

SB2466



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2466

Introduced 10/14/2009, by Sen. Dan Duffy

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-306.5	from Ch. 95 1/2, par. 6-306.5
625 ILCS 5/11-208	from Ch. 95 1/2, par. 11-208
625 ILCS 5/11-208.3	from Ch. 95 1/2, par. 11-208.3
625 ILCS 5/1-105.2 rep.	
625 ILCS 5/11-208.6 rep.	

Amends the Illinois Vehicle Code by repealing provisions that allow certain counties and municipalities to enact ordinances providing for an automated traffic law enforcement system to enforce red light violations. Effective immediately.

LRB096 13541 AJT 28290 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 6-306.5, 11-208, and 11-208.3 as follows:

6 (625 ILCS 5/6-306.5) (from Ch. 95 1/2, par. 6-306.5)

7 Sec. 6-306.5. Failure to pay fine or penalty for standing,
8 parking, or compliance, ~~or automated traffic law~~ violations;
9 suspension of driving privileges.

10 (a) Upon receipt of a certified report, as prescribed by
11 subsection (c) of this Section, from any municipality stating
12 that the owner of a registered vehicle has: ~~(1) failed to pay~~
13 any fine or penalty due and owing as a result of 10 or more
14 violations of a municipality's vehicular standing, parking, or
15 compliance regulations established by ordinance pursuant to
16 Section 11-208.3 of this Code, ~~or (2) failed to pay any fine or~~
17 ~~penalty due and owing as a result of 5 offenses for automated~~
18 ~~traffic violations as defined in Section 11-208.6,~~ the
19 Secretary of State shall suspend the driving privileges of such
20 person in accordance with the procedures set forth in this
21 Section. The Secretary shall also suspend the driving
22 privileges of an owner of a registered vehicle upon receipt of
23 a certified report, as prescribed by subsection (f) of this

1 Section, from any municipality stating that such person has
2 failed to satisfy any fines or penalties imposed by final
3 judgments for ~~5 or more automated traffic law violations~~ or 10
4 or more violations of local standing, parking, or compliance
5 regulations after exhaustion of judicial review procedures.

6 (b) Following receipt of the certified report of the
7 municipality as specified in this Section, the Secretary of
8 State shall notify the person whose name appears on the
9 certified report that the person's drivers license will be
10 suspended at the end of a specified period of time unless the
11 Secretary of State is presented with a notice from the
12 municipality certifying that the fine or penalty due and owing
13 the municipality has been paid or that inclusion of that
14 person's name on the certified report was in error. The
15 Secretary's notice shall state in substance the information
16 contained in the municipality's certified report to the
17 Secretary, and shall be effective as specified by subsection
18 (c) of Section 6-211 of this Code.

19 (c) The report of the appropriate municipal official
20 notifying the Secretary of State of unpaid fines or penalties
21 pursuant to this Section shall be certified and shall contain
22 the following:

23 (1) The name, last known address as recorded with the
24 Secretary of State, as provided by the lessor of the cited
25 vehicle at the time of lease, or as recorded in a United
26 States Post Office approved database if any notice sent

1 under Section 11-208.3 of this Code is returned as
2 undeliverable, and drivers license number of the person who
3 failed to pay the fine or penalty and the registration
4 number of any vehicle known to be registered to such person
5 in this State.

6 (2) The name of the municipality making the report
7 pursuant to this Section.

8 (3) A statement that the municipality sent a notice of
9 impending drivers license suspension as prescribed by
10 ordinance enacted pursuant to Section 11-208.3, to the
11 person named in the report at the address recorded with the
12 Secretary of State or at the last address known to the
13 lessor of the cited vehicle at the time of lease or, if any
14 notice sent under Section 11-208.3 of this Code is returned
15 as undeliverable, at the last known address recorded in a
16 United States Post Office approved database; the date on
17 which such notice was sent; and the address to which such
18 notice was sent. In a municipality with a population of
19 1,000,000 or more, the report shall also include a
20 statement that the alleged violator's State vehicle
21 registration number and vehicle make, ~~if specified on the~~
22 ~~automated traffic law violation notice,~~ are correct as they
23 appear on the citations.

24 (d) Any municipality making a certified report to the
25 Secretary of State pursuant to this Section shall notify the
26 Secretary of State, in a form prescribed by the Secretary,

1 whenever a person named in the certified report has paid the
2 previously reported fine or penalty or whenever the
3 municipality determines that the original report was in error.
4 A certified copy of such notification shall also be given upon
5 request and at no additional charge to the person named
6 therein. Upon receipt of the municipality's notification or
7 presentation of a certified copy of such notification, the
8 Secretary of State shall terminate the suspension.

9 (e) Any municipality making a certified report to the
10 Secretary of State pursuant to this Section shall also by
11 ordinance establish procedures for persons to challenge the
12 accuracy of the certified report. The ordinance shall also
13 state the grounds for such a challenge, which may be limited to
14 (1) the person not having been the owner or lessee of the
15 vehicle or vehicles receiving 10 or more standing, parking, or
16 compliance violation notices ~~or 5 or more automated traffic law~~
17 ~~violations~~ on the date or dates such notices were issued; and
18 (2) the person having already paid the fine or penalty for the
19 10 or more standing, parking, or compliance violations ~~or 5 or~~
20 ~~more automated traffic law~~ violations indicated on the
21 certified report.

