



Rep. Daniel V. Beiser

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LRB096 05151 AJT 25829 a

1 AMENDMENT TO HOUSE BILL 1910

2 AMENDMENT NO. _____. Amend House Bill 1910 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Automated Speed Enforcement Act.

6 Section 5. Purpose. The purpose of this Act is to enhance
7 the safety of the travelling public.

8 Section 10. Definitions. As used in this Act:

9 (a) "Automated speed enforcement system" means a
10 photographic device, radar device, laser device, or other
11 electrical or mechanical device or devices designed to record a
12 violation of Section 11-601(b) of the Illinois Vehicle Code and
13 obtain a clear photograph or other recorded image of the
14 vehicle and the vehicle's registration plate.

15 (b) "Automated speed enforcement violation" or "violation"

1 means a violation of Section 11-601(b) of the Illinois Vehicle
2 Code that is recorded by an automated speed enforcement system.

3 (c) "Department" means the Department of Transportation.

4 (d) "Vehicle owner" means the person or entity to whom the
5 vehicle is registered with the Secretary of State.

6 (e) "System" means an automated speed enforcement system.

7 Section 15. Establishment of an automated speed
8 enforcement pilot program.

9 (a) The Department shall establish an automated speed
10 enforcement pilot program in St. Clair county.

11 (b) The Department shall install the automated speed
12 enforcement systems on the Martin Luther King Bridge and the
13 immediate approach thereto located in St. Clair county.

14 (c) The Department shall contract with a private entity to
15 provide for the installation, maintenance, and operation of
16 systems and the implementation and administration of the pilot
17 program.

18 Section 17. Automated speed enforcement violations.

19 (a) An automated speed enforcement violation is not a
20 violation of a traffic regulation governing the movement of
21 vehicles and may not be recorded on the driving record of the
22 vehicle owner.

23 (b) Unless the driver of a vehicle was cited by a law
24 enforcement officer at the time of an automated speed

1 enforcement violation and received a uniform traffic citation,
2 the vehicle owner is subject to a civil penalty, plus an
3 additional penalty for failure to pay the original penalty in a
4 timely manner.

5 (c) A law enforcement officer is not required to be present
6 or to witness the violation.

7 Section 18. System Requirements.

8 (a) The Department shall employ only those systems capable
9 of recording the speed, date, time, and location of a vehicle
10 committing a violation.

11 (b) The Department shall employ only those systems capable
12 of producing a photograph or other recorded image of a vehicle
13 committing a violation in which the vehicle and the vehicle's
14 registration plate are clearly visible.

15 (c) The photograph or other recorded image must display the
16 date, time, speed, and location of a vehicle committing a
17 violation.

18 Section 20. Deposits. All moneys paid as civil penalties
19 for automated speed enforcement violations shall be deposited
20 into the Automated Speed Enforcement Fund, which is hereby
21 created as a special fund in the State Treasury, for the
22 administration of the automated speed enforcement pilot
23 program. All remaining amounts shall be deposited into the Road
24 Fund.

1 Section 25. Mandatory public information campaign. The
2 Department, with or without the assistance of a private entity,
3 must conduct a public information campaign to inform drivers
4 about the use of automated speed enforcement systems prior to
5 the establishment of the automated speed enforcement pilot
6 program.

7 Section 30. Signage. A location that is equipped with an
8 automated speed enforcement system must be posted with a sign
9 visible to approaching traffic one-half mile before the
10 location that the location is being monitored by an automated
11 speed enforcement system.

12 Section 35. Confidentiality. Any photograph or recorded
13 image made by an automated speed enforcement system is
14 confidential and shall be made available only to the vehicle
15 owner and governmental and law enforcement agencies for the
16 purposes of adjudicating a violation, for statistical
17 purposes, or for other governmental purposes. Any photograph or
18 recorded image made by an automated speed enforcement system
19 evidencing a violation, however, may be admissible in any
20 proceeding to adjudicate the violation.

