



Rep. Mike Fortner

Filed: 4/20/2015

09900HB3788ham001

LRB099 10205 RJF 34173 a

1 AMENDMENT TO HOUSE BILL 3788

2 AMENDMENT NO. _____. Amend House Bill 3788 by replacing
3 everything after the enacting clause with the following:

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

1 having been paid. The Authority may establish by rule a system
2 of civil administrative adjudication to adjudicate only
3 alleged instances of a vehicle's operation on a toll highway
4 without the required toll having been paid, as detected by the
5 Authority's video or photo surveillance system. In cases in
6 which the operator of the vehicle is not the registered vehicle
7 owner, the establishment of ownership of the vehicle creates a
8 rebuttable presumption that the vehicle was being operated by
9 an agent of the registered vehicle owner. If the registered
10 vehicle owner liable for a violation under this Section was not
11 the operator of the vehicle at the time of the violation, the
12 owner may maintain an action for indemnification against the
13 operator in the circuit court. Rules establishing a system of
14 civil administrative adjudication must provide for written
15 notice, by first class mail or other means provided by law, to
16 the address of the registered owner of the cited vehicle as
17 recorded with the Secretary of State or to the lessee of the
18 cited vehicle at the last address known to the lessor of the
19 cited vehicle at the time of the lease, of the alleged
20 violation and an opportunity to be heard on the question of the
21 violation and must provide for the establishment of a toll-free
22 telephone number to receive inquiries concerning alleged
23 violations. The notice shall also inform the registered vehicle
24 owner that failure to contest in the manner and time provided
25 shall be deemed an admission of liability and that a final
26 order of liability may be entered on that admission. A duly

1 authorized agent of the Authority may perform or execute the
2 preparation, certification, affirmation, or mailing of the
3 notice. A notice of violation, sworn or affirmed to or
4 certified by a duly authorized agent of the Authority, or a
5 facsimile of the notice, based upon an inspection of
6 photographs, microphotographs, videotape, or other recorded
7 images produced by a video or photo surveillance system, shall
8 be admitted as prima facie evidence of the correctness of the
9 facts contained in the notice or facsimile. Only civil fines,
10 along with the corresponding outstanding toll, and costs may be
11 imposed by administrative adjudication. A fine may be imposed
12 under this paragraph only if a violation is established by a
13 preponderance of the evidence. Judicial review of all final
14 orders of the Authority under this paragraph shall be conducted
15 in the circuit court of the county in which the administrative
16 decision was rendered in accordance with the Administrative
17 Review Law.

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

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

18 A system of civil administrative adjudication may also
19 provide for a program of vehicle immobilization, tow, or
20 impoundment for the purpose of facilitating enforcement of any
21 final order or orders of the Authority under this subsection
22 (a-5) that result in a finding or liability for 5 or more
23 violations after expiration of the period in which judicial
24 review under the Administrative Review Law may be sought. The
25 registered vehicle owner of a vehicle immobilized, towed, or
26 impounded for nonpayment of a final order of the Authority

1 under this subsection (a-5) shall have the right to request a
2 hearing before the Authority's civil administrative
3 adjudicatory system to challenge the validity of the
4 immobilization, tow, or impoundment. This hearing, however,
5 shall not constitute a readjudication of the merits of
6 previously adjudicated notices. Judicial review of all final
7 orders of the Authority under this subsection (a-5) shall be
8 conducted in the circuit court of the county in which the
9 administrative decision was rendered in accordance with the
10 Administrative Review Law.