22 (f) Any municipality, other than a municipality
23 establishing vehicular standing, parking, and compliance
24 regulations pursuant to Section 11-208.3 ~~or automated traffic~~
25 ~~law regulations under Section 11-208.6,~~ may also cause a
26 suspension of a person's drivers license pursuant to this

1 Section. Such municipality may invoke this sanction by making a
2 certified report to the Secretary of State upon a person's
3 failure to satisfy any fine or penalty imposed by final
4 judgment for 10 or more violations of local standing, parking,
5 or compliance regulations ~~or 5 or more automated traffic law~~
6 ~~violations~~ after exhaustion of judicial review procedures, but
7 only if:

8 (1) the municipality complies with the provisions of
9 this Section in all respects except in regard to enacting
10 an ordinance pursuant to Section 11-208.3;

11 (2) the municipality has sent a notice of impending
12 drivers license suspension as prescribed by an ordinance
13 enacted pursuant to subsection (g) of this Section; and

14 (3) in municipalities with a population of 1,000,000 or
15 more, the municipality has verified that the alleged
16 violator's State vehicle registration number and vehicle
17 make are correct as they appear on the citations.

18 (g) Any municipality, other than a municipality
19 establishing standing, parking, and compliance regulations
20 pursuant to Section 11-208.3 ~~or automated traffic law~~
21 ~~regulations under Section 11-208.6,~~ may provide by ordinance
22 for the sending of a notice of impending drivers license
23 suspension to the person who has failed to satisfy any fine or
24 penalty imposed by final judgment for 10 or more violations of
25 local standing, parking, or compliance regulations ~~or 5 or more~~
26 ~~automated traffic law violations~~ after exhaustion of judicial

1 review procedures. An ordinance so providing shall specify that
2 the notice sent to the person liable for any fine or penalty
3 shall state that failure to pay the fine or penalty owing
4 within 45 days of the notice's date will result in the
5 municipality notifying the Secretary of State that the person's
6 drivers license is eligible for suspension pursuant to this
7 Section. The notice of impending drivers license suspension
8 shall be sent by first class United States mail, postage
9 prepaid, to the address recorded with the Secretary of State or
10 at the last address known to the lessor of the cited vehicle at
11 the time of lease or, if any notice sent under Section 11-208.3
12 of this Code is returned as undeliverable, to the last known
13 address recorded in a United States Post Office approved
14 database.

15 (h) An administrative hearing to contest an impending
16 suspension or a suspension made pursuant to this Section may be
17 had upon filing a written request with the Secretary of State.
18 The filing fee for this hearing shall be \$20, to be paid at the
19 time the request is made. A municipality which files a
20 certified report with the Secretary of State pursuant to this
21 Section shall reimburse the Secretary for all reasonable costs
22 incurred by the Secretary as a result of the filing of the
23 report, including but not limited to the costs of providing the
24 notice required pursuant to subsection (b) and the costs
25 incurred by the Secretary in any hearing conducted with respect
26 to the report pursuant to this subsection and any appeal from

1 such a hearing.

2 (i) The provisions of this Section shall apply on and after
3 January 1, 1988.

4 (j) For purposes of this Section, the term "compliance
5 violation" is defined as in Section 11-208.3.

6 (Source: P.A. 94-294, eff. 1-1-06; 94-795, eff. 5-22-06.)

7 (625 ILCS 5/11-208) (from Ch. 95 1/2, par. 11-208)

8 Sec. 11-208. Powers of local authorities.

9 (a) The provisions of this Code shall not be deemed to
10 prevent local authorities with respect to streets and highways
11 under their jurisdiction and within the reasonable exercise of
12 the police power from:

13 1. Regulating the standing or parking of vehicles,
14 except as limited by Section 11-1306 of this Act;

15 2. Regulating traffic by means of police officers or
16 traffic control signals;

17 3. Regulating or prohibiting processions or
18 assemblages on the highways;

19 4. Designating particular highways as one-way highways
20 and requiring that all vehicles thereon be moved in one
21 specific direction;

22 5. Regulating the speed of vehicles in public parks
23 subject to the limitations set forth in Section 11-604;

24 6. Designating any highway as a through highway, as
25 authorized in Section 11-302, and requiring that all

1 vehicles stop before entering or crossing the same or
2 designating any intersection as a stop intersection or a
3 yield right-of-way intersection and requiring all vehicles
4 to stop or yield the right-of-way at one or more entrances
5 to such intersections;

6 7. Restricting the use of highways as authorized in
7 Chapter 15;

8 8. Regulating the operation of bicycles and requiring
9 the registration and licensing of same, including the
10 requirement of a registration fee;

11 9. Regulating or prohibiting the turning of vehicles or
12 specified types of vehicles at intersections;

13 10. Altering the speed limits as authorized in Section
14 11-604;

15 11. Prohibiting U-turns;

16 12. Prohibiting pedestrian crossings at other than
17 designated and marked crosswalks or at intersections;

18 13. Prohibiting parking during snow removal operation;

19 14. Imposing fines in accordance with Section
20 11-1301.3 as penalties for use of any parking place
21 reserved for persons with disabilities, as defined by
22 Section 1-159.1, or disabled veterans by any person using a
23 motor vehicle not bearing registration plates specified in
24 Section 11-1301.1 or a special decal or device as defined
25 in Section 11-1301.2 as evidence that the vehicle is
26 operated by or for a person with disabilities or disabled

1 veteran;

2 15. Adopting such other traffic regulations as are
3 specifically authorized by this Code; or

4 16. Enforcing the provisions of subsection (f) of
5 Section 3-413 of this Code or a similar local ordinance.

6 (b) No ordinance or regulation enacted under subsections 1,
7 4, 5, 6, 7, 9, 10, 11 or 13 of paragraph (a) shall be effective
8 until signs giving reasonable notice of such local traffic
9 regulations are posted.

10 (c) The provisions of this Code shall not prevent any
11 municipality having a population of 500,000 or more inhabitants
12 from prohibiting any person from driving or operating any motor
13 vehicle upon the roadways of such municipality with headlamps
14 on high beam or bright.