21 Section 40. Issuance of the notice of a violation.

22 (a) For each violation, the Department shall issue a

1 written notice of violation to the vehicle owner. The notice
2 shall be delivered to the vehicle owner within 30 days after
3 the Secretary of State notifies the Department of the identity
4 of the vehicle owner, but in no event later than 90 days after
5 the violation.

6 (b) The notice of violation must include:

7 (1) the name and address of the vehicle owner;

8 (2) the registration number of the vehicle;

9 (3) the violation charged;

10 (4) the speed of the vehicle;

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

12 (6) notice that the basis of the violation is a
13 photograph or recorded image made by an automated speed
14 enforcement system;

15 (7) a copy of the photograph or recorded image made by
16 the system;

17 (8) the amount of the civil penalty imposed and the
18 date by which the penalty must be paid or contested;

19 (9) a statement that recorded images are evidence of a
20 violation; and

21 (10) information regarding the manner in which and the
22 time and place that the violation may be contested.

23 (c) The notice of violation must be accompanied by a
24 written statement that lists the vehicle owner's rights,
25 obligations, and allowable defenses and explains how the
26 vehicle owner can elect to proceed by either paying the civil

1 penalty or contesting liability for the civil penalty.

2 (d) The Department shall retain a copy of all violation
3 notices, electronically or otherwise.

4 Section 45. Response to issuance of a notice of violation.

5 A person issued a notice of violation under this Act may
6 respond to the notice by any method allowed by Section 50 of
7 this Act.

8 Section 50. Administrative adjudication of violations.

9 (a) The Department shall provide for a system of
10 administrative adjudication of automated speed enforcement
11 system violations. The system of administrative adjudication
12 shall have as its purpose the fair and efficient enforcement of
13 automated speed enforcement systems. The system of
14 administrative adjudication shall only have the authority to
15 adjudicate a violation carrying a civil penalty not in excess
16 of \$250.

17 (b) The system of administrative adjudication shall
18 provide for:

19 (1) procedures for payment of and contesting liability
20 for civil penalties for violations.

21 (2) notice and delivery of violations in accordance
22 with Section 40 of this Act.

23 (3) retention of records in accordance with Section 40
24 of this Act.

1 (4) a determination made by a technician employed or
2 contracted by the Department that, based on inspections of
3 photographs, images, and other information recorded by the
4 systems, that the vehicle committed a violation.

5 (5) collection of moneys paid as civil penalties.

6 (6) a list of allowable defenses.

7 (7) the processing and delivery of notices required by
8 this Act and Section 3-704.3 of the Illinois Vehicle Code.

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

25 (9) delivery of additional notices, sent by first class
26 United States mail, postage prepaid, to the address of the

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

13 (A) A second notice of violation. The second notice
14 of violation shall include, without limitation, the
15 date of delivery of the first notice of violation
16 described in Section 40 of this Act and each disclosure
17 contained in the first notice of violation described in
18 Section 40 of this Act. The second notice of violation
19 shall also state that failure either to pay the
20 indicated penalty or to appear at a hearing on the
21 merits in the time and manner specified, will result in
22 a final determination of violation liability in the
23 amount of the penalty indicated, and that, upon the
24 occurrence of a final determination of violation
25 liability for the failure, and the exhaustion of, or
26 failure to exhaust, available administrative or

1 judicial procedures for review, any unpaid penalty
2 will constitute a debt due and owing the Department.

3 (B) A notice of final determination of automated
4 speed enforcement violation liability. The notice
5 shall be sent following a final determination of
6 automated speed enforcement violation liability and
7 the exhaustion of or failure to exhaust any
8 administrative procedures. The notice shall state that
9 the unpaid civil penalty is a debt due and owing the
10 Department. The notice shall contain warnings that
11 failure to pay any civil penalty due and owing the
12 Department within the time specified may result in the
13 Department filing of a petition in the Circuit Court to
14 have the unpaid civil penalty rendered a judgment as
15 provided by this Section, or may result in suspension
16 of the vehicle registration under Section 6-704.3 of
17 the Illinois Vehicle Code for failure to pay 3 or more
18 automated speed enforcement violations.

