



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0786

Introduced 2/7/2007, by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

65 ILCS 5/1-2-1

from Ch. 24, par. 1-2-1

625 ILCS 5/11-208.3

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

Amends the Illinois Municipal Code. Provides that a fine imposed by a municipality, except for a civil penalty imposed for failure to make returns or pay taxes imposed by the municipality, may not exceed \$1,000 (rather than \$750). Amends the Illinois Vehicle Code. Provides that a system for administrative adjudication of violations of parking, standing, and automated traffic law regulations may not adjudicate any civil offense carrying a fine in excess of \$1,000 (rather than \$250).

LRB095 03857 DRH 23888 b

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 1-2-1 as follows:

6 (65 ILCS 5/1-2-1) (from Ch. 24, par. 1-2-1)

7 Sec. 1-2-1. The corporate authorities of each municipality
8 may pass all ordinances and make all rules and regulations
9 proper or necessary, to carry into effect the powers granted to
10 municipalities, with such fines or penalties as may be deemed
11 proper. No fine or penalty, however, except civil penalties
12 provided for failure to make returns or to pay any taxes levied
13 by the municipality shall exceed \$1,000 ~~\$750~~ and no
14 imprisonment authorized in Section 1-2-9 for failure to pay any
15 fine, penalty or cost shall exceed 6 months for one offense.

16 A penalty imposed for violation of an ordinance may
17 include, or consist of, a requirement that the defendant
18 perform some reasonable public service work such as but not
19 limited to the picking up of litter in public parks or along
20 public highways or the maintenance of public facilities.

21 (Source: P.A. 89-63, eff. 6-30-95.)

22 Section 10. The Illinois Vehicle Code is amended by

1 changing Section 11-208.3 as follows:

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

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

6 (a) Any municipality may provide by ordinance for a system
7 of administrative adjudication of vehicular standing and
8 parking violations and vehicle compliance violations as
9 defined in this subsection and automated traffic law violations
10 as defined in Section 11-208.6. The administrative system shall
11 have as its purpose the fair and efficient enforcement of
12 municipal regulations through the administrative adjudication
13 of automated traffic law violations and violations of municipal
14 ordinances regulating the standing and parking of vehicles, the
15 condition and use of vehicle equipment, and the display of
16 municipal wheel tax licenses within the municipality's
17 borders. The administrative system shall only have authority to
18 adjudicate civil offenses carrying fines not in excess of
19 \$1,000 ~~\$250~~ that occur after the effective date of the
20 ordinance adopting such a system under this Section. For
21 purposes of this Section, "compliance violation" means a
22 violation of a municipal regulation governing the condition or
23 use of equipment on a vehicle or governing the display of a
24 municipal wheel tax license.

25 (b) Any ordinance establishing a system of administrative

1 adjudication under this Section shall provide for:

2 (1) A traffic compliance administrator authorized to
3 adopt, distribute and process parking, compliance, and
4 automated traffic law violation notices and other notices
5 required by this Section, collect money paid as fines and
6 penalties for violation of parking and compliance
7 ordinances and automated traffic law violations, and
8 operate an administrative adjudication system. The traffic
9 compliance administrator also may make a certified report
10 to the Secretary of State under Section 6-306.5.

11 (2) A parking, standing, compliance, or automated
12 traffic law violation notice that shall specify the date,
13 time, and place of violation of a parking, standing, ~~or~~
14 compliance, or automated traffic law regulation; the
15 particular regulation violated; the fine and any penalty
16 that may be assessed for late payment, when so provided by
17 ordinance; the vehicle make and state registration number;
18 and the identification number of the person issuing the
19 notice. With regard to automated traffic law violations,
20 vehicle make shall be specified on the automated traffic
21 law violation notice if the make is available and readily
22 discernible. With regard to municipalities with a
23 population of 1 million or more, it shall be grounds for
24 dismissal of a parking violation if the state registration
25 number or vehicle make specified is incorrect. The
26 violation notice shall state that the payment of the

1 indicated fine, and of any applicable penalty for late
2 payment, shall operate as a final disposition of the
3 violation. The notice also shall contain information as to
4 the availability of a hearing in which the violation may be
5 contested on its merits. The violation notice shall specify
6 the time and manner in which a hearing may be had.

7 (3) Service of the parking, standing, or compliance
8 violation notice by affixing the original or a facsimile of
9 the notice to an unlawfully parked vehicle or by handing
10 the notice to the operator of a vehicle if he or she is
11 present and service of an automated traffic law violation
12 notice by mail to the address of the registered owner of
13 the cited vehicle as recorded with the Secretary of State
14 within 30 days after the Secretary of State notifies the
15 municipality or county of the identity of the owner of the
16 vehicle, but in no event later than 90 days after the
17 violation. A person authorized by ordinance to issue and
18 serve parking, standing, and compliance violation notices
19 shall certify as to the correctness of the facts entered on
20 the violation notice by signing his or her name to the
21 notice at the time of service or in the case of a notice
22 produced by a computerized device, by signing a single
23 certificate to be kept by the traffic compliance
24 administrator attesting to the correctness of all notices
25 produced by the device while it was under his or her
26 control. In the case of an automated traffic law violation,

1 the ordinance shall require a determination by a technician
2 employed or contracted by the municipality or county that,
3 based on inspection of recorded images, the motor vehicle
4 was being operated in violation of Section 11-208.6 or a
5 local ordinance. If the technician determines that the
6 vehicle entered the intersection as part of a funeral
7 procession or in order to yield the right-of-way to an
8 emergency vehicle, a citation shall not be issued. The
9 original or a facsimile of the violation notice or, in the
10 case of a notice produced by a computerized device, a
11 printed record generated by the device showing the facts
12 entered on the notice, shall be retained by the traffic
13 compliance administrator, and shall be a record kept in the
14 ordinary course of business. A parking, standing,
15 compliance, or automated traffic law violation notice
16 issued, signed and served in accordance with this Section,
17 a copy of the notice, or the computer generated record
18 shall be prima facie correct and shall be prima facie
19 evidence of the correctness of the facts shown on the
20 notice. The notice, copy, or computer generated record
21 shall be admissible in any subsequent administrative or
22 legal proceedings.