15 (d) The provisions of this Code shall not be deemed to
16 prevent local authorities within the reasonable exercise of
17 their police power from prohibiting, on private property, the
18 unauthorized use of parking spaces reserved for persons with
19 disabilities.

20 (e) No unit of local government, including a home rule
21 unit, may enact or enforce an ordinance that applies only to
22 motorcycles if the principal purpose for that ordinance is to
23 restrict the access of motorcycles to any highway or portion of
24 a highway for which federal or State funds have been used for
25 the planning, design, construction, or maintenance of that
26 highway. No unit of local government, including a home rule

1 unit, may enact an ordinance requiring motorcycle users to wear
2 protective headgear. Nothing in this subsection (e) shall
3 affect the authority of a unit of local government to regulate
4 motorcycles for traffic control purposes or in accordance with
5 Section 12-602 of this Code. No unit of local government,
6 including a home rule unit, may regulate motorcycles in a
7 manner inconsistent with this Code. This subsection (e) is a
8 limitation under subsection (i) of Section 6 of Article VII of
9 the Illinois Constitution on the concurrent exercise by home
10 rule units of powers and functions exercised by the State.

11 (f) (Blank). ~~A municipality or county designated in Section~~
12 ~~11-208.6 may enact an ordinance providing for an automated~~
13 ~~traffic law enforcement system to enforce violations of this~~
14 ~~Code or a similar provision of a local ordinance and imposing~~
15 ~~liability on a registered owner of a vehicle used in such a~~
16 ~~violation.~~

17 (Source: P.A. 94-795, eff. 5-22-06.)

18 (625 ILCS 5/11-208.3) (from Ch. 95 1/2, par. 11-208.3)

19 Sec. 11-208.3. Administrative adjudication of violations
20 of traffic regulations concerning the standing, parking, or
21 condition of vehicles ~~and automated traffic law violations.~~

22 (a) Any municipality may provide by ordinance for a system
23 of administrative adjudication of vehicular standing and
24 parking violations and vehicle compliance violations as
25 defined in this subsection ~~and automated traffic law violations~~

1 ~~as defined in Section 11-208.6.~~ The administrative system shall
2 have as its purpose the fair and efficient enforcement of
3 municipal regulations through the administrative adjudication
4 of ~~automated traffic law violations and~~ violations of municipal
5 ordinances regulating the standing and parking of vehicles, the
6 condition and use of vehicle equipment, and the display of
7 municipal wheel tax licenses within the municipality's
8 borders. The administrative system shall only have authority to
9 adjudicate civil offenses carrying fines not in excess of \$250
10 that occur after the effective date of the ordinance adopting
11 such a system under this Section. For purposes of this Section,
12 "compliance violation" means a violation of a municipal
13 regulation governing the condition or use of equipment on a
14 vehicle or governing the display of a municipal wheel tax
15 license.

16 (b) Any ordinance establishing a system of administrative
17 adjudication under this Section shall provide for:

18 (1) A traffic compliance administrator authorized to
19 adopt, distribute and process parking, and compliance, ~~and~~
20 ~~automated traffic law~~ violation notices and other notices
21 required by this Section, collect money paid as fines and
22 penalties for violation of parking and compliance
23 ordinances ~~and automated traffic law violations~~, and
24 operate an administrative adjudication system. The traffic
25 compliance administrator also may make a certified report
26 to the Secretary of State under Section 6-306.5.

1 (2) A parking, standing, or compliance, ~~or automated~~
2 ~~traffic law~~ violation notice that shall specify the date,
3 time, and place of violation of a parking, standing, or
4 compliance, ~~or automated traffic law~~ regulation; the
5 particular regulation violated; the fine and any penalty
6 that may be assessed for late payment, when so provided by
7 ordinance; the vehicle make and state registration number;
8 and the identification number of the person issuing the
9 notice. ~~With regard to automated traffic law violations,~~
10 ~~vehicle make shall be specified on the automated traffic~~
11 ~~law violation notice if the make is available and readily~~
12 ~~discernible.~~ With regard to municipalities with a
13 population of 1 million or more, it shall be grounds for
14 dismissal of a parking violation if the state registration
15 number or vehicle make specified is incorrect. The
16 violation notice shall state that the payment of the
17 indicated fine, and of any applicable penalty for late
18 payment, shall operate as a final disposition of the
19 violation. The notice also shall contain information as to
20 the availability of a hearing in which the violation may be
21 contested on its merits. The violation notice shall specify
22 the time and manner in which a hearing may be had.

23 (3) Service of the parking, standing, or compliance
24 violation notice by affixing the original or a facsimile of
25 the notice to an unlawfully parked vehicle or by handing
26 the notice to the operator of a vehicle if he or she is

1 ~~present and service of an automated traffic law violation~~
2 ~~notice by mail to the address of the registered owner of~~
3 ~~the cited vehicle as recorded with the Secretary of State~~
4 ~~within 30 days after the Secretary of State notifies the~~
5 ~~municipality or county of the identity of the owner of the~~
6 ~~vehicle, but in no event later than 90 days after the~~
7 ~~violation.~~ A person authorized by ordinance to issue and
8 serve parking, standing, and compliance violation notices
9 shall certify as to the correctness of the facts entered on
10 the violation notice by signing his or her name to the
11 notice at the time of service or in the case of a notice
12 produced by a computerized device, by signing a single
13 certificate to be kept by the traffic compliance
14 administrator attesting to the correctness of all notices
15 produced by the device while it was under his or her
16 control. ~~In the case of an automated traffic law violation,~~
17 ~~the ordinance shall require a determination by a technician~~
18 ~~employed or contracted by the municipality or county that,~~
19 ~~based on inspection of recorded images, the motor vehicle~~
20 ~~was being operated in violation of Section 11-209.6 or a~~
21 ~~local ordinance. If the technician determines that the~~
22 ~~vehicle entered the intersection as part of a funeral~~
23 ~~procession or in order to yield the right-of-way to an~~
24 ~~emergency vehicle, a citation shall not be issued.~~ The
25 original or a facsimile of the violation notice or, in the
26 case of a notice produced by a computerized device, a

