

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), (G)(1)(introductory paragraph), (a)(introductory paragraph), (ii), (b), (2), (H)(1)
4 through (3), (I), and (J) and to enact R.S. 47:820.5.4(B)(10) and (11) and (G)(3),
5 relative to toll collection; to expand the authority to collect tolls to private entities;
6 to modify the administrative 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), (F),
9 (G)(1)(introductory paragraph), (a)(introductory paragraph), (ii), (b), (2), (H)(1) through (3),
10 (I), and (J) are hereby amended and reenacted and R.S. 47:820.5.4(B)(10) and (11) and
11 (G)(3) are hereby enacted 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

1 extend to all state-owned toll facilities, including but not limited to the LA 1 Project
2 toll facility. DOTD and the Louisiana Transportation Authority, hereafter in this
3 Section referred to as "LTA", may delegate the exercise of these powers to any
4 private entity acting on their behalf in the operation of a toll facility.

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

9 * * *

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

13 * * *

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

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

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

20 (10) "Operating entity" means any entity operating a toll facility subject to
21 the requirements of this Section.

22 (11) "Private entity" means a corporation, limited partnership, general
23 partnership, limited liability company, joint venture, business trust, or other business
24 entity.

25 C. No motor vehicle shall be driven and no motor vehicle or trailer shall be
26 towed through ~~the~~ any state-owned toll collection facility ~~of the LA 1 Project~~ without
27 payment of the proper toll. In the event of nonpayment of the proper toll, as
28 evidenced by video or electronic recording, the registered owner of such vehicle or
29 trailer shall be liable to make prompt payment to the LTA, DOTD, or private entity

1 of the proper toll and, in certain circumstances related to the LA 1 Project toll
2 facility, an administrative fee of twenty-five dollars to recover the cost of collecting
3 the toll. In the event that the toll enforcement on future state-owned toll facilities
4 shall be conducted by a private entity, the violator shall be subject to the
5 administrative fee assessed by the private entity.

6 * * *

7 F.(1) The following procedures shall be taken for the collection of tolls,
8 administrative fees, and late charges ~~under this Section~~ authorized pursuant to this
9 Section for the LA 1 Project toll facility and shall be applicable to LTA, DOTD, or
10 a private entity:

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

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

25 ~~(3)~~ (c) The violation notice shall also include a warning that the registered
26 owner must pay the toll or tolls and administrative fees stated in the notice or appeal
27 the violation by making a request for a hearing to the ~~LTA~~ operating entity within
28 thirty days after issuance and describe the means and content of the response for
29 payment or appeal. The violation notice shall also include a statement notifying the

1 registered owner that he may waive his right to a hearing by notifying the ~~LTA~~
2 operating entity that he is waiving this right and appealing the violation by request
3 for a written disposition. The failure of the registered owner to appeal the violation
4 in one of the manners provided and within the delays allowed shall be deemed to be
5 an admission of liability and a waiver of available defenses.

6 ~~(4)~~ (d) Within thirty calendar days after the date of the issuance of the
7 violation notice, the registered owner to whom the violation notice is issued must
8 either pay the tolls and administrative fees provided by this Section, or appeal the
9 violation as provided by this Section.

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

1 ~~(6)~~ (f) A registered owner issued a violation notice may make a written
2 statement for an appeal hearing before an agent designated by the ~~LTA~~ operating
3 entity. The violation clerk shall, within thirty days of receipt of a request for an
4 appeal, notify the registered owner in writing by first-class mail of the date, time, and
5 place of the hearing. The hearing shall be informal, the rules of evidence shall not
6 apply, the Administrative Procedure Act shall not apply, and the decision of the
7 agent shall be final, subject to a judicial review. The parties to the appeal hearing
8 shall be notified in person or by mail or electronic mail of the decision following the
9 hearing. Each written appeal decision shall contain a statement of reasons for the
10 decision, including a determination of each issue of fact necessary to the decision.
11 Failure to appear at the date, time, and place specified on the hearing notice shall
12 automatically result in denial of the appeal. The hearing agent shall have the
13 authority to waive administrative fees, in whole or in part, for good cause shown.

14 ~~(7)~~ (g) Electronic mail sent by the registered owner to the address provided
15 in the violation notice shall be presumptive evidence of receipt by the ~~LTA~~ operating
16 entity. Electronic mail sent by the ~~LTA~~ operating entity to the address provided by
17 the registered owner shall be presumptive evidence of receipt by the registered
18 owner.

19 (2) DOTD shall set forth policies and procedures for the collection of tolls,
20 administrative fees, and late charges authorized pursuant to this Section, in
21 consultation with the private entity, through the comprehensive agreement, in
22 accordance with R.S. 48:2084.6 for future state-owned toll facilities and shall be
23 applicable to DOTD or a private entity.

24 G.(1) Failure to comply with the requirements of this Section for the LA 1
25 Project toll facility shall result in the following late charges or sanctions, or both,
26 against the registered owner:

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

4 * * *

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

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

18 (2) The ~~LTA~~ operating entity may pursue such civil and criminal action as
19 it deems appropriate to collect the tolls and administrative fees assessed in the
20 violation notice as well as such subsequent late charges assessed in accordance with
21 this Section.

22 (3) DOTD, in consultation with a private entity, shall set forth policies and
23 procedures within the comprehensive agreement for a registered owner that fails to
24 comply with the requirements of this Section, such as late charges or sanctions, or
25 both, against the registered owner.

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

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

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

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

19 J. The tolls and fees to be collected for the LA 1 Project, as herein provided,
20 are to be deposited in accordance with the Master Indenture of Trust dated as of
21 April 1, 2005, and all supplements thereto, and in furtherance of the provisions of
22 R.S. 48:2071 through 2083, inclusive, with such funds to be deposited and expended
23 in accordance with the foregoing in the trustee accounts as provided in such bond
24 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 Reengrossed

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 prohibits 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 by extending the prohibition 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 by adding 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), (G)(1)(intro. para.), (a)(intro. para.), (ii), (b), (2), (H)(1) - (3), (I), and (J); Adds R.S. 47:820.5.4(B)(10) and (11) and (G)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Make technical changes.
2. Provide definitions for "operating entity" and "private entity".
3. Require the Dept. of Transportation and Development (DOTD), in consultation with a private entity, through comprehensive agreement, to set forth policies and procedures for the collection of tolls, administrative fees, and late charges authorized by present law for future state-owned toll facilities and makes the policies and procedures applicable to DOTD or a private entity.
4. Require DOTD, in consultation with a private entity, to set forth policies and procedures within the comprehensive agreement for a registered owner that fails to comply with the requirements of present law, such as late charges or sanctions, or both against the registered owner.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.