

2019 Regular Session

HOUSE BILL NO. 567

BY REPRESENTATIVES LARVADAIN AND JAMES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TRANSPORTATION: Provides relative to Louisiana Transportation Authority and Department of Transportation and Development toll violation enforcement

1 AN ACT

2 To amend and reenact R.S. 47:820.5.4(Section heading), (A), (B)(4), (7) through (9), (C),
3 (F)(introductory paragraph), (1) through (3), (5) through (7), (G)(1)(a)(introductory
4 paragraph), (ii), (b), (2), (H)(1) through (3), (I), and (J), relative to toll collection; to
5 expand the authority to collect tolls to private entities; to modify the administrative
6 fee; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:820.5.4(Section heading), (A), (B)(4), (7) through (9), (C),
9 (F)(introductory paragraph), (1) through (3), (5) through (7), (G)(1)(a)(introductory
10 paragraph), (ii), (b), (2), (H)(1) through (3), (I), and (J) are hereby amended and reenacted
11 to read as follows:

12 §820.5.4. ~~LA 1 Project toll violations~~ LTA and DOTD toll violation enforcement

13 A. In the exercise of its authority to impose tolls, the ~~Louisiana~~
14 ~~Transportation Authority and its agent, the Department of Transportation and~~
15 ~~Development~~, Louisiana Department of Transportation and Development, and the
16 Louisiana Transportation Authority, through its agent, the Louisiana Department of
17 Transportation and Development, hereafter in this Section referred to as the "~~LTA~~"
18 "DOTD", are authorized to exercise so much of the police powers of the state as shall
19 be necessary to maintain the peace and accomplish the orderly handling of authority,
20 subject to the provisions of this Section. DOTD's exercise of these powers shall
21 extend to all state-owned toll facilities, including but not limited to the LA 1 Project

1 toll facility. DOTD and the Louisiana Transit Authority, hereafter in this Section
2 referred to as "LTA", may delegate the exercise of these powers to any private entity
3 acting on their behalf in the operation of a toll facility.

4 B. Terms as defined in R.S. 32:1 shall retain such definitions, unless such
5 term or terms are specifically defined in this Subsection. As used in this Section,
6 unless the context otherwise indicates, the following terms shall have the following
7 meanings:

8 * * *

9 (4) "Pay" means paying a toll by cash, by permitting a charge against a valid
10 ~~toll-tag~~ toll-tag account with the LTA or DOTD, or by another means of payment
11 approved by the LTA or DOTD as applicable at the time.

12 * * *

13 (7) "Toll" or "tolls" means tolls, fees, or charges as imposed, revised, and
14 adjusted from time to time by LTA, DOTD, or a private entity acting on its behalf.

15 (8) "Toll tag" means the electronic device that the LTA or DOTD issues for
16 use with the ETC on any state-owned toll facility ~~the LA 1 Project~~.

17 (9) "Valid toll-tag account" means an existing toll-tag account with the LTA
18 or DOTD with a balance of not less than fifty cents.

19 C. No motor vehicle shall be driven and no motor vehicle or trailer shall be
20 towed through ~~the~~ any state-owned toll collection facility ~~of the LA 1 Project~~ without
21 payment of the proper toll. In the event of nonpayment of the proper toll, as
22 evidenced by video or electronic recording, the registered owner of such vehicle or
23 trailer shall be liable to make prompt payment to the LTA or DOTD of the proper
24 toll and, in certain circumstances related to the LA 1 Project toll facility, an
25 administrative fee of twenty-five dollars to recover the cost of collecting the toll. In
26 the event that the toll enforcement on future state-owned toll facilities shall be
27 conducted by a private entity, the violator shall be subject to the administrative fee
28 assessed by the private entity.

29 * * *

1 F. The following procedures shall be taken for the collection of tolls,
2 administrative fees, and late charges under this Section and shall be applicable to
3 LTA, DOTD, or a private entity:

4 (1) The ~~LTA~~ operating entity shall send a violation notice by first-class mail
5 to a person alleged to be liable as a registered owner of the vehicle at the address
6 shown on the records of the Louisiana Department of Public Safety and Corrections,
7 office of motor vehicles. The ~~LTA~~ operating entity may aggregate multiple
8 violations in one violation notice. A manual or automatic record of the mailing
9 prepared in the ordinary course of business of the ~~LTA~~ operating entity is prima facie
10 evidence of the mailing of the notice.

11 (2) The violation notice shall include the name and address of the person
12 alleged to be liable as a registered owner for the failure to pay a toll or tolls under
13 this Section, the amount of the toll or tolls not paid, the registration number of the
14 vehicle or trailer involved, the date and the approximate time of the failure or failures
15 to pay the toll or tolls, the administrative fees due, an electronic mail address and
16 physical or post office box mailing address to which an appeal may be sent, and such
17 other information as the ~~LTA~~ operating entity may deem appropriate.