1 printed record generated by the device showing the facts
2 entered on the notice, shall be retained by the traffic
3 compliance administrator, and shall be a record kept in the
4 ordinary course of business. A parking, standing, or
5 compliance,~~or automated traffic law~~ violation notice
6 issued, signed and served in accordance with this Section,
7 a copy of the notice, or the computer generated record
8 shall be prima facie correct and shall be prima facie
9 evidence of the correctness of the facts shown on the
10 notice. The notice, copy, or computer generated record
11 shall be admissible in any subsequent administrative or
12 legal proceedings.

13 (4) An opportunity for a hearing for the registered
14 owner of the vehicle cited in the parking, standing, or
15 compliance,~~or automated traffic law~~ violation notice in
16 which the owner may contest the merits of the alleged
17 violation, and during which formal or technical rules of
18 evidence shall not apply; provided, however, that under
19 Section 11-1306 of this Code the lessee of a vehicle cited
20 in the violation notice likewise shall be provided an
21 opportunity for a hearing of the same kind afforded the
22 registered owner. The hearings shall be recorded, and the
23 person conducting the hearing on behalf of the traffic
24 compliance administrator shall be empowered to administer
25 oaths and to secure by subpoena both the attendance and
26 testimony of witnesses and the production of relevant books

1 and papers. Persons appearing at a hearing under this
2 Section may be represented by counsel at their expense. The
3 ordinance may also provide for internal administrative
4 review following the decision of the hearing officer.

5 (5) Service of additional notices, sent by first class
6 United States mail, postage prepaid, to the address of the
7 registered owner of the cited vehicle as recorded with the
8 Secretary of State or, if any notice to that address is
9 returned as undeliverable, to the last known address
10 recorded in a United States Post Office approved database,
11 or, under Section 11-1306 of this Code, to the lessee of
12 the cited vehicle at the last address known to the lessor
13 of the cited vehicle at the time of lease or, if any notice
14 to that address is returned as undeliverable, to the last
15 known address recorded in a United States Post Office
16 approved database. The service shall be deemed complete as
17 of the date of deposit in the United States mail. The
18 notices shall be in the following sequence and shall
19 include but not be limited to the information specified
20 herein:

21 (i) A second notice of parking, standing, or
22 compliance violation. This notice shall specify the
23 date and location of the violation cited in the
24 parking, standing, or compliance violation notice, the
25 particular regulation violated, the vehicle make and
26 state registration number, the fine and any penalty

1 that may be assessed for late payment when so provided
2 by ordinance, the availability of a hearing in which
3 the violation may be contested on its merits, and the
4 time and manner in which the hearing may be had. The
5 notice of violation shall also state that failure
6 either to pay the indicated fine and any applicable
7 penalty, or to appear at a hearing on the merits in the
8 time and manner specified, will result in a final
9 determination of violation liability for the cited
10 violation in the amount of the fine or penalty
11 indicated, and that, upon the occurrence of a final
12 determination of violation liability for the failure,
13 and the exhaustion of, or failure to exhaust, available
14 administrative or judicial procedures for review, any
15 unpaid fine or penalty will constitute a debt due and
16 owing the municipality.

17 (ii) A notice of final determination of parking,
18 standing, or compliance, ~~or automated traffic law~~
19 violation liability. This notice shall be sent
20 following a final determination of parking, standing,
21 or compliance, ~~or automated traffic law~~ violation
22 liability and the conclusion of judicial review
23 procedures taken under this Section. The notice shall
24 state that the unpaid fine or penalty is a debt due and
25 owing the municipality. The notice shall contain
26 warnings that failure to pay any fine or penalty due

1 and owing the municipality within the time specified
2 may result in the municipality's filing of a petition
3 in the Circuit Court to have the unpaid fine or penalty
4 rendered a judgment as provided by this Section, or may
5 result in suspension of the person's drivers license
6 for failure to pay fines or penalties for 10 or more
7 parking violations under Section 6-306.5 ~~or 5 or more~~
8 ~~automated traffic law violations under Section~~
9 ~~11-208.6.~~

10 (6) A Notice of impending drivers license suspension.
11 This notice shall be sent to the person liable for any fine
12 or penalty that remains due and owing on 10 or more parking
13 violations ~~or 5 or more unpaid automated traffic law~~
14 ~~violations~~. The notice shall state that failure to pay the
15 fine or penalty owing within 45 days of the notice's date
16 will result in the municipality notifying the Secretary of
17 State that the person is eligible for initiation of
18 suspension proceedings under Section 6-306.5 of this Code.
19 The notice shall also state that the person may obtain a
20 photostatic copy of an original ticket imposing a fine or
21 penalty by sending a self addressed, stamped envelope to
22 the municipality along with a request for the photostatic
23 copy. The notice of impending drivers license suspension
24 shall be sent by first class United States mail, postage
25 prepaid, to the address recorded with the Secretary of
26 State or, if any notice to that address is returned as

1 undeliverable, to the last known address recorded in a
2 United States Post Office approved database.

3 (7) Final determinations of violation liability. A
4 final determination of violation liability shall occur
5 following failure to pay the fine or penalty after a
6 hearing officer's determination of violation liability and
7 the exhaustion of or failure to exhaust any administrative
8 review procedures provided by ordinance. Where a person
9 fails to appear at a hearing to contest the alleged
10 violation in the time and manner specified in a prior
11 mailed notice, the hearing officer's determination of
12 violation liability shall become final: (A) upon denial of
13 a timely petition to set aside that determination, or (B)
14 upon expiration of the period for filing the petition
15 without a filing having been made.

