

HB2365



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2365

by Rep. La Shawn K. Ford

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that a municipality with a population of more than 1,000,000 may not operate an automated traffic law enforcement system. Provides that the prohibition may be reconsidered through the introduction of appropriate legislation upon the submission by the municipality of a report to the General Assembly detailing procedures that the municipality will implement to address specified issues in a satisfactory manner. Makes conforming changes.

LRB100 09440 AXK 19603 b

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 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 (b-5) A municipality or county that produces a recorded
9 image of a motor vehicle's violation of a provision of this
10 Code or a local ordinance must make the recorded images of a
11 violation accessible to the alleged violator by providing the
12 alleged violator with a website address, accessible through the
13 Internet.

14 (c) Except as provided under Section 11-208.8 of this Code,
15 a county or municipality, including a home rule county or
16 municipality, may not use an automated traffic law enforcement
17 system to provide recorded images of a motor vehicle for the
18 purpose of recording its speed. Except as provided under
19 Section 11-208.8 of this Code, the regulation of the use of
20 automated traffic law enforcement systems to record vehicle
21 speeds is an exclusive power and function of the State. This
22 subsection (c) is a denial and limitation of home rule powers
23 and functions under subsection (h) of Section 6 of Article VII
24 of the Illinois Constitution.

25 (c-5) A county or municipality, including a home rule
26 county or municipality, may not use an automated traffic law

1 enforcement system to issue violations in instances where the
2 motor vehicle comes to a complete stop and does not enter the
3 intersection, as defined by Section 1-132 of this Code, during
4 the cycle of the red signal indication unless one or more
5 pedestrians or bicyclists are present, even if the motor
6 vehicle stops at a point past a stop line or crosswalk where a
7 driver is required to stop, as specified in subsection (c) of
8 Section 11-306 of this Code or a similar provision of a local
9 ordinance.

10 (c-6) A county, or a municipality with less than 2,000,000
11 inhabitants, including a home rule county or municipality, may
12 not use an automated traffic law enforcement system to issue
13 violations in instances where a motorcyclist enters an
14 intersection against a red signal indication when the red
15 signal fails to change to a green signal within a reasonable
16 period of time not less than 120 seconds because of a signal
17 malfunction or because the signal has failed to detect the
18 arrival of the motorcycle due to the motorcycle's size or
19 weight.

20 (d) For each violation of a provision of this Code or a
21 local ordinance recorded by an automatic traffic law
22 enforcement system, the county or municipality having
23 jurisdiction shall issue a written notice of the violation to
24 the registered owner of the vehicle as the alleged violator.
25 The notice shall be delivered to the registered owner of the
26 vehicle, by mail, within 30 days after the Secretary of State

1 notifies the municipality or county of the identity of the
2 owner of the vehicle, but in no event later than 90 days after
3 the violation.

4 The notice shall include:

5 (1) the name and address of the registered owner of the
6 vehicle;

7 (2) the registration number of the motor vehicle
8 involved in the violation;

9 (3) the violation charged;

10 (4) the location where the violation occurred;

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

12 (6) a copy of the recorded images;

13 (7) the amount of the civil penalty imposed and the
14 requirements of any traffic education program imposed and
15 the date by which the civil penalty should be paid and the
16 traffic education program should be completed;

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

19 (9) a warning that failure to pay the civil penalty, to
20 complete a required traffic education program, or to
21 contest liability in a timely manner is an admission of
22 liability and may result in a suspension of the driving
23 privileges of the registered owner of the vehicle;

24 (10) a statement that the person may elect to proceed
25 by:

26 (A) paying the fine, completing a required traffic

1 education program, or both; or

2 (B) challenging the charge in court, by mail, or by
3 administrative hearing; and

4 (11) a website address, accessible through the
5 Internet, where the person may view the recorded images of
6 the violation.

7 (e) If a person charged with a traffic violation, as a
8 result of an automated traffic law enforcement system, does not
9 pay the fine or complete a required traffic education program,
10 or both, or successfully contest the civil penalty resulting
11 from that violation, the Secretary of State shall suspend the
12 driving privileges of the registered owner of the vehicle under
13 Section 6-306.5 of this Code for failing to complete a required
14 traffic education program or to pay any fine or penalty due and
15 owing, or both, as a result of a combination of 5 violations of
16 the automated traffic law enforcement system or the automated
17 speed enforcement system under Section 11-208.8 of this Code.

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

23 (g) Recorded images made by an automatic traffic law
24 enforcement system are confidential and shall be made available
25 only to the alleged violator and governmental and law
26 enforcement agencies for purposes of adjudicating a violation

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

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

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

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

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

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

24 (j) Unless the driver of the motor vehicle received a
25 Uniform Traffic Citation from a police officer at the time of
26 the violation, the motor vehicle owner is subject to a civil

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

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

14 (j-5) For purposes of the required traffic education
15 program only, a registered owner may submit an affidavit to the
16 court or hearing officer swearing that at the time of the
17 alleged violation, the vehicle was in the custody and control
18 of another person. The affidavit must identify the person in
19 custody and control of the vehicle, including the person's name
20 and current address. The person in custody and control of the
21 vehicle at the time of the violation is required to complete
22 the required traffic education program. If the person in
23 custody and control of the vehicle at the time of the violation
24 completes the required traffic education program, the
25 registered owner of the vehicle is not required to complete a
26 traffic education program.