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

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

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

1 outstanding tolls; and a person with 51 or more violations
2 shall be eligible for amnesty upon payment of 75% of the
3 original fine amount and the outstanding tolls. In such a
4 situation, the Executive Director of the Authority or his or
5 her designee is authorized and directed to waive any late fine
6 amount above the applicable percentage of the original fine
7 amount. Partial payment of the amount due shall not be a basis
8 to extend the amnesty payment deadline nor shall it act to
9 relieve the person of liability for payment of the late fine
10 amount. In order to receive amnesty, the full amount of the
11 applicable percentage of the original fine amount and
12 outstanding toll remaining due on the notice of violation or
13 final order of the hearing officer and the full fees and costs
14 paid by the Authority to the Secretary of State relating to
15 suspension proceedings, if applicable, must be paid in full by
16 5:00 p.m., Central Standard Time, of the 60th day after the
17 effective date of this amendatory Act of the 94th General
18 Assembly. This amendatory Act of the 94th General Assembly has
19 no retroactive effect with regard to payments already tendered
20 to the Authority that were full payments or payments in an
21 amount greater than the applicable percentage, and this Act
22 shall not be the basis for either a refund or a credit. This
23 amendatory Act of the 94th General Assembly does not apply to
24 toll evasion citations issued by the Illinois State Police or
25 other authorized law enforcement agencies and for which payment
26 may be due to or through the clerk of the circuit court. The

1 Authority shall adopt rules as necessary to implement the
2 provisions of this amendatory Act of the 94th General Assembly.
3 The Authority, by a resolution of the Board of Directors, shall
4 have the discretion to implement similar amnesty programs in
5 the future. The Authority, at its discretion and in
6 consultation with the Attorney General, is further authorized
7 to settle an administrative fine or penalty if it determines
8 that settling for less than the full amount is in the best
9 interests of the Authority after taking into account the
10 following factors: (1) the merits of the Authority's claim
11 against the respondent; (2) the amount that can be collected
12 relative to the administrative fine or penalty owed by the
13 respondent; (3) the cost of pursuing further enforcement or
14 collection action against the respondent; (4) the likelihood of
15 collecting the full amount owed; and (5) the burden on the
16 judiciary. The provisions in this Section may be extended to
17 other toll facilities in the State of Illinois through a duly
18 executed agreement between the Authority and the operator of
19 the toll facility.

20 (b) To prescribe rules and regulations applicable to
21 traffic on highways under the jurisdiction of the Authority,
22 concerning:

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

25 (2) Designation of the lanes of traffic to be used by
26 the different types of vehicles permitted upon said

1 highways;

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

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

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

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

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

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

23 (c) The Authority, in fixing the rate for tolls for the
24 privilege of using the said toll highways, is authorized and
25 directed, in fixing such rates, to base the same upon annual
26 estimates to be made, recorded and filed with the Authority.

1 Said estimates shall include the following: The estimated total
2 amount of the use of the toll highways; the estimated amount of
3 the revenue to be derived therefrom, which said revenue, when
4 added to all other receipts and income, will be sufficient to
5 pay the expense of maintaining and operating said toll
6 highways, including the administrative expenses of the
7 Authority, and to discharge all obligations of the Authority as
8 they become due and payable.

9 (d) To accept from any municipality or political
10 subdivision any lands, easements or rights in land needed for
11 the operation, construction, relocation or maintenance of any
12 toll highways, with or without payment therefor, and in its
13 discretion to reimburse any such municipality or political
14 subdivision out of its funds for any cost or expense incurred
15 in the acquisition of land, easements or rights in land, in
16 connection with the construction and relocation of the said
17 toll highways, widening, extending roads, streets or avenues in
18 connection therewith, or for the construction of any roads or
19 streets forming extension to and connections with or between
20 any toll highways, or for the cost or expense of widening,
21 grading, surfacing or improving any existing streets or roads
22 or the construction of any streets and roads forming extensions
23 of or connections with any toll highways constructed,
24 relocated, operated, maintained or regulated hereunder by the
25 Authority. Where property owned by a municipality or political
26 subdivision is necessary to the construction of an approved

1 toll highway, if the Authority cannot reach an agreement with
2 such municipality or political subdivision and if the use to
3 which the property is being put in the hands of the
4 municipality or political subdivision is not essential to the
5 existence or the administration of such municipality or
6 political subdivision, the Authority may acquire the property
7 by condemnation.

8 (Source: P.A. 98-559, eff. 1-1-14.)".