16 (8) A petition to set aside a determination of parking,
17 standing, or compliance, ~~or automated traffic law~~
18 violation liability that may be filed by a person owing an
19 unpaid fine or penalty. The petition shall be filed with
20 and ruled upon by the traffic compliance administrator in
21 the manner and within the time specified by ordinance. The
22 grounds for the petition may be limited to: (A) the person
23 not having been the owner or lessee of the cited vehicle on
24 the date the violation notice was issued, (B) the person
25 having already paid the fine or penalty for the violation
26 in question, and (C) excusable failure to appear at or

1 request a new date for a hearing. With regard to
2 municipalities with a population of 1 million or more, it
3 shall be grounds for dismissal of a parking violation if
4 the state registration number, or vehicle make if
5 specified, is incorrect. After the determination of
6 parking, standing, or compliance, ~~or automated traffic law~~
7 violation liability has been set aside upon a showing of
8 just cause, the registered owner shall be provided with a
9 hearing on the merits for that violation.

10 (9) Procedures for non-residents. Procedures by which
11 persons who are not residents of the municipality may
12 contest the merits of the alleged violation without
13 attending a hearing.

14 (10) A schedule of civil fines for violations of
15 vehicular standing, parking, or compliance, ~~or automated~~
16 ~~traffic law~~ regulations enacted by ordinance pursuant to
17 this Section, and a schedule of penalties for late payment
18 of the fines, provided, however, that the total amount of
19 the fine and penalty for any one violation shall not exceed
20 \$250, except as provided in subsection (c) of Section
21 11-1301.3 of this Code.

22 (11) Other provisions as are necessary and proper to
23 carry into effect the powers granted and purposes stated in
24 this Section.

25 (c) Any municipality establishing vehicular standing,
26 parking, or compliance, ~~or automated traffic law~~ regulations

1 under this Section may also provide by ordinance for a program
2 of vehicle immobilization for the purpose of facilitating
3 enforcement of those regulations. The program of vehicle
4 immobilization shall provide for immobilizing any eligible
5 vehicle upon the public way by presence of a restraint in a
6 manner to prevent operation of the vehicle. Any ordinance
7 establishing a program of vehicle immobilization under this
8 Section shall provide:

9 (1) Criteria for the designation of vehicles eligible
10 for immobilization. A vehicle shall be eligible for
11 immobilization when the registered owner of the vehicle has
12 accumulated the number of unpaid final determinations of
13 parking, standing, or compliance, ~~or automated traffic law~~
14 violation liability as determined by ordinance.

15 (2) A notice of impending vehicle immobilization and a
16 right to a hearing to challenge the validity of the notice
17 by disproving liability for the unpaid final
18 determinations of parking, standing, or compliance, ~~or~~
19 ~~automated traffic law~~ violation liability listed on the
20 notice.

21 (3) The right to a prompt hearing after a vehicle has
22 been immobilized or subsequently towed without payment of
23 the outstanding fines and penalties on parking, standing,
24 or compliance, ~~or automated traffic law~~ violations for
25 which final determinations have been issued. An order
26 issued after the hearing is a final administrative decision

1 within the meaning of Section 3-101 of the Code of Civil
2 Procedure.

3 (4) A post immobilization and post-towing notice
4 advising the registered owner of the vehicle of the right
5 to a hearing to challenge the validity of the impoundment.

6 (d) Judicial review of final determinations of parking,
7 standing, or compliance, ~~or automated traffic law~~ violations
8 and final administrative decisions issued after hearings
9 regarding vehicle immobilization and impoundment made under
10 this Section shall be subject to the provisions of the
11 Administrative Review Law.

12 (e) Any fine, penalty, or part of any fine or any penalty
13 remaining unpaid after the exhaustion of, or the failure to
14 exhaust, administrative remedies created under this Section
15 and the conclusion of any judicial review procedures shall be a
16 debt due and owing the municipality and, as such, may be
17 collected in accordance with applicable law. Payment in full of
18 any fine or penalty resulting from a standing, parking, or
19 compliance, ~~or automated traffic law~~ violation shall
20 constitute a final disposition of that violation.

21 (f) After the expiration of the period within which
22 judicial review may be sought for a final determination of
23 parking, standing, or compliance, ~~or automated traffic law~~
24 violation, the municipality may commence a proceeding in the
25 Circuit Court for purposes of obtaining a judgment on the final
26 determination of violation. Nothing in this Section shall

1 prevent a municipality from consolidating multiple final
2 determinations of parking, standing, or compliance, ~~or~~
3 ~~automated traffic law~~ violations against a person in a
4 proceeding. Upon commencement of the action, the municipality
5 shall file a certified copy or record of the final
6 determination of parking, standing, or compliance, ~~or~~
7 ~~automated traffic law~~ violation, which shall be accompanied by
8 a certification that recites facts sufficient to show that the
9 final determination of violation was issued in accordance with
10 this Section and the applicable municipal ordinance. Service of
11 the summons and a copy of the petition may be by any method
12 provided by Section 2-203 of the Code of Civil Procedure or by
13 certified mail, return receipt requested, provided that the
14 total amount of fines and penalties for final determinations of
15 parking, standing, or compliance, ~~or automated traffic law~~
16 violations does not exceed \$2500. If the court is satisfied
17 that the final determination of parking, standing, or
18 compliance, ~~or automated traffic law~~ violation was entered in
19 accordance with the requirements of this Section and the
20 applicable municipal ordinance, and that the registered owner
21 or the lessee, as the case may be, had an opportunity for an
22 administrative hearing and for judicial review as provided in
23 this Section, the court shall render judgment in favor of the
24 municipality and against the registered owner or the lessee for
25 the amount indicated in the final determination of parking,
26 standing, or compliance, ~~or automated traffic law~~ violation,

1 plus costs. The judgment shall have the same effect and may be
2 enforced in the same manner as other judgments for the recovery
3 of money.

