



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB5234

Introduced 1/24/2006, by Rep. Robert S. Molaro

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, for determinations by an administrative review board for parking, standing, or compliance violations, where a person failed to appear at the administrative review, the person shall have 180 days from the date of the determination to file a petition to set aside the determination.

LRB094 17359 DRH 52654 b

FISCAL NOTE ACT
MAY APPLY

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 11-208.3 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.

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

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

29 (1) A traffic compliance administrator authorized to
30 adopt, distribute and process parking and compliance
31 violation notices and other notices required by this
32 Section, collect money paid as fines and penalties for

1 violation of parking and compliance ordinances, and
2 operate an administrative adjudication system. The traffic
3 compliance administrator also may make a certified report
4 to the Secretary of State under Section 6-306.5.

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

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

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

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

33 (5) Service of additional notices, sent by first class
34 United States mail, postage prepaid, to the address of the
35 registered owner of the cited vehicle as recorded with the
36 Secretary of State or, if any notice to that address is

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

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

34 (ii) A notice of final determination of parking,
35 standing, or compliance violation liability. This
36 notice shall be sent following a final determination of

1 parking, standing, or compliance violation liability
2 and the conclusion of judicial review procedures taken
3 under this Section. The notice shall state that the
4 unpaid fine or penalty is a debt due and owing the
5 municipality. The notice shall contain warnings that
6 failure to pay any fine or penalty due and owing the
7 municipality within the time specified may result in
8 the municipality's filing of a petition in the Circuit
9 Court to have the unpaid fine or penalty rendered a
10 judgment as provided by this Section, or may result in
11 suspension of the person's drivers license for failure
12 to pay fines or penalties for 10 or more parking
13 violations under Section 6-306.5.

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

32 (7) Final determinations of violation liability. A
33 final determination of violation liability shall occur
34 following failure to pay the fine or penalty after a
35 hearing officer's determination of violation liability and
36 the exhaustion of or failure to exhaust any administrative

1 review procedures provided by ordinance. Where a person
2 fails to appear at a hearing to contest the alleged
3 violation in the time and manner specified in a prior
4 mailed notice, the hearing officer's determination of
5 violation liability shall become final: (A) upon denial of
6 a timely petition to set aside that determination, or (B),
7 subject to paragraph (7.5) of this subsection (b), upon
8 expiration of the period for filing the petition without a
9 filing having been made.

10 (7.5) For determinations that were made where a person
11 failed to appear in the administrative review, the person
12 shall have 180 days from the date of the determination to a
13 file a petition to set aside the determination.

14 (8) A petition to set aside a determination of parking,
15 standing, or compliance violation liability that may be
16 filed by a person owing an unpaid fine or penalty, subject
17 to paragraph (7.5) of this subsection (b). The petition
18 shall be filed with and ruled upon by the traffic
19 compliance administrator in the manner and within the time
20 specified by ordinance. The grounds for the petition may be
21 limited to: (A) the person not having been the owner or
22 lessee of the cited vehicle on the date the violation
23 notice was issued, (B) the person having already paid the
24 fine or penalty for the violation in question, and (C),
25 subject to paragraph (7.5) of this subsection (b),
26 excusable failure to appear at or request a new date for a
27 hearing. With regard to municipalities with a population of
28 1 million or more, it shall be grounds for dismissal of a
29 parking violation if the State registration number or
30 vehicle make specified is incorrect. After the
31 determination of parking, standing, or compliance
32 violation liability has been set aside upon a showing of
33 just cause, the registered owner shall be provided with a
34 hearing on the merits for that violation.

35 (9) Procedures for non-residents. Procedures by which
36 persons who are not residents of the municipality may

1 contest the merits of the alleged violation without
2 attending a hearing.

3 (10) A schedule of civil fines for violations of
4 vehicular standing, parking, and compliance regulations
5 enacted by ordinance pursuant to this Section, and a
6 schedule of penalties for late payment of the fines,
7 provided, however, that the total amount of the fine and
8 penalty for any one violation shall not exceed \$250.

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

12 (c) Any municipality establishing vehicular standing,
13 parking, and compliance regulations under this Section may also
14 provide by ordinance for a program of vehicle immobilization
15 for the purpose of facilitating enforcement of those
16 regulations. The program of vehicle immobilization shall
17 provide for immobilizing any eligible vehicle upon the public
18 way by presence of a restraint in a manner to prevent operation
19 of the vehicle. Any ordinance establishing a program of vehicle
20 immobilization under this Section shall provide:

21 (1) Criteria for the designation of vehicles eligible
22 for immobilization. A vehicle shall be eligible for
23 immobilization when the registered owner of the vehicle has
24 accumulated the number of unpaid final determinations of
25 parking, standing, or compliance violation liability as
26 determined by ordinance.

27 (2) A notice of impending vehicle immobilization and a
28 right to a hearing to challenge the validity of the notice
29 by disproving liability for the unpaid final
30 determinations of parking, standing, or compliance
31 violation liability listed on the notice.

32 (3) The right to a prompt hearing after a vehicle has
33 been immobilized or subsequently towed without payment of
34 the outstanding fines and penalties on parking, standing,
35 or compliance violations for which final determinations
36 have been issued. An order issued after the hearing is a

1 final administrative decision within the meaning of
2 Section 3-101 of the Code of Civil 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, and compliance violations and final administrative
8 decisions issued after hearings regarding vehicle
9 immobilization and impoundment made under this Section shall be
10 subject to the provisions of the Administrative Review Law.

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

20 (f) After the expiration of the period within which
21 judicial review may be sought for a final determination of
22 parking, standing, or compliance violation, the municipality
23 may commence a proceeding in the Circuit Court for purposes of
24 obtaining a judgment on the final determination of violation.
25 Nothing in this Section shall prevent a municipality from
26 consolidating multiple final determinations of parking,
27 standing, or compliance violation against a person in a
28 proceeding. Upon commencement of the action, the municipality
29 shall file a certified copy or record of the final
30 determination of parking, standing, or compliance violation,
31 which shall be accompanied by a certification that recites
32 facts sufficient to show that the final determination of
33 violation was issued in accordance with this Section and the
34 applicable municipal ordinance. Service of the summons and a
35 copy of the petition may be by any method provided by Section
36 2-203 of the Code of Civil Procedure or by certified mail,

1 return receipt requested, provided that the total amount of
2 fines and penalties for final determinations of parking,
3 standing, or compliance violations does not exceed \$2500. If
4 the court is satisfied that the final determination of parking,
5 standing, or compliance violation was entered in accordance
6 with the requirements of this Section and the applicable
7 municipal ordinance, and that the registered owner or the
8 lessee, as the case may be, had an opportunity for an
9 administrative hearing and for judicial review as provided in
10 this Section, the court shall render judgment in favor of the
11 municipality and against the registered owner or the lessee for
12 the amount indicated in the final determination of parking,
13 standing, or compliance violation, plus costs. The judgment
14 shall have the same effect and may be enforced in the same
15 manner as other judgments for the recovery of money.

16 (Source: P.A. 94-294, eff. 1-1-06.)