



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1597

Introduced 02/16/05, by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-306.5
625 ILCS 5/11-208.3

from Ch. 95 1/2, par. 6-306.5
from Ch. 95 1/2, par. 11-208.3

Provides that notice of penalties and opportunities for hearing with regard to failure to pay fines for parking violations may be sent to the violator's last known address recorded in a United States Postal Service approved database. Provides that, in cases where the violations involved a leased vehicle, notice may be sent to the last address known to the lessor of the vehicle. Provides that, after the expiration of the period during which judicial review may be sought for the administrative adjudication of a parking violation, the municipality commencing an action against the violator may file with the court a certified record (in lieu of a certified copy) of the final determination of violation.

LRB094 07702 DRH 37878 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 Sections 6-306.5 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 violations; suspension of driving
9 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 failed to pay any
13 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, the Secretary of State shall
17 suspend the driving privileges of such person in accordance
18 with the procedures set forth in this Section. The Secretary
19 shall also suspend the driving privileges of an owner of a
20 registered vehicle upon receipt of a certified report, as
21 prescribed by subsection (f) of this Section, from any
22 municipality stating that such person has failed to satisfy any
23 fines or penalties imposed by final judgments for 10 or more
24 violations of local standing, parking, or compliance
25 regulations after exhaustion of judicial review procedures.

26 (b) Following receipt of the certified report of the
27 municipality as specified in this Section, the Secretary of
28 State shall notify the person whose name appears on the
29 certified report that the person's drivers license will be
30 suspended at the end of a specified period of time unless the
31 Secretary of State is presented with a notice from the
32 municipality certifying that the fine or penalty due and owing

1 the municipality has been paid or that inclusion of that
2 person's name on the certified report was in error. The
3 Secretary's notice shall state in substance the information
4 contained in the municipality's certified report to the
5 Secretary, and shall be effective as specified by subsection
6 (c) of Section 6-211 of this Code.

7 (c) The report of the appropriate municipal official
8 notifying the Secretary of State of unpaid fines or penalties
9 pursuant to this Section shall be certified and shall contain
10 the following:

11 (1) The name, last known address, as recorded with the
12 Secretary of State or in a United States Postal Service
13 approved database, and drivers license number of the person
14 who failed to pay the fine or penalty and the registration
15 number of any vehicle known to be registered to such person
16 in this State.

17 (2) The name of the municipality making the report
18 pursuant to this Section.

19 (3) A statement that the municipality sent a notice of
20 impending drivers license suspension as prescribed by
21 ordinance enacted pursuant to Section 11-208.3, to the
22 person named in the report at the address recorded with the
23 Secretary of State or at the last address known to the
24 lessor of the cited vehicle at the time of lease, or at the
25 last known address recorded in a United States Postal
26 Service approved database; the date on which such notice
27 was sent; and the address to which such notice was sent. In
28 a municipality with a population of 1,000,000 or more, the
29 report shall also include a statement that the alleged
30 violator's State vehicle registration number and vehicle
31 make are correct as they appear on the citations.

32 (d) Any municipality making a certified report to the
33 Secretary of State pursuant to this Section shall notify the
34 Secretary of State, in a form prescribed by the Secretary,
35 whenever a person named in the certified report has paid the
36 previously reported fine or penalty or whenever the

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

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

18 (f) Any municipality, other than a municipality
19 establishing vehicular standing, parking, and compliance
20 regulations pursuant to Section 11-208.3, may also cause a
21 suspension of a person's drivers license pursuant to this
22 Section. Such municipality may invoke this sanction by making a
23 certified report to the Secretary of State upon a person's
24 failure to satisfy any fine or penalty imposed by final
25 judgment for 10 or more violations of local standing, parking,
26 or compliance regulations after exhaustion of judicial review
27 procedures, but only if:

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

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

34 (3) in municipalities with a population of 1,000,000 or
35 more, the municipality has verified that the alleged
36 violator's State vehicle registration number and vehicle

1 make are correct as they appear on the citations.

2 (g) Any municipality, other than a municipality
3 establishing standing, parking, and compliance regulations
4 pursuant to Section 11-208.3, may provide by ordinance for the
5 sending of a notice of impending drivers license suspension to
6 the person who has failed to satisfy any fine or penalty
7 imposed by final judgment for 10 or more violations of local
8 standing, parking, or compliance regulations after exhaustion
9 of judicial review procedures. An ordinance so providing shall
10 specify that the notice sent to the person liable for any fine
11 or penalty shall state that failure to pay the fine or penalty
12 owing within 45 days of the notice's date will result in the
13 municipality notifying the Secretary of State that the person's
14 drivers license is eligible for suspension pursuant to this
15 Section. The notice of impending drivers license suspension
16 shall be sent by first class United States mail, postage
17 prepaid, to the address recorded with the Secretary of State or
18 to the last known address recorded in a United States Postal
19 Service approved database.