4 (Source: P.A. 94-294, eff. 1-1-06; 94-795, eff. 5-22-06;
5 94-930, eff. 6-26-06; 95-331, eff. 8-21-07.)

6 (625 ILCS 5/1-105.2 rep.)

7 (625 ILCS 5/11-208.6 rep.)

8 Section 10. The Illinois Vehicle Code is amended by
9 repealing Sections 1-105.2 and 11-208.6.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4631

by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that an automated traffic law system may not be used to issue violations to persons driving a motor vehicle who enter an intersection against a red signal indication in violation of a provision of the Illinois Vehicle Code or similar local ordinance providing that vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, after stopping as required by the Code. Effective January 1, 2010.

LRB096 14796 AJT 29656 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 11-208.6 as follows:

6 (625 ILCS 5/11-208.6)

7 Sec. 11-208.6. Automated traffic law enforcement system.

8 (a) As used in this Section, "automated traffic law
9 enforcement system" means a device with one or more motor
10 vehicle sensors working in conjunction with a red light signal
11 to produce recorded images of motor vehicles entering an
12 intersection against a red signal indication in violation of
13 paragraphs 1 and 2 of subsection (c) of Section 11-306 of this
14 Code or a similar provision of a local ordinance.

15 An automated traffic law enforcement system is a system, in
16 a municipality or county operated by a governmental agency,
17 that produces a recorded image of a motor vehicle's violation
18 of a provision of this Code or a local ordinance and is
19 designed to obtain a clear recorded image of the vehicle and
20 the vehicle's license plate. The recorded image must also
21 display the time, date, and location of the violation.

22 (b) As used in this Section, "recorded images" means images
23 recorded by an automated traffic law enforcement system on:

- 1 (1) 2 or more photographs;
- 2 (2) 2 or more microphotographs;
- 3 (3) 2 or more electronic images; or
- 4 (4) a video recording showing the motor vehicle and, on
- 5 at least one image or portion of the recording, clearly
- 6 identifying the registration plate number of the motor
- 7 vehicle.

8 (c) A county or municipality, including a home rule county

9 or municipality, may not use an automated traffic law

10 enforcement system to provide recorded images of a motor

11 vehicle for the purpose of recording its speed. The regulation

12 of the use of automated traffic law enforcement systems to

13 record vehicle speeds is an exclusive power and function of the

14 State. This subsection (c) is a denial and limitation of home

15 rule powers and functions under subsection (h) of Section 6 of

16 Article VII of the Illinois Constitution.

17 (c-5) A county or municipality, including a home rule

18 county or municipality, may not use an automated traffic law

19 enforcement system to provide recorded images of a motor

20 vehicle for the purpose of issuing violations to persons

21 driving a motor vehicle who enter an intersection to turn

22 right, or to turn left from a one-way street into a one-way

23 street, against a red signal indication without stopping as

24 described in paragraph 3 of subsection (c) of Section 11-306 of

25 this Code or a similar provision of a local ordinance.

26 (d) For each violation of a provision of this Code or a

1 local ordinance recorded by an automatic traffic law
2 enforcement system, the county or municipality having
3 jurisdiction shall issue a written notice of the violation to
4 the registered owner of the vehicle as the alleged violator.
5 The notice shall be delivered to the registered owner of the
6 vehicle, by mail, within 30 days after the Secretary of State
7 notifies the municipality or county of the identity of the
8 owner of the vehicle, but in no event later than 90 days after
9 the violation.

10 The notice shall include:

11 (1) the name and address of the registered owner of the
12 vehicle;

13 (2) the registration number of the motor vehicle
14 involved in the violation;

15 (3) the violation charged;

16 (4) the location where the violation occurred;

17 (5) the date and time of the violation;

18 (6) a copy of the recorded images;

19 (7) the amount of the civil penalty imposed and the
20 requirements of any traffic education program imposed and
21 the date by which the civil penalty should be paid and the
22 traffic education program should be completed;

23 (8) a statement that recorded images are evidence of a
24 violation of a red light signal;

25 (9) a warning that failure to pay the civil penalty, to
26 complete a required traffic education program, or to

1 contest liability in a timely manner is an admission of
2 liability and may result in a suspension of the driving
3 privileges of the registered owner of the vehicle; and

4 (10) a statement that the person may elect to proceed
5 by:

6 (A) paying the fine, completing a required traffic
7 education program, or both; or

8 (B) challenging the charge in court, by mail, or by
9 administrative hearing.

10 (e) If a person charged with a traffic violation, as a
11 result of an automated traffic law enforcement system, does not
12 pay the fine or complete a required traffic education program,
13 or both, or successfully contest the civil penalty resulting
14 from that violation, the Secretary of State shall suspend the
15 driving privileges of the registered owner of the vehicle under
16 Section 6-306.5 of this Code for failing to complete a required
17 traffic education program or to pay any fine or penalty due and
18 owing, or both, as a result of 5 violations of the automated
19 traffic law enforcement system.

20 (f) Based on inspection of recorded images produced by an
21 automated traffic law enforcement system, a notice alleging
22 that the violation occurred shall be evidence of the facts
23 contained in the notice and admissible in any proceeding
24 alleging a violation under this Section.

