

HB0091



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0091

Introduced 1/14/2021, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.3

from Ch. 95 1/2, par. 11-208.3

Amends the Illinois Vehicle Code. Provides that any ordinance establishing a system of administrative adjudication shall provide for the service of notices (rather than "additional notices") to the address of the registered owner of the cited vehicle.

LRB102 03778 HEP 13791 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
5 changing Section 11-208.3 as follows:

6 (625 ILCS 5/11-208.3) (from Ch. 95 1/2, par. 11-208.3)

7 Sec. 11-208.3. Administrative adjudication of violations
8 of traffic regulations concerning the standing, parking, or
9 condition of vehicles, automated traffic law violations, and
10 automated speed enforcement system violations.

11 (a) Any municipality or county may provide by ordinance
12 for a system of administrative adjudication of vehicular
13 standing and parking violations and vehicle compliance
14 violations as described in this subsection, automated traffic
15 law violations as defined in Section 11-208.6, 11-208.9, or
16 11-1201.1, and automated speed enforcement system violations
17 as defined in Section 11-208.8. The administrative system
18 shall have as its purpose the fair and efficient enforcement
19 of municipal or county regulations through the administrative
20 adjudication of automated speed enforcement system or
21 automated traffic law violations and violations of municipal
22 or county ordinances regulating the standing and parking of
23 vehicles, the condition and use of vehicle equipment, and the

1 display of municipal or county wheel tax licenses within the
2 municipality's or county's borders. The administrative system
3 shall only have authority to adjudicate civil offenses
4 carrying fines not in excess of \$500 or requiring the
5 completion of a traffic education program, or both, that occur
6 after the effective date of the ordinance adopting such a
7 system under this Section. For purposes of this Section,
8 "compliance violation" means a violation of a municipal or
9 county regulation governing the condition or use of equipment
10 on a vehicle or governing the display of a municipal or county
11 wheel tax license.

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

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

25 (2) A parking, standing, compliance, automated speed
26 enforcement system, or automated traffic law violation

1 notice that shall specify or include the date, time, and
2 place of violation of a parking, standing, compliance,
3 automated speed enforcement system, or automated traffic
4 law regulation; the particular regulation violated; any
5 requirement to complete a traffic education program; the
6 fine and any penalty that may be assessed for late payment
7 or failure to complete a required traffic education
8 program, or both, when so provided by ordinance; the
9 vehicle make or a photograph of the vehicle; the state
10 registration number of the vehicle; and the identification
11 number of the person issuing the notice. With regard to
12 automated speed enforcement system or automated traffic
13 law violations, vehicle make shall be specified on the
14 automated speed enforcement system or automated traffic
15 law violation notice if the notice does not include a
16 photograph of the vehicle and the make is available and
17 readily discernible. With regard to municipalities or
18 counties with a population of 1 million or more, it shall
19 be grounds for dismissal of a parking violation if the
20 state registration number or vehicle make specified is
21 incorrect. The violation notice shall state that the
22 completion of any required traffic education program, the
23 payment of any indicated fine, and the payment of any
24 applicable penalty for late payment or failure to complete
25 a required traffic education program, or both, shall
26 operate as a final disposition of the violation. The

1 notice also shall contain information as to the
2 availability of a hearing in which the violation may be
3 contested on its merits. The violation notice shall
4 specify the time and manner in which a hearing may be had.

5 (3) Service of a parking, standing, or compliance
6 violation notice by: (i) affixing the original or a
7 facsimile of the notice to an unlawfully parked or
8 standing vehicle; (ii) handing the notice to the operator
9 of a vehicle if he or she is present; or (iii) mailing the
10 notice to the address of the registered owner or lessee of
11 the cited vehicle as recorded with the Secretary of State
12 or the lessor of the motor vehicle within 30 days after the
13 Secretary of State or the lessor of the motor vehicle
14 notifies the municipality or county of the identity of the
15 owner or lessee of the vehicle, but not later than 90 days
16 after the date of the violation, except that in the case of
17 a lessee of a motor vehicle, service of a parking,
18 standing, or compliance violation notice may occur no
19 later than 210 days after the violation; and service of an
20 automated speed enforcement system or automated traffic
21 law violation notice by mail to the address of the
22 registered owner or lessee of the cited vehicle as
23 recorded with the Secretary of State or the lessor of the
24 motor vehicle within 30 days after the Secretary of State
25 or the lessor of the motor vehicle notifies the
26 municipality or county of the identity of the owner or