19 (10) A Notice of impending registration suspension.
20 The notice shall be sent to the person liable for any civil
21 penalty that remains due and owing on 3 or more automated
22 speed enforcement violations. The notice shall state that
23 failure to pay the civil penalty owing within 45 days of
24 the notice's date will result in the Department notifying
25 the Secretary of State that the person is eligible for
26 initiation of suspension proceedings under Section 6-704.3

1 of the Illinois Vehicle Code. The notice shall also state
2 that the person may obtain a copy of the first violation
3 notice described in Section 40 of this Act by sending a
4 self addressed, stamped envelope to the Department along
5 with a request for the copy. The notice of impending
6 registration suspension shall be sent by first class United
7 States mail, postage prepaid, to the address recorded with
8 the Secretary of State or, if any notice to that address is
9 returned as undeliverable, to the last known address
10 recorded in a United States Post Office approved database.

11 (11) final determinations of automated speed
12 enforcement violation liability. A final determination of
13 automated speed enforcement violation liability shall
14 occur following failure to pay the civil penalty after a
15 hearing officer's determination of violation liability and
16 the exhaustion of or failure to exhaust any administrative
17 review procedures. Where a person fails to appear at a
18 hearing to contest the alleged violation in the time and
19 manner specified in a prior mailed notice, the hearing
20 officer's determination of violation liability shall
21 become final:

22 (A) upon denial of a timely petition to set aside
23 that determination; or

24 (B) upon expiration of the period for filing the
25 petition to set aside that determination without a
26 filing having been made.

1 (12) a petition to set aside a determination of an
2 automated speed enforcement violation liability that may
3 be filed by a person owing an unpaid civil penalty. The
4 petition shall be filed with and ruled upon by the
5 Department in the manner and within the time specified by
6 rule. After the determination of an automated speed
7 enforcement violation liability has been set aside upon a
8 showing of just cause, the vehicle owner shall be provided
9 with a hearing on the merits for that violation. The
10 grounds for the petition shall be limited to:

11 (A) the person not having been the vehicle owner or
12 lessee of the cited vehicle on the date the violation
13 notice was issued;

14 (B) the person having already paid the civil
15 penalty for the violation in question; and

16 (C) excusable failure to appear at or request a new
17 date for a hearing.

18 (13) procedures for non residents. The Department
19 shall adopt procedures by which persons who are not
20 residents of the State may contest the merits of the
21 alleged violation without attending a hearing in person.

22 (14) a schedule of civil civil penalties for automated
23 speed enforcement violations and a schedule of additional
24 penalties for failure to pay the original penalties in a
25 timely manner; provided, however, that the total amount of
26 the penalties shall not exceed \$250, unless the driver of a

1 vehicle was cited by a law enforcement officer at the time
2 of the violation and received a uniform traffic citation.

3 (c) Judicial review of final determinations of automated
4 speed enforcement violations shall be subject to the provisions
5 of the Administrative Review Law.

6 (d) Any civil penalty, or part of any civil penalty
7 remaining unpaid after the exhaustion of, or the failure to
8 exhaust, administrative remedies created by this Act and the
9 conclusion of any applicable judicial review procedures shall
10 be a debt due and owing to the Department and, as such, may be
11 collected in accordance with applicable law. Payment in full of
12 any civil penalty resulting from an automated speed enforcement
13 violation shall constitute a final disposition of the
14 violation.