25 (g) Recorded images made by an automatic traffic law
26 enforcement system are confidential and shall be made available

1 only to the alleged violator and governmental and law
2 enforcement agencies for purposes of adjudicating a violation
3 of this Section, for statistical purposes, or for other
4 governmental purposes. Any recorded image evidencing a
5 violation of this Section, however, may be admissible in any
6 proceeding resulting from the issuance of the citation.

7 (h) The court or hearing officer may consider in defense of
8 a violation:

9 (1) that the motor vehicle or registration plates of
10 the motor vehicle were stolen before the violation occurred
11 and not under the control of or in the possession of the
12 owner at the time of the violation;

13 (2) that the driver of the vehicle passed through the
14 intersection when the light was red either (i) in order to
15 yield the right-of-way to an emergency vehicle or (ii) as
16 part of a funeral procession; and

17 (3) any other evidence or issues provided by municipal
18 or county ordinance.

19 (i) To demonstrate that the motor vehicle or the
20 registration plates were stolen before the violation occurred
21 and were not under the control or possession of the owner at
22 the time of the violation, the owner must submit proof that a
23 report concerning the stolen motor vehicle or registration
24 plates was filed with a law enforcement agency in a timely
25 manner.

26 (j) Unless the driver of the motor vehicle received a

1 Uniform Traffic Citation from a police officer at the time of
2 the violation, the motor vehicle owner is subject to a civil
3 penalty not exceeding \$100 or the completion of a traffic
4 education program, or both, plus an additional penalty of not
5 more than \$100 for failure to pay the original penalty or to
6 complete a required traffic education program, or both, in a
7 timely manner, if the motor vehicle is recorded by an automated
8 traffic law enforcement system. A violation for which a civil
9 penalty is imposed under this Section is not a violation of a
10 traffic regulation governing the movement of vehicles and may
11 not be recorded on the driving record of the owner of the
12 vehicle.

13 (j-3) A registered owner who is a holder of a valid
14 commercial driver's license is not required to complete a
15 traffic education program.

16 (j-5) For purposes of the required traffic education
17 program only, a registered owner may submit an affidavit to the
18 court or hearing officer swearing that at the time of the
19 alleged violation, the vehicle was in the custody and control
20 of another person. The affidavit must identify the person in
21 custody and control of the vehicle, including the person's name
22 and current address. The person in custody and control of the
23 vehicle at the time of the violation is required to complete
24 the required traffic education program. If the person in
25 custody and control of the vehicle at the time of the violation
26 completes the required traffic education program, the

1 registered owner of the vehicle is not required to complete a
2 traffic education program.

3 (k) An intersection equipped with an automated traffic law
4 enforcement system must be posted with a sign visible to
5 approaching traffic indicating that the intersection is being
6 monitored by an automated traffic law enforcement system.

7 (l) The compensation paid for an automated traffic law
8 enforcement system must be based on the value of the equipment
9 or the services provided and may not be based on the number of
10 traffic citations issued or the revenue generated by the
11 system.

12 (m) This Section applies only to the counties of Cook,
13 DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and
14 to municipalities located within those counties.

15 (n) The fee for participating in a traffic education
16 program under this Section shall not exceed \$25.

17 A low-income individual required to complete a traffic
18 education program under this Section who provides proof of
19 eligibility for the federal earned income tax credit under
20 Section 32 of the Internal Revenue Code or the Illinois earned
21 income tax credit under Section 212 of the Illinois Income Tax
22 Act shall not be required to pay any fee for participating in a
23 required traffic education program.

24 (Source: P.A. 96-288, eff. 8-11-09.)

25 Section 99. Effective date. This Act takes effect January
26 1, 2010.

SB2477



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2477

Introduced 10/14/2009, by Sen. Rickey R. Hendon

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that an automated traffic law system may not be used to issue violations to persons driving a motor vehicle who come to a stop one foot or less past the point where a driver is required to stop as specified by the Code or a similar provision of a local ordinance.

LRB096 14783 AJT 29641 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 11-208.6 as follows:

6 (625 ILCS 5/11-208.6)

7 Sec. 11-208.6. Automated traffic law enforcement system.

8 (a) As used in this Section, "automated traffic law
9 enforcement system" means a device with one or more motor
10 vehicle sensors working in conjunction with a red light signal
11 to produce recorded images of motor vehicles entering an
12 intersection against a red signal indication in violation of
13 Section 11-306 of this Code or a similar provision of a local
14 ordinance.

15 An automated traffic law enforcement system is a system, in
16 a municipality or county operated by a governmental agency,
17 that produces a recorded image of a motor vehicle's violation
18 of a provision of this Code or a local ordinance and is
19 designed to obtain a clear recorded image of the vehicle and
20 the vehicle's license plate. The recorded image must also
21 display the time, date, and location of the violation.

22 (b) As used in this Section, "recorded images" means images
23 recorded by an automated traffic law enforcement system on:

- 1 (1) 2 or more photographs;
- 2 (2) 2 or more microphotographs;
- 3 (3) 2 or more electronic images; or
- 4 (4) a video recording showing the motor vehicle and, on
- 5 at least one image or portion of the recording, clearly
- 6 identifying the registration plate number of the motor
- 7 vehicle.

8 (c) A county or municipality, including a home rule county

9 or municipality, may not use an automated traffic law

10 enforcement system to provide recorded images of a motor

11 vehicle for the purpose of recording its speed. The regulation

12 of the use of automated traffic law enforcement systems to

13 record vehicle speeds is an exclusive power and function of the

14 State. This subsection (c) is a denial and limitation of home

15 rule powers and functions under subsection (h) of Section 6 of

16 Article VII of the Illinois Constitution.

17 (c-5) A county or municipality, including a home rule

18 county or municipality, may not use an automated traffic law

19 enforcement system to provide recorded images of a motor

20 vehicle for the purpose of issuing violations to persons

21 driving a motor vehicle who come to a stop one foot or less

22 past the point where a driver is required to stop as specified

23 in subsection (c) of Section 11-306 of this Code or a similar

24 provision of a local ordinance.