18 (3) The violation notice shall also include a warning that the registered
19 owner must pay the toll or tolls and administrative fees stated in the notice or appeal
20 the violation by making a request for a hearing to the ~~LTA~~ operating entity within
21 thirty days after issuance and describe the means and content of the response for
22 payment or appeal. The violation notice shall also include a statement notifying the
23 registered owner that he may waive his right to a hearing by notifying the ~~LTA~~
24 operating entity that he is waiving this right and appealing the violation by request
25 for a written disposition. The failure of the registered owner to appeal the violation
26 in one of the manners provided and within the delays allowed shall be deemed to be
27 an admission of liability and a waiver of available defenses.

28 * * *

1 (5) The registered owner may, without waiving judicial review, appeal a
2 violation notice by notifying the ~~LTA~~ operating entity in writing, by either mail or
3 electronic mail, that he is waiving his right to a hearing and requests a review and
4 written disposition of the violation from a ~~LTA~~ an operating entity violation clerk
5 by mail or electronic mail. This appeal must contain a signed statement from the
6 registered owner explaining the basis for the appeal. The signed statement must be
7 accompanied by signed statements from witnesses, police officers, government
8 officials, or other relevant parties or photographs, diagrams, maps, or other relevant
9 documents that the registered owner determines to submit. Statements or materials
10 sent to a violation clerk for review must have attached to them the name, address,
11 and electronic mail address of the registered owner as well as the number of the
12 violation notice and the date of the violation. All information submitted by the
13 registered owner becomes part of the violation record. The violation clerk shall,
14 within sixty days of receipt of such material, review the material and dismiss or
15 uphold the violation and notify the registered owner of the disposition of the
16 violation in writing by mail or electronic mail. If the appeal by request for written
17 disposition is denied, the violation clerk shall explain the reasons for the
18 determination. The violation clerk shall have the authority to waive the
19 administrative fees, in whole or in part, for good cause shown.

20 (6) A registered owner issued a violation notice may make a written
21 statement for an appeal hearing before an agent designated by the ~~LTA~~ operating
22 entity. The violation clerk shall, within thirty days of receipt of a request for an
23 appeal, notify the registered owner in writing by first-class mail of the date, time, and
24 place of the hearing. The hearing shall be informal, the rules of evidence shall not
25 apply, the Administrative Procedure Act shall not apply, and the decision of the
26 agent shall be final, subject to a judicial review. The parties to the appeal hearing
27 shall be notified in person or by mail or electronic mail of the decision following the
28 hearing. Each written appeal decision shall contain a statement of reasons for the
29 decision, including a determination of each issue of fact necessary to the decision.

1 Failure to appear at the date, time, and place specified on the hearing notice shall
2 automatically result in denial of the appeal. The hearing agent shall have the
3 authority to waive administrative fees, in whole or in part, for good cause shown.

4 (7) Electronic mail sent by the registered owner to the address provided in
5 the violation notice shall be presumptive evidence of receipt by the ~~LTA~~ operating
6 entity. Electronic mail sent by the ~~LTA~~ operating entity to the address provided by
7 the registered owner shall be presumptive evidence of receipt by the registered
8 owner.

9 G.(1) Failure to comply with the requirements of this Section shall result in
10 the following late charges or sanctions, or both, against the registered owner:

11 (a) The ~~LTA~~ operating entity may assess the following penalties for late
12 payment, for failure to pay, or for otherwise failing to respond or both against the
13 registered owner:

14 * * *

15 (ii) A registered owner who fails to respond to a violation notice as provided
16 by this Section within sixty calendar days after the date of the issuance of the
17 violation notice shall be prohibited from renewing his driver's license. The violation
18 clerk shall notify the Louisiana office of motor vehicles of this delinquency. Upon
19 notice from a violation clerk of the ~~LTA~~ operating entity, the office of motor
20 vehicles shall place the matter on record and shall not renew the driver's license of
21 the registered owner or the registration of the vehicle until after notice from the
22 violation clerk that the matters have been disposed of in accordance with law.

23 (b) After a notice to the office of motor vehicles provided in Item (a)(~~iii~~) (ii)
24 of this Paragraph, the ~~LTA~~ operating entity shall not be required to send violation
25 notices of delinquency to registered owners with ten or more toll violations.
26 However, the tolls and administrative fees of such registered owner shall continue
27 to accumulate.

28 (2) The ~~LTA~~ operating entity may pursue such civil and criminal action as
29 it deems appropriate to collect the tolls and administrative fees assessed in the

1 violation notice as well as such subsequent late charges assessed in accordance with
2 this Section.

3 H.(1) A photograph, microphotograph, videotape, or other recorded image
4 produced by a photo-monitoring device is admissible in a proceeding to collect a toll
5 or other charge of the ~~LTA~~ operating entity, to collect criminal penalties imposed,
6 or to impose criminal liability for a failure to pay the toll or charge.