15 (e) After the expiration of the period within which
16 judicial review may be sought for a final determination of
17 automated speed enforcement violation, the Department may
18 commence a proceeding in the Circuit Court for purposes of
19 obtaining a judgment on the final determination of violation.
20 Nothing in this Section shall prevent a Department from
21 consolidating multiple final determinations automated speed
22 enforcement violations against a person in a proceeding. Upon
23 commencement of the action, the Department shall file a
24 certified copy or record of the final determination of
25 automated speed enforcement violation, which shall be
26 accompanied by a certification that recites facts sufficient to

1 show that the final determination of violation was issued in
2 accordance with this Act. Service of the summons and a copy of
3 the petition may be by any method provided by Section 2-203 of
4 the Code of Civil Procedure or by certified mail, return
5 receipt requested, provided that the total amount of fines and
6 penalties for final determinations of automated traffic
7 enforcement violations does not exceed \$250.00. If the court is
8 satisfied that the final determination of automated speed
9 enforcement violation was entered in accordance with the
10 requirements of this Section, and that the vehicle owner or the
11 lessee, as the case may be, had an opportunity for an
12 administrative hearing and for judicial review as provided in
13 this Section, the court shall render judgment in favor of the
14 Department and against the vehicle owner or the lessee for the
15 amount indicated in the final determination of automated speed
16 enforcement violation, plus costs. The judgment shall have the
17 same effect and may be enforced in the same manner as other
18 judgments for the recovery of money.

19 Section 55. Identification of a renter or lessee.

20 (a) A notice of violation issued under this Act to a motor
21 vehicle rental or leasing company shall be dismissed with
22 respect to the motor vehicle rental or leasing company if:

23 (1) the company responds to the notice of violation by
24 submitting, within 30 days of the mailing of the citation,
25 an affidavit of non-liability stating that, at the time of

1 the alleged violation, the vehicle was in the custody and
2 control of a renter or lessee under the terms of a rental
3 agreement or lease; and

4 (2) the company provides the driver's license number,
5 name, and address of the renter or lessee.

6 (b) A notice of violation dismissed with respect to a motor
7 vehicle rental or leasing company in accordance with subsection
8 (a) may then be issued and delivered by mail or other means to
9 the renter or lessee identified in the affidavit of non
10 liability.

11 Section 60. Semi-annual reporting requirement.

12 (a) The Department shall report to the General Assembly on
13 the automated speed enforcement pilot program by January 1,
14 2011 and every 6 months thereafter. The report shall, at a
15 minimum, include:

16 (1) A specific description of the exact location of the
17 systems;

18 (2) In the event any systems were removed or relocated,
19 a specific description of the exact location in which the
20 systems were formerly located;

21 (3) The criterion adopted by the Department to
22 determine where to install the systems;

23 (4) In the event any systems were removed or relocated,
24 the specific reason or reasons why the Department decided
25 to remove or relocate the systems;

1 (5) Fatality and crash data for each location equipped
2 with a system;

3 (6) The name, address, company history, and finances of
4 the private entity contracted by the Department pursuant to
5 Section 15 of this Act;

6 (7) The total cost of administering the pilot program,
7 including all moneys paid to the private entity contracted
8 by the Department;

9 (8) The total amount of moneys, to date, deposited into
10 the Automated Speed Enforcement Fund described in Section
11 20 of this Act;

12 (9) The total amount of moneys, to date, transferred
13 into the Road Fund pursuant to Section 20 of this Act;

14 (10) The qualifications of the technicians employed or
15 contracted by the Department or a private entity having a
16 contract with the Department that inspect photographs,
17 images, and other information recorded by the system
18 pursuant to Section 50 of this Act;

19 (11) The average number of violations recorded by the
20 system per hour, per day, and per month; and

21 (12) A survey of automated speed enforcement laws and
22 programs enacted or implemented in other states.

23 (b) The private entity contracted by the Department
24 pursuant to Section 15 of this Act is mandated to cooperate
25 with the Department in the preparation of this report.