25 (d) For each violation of a provision of this Code or a

26 local ordinance recorded by an automatic traffic law

1 enforcement system, the county or municipality having
2 jurisdiction shall issue a written notice of the violation to
3 the registered owner of the vehicle as the alleged violator.
4 The notice shall be delivered to the registered owner of the
5 vehicle, by mail, within 30 days after the Secretary of State
6 notifies the municipality or county of the identity of the
7 owner of the vehicle, but in no event later than 90 days after
8 the violation.

9 The notice shall include:

10 (1) the name and address of the registered owner of the
11 vehicle;

12 (2) the registration number of the motor vehicle
13 involved in the violation;

14 (3) the violation charged;

15 (4) the location where the violation occurred;

16 (5) the date and time of the violation;

17 (6) a copy of the recorded images;

18 (7) the amount of the civil penalty imposed and the
19 requirements of any traffic education program imposed and
20 the date by which the civil penalty should be paid and the
21 traffic education program should be completed;

22 (8) a statement that recorded images are evidence of a
23 violation of a red light signal;

24 (9) a warning that failure to pay the civil penalty, to
25 complete a required traffic education program, or to
26 contest liability in a timely manner is an admission of

1 liability and may result in a suspension of the driving
2 privileges of the registered owner of the vehicle; and

3 (10) a statement that the person may elect to proceed
4 by:

5 (A) paying the fine, completing a required traffic
6 education program, or both; or

7 (B) challenging the charge in court, by mail, or by
8 administrative hearing.

9 (e) If a person charged with a traffic violation, as a
10 result of an automated traffic law enforcement system, does not
11 pay the fine or complete a required traffic education program,
12 or both, or successfully contest the civil penalty resulting
13 from that violation, the Secretary of State shall suspend the
14 driving privileges of the registered owner of the vehicle under
15 Section 6-306.5 of this Code for failing to complete a required
16 traffic education program or to pay any fine or penalty due and
17 owing, or both, as a result of 5 violations of the automated
18 traffic law enforcement system.

19 (f) Based on inspection of recorded images produced by an
20 automated traffic law enforcement system, a notice alleging
21 that the violation occurred shall be evidence of the facts
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24 (g) Recorded images made by an automatic traffic law
25 enforcement system are confidential and shall be made available
26 only to the alleged violator and governmental and law

1 enforcement agencies for purposes of adjudicating a violation
2 of this Section, for statistical purposes, or for other
3 governmental purposes. Any recorded image evidencing a
4 violation of this Section, however, may be admissible in any
5 proceeding resulting from the issuance of the citation.

6 (h) The court or hearing officer may consider in defense of
7 a violation:

8 (1) that the motor vehicle or registration plates of
9 the motor vehicle were stolen before the violation occurred
10 and not under the control of or in the possession of the
11 owner at the time of the violation;

12 (2) that the driver of the vehicle passed through the
13 intersection when the light was red either (i) in order to
14 yield the right-of-way to an emergency vehicle or (ii) as
15 part of a funeral procession; and

16 (3) any other evidence or issues provided by municipal
17 or county ordinance.

18 (i) To demonstrate that the motor vehicle or the
19 registration plates were stolen before the violation occurred
20 and were not under the control or possession of the owner at
21 the time of the violation, the owner must submit proof that a
22 report concerning the stolen motor vehicle or registration
23 plates was filed with a law enforcement agency in a timely
24 manner.

25 (j) Unless the driver of the motor vehicle received a
26 Uniform Traffic Citation from a police officer at the time of

1 the violation, the motor vehicle owner is subject to a civil
2 penalty not exceeding \$100 or the completion of a traffic
3 education program, or both, plus an additional penalty of not
4 more than \$100 for failure to pay the original penalty or to
5 complete a required traffic education program, or both, in a
6 timely manner, if the motor vehicle is recorded by an automated
7 traffic law enforcement system. A violation for which a civil
8 penalty is imposed under this Section is not a violation of a
9 traffic regulation governing the movement of vehicles and may
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12 (j-3) A registered owner who is a holder of a valid
13 commercial driver's license is not required to complete a
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15 (j-5) For purposes of the required traffic education
16 program only, a registered owner may submit an affidavit to the
17 court or hearing officer swearing that at the time of the
18 alleged violation, the vehicle was in the custody and control
19 of another person. The affidavit must identify the person in
20 custody and control of the vehicle, including the person's name
21 and current address. The person in custody and control of the
22 vehicle at the time of the violation is required to complete
23 the required traffic education program. If the person in
24 custody and control of the vehicle at the time of the violation
25 completes the required traffic education program, the
26 registered owner of the vehicle is not required to complete a

1 traffic education program.

2 (k) An intersection equipped with an automated traffic law
3 enforcement system must be posted with a sign visible to
4 approaching traffic indicating that the intersection is being
5 monitored by an automated traffic law enforcement system.

6 (l) The compensation paid for an automated traffic law
7 enforcement system must be based on the value of the equipment
8 or the services provided and may not be based on the number of
9 traffic citations issued or the revenue generated by the
10 system.

11 (m) This Section applies only to the counties of Cook,
12 DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and
13 to municipalities located within those counties.

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15 program under this Section shall not exceed \$25.

16 A low-income individual required to complete a traffic
17 education program under this Section who provides proof of
18 eligibility for the federal earned income tax credit under
19 Section 32 of the Internal Revenue Code or the Illinois earned
20 income tax credit under Section 212 of the Illinois Income Tax
21 Act shall not be required to pay any fee for participating in a
22 required traffic education program.

23 (Source: P.A. 96-288, eff. 8-11-09.)