23 (4) An opportunity for a hearing for the registered
24 owner of the vehicle cited in the parking, standing,
25 compliance, or automated traffic law violation notice in
26 which the owner may contest the merits of the alleged

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

15 (5) Service of additional notices, sent by first class
16 United States mail, postage prepaid, to the address of the
17 registered owner of the cited vehicle as recorded with the
18 Secretary of State or, if any notice to that address is
19 returned as undeliverable, to the last known address
20 recorded in a United States Post Office approved database,
21 or, under Section 11-1306 of this Code, to the lessee of
22 the cited vehicle at the last address known to the lessor
23 of the cited vehicle at the time of lease or, if any notice
24 to that address is returned as undeliverable, to the last
25 known address recorded in a United States Post Office
26 approved database. The service shall be deemed complete as

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

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

1 (ii) A notice of final determination of parking,
2 standing, compliance, or automated traffic law
3 violation liability. This notice shall be sent
4 following a final determination of parking, standing,
5 compliance, or automated traffic law violation
6 liability and the conclusion of judicial review
7 procedures taken under this Section. The notice shall
8 state that the unpaid fine or penalty is a debt due and
9 owing the municipality. The notice shall contain
10 warnings that failure to pay any fine or penalty due
11 and owing the municipality within the time specified
12 may result in the municipality's filing of a petition
13 in the Circuit Court to have the unpaid fine or penalty
14 rendered a judgment as provided by this Section, or may
15 result in suspension of the person's drivers license
16 for failure to pay fines or penalties for 10 or more
17 parking violations under Section 6-306.5 or 5 or more
18 automated traffic law violations under Section
19 11-208.6.

20 (6) A Notice of impending drivers license suspension.
21 This notice shall be sent to the person liable for any fine
22 or penalty that remains due and owing on 10 or more parking
23 violations or 5 or more unpaid automated traffic law
24 violations. The notice shall state that failure to pay the
25 fine or penalty owing within 45 days of the notice's date
26 will result in the municipality notifying the Secretary of

1 State that the person is eligible for initiation of
2 suspension proceedings under Section 6-306.5 of this Code.
3 The notice shall also state that the person may obtain a
4 photostatic copy of an original ticket imposing a fine or
5 penalty by sending a self addressed, stamped envelope to
6 the municipality along with a request for the photostatic
7 copy. 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
10 State or, if any notice to that address is returned as
11 undeliverable, to the last known address recorded in a
12 United States Post Office approved database.

13 (7) Final determinations of violation liability. A
14 final determination of violation liability shall occur
15 following failure to pay the fine or penalty after a
16 hearing officer's determination of violation liability and
17 the exhaustion of or failure to exhaust any administrative
18 review procedures provided by ordinance. Where a person
19 fails to appear at a hearing to contest the alleged
20 violation in the time and manner specified in a prior
21 mailed notice, the hearing officer's determination of
22 violation liability shall become final: (A) upon denial of
23 a timely petition to set aside that determination, or (B)
24 upon expiration of the period for filing the petition
25 without a filing having been made.

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

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

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

24 (10) A schedule of civil fines for violations of
25 vehicular standing, parking, compliance, or automated
26 traffic law regulations enacted by ordinance pursuant to

1 this Section, and a schedule of penalties for late payment
2 of the fines, provided, however, that the total amount of
3 the fine and penalty for any one violation shall not exceed
4 \$250, except as provided in subsection (c) of Section
5 11-1301.3 of this Code.

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

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

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

25 (2) A notice of impending vehicle immobilization and a
26 right to a hearing to challenge the validity of the notice

1 by disproving liability for the unpaid final
2 determinations of parking, standing, compliance, or
3 automated traffic law violation liability listed on the
4 notice.

5 (3) The right to a prompt hearing after a vehicle has
6 been immobilized or subsequently towed without payment of
7 the outstanding fines and penalties on parking, standing,
8 compliance, or automated traffic law violations for which
9 final determinations have been issued. An order issued
10 after the hearing is a final administrative decision within
11 the meaning of Section 3-101 of the Code of Civil
12 Procedure.

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

16 (d) Judicial review of final determinations of parking,
17 standing, compliance, or automated traffic law violations and
18 final administrative decisions issued after hearings regarding
19 vehicle immobilization and impoundment made under this Section
20 shall be subject to the provisions of the Administrative Review
21 Law.

22 (e) Any fine, penalty, or part of any fine or any penalty
23 remaining unpaid after the exhaustion of, or the failure to
24 exhaust, administrative remedies created under this Section
25 and the conclusion of any judicial review procedures shall be a
26 debt due and owing the municipality and, as such, may be

1 collected in accordance with applicable law. Payment in full of
2 any fine or penalty resulting from a standing, parking,
3 compliance, or automated traffic law violation shall
4 constitute a final disposition of that violation.

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

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

13 (Source: P.A. 94-294, eff. 1-1-06; 94-795, eff. 5-22-06;
14 94-930, eff. 6-26-06; revised 8-3-06.)