1 lessee of the vehicle, but not later than 90 days after the
2 violation, except that in the case of a lessee of a motor
3 vehicle, service of an automated traffic law violation
4 notice may occur no later than 210 days after the
5 violation. A person authorized by ordinance to issue and
6 serve parking, standing, and compliance violation notices
7 shall certify as to the correctness of the facts entered
8 on the violation notice by signing his or her name to the
9 notice at the time of service or, in the case of a notice
10 produced by a computerized device, by signing a single
11 certificate to be kept by the traffic compliance
12 administrator attesting to the correctness of all notices
13 produced by the device while it was under his or her
14 control. In the case of an automated traffic law
15 violation, the ordinance shall require a determination by
16 a technician employed or contracted by the municipality or
17 county that, based on inspection of recorded images, the
18 motor vehicle was being operated in violation of Section
19 11-208.6, 11-208.9, or 11-1201.1 or a local ordinance. If
20 the technician determines that the vehicle entered the
21 intersection as part of a funeral procession or in order
22 to yield the right-of-way to an emergency vehicle, a
23 citation shall not be issued. In municipalities with a
24 population of less than 1,000,000 inhabitants and counties
25 with a population of less than 3,000,000 inhabitants, the
26 automated traffic law ordinance shall require that all

1 determinations by a technician that a motor vehicle was
2 being operated in violation of Section 11-208.6, 11-208.9,
3 or 11-1201.1 or a local ordinance must be reviewed and
4 approved by a law enforcement officer or retired law
5 enforcement officer of the municipality or county issuing
6 the violation. In municipalities with a population of
7 1,000,000 or more inhabitants and counties with a
8 population of 3,000,000 or more inhabitants, the automated
9 traffic law ordinance shall require that all
10 determinations by a technician that a motor vehicle was
11 being operated in violation of Section 11-208.6, 11-208.9,
12 or 11-1201.1 or a local ordinance must be reviewed and
13 approved by a law enforcement officer or retired law
14 enforcement officer of the municipality or county issuing
15 the violation or by an additional fully trained
16 ~~fully trained~~ reviewing technician who is not employed by
17 the contractor who employs the technician who made the
18 initial determination. In the case of an automated speed
19 enforcement system violation, the ordinance shall require
20 a determination by a technician employed by the
21 municipality, based upon an inspection of recorded images,
22 video or other documentation, including documentation of
23 the speed limit and automated speed enforcement signage,
24 and documentation of the inspection, calibration, and
25 certification of the speed equipment, that the vehicle was
26 being operated in violation of Article VI of Chapter 11 of

1 this Code or a similar local ordinance. If the technician
2 determines that the vehicle speed was not determined by a
3 calibrated, certified speed equipment device based upon
4 the speed equipment documentation, or if the vehicle was
5 an emergency vehicle, a citation may not be issued. The
6 automated speed enforcement ordinance shall require that
7 all determinations by a technician that a violation
8 occurred be reviewed and approved by a law enforcement
9 officer or retired law enforcement officer of the
10 municipality issuing the violation or by an additional
11 fully trained reviewing technician who is not employed by
12 the contractor who employs the technician who made the
13 initial determination. Routine and independent calibration
14 of the speeds produced by automated speed enforcement
15 systems and equipment shall be conducted annually by a
16 qualified technician. Speeds produced by an automated
17 speed enforcement system shall be compared with speeds
18 produced by lidar or other independent equipment. Radar or
19 lidar equipment shall undergo an internal validation test
20 no less frequently than once each week. Qualified
21 technicians shall test loop-based ~~loop-based~~ equipment no
22 less frequently than once a year. Radar equipment shall be
23 checked for accuracy by a qualified technician when the
24 unit is serviced, when unusual or suspect readings
25 persist, or when deemed necessary by a reviewing
26 technician. Radar equipment shall be checked with the