7 (2) An original or facsimile of a certificate, sworn to or affirmed by an agent
8 of the ~~LTA~~ operating entity that states that a failure to pay has occurred and states
9 that it is based upon a personal inspection of a photograph, microphotograph,
10 videotape, or other recorded image produced by a photo-monitoring system, as
11 defined in this Section, is prima facie evidence of the facts contained in the
12 certificate.

13 (3) Notwithstanding any other provision of law to the contrary, a photograph,
14 microphotograph, videotape, or other recorded image prepared for enforcement of
15 ~~LTA~~ operating entity tolls is for the exclusive use of the ~~LTA~~ operating entity in the
16 discharge of its duties under this Section.

17 I. The LTA or DOTD shall from time to time designate one or more
18 violation clerks and agents to perform the functions specified in this Section at the
19 pleasure of the LTA and DOTD and for such finite or indefinite period as the LTA
20 or DOTD deems desirable. The ~~LTA~~ operating entity shall supervise and coordinate
21 the processing of violation notices in accordance with this Section. The ~~LTA~~
22 operating entity may hire or designate such personnel and organize such sections as
23 the ~~LTA~~ operating entity may deem necessary, or contract for such services, in order
24 to carry out the provisions of this Section.

25 J. The tolls and fees to be collected for the LA 1 Project, as herein provided,
26 are to be deposited in accordance with the Master Indenture of Trust dated as of
27 April 1, 2005, and all supplements thereto, and in furtherance of the provisions of
28 R.S. 48:2071 through 2083, inclusive, with such funds to be deposited and expended

1 in accordance with the foregoing in the trustee accounts as provided in such bond
2 indentures as amended.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 567 Original

2019 Regular Session

Larvadain

Abstract: Expands the authorities that may collect tolls to private entities.

Present law authorizes the La. Transportation Authority (LTA) and the Dept. of Transportation and Development (DOTD) to impose and collect tolls, and exercise as much police power as necessary to maintain the peace and accomplish the orderly handling of authority.

Proposed law modifies present law by extending this authority to all state-owned toll facilities and allows DOTD and LTA to delegate this authority to any private entity acting on their behalf in the operation of a toll facility.

Present law defines "pay" as paying a toll by cash, by permitting a charge against a valid toll-tag account with the LTA, or by another means of payment approved by the LTA.

Proposed law modifies present law by adding DOTD as an entity within which a person may have a toll-tag account or approve another means of paying a toll.

Present law defines "toll" or "tolls" as tolls, fees, or charges as imposed, revised, and adjusted from time to time by the LTA.

Proposed law modifies present law by adding DOTD or a private entity acting on its behalf as an entity that may impose, revise, or adjust tolls, fees, or charges from time to time.

Present law defines "toll tag" as an electronic device that the LTA issues for use with the ETC on the LA 1 Project.

Proposed law modifies present law by adding DOTD as an entity that can issue a toll tag. Proposed law further modifies present law by expanding the usage of toll tags to any state-owned toll facility.

Present law defines a "valid toll-tag account" as an existing toll-tag account with the LTA with a balance of not less than fifty cents.

Proposed law modifies present law by adding DOTD as an entity within which a person can have a valid toll-tag account.

Present law denies motor vehicles and motor vehicles or trailers being towed from being driven or towed through the toll collection facility of the LA 1 Project without payment of the proper toll.

Proposed law modifies present law to make the denial apply to any state-owned toll and removes the LA 1 Project from present law.

Present law provides that in the event of nonpayment of a proper toll, the registered owner of such vehicle or trailer is liable to make prompt payment to the LTA of the proper toll and

in certain circumstances, an administrative fee of \$25 dollars to recover the cost of collecting the toll.

Proposed law modifies present law to add DOTD as an entity to which prompt payment of the proper toll may be made.

Proposed law further provides that in the event that toll enforcement on future state-owned toll facilities is conducted by a private entity, the violator will be subject to the administrative fee assessed by the private entity.

Present law provides procedures for the collection of tolls, administrative fees, and late charges under present law by the LTA.

Proposed law modifies present law to allow the procedures in present law to apply to the entity operating the toll, whether it is the LTA, DOTD, or a private entity.

Present law provides the LTA with options for administering late charges or sanctions, or both, for persons who fail to comply with the requirements of present law.

Proposed law modifies present law by expanding this authority to the operating entity of any state-owned toll facility.

Present law provides that a photograph, microphotograph, videotape, or other recorded image produced by a photo-monitoring device is admissible in a proceeding to collect a toll or other charge of the LTA, to collect criminal penalties imposed, or to impose criminal liability for failure to pay the toll or charge.

Proposed law modifies present law expanding this authority to the operating entity of any state-owned toll facility.

(Amends R.S. 47:820.5.4(Section heading), (A), (B)(4), (7) - (9), (C), (F)(intro. para.), (1) - (3), (5) - (7), (G)(1)(a)(intro. para.), (ii), (b), (2), (H)(1) - (3), (I), and (J))