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

5 (k-3) A municipality or county that has one or more
6 intersections equipped with an automated traffic law
7 enforcement system must provide notice to drivers by posting
8 the locations of automated traffic law systems on the
9 municipality or county website.

10 (k-5) An intersection equipped with an automated traffic
11 law enforcement system must have a yellow change interval that
12 conforms with the Illinois Manual on Uniform Traffic Control
13 Devices (IMUTCD) published by the Illinois Department of
14 Transportation.

15 (k-7) A municipality or county operating an automated
16 traffic law enforcement system shall conduct a statistical
17 analysis to assess the safety impact of each automated traffic
18 law enforcement system at an intersection following
19 installation of the system. The statistical analysis shall be
20 based upon the best available crash, traffic, and other data,
21 and shall cover a period of time before and after installation
22 of the system sufficient to provide a statistically valid
23 comparison of safety impact. The statistical analysis shall be
24 consistent with professional judgment and acceptable industry
25 practice. The statistical analysis also shall be consistent
26 with the data required for valid comparisons of before and

1 after conditions and shall be conducted within a reasonable
2 period following the installation of the automated traffic law
3 enforcement system. The statistical analysis required by this
4 subsection (k-7) shall be made available to the public and
5 shall be published on the website of the municipality or
6 county. If the statistical analysis for the 36 month period
7 following installation of the system indicates that there has
8 been an increase in the rate of accidents at the approach to
9 the intersection monitored by the system, the municipality or
10 county shall undertake additional studies to determine the
11 cause and severity of the accidents, and may take any action
12 that it determines is necessary or appropriate to reduce the
13 number or severity of the accidents at that intersection.

14 (l) The compensation paid for an automated traffic law
15 enforcement system must be based on the value of the equipment
16 or the services provided and may not be based on the number of
17 traffic citations issued or the revenue generated by the
18 system.

19 (m) This Section applies only to the counties of Cook,
20 DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and
21 to municipalities located within those counties, subject to
22 subsection (q) of this Section.

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

25 A low-income individual required to complete a traffic
26 education program under this Section who provides proof of

1 eligibility for the federal earned income tax credit under
2 Section 32 of the Internal Revenue Code or the Illinois earned
3 income tax credit under Section 212 of the Illinois Income Tax
4 Act shall not be required to pay any fee for participating in a
5 required traffic education program.

6 (o) A municipality or county shall make a certified report
7 to the Secretary of State pursuant to Section 6-306.5 of this
8 Code whenever a registered owner of a vehicle has failed to pay
9 any fine or penalty due and owing as a result of a combination
10 of 5 offenses for automated traffic law or speed enforcement
11 system violations.

12 (p) No person who is the lessor of a motor vehicle pursuant
13 to a written lease agreement shall be liable for an automated
14 speed or traffic law enforcement system violation involving
15 such motor vehicle during the period of the lease; provided
16 that upon the request of the appropriate authority received
17 within 120 days after the violation occurred, the lessor
18 provides within 60 days after such receipt the name and address
19 of the lessee. The drivers license number of a lessee may be
20 subsequently individually requested by the appropriate
21 authority if needed for enforcement of this Section.

22 Upon the provision of information by the lessor pursuant to
23 this subsection, the county or municipality may issue the
24 violation to the lessee of the vehicle in the same manner as it
25 would issue a violation to a registered owner of a vehicle
26 pursuant to this Section, and the lessee may be held liable for

1 the violation.

2 (g) (1) The General Assembly finds that issues have arisen
3 regarding the implementation of automated traffic law
4 enforcement systems in a municipality with a population of more
5 than 1,000,000, including, but not limited to, the following:

6 (A) unexplained spikes in the number of citations
7 issued per day by an automated traffic law enforcement
8 system installed at any particular location caused by
9 malfunctioning equipment, human intervention, or both;

10 (B) yellow light durations that do not conform to State
11 and federal standards or that fluctuate arbitrarily in
12 duration without notice to drivers;

13 (C) insufficiency of oversight or records concerning
14 the operation of automated traffic law enforcement
15 systems;

16 (D) failure to provide notice to drivers of intentional
17 changes in the sensitivity of automated traffic law
18 enforcement system equipment, including enforcement
19 changes pertaining to right turns at an intersection;

20 (E) failure to detect and address automated traffic law
21 enforcement system equipment malfunctions;

22 (F) failure to fairly and consistently issue automated
23 traffic law enforcement system violations involving right
24 turns at intersections; and

25 (G) failure to expeditiously identify improperly
26 issued violations and issue refunds to affected drivers.

1 (2) A municipality with a population of more than 1,000,000
2 may not operate an automated traffic law enforcement system.

3 (3) The prohibition set forth in paragraph (2) of this
4 subsection (q) may be reconsidered through the introduction of
5 appropriate legislation upon the submission by the
6 municipality of a report to the General Assembly detailing
7 procedures that the municipality will implement to address the
8 issues described in paragraph (1) of this subsection (q) in a
9 satisfactory manner.

10 (Source: P.A. 97-29, eff. 1-1-12; 97-627, eff. 1-1-12; 97-672,
11 eff. 7-1-12; 97-762, eff. 7-6-12; 98-463, eff. 8-16-13.)