1 internal frequency generator and the internal circuit test
2 whenever the radar is turned on. Technicians must be alert
3 for any unusual or suspect readings, and if unusual or
4 suspect readings of a radar unit persist, that unit shall
5 immediately be removed from service and not returned to
6 service until it has been checked by a qualified
7 technician and determined to be functioning properly.
8 Documentation of the annual calibration results, including
9 the equipment tested, test date, technician performing the
10 test, and test results, shall be maintained and available
11 for use in the determination of an automated speed
12 enforcement system violation and issuance of a citation.
13 The technician performing the calibration and testing of
14 the automated speed enforcement equipment shall be trained
15 and certified in the use of equipment for speed
16 enforcement purposes. Training on the speed enforcement
17 equipment may be conducted by law enforcement, civilian,
18 or manufacturer's personnel and if applicable may be
19 equivalent to the equipment use and operations training
20 included in the Speed Measuring Device Operator Program
21 developed by the National Highway Traffic Safety
22 Administration (NHTSA). The vendor or technician who
23 performs the work shall keep accurate records on each
24 piece of equipment the technician calibrates and tests. As
25 used in this paragraph, "fully trained ~~fully trained~~
26 reviewing technician" means a person who has received at

1 least 40 hours of supervised training in subjects which
2 shall include image inspection and interpretation, the
3 elements necessary to prove a violation, license plate
4 identification, and traffic safety and management. In all
5 municipalities and counties, the automated speed
6 enforcement system or automated traffic law ordinance
7 shall require that no additional fee shall be charged to
8 the alleged violator for exercising his or her right to an
9 administrative hearing, and persons shall be given at
10 least 25 days following an administrative hearing to pay
11 any civil penalty imposed by a finding that Section
12 11-208.6, 11-208.8, 11-208.9, or 11-1201.1 or a similar
13 local ordinance has been violated. The original or a
14 facsimile of the violation notice or, in the case of a
15 notice produced by a computerized device, a printed record
16 generated by the device showing the facts entered on the
17 notice, shall be retained by the traffic compliance
18 administrator, and shall be a record kept in the ordinary
19 course of business. A parking, standing, compliance,
20 automated speed enforcement system, or automated traffic
21 law violation notice issued, signed, and served in
22 accordance with this Section, a copy of the notice, or the
23 computer-generated ~~computer-generated~~ record shall be
24 prima facie correct and shall be prima facie evidence of
25 the correctness of the facts shown on the notice. The
26 notice, copy, or computer-generated ~~computer-generated~~

1 record shall be admissible in any subsequent
2 administrative or legal proceedings.

3 (4) An opportunity for a hearing for the registered
4 owner of the vehicle cited in the parking, standing,
5 compliance, automated speed enforcement system, or
6 automated traffic law violation notice in which the owner
7 may contest the merits of the alleged violation, and
8 during which formal or technical rules of evidence shall
9 not apply; provided, however, that under Section 11-1306
10 of this Code the lessee of a vehicle cited in the violation
11 notice likewise shall be provided an opportunity for a
12 hearing of the same kind afforded the registered owner.
13 The hearings shall be recorded, and the person conducting
14 the hearing on behalf of the traffic compliance
15 administrator shall be empowered to administer oaths and
16 to secure by subpoena both the attendance and testimony of
17 witnesses and the production of relevant books and papers.
18 Persons appearing at a hearing under this Section may be
19 represented by counsel at their expense. The ordinance may
20 also provide for internal administrative review following
21 the decision of the hearing officer.

22 (5) Service of ~~additional~~ notices, sent by first class
23 United States mail, postage prepaid, to the address of the
24 registered owner of the cited vehicle as recorded with the
25 Secretary of State or, if any notice to that address is
26 returned as undeliverable, to the last known address

1 recorded in a United States Post Office approved database,
2 or, under Section 11-1306 or subsection (p) of Section
3 11-208.6 or 11-208.9, or subsection (p) of Section
4 11-208.8 of this Code, to the lessee of the cited vehicle
5 at the last address known to the lessor of the cited
6 vehicle at the time of lease or, if any notice to that
7 address is returned as undeliverable, to the last known
8 address recorded in a United States Post Office approved
9 database. The service shall be deemed complete as of the
10 date of deposit in the United States mail. The notices
11 shall be in the following sequence and shall include, but
12 not be limited to, the information specified herein:

13 (i) A second notice of parking, standing, or
14 compliance violation if the first notice of the
15 violation was issued by affixing the original or a
16 facsimile of the notice to the unlawfully parked
17 vehicle or by handing the notice to the operator. This
18 notice shall specify or include the date and location
19 of the violation cited in the parking, standing, or
20 compliance violation notice, the particular regulation
21 violated, the vehicle make or a photograph of the
22 vehicle, the state registration number of the vehicle,
23 any requirement to complete a traffic education
24 program, the fine and any penalty that may be assessed
25 for late payment or failure to complete a traffic
26 education program, or both, when so provided by