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

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

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

1 (Source: P.A. 89-190, eff. 1-1-96; 90-145, eff. 1-1-98; 90-481,
2 eff. 8-17-97.)

3 (625 ILCS 5/11-208.3) (from Ch. 95 1/2, par. 11-208.3)

4 Sec. 11-208.3. Administrative adjudication of violations
5 of traffic regulations concerning the standing, parking, or
6 condition of vehicles.

7 (a) Any municipality may provide by ordinance for a system
8 of administrative adjudication of vehicular standing and
9 parking violations and vehicle compliance violations as
10 defined in this subsection. The administrative system shall
11 have as its purpose the fair and efficient enforcement of
12 municipal regulations through the administrative adjudication
13 of violations of municipal ordinances regulating the standing
14 and parking of vehicles, the condition and use of vehicle
15 equipment, and the display of municipal wheel tax licenses
16 within the municipality's borders. The administrative system
17 shall only have authority to adjudicate civil offenses carrying
18 fines not in excess of \$250 that occur after the effective date
19 of the ordinance adopting such a system under this Section. For
20 purposes of this Section, "compliance violation" means a
21 violation of a municipal regulation governing the condition or
22 use of equipment on a vehicle or governing the display of a
23 municipal wheel tax license.

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

26 (1) A traffic compliance administrator authorized to
27 adopt, distribute and process parking and compliance
28 violation notices and other notices required by this
29 Section, collect money paid as fines and penalties for
30 violation of parking and compliance ordinances, and
31 operate an administrative adjudication system. The traffic
32 compliance administrator also may make a certified report
33 to the Secretary of State under Section 6-306.5.

34 (2) A parking, standing, or compliance violation
35 notice that shall specify the date, time, and place of

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

18 (3) Service of the parking, standing, or compliance
19 violation notice by affixing the original or a facsimile of
20 the notice to an unlawfully parked vehicle or by handing
21 the notice to the operator of a vehicle if he or she is
22 present. A person authorized by ordinance to issue and
23 serve parking, standing, and compliance violation notices
24 shall certify as to the correctness of the facts entered on
25 the violation notice by signing his or her name to the
26 notice at the time of service or in the case of a notice
27 produced by a computerized device, by signing a single
28 certificate to be kept by the traffic compliance
29 administrator attesting to the correctness of all notices
30 produced by the device while it was under his or her
31 control. The original or a facsimile of the violation
32 notice or, in the case of a notice produced by a
33 computerized device, a printed record generated by the
34 device showing the facts entered on the notice, shall be
35 retained by the traffic compliance administrator, and
36 shall be a record kept in the ordinary course of business.

1 A parking, standing, or compliance violation notice
2 issued, signed and served in accordance with this Section,
3 a copy of the notice, or the computer generated record
4 shall be prima facie correct and shall be prima facie
5 evidence of the correctness of the facts shown on the
6 notice. The notice, copy, or computer generated record
7 shall be admissible in any subsequent administrative or
8 legal proceedings.

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

27 (5) Service of additional notices, sent by first class
28 United States mail, postage prepaid, to the address of the
29 registered owner of the cited vehicle as recorded with the
30 Secretary of State or to the last known address recorded in
31 a United States Postal Service approved database, or, under
32 Section 11-1306 of this Code, to the lessee of the cited
33 vehicle at the last address known to the lessor of the
34 cited vehicle at the time of lease or to the lessee of the
35 cited vehicle at the time of the last known address
36 recorded in a United States Postal Service approved

1 database. The service shall be deemed complete as of the
2 date of deposit in the United States mail. The notices
3 shall be in the following sequence and shall include but
4 not be limited to the information specified herein:

5 (i) A second notice of violation. This notice shall
6 specify the date and location of the violation cited in
7 the parking, standing, or compliance violation notice,
8 the particular regulation violated, the vehicle make
9 and state registration number, the fine and any penalty
10 that may be assessed for late payment when so provided
11 by ordinance, the availability of a hearing in which
12 the violation may be contested on its merits, and the
13 time and manner in which the hearing may be had. The
14 notice of violation shall also state that failure
15 either to pay the indicated fine and any applicable
16 penalty, or to appear at a hearing on the merits in the
17 time and manner specified, will result in a final
18 determination of violation liability for the cited
19 violation in the amount of the fine or penalty
20 indicated, and that, upon the occurrence of a final
21 determination of violation liability for the failure,
22 and the exhaustion of, or failure to exhaust, available
23 administrative or judicial procedures for review, any
24 unpaid fine or penalty will constitute a debt due and
25 owing the municipality.

26 (ii) A notice of final determination of parking,
27 standing, or compliance violation liability. This
28 notice shall be sent following a final determination of
29 parking, standing, or compliance violation liability
30 and the conclusion of judicial review procedures taken
31 under this Section. The notice shall state that the
32 unpaid fine or penalty is a debt due and owing the
33 municipality. The notice shall contain warnings that
34 failure to pay any fine or penalty due and owing the
35 municipality within the time specified may result in
36 the municipality's filing of a petition in the Circuit

1 Court to have the unpaid fine or penalty rendered a
2 judgment as provided by this Section, or may result in
3 suspension of the person's drivers license for failure
4 to pay fines or penalties for 10 or more parking
5 violations under Section 6-306.5.

