNER OF THE
21 VEHICLE DOES NOT PAY THE PRESCRIBED TOLL, FEE, OR CIVIL PENALTY
22 WITHIN THIRTY DAYS OF THE DATE OF THE CIVIL PENALTY ASSESSMENT
23 NOTICE, THE NOTICE SHALL CONSTITUTE A COMPLAINT TO APPEAR FOR
24 ADJUDICATION OF A TOLL EVASION IN COURT OR IN AN ADMINISTRATIVE
25 TOLL ENFORCEMENT PROCEEDING, AND THE REGISTERED OWNER OF THE
26 VEHICLE SHALL, WITHIN THE TIME SPECIFIED IN THE NOTICE, FILE AN
27 ANSWER TO THE COMPLAINT IN THE MANNER SPECIFIED IN THE NOTICE. IF

1 THE REGISTERED OWNER OF THE VEHICLE FAILS TO PAY IN FULL THE
2 OUTSTANDING TOLL, FEE, OR CIVIL PENALTY AS SET FORTH IN THE NOTICE
3 OR TO APPEAR AND ANSWER THE COMPLAINT AND REQUEST A HEARING AS
4 SPECIFIED IN THE NOTICE, A FINAL ORDER OF LIABILITY SHALL BE
5 ENTERED AGAINST THE REGISTERED OWNER OF THE VEHICLE FOR THE
6 PURPOSES OF ENABLING THE REGISTERED OWNER TO APPEAL PURSUANT TO
7 SUBPARAGRAPH (VI) OF PARAGRAPH (d) OF THIS SUBSECTION (2) AND
8 ALLOWING THE TRANSPORTATION ENTERPRISE TO PROCEED TO JUDGMENT
9 PURSUANT TO SUBPARAGRAPH (V) OF PARAGRAPH (d) OF THIS SUBSECTION
10 (2).

11 (IV) ~~If the prescribed penalty is not paid within twenty days of the~~
12 ~~notice, in order to ensure that adequate notice has been given, the~~
13 ~~transportation enterprise shall send a second penalty assessment notice by~~
14 ~~certified mail, return receipt requested, or by any mail delivery service~~
15 ~~offered by an entity other than the United States postal service that is~~
16 ~~equivalent to or superior to certified mail, return receipt requested, with~~
17 ~~respect to receipt verification and delivery speed, reliability, and price,~~
18 ~~containing the same information as set forth in subparagraph (f) of this~~
19 ~~paragraph (f). The notice shall specify that the registered owner of the~~
20 ~~vehicle may pay the same penalty assessment at any time prior to the~~
21 ~~scheduled hearing. If the registered owner of the vehicle does not pay the~~
22 ~~prescribed toll, fee, or civil penalty within twenty days of the notice, the~~
23 ~~civil penalty assessment notice shall constitute a complaint to appear for~~
24 ~~adjudication of a toll evasion in court or in an administrative toll~~
25 ~~enforcement proceeding, and the registered owner of the vehicle shall,~~
26 ~~within the time specified in the civil penalty assessment notice, file an~~
27 ~~answer to the complaint in the manner specified in the notice. If the~~

1 ~~registered owner of the vehicle fails to pay in full the outstanding toll, fee,~~
2 ~~or civil penalty set forth in the notice or to appear and answer the notice~~
3 ~~as specified in the notice, the registered owner of the vehicle shall be~~
4 ~~deemed to have admitted liability and to have waived the right to a~~
5 ~~hearing, and a final order of liability in default against the registered~~
6 ~~owner of the vehicle may be entered.~~

7 **SECTION 3. Applicability.** This act shall apply to incidents of
8 toll evasion evidenced by automatic vehicle identification technology, or
9 other technology not involving a peace officer, on or after the effective
10 date of this act.

11 **SECTION 4. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, and safety.