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

18 (ii) A notice of final determination of parking,
19 standing, compliance, automated speed enforcement
20 system, or automated traffic law violation liability.
21 This notice shall be sent following a final
22 determination of parking, standing, compliance,
23 automated speed enforcement system, or automated
24 traffic law violation liability and the conclusion of
25 judicial review procedures taken under this Section.
26 The notice shall state that the incomplete traffic

1 education program or the unpaid fine or penalty, or
2 both, is a debt due and owing the municipality or
3 county. The notice shall contain warnings that failure
4 to complete any required traffic education program or
5 to pay any fine or penalty due and owing the
6 municipality or county, or both, within the time
7 specified may result in the municipality's or county's
8 filing of a petition in the Circuit Court to have the
9 incomplete traffic education program or unpaid fine or
10 penalty, or both, rendered a judgment as provided by
11 this Section, or, where applicable, may result in
12 suspension of the person's driver's ~~drivers~~ license
13 for failure to complete a traffic education program or
14 to pay fines or penalties, or both, for 5 or more
15 automated traffic law violations under Section
16 11-208.6 or 11-208.9 or automated speed enforcement
17 system violations under Section 11-208.8.

18 (6) A notice of impending driver's ~~drivers~~ license
19 suspension. This notice shall be sent to the person liable
20 for failure to complete a required traffic education
21 program or to pay any fine or penalty that remains due and
22 owing, or both, on 5 or more unpaid automated speed
23 enforcement system or automated traffic law violations.
24 The notice shall state that failure to complete a required
25 traffic education program or to pay the fine or penalty
26 owing, or both, within 45 days of the notice's date will

1 result in the municipality or county notifying the
2 Secretary of State that the person is eligible for
3 initiation of suspension proceedings under Section 6-306.5
4 of this Code. The notice shall also state that the person
5 may obtain a photostatic copy of an original ticket
6 imposing a fine or penalty by sending a self-addressed
7 ~~self-addressed~~, stamped envelope to the municipality or
8 county along with a request for the photostatic copy. The
9 notice of impending driver's ~~drivers~~ license suspension
10 shall be sent by first class United States mail, postage
11 prepaid, to the address recorded with the Secretary of
12 State or, if any notice to that address is returned as
13 undeliverable, to the last known address recorded in a
14 United States Post Office approved database.

15 (7) Final determinations of violation liability. A
16 final determination of violation liability shall occur
17 following failure to complete the required traffic
18 education program or to pay the fine or penalty, or both,
19 after a hearing officer's determination of violation
20 liability and the exhaustion of or failure to exhaust any
21 administrative review procedures provided by ordinance.
22 Where a person fails to appear at a hearing to contest the
23 alleged violation in the time and manner specified in a
24 prior mailed notice, the hearing officer's determination
25 of violation liability shall become final: (A) upon denial
26 of a timely petition to set aside that determination, or

1 (B) upon expiration of the period for filing the petition
2 without a filing having been made.

3 (8) A petition to set aside a determination of
4 parking, standing, compliance, automated speed enforcement
5 system, or automated traffic law violation liability that
6 may be filed by a person owing an unpaid fine or penalty. A
7 petition to set aside a determination of liability may
8 also be filed by a person required to complete a traffic
9 education program. The petition shall be filed with and
10 ruled upon by the traffic compliance administrator in the
11 manner and within the time specified by ordinance. The
12 grounds for the petition may be limited to: (A) the person
13 not having been the owner or lessee of the cited vehicle on
14 the date the violation notice was issued, (B) the person
15 having already completed the required traffic education
16 program or paid the fine or penalty, or both, for the
17 violation in question, and (C) excusable failure to appear
18 at or request a new date for a hearing. With regard to
19 municipalities or counties with a population of 1 million
20 or more, it shall be grounds for dismissal of a parking
21 violation if the state registration number or vehicle
22 make, only if specified in the violation notice, is
23 incorrect. After the determination of parking, standing,
24 compliance, automated speed enforcement system, or
25 automated traffic law violation liability has been set
26 aside upon a showing of just cause, the registered owner

1 shall be provided with a hearing on the merits for that
2 violation.

3 (9) Procedures for non-residents. Procedures by which
4 persons who are not residents of the municipality or
5 county may contest the merits of the alleged violation
6 without attending a hearing.