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

23 (7) Final determinations of violation liability. A
24 final determination of violation liability shall occur
25 following failure to pay the fine or penalty after a
26 hearing officer's determination of violation liability and
27 the exhaustion of or failure to exhaust any administrative
28 review procedures provided by ordinance. Where a person
29 fails to appear at a hearing to contest the alleged
30 violation in the time and manner specified in a prior
31 mailed notice, the hearing officer's determination of
32 violation liability shall become final: (A) upon denial of
33 a timely petition to set aside that determination, or (B)
34 upon expiration of the period for filing the petition
35 without a filing having been made.

36 (8) A petition to set aside a determination of parking,

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

19 (9) Procedures for non-residents. Procedures by which
20 persons who are not residents of the municipality may
21 contest the merits of the alleged violation without
22 attending a hearing.

23 (10) A schedule of civil fines for violations of
24 vehicular standing, parking, and compliance regulations
25 enacted by ordinance pursuant to this Section, and a
26 schedule of penalties for late payment of the fines,
27 provided, however, that the total amount of the fine and
28 penalty for any one violation shall not exceed \$250.

29 (11) Other provisions as are necessary and proper to
30 carry into effect the powers granted and purposes stated in
31 this Section.

32 (c) Any municipality establishing vehicular standing,
33 parking, and compliance regulations under this Section may also
34 provide by ordinance for a program of vehicle immobilization
35 for the purpose of facilitating enforcement of those
36 regulations. The program of vehicle immobilization shall

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

5 (1) Criteria for the designation of vehicles eligible
6 for immobilization. A vehicle shall be eligible for
7 immobilization when the registered owner of the vehicle has
8 accumulated the number of unpaid final determinations of
9 parking, standing, or compliance violation liability as
10 determined by ordinance.

11 (2) A notice of impending vehicle immobilization and a
12 right to a hearing to challenge the validity of the notice
13 by disproving liability for the unpaid final
14 determinations of parking, standing, or compliance
15 violation liability listed on the notice.

16 (3) The right to a prompt hearing after a vehicle has
17 been immobilized or subsequently towed without payment of
18 the outstanding fines and penalties on parking, standing,
19 or compliance violations for which final determinations
20 have been issued. An order issued after the hearing is a
21 final administrative decision within the meaning of
22 Section 3-101 of the Code of Civil Procedure.

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

26 (d) Judicial review of final determinations of parking,
27 standing, and compliance violations and final administrative
28 decisions issued after hearings regarding vehicle
29 immobilization and impoundment made under this Section shall be
30 subject to the provisions of the Administrative Review Law.

31 (e) Any fine, penalty, or part of any fine or any penalty
32 remaining unpaid after the exhaustion of, or the failure to
33 exhaust, administrative remedies created under this Section
34 and the conclusion of any judicial review procedures shall be a
35 debt due and owing the municipality and, as such, may be
36 collected in accordance with applicable law. Payment in full of

1 any fine or penalty resulting from a standing, parking, or
2 compliance violation shall constitute a final disposition of
3 that violation.

4 (f) After the expiration of the period within which
5 judicial review may be sought for a final determination of
6 parking, standing, or compliance violation, the municipality
7 may commence a proceeding in the Circuit Court for purposes of
8 obtaining a judgment on the final determination of violation.
9 Nothing in this Section shall prevent a municipality from
10 consolidating multiple final determinations of parking,
11 standing, or compliance violation against a person in a
12 proceeding. Upon commencement of the action, the municipality
13 shall file a certified copy or record of the final
14 determination of parking, standing, or compliance violation,
15 which shall be accompanied by a certification that recites
16 facts sufficient to show that the final determination of
17 violation was issued in accordance with this Section and the
18 applicable municipal ordinance. Service of the summons and a
19 copy of the petition may be by any method provided by Section
20 2-203 of the Code of Civil Procedure or by certified mail,
21 return receipt requested, provided that the total amount of
22 fines and penalties for final determinations of parking,
23 standing, or compliance violations does not exceed \$2500. If
24 the court is satisfied that the final determination of parking,
25 standing, or compliance violation was entered in accordance
26 with the requirements of this Section and the applicable
27 municipal ordinance, and that the registered owner or the
28 lessee, as the case may be, had an opportunity for an
29 administrative hearing and for judicial review as provided in
30 this Section, the court shall render judgment in favor of the
31 municipality and against the registered owner or the lessee for
32 the amount indicated in the final determination of parking,
33 standing, or compliance violation, plus costs. The judgment
34 shall have the same effect and may be enforced in the same
35 manner as other judgments for the recovery of money.

36 (Source: P.A. 92-695, eff. 1-1-03.)