7 (10) A schedule of civil fines for violations of
8 vehicular standing, parking, compliance, automated speed
9 enforcement system, or automated traffic law regulations
10 enacted by ordinance pursuant to this Section, and a
11 schedule of penalties for late payment of the fines or
12 failure to complete required traffic education programs,
13 provided, however, that the total amount of the fine and
14 penalty for any one violation shall not exceed \$250,
15 except as provided in subsection (c) of Section 11-1301.3
16 of this Code.

17 (11) Other provisions as are necessary and proper to
18 carry into effect the powers granted and purposes stated
19 in this Section.

20 (c) Any municipality or county establishing vehicular
21 standing, parking, compliance, automated speed enforcement
22 system, or automated traffic law regulations under this
23 Section may also provide by ordinance for a program of vehicle
24 immobilization for the purpose of facilitating enforcement of
25 those regulations. The program of vehicle immobilization shall
26 provide for immobilizing any eligible vehicle upon the public

1 way by presence of a restraint in a manner to prevent operation
2 of the vehicle. Any ordinance establishing a program of
3 vehicle immobilization under this Section shall provide:

4 (1) Criteria for the designation of vehicles eligible
5 for immobilization. A vehicle shall be eligible for
6 immobilization when the registered owner of the vehicle
7 has accumulated the number of incomplete traffic education
8 programs or unpaid final determinations of parking,
9 standing, compliance, automated speed enforcement system,
10 or automated traffic law violation liability, or both, as
11 determined by ordinance.

12 (2) A notice of impending vehicle immobilization and a
13 right to a hearing to challenge the validity of the notice
14 by disproving liability for the incomplete traffic
15 education programs or unpaid final determinations of
16 parking, standing, compliance, automated speed enforcement
17 system, or automated traffic law violation liability, or
18 both, listed on the notice.

19 (3) The right to a prompt hearing after a vehicle has
20 been immobilized or subsequently towed without the
21 completion of the required traffic education program or
22 payment of the outstanding fines and penalties on parking,
23 standing, compliance, automated speed enforcement system,
24 or automated traffic law violations, or both, for which
25 final determinations have been issued. An order issued
26 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, compliance, automated speed enforcement system, or
8 automated traffic law violations and final administrative
9 decisions issued after hearings regarding vehicle
10 immobilization and impoundment made under this Section shall
11 be subject to the provisions of the Administrative Review Law.

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

24 (f) After the expiration of the period within which
25 judicial review may be sought for a final determination of
26 parking, standing, compliance, automated speed enforcement

1 system, or automated traffic law violation, the municipality
2 or county may commence a proceeding in the Circuit Court for
3 purposes of obtaining a judgment on the final determination of
4 violation. Nothing in this Section shall prevent a
5 municipality or county from consolidating multiple final
6 determinations of parking, standing, compliance, automated
7 speed enforcement system, or automated traffic law violations
8 against a person in a proceeding. Upon commencement of the
9 action, the municipality or county shall file a certified copy
10 or record of the final determination of parking, standing,
11 compliance, automated speed enforcement system, or automated
12 traffic law violation, which shall be accompanied by a
13 certification that recites facts sufficient to show that the
14 final determination of violation was issued in accordance with
15 this Section and the applicable municipal or county ordinance.
16 Service of the summons and a copy of the petition may be by any
17 method provided by Section 2-203 of the Code of Civil
18 Procedure or by certified mail, return receipt requested,
19 provided that the total amount of fines and penalties for
20 final determinations of parking, standing, compliance,
21 automated speed enforcement system, or automated traffic law
22 violations does not exceed \$2500. If the court is satisfied
23 that the final determination of parking, standing, compliance,
24 automated speed enforcement system, or automated traffic law
25 violation was entered in accordance with the requirements of
26 this Section and the applicable municipal or county ordinance,

1 and that the registered owner or the lessee, as the case may
2 be, had an opportunity for an administrative hearing and for
3 judicial review as provided in this Section, the court shall
4 render judgment in favor of the municipality or county and
5 against the registered owner or the lessee for the amount
6 indicated in the final determination of parking, standing,
7 compliance, automated speed enforcement system, or automated
8 traffic law violation, plus costs. The judgment shall have the
9 same effect and may be enforced in the same manner as other
10 judgments for the recovery of money.

11 (g) The fee for participating in a traffic education
12 program under this Section shall not exceed \$25.

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

20 (Source: P.A. 101-32, eff. 6-28-19; 101-623, eff. 7-1-20;
21 revised 8-4-20.)