1 Section 65. The Department may promulgate rules to carry
2 out its duties under this Act.

3 Section 70. Repeal. This Act is repealed on January 1,
4 2013.

5 Section 905. The State Finance Act is amended by adding
6 Section 5.719 as follows:

7 (30 ILCS 105/5.719 new)

8 Sec. 5.719. The Automated Speed Enforcement Fund.

9 Section 910. The Illinois Vehicle Code is amended by adding
10 Section 3-704.3 and by changing Sections 11-612 and 11-1302 as
11 follows:

12 (625 ILCS 5/3-704.3 new)

13 Sec. 3-704.3. Failure to satisfy civil penalties for
14 automated speed enforcement violations.

15 (a) Upon receipt of a certified report, as described in
16 this Section, from the Department stating that the owner of a
17 registered vehicle failed to pay any civil penalty due and
18 owing as a result of 3 offenses for automated speed enforcement
19 system violations pursuant to the Automated Speed Enforcement
20 Act, the Secretary may suspend the vehicle registration of the
21 person in accordance with the procedures set forth in this

1 Section.

2 (b) Following receipt of the certified report, as described
3 in this Section, the Secretary shall notify the person whose
4 name appears on the certified report that the vehicle owner's
5 registration will be suspended at the end of a specified period
6 unless the Secretary is presented with a notice from the
7 Department certifying that the civil penalties owing the
8 Department have been satisfied or that inclusion of that
9 person's name on the certified report was in error. The
10 Secretary's notice shall state in substance the information
11 contained in the Department's certified report to the
12 Secretary, and shall be effective as specified by subsection
13 (c) of Section 6-211 of this Code. The notice must be given in
14 writing by certified mail, return receipt requested, and is
15 effective on the date listed in the notice of suspension,
16 except that the notice is not effective until 4 days after the
17 date on which the notice was deposited into the United States
18 mail. The notice becomes effective 4 days after its deposit
19 into the United States mail regardless of whether the Secretary
20 receives the return receipt and regardless of whether the
21 written notification is returned for any reason to the
22 Secretary as undeliverable.

23 (c) The Department's report notifying the Secretary of
24 unsatisfied civil penalties shall be certified and shall
25 contain the following:

26 (1) The name, last known address, and the registration

1 number of the vehicle of the person who failed to satisfy
2 the civil penalties.

3 (2) A statement that, pursuant to Section 50 of the
4 Automated Speed Enforcement Act, the Department sent a
5 notice of an impending vehicle registration suspension to
6 the person named in the report at the address recorded with
7 the Secretary; the date on which the notice was sent; and
8 the address to which the notice was sent.

9 (d) The Department, after making a certified report as
10 described in this Section, shall notify the Secretary, on a
11 form prescribed by the Secretary, whenever a person named in
12 the certified report has paid the previously reported civil
13 penalties or whenever the Department determines that the
14 original report was in error. A certified copy of the
15 notification shall also be given upon request and at no
16 additional charge to the person named therein. Upon receipt of
17 the Department's notification or presentation of a certified
18 copy of the notification, the Secretary shall terminate the
19 suspension.

20 (e) The Department shall, by rule, establish procedures for
21 persons to challenge the accuracy of the certified report made
22 pursuant to this Section. The Department shall also, by rule,
23 establish allowable grounds for a challenge, which may be
24 limited to:

25 (1) the person not having been the owner or lessee of
26 the vehicle or vehicles receiving 3 or more automated speed

1 enforcement violations on the date or dates the notices
2 were issued; or

3 (2) the person having already paid the civil penalties
4 for the 3 or more automated speed enforcement violations
5 indicated on the certified report.

6 (f) A person may request an administrative hearing to
7 contest an impending suspension or a suspension made pursuant
8 to this Section upon filing a written request with the
9 Secretary. The filing fee for this hearing is \$20, to be paid
10 at the time of the request. The Department shall reimburse the
11 Secretary for all reasonable costs incurred by the Secretary as
12 a result of the filing of a certified report pursuant to this
13 Section, including, but not limited to, the costs of providing
14 notice required pursuant to subsection (b) and the costs
15 incurred by the Secretary in any hearing conducted with respect
16 to the report pursuant to this subsection and any appeal from
17 that hearing.

18 (g) The Secretary and the Department may promulgate rules
19 to enable them to carry out their duties under this Section.

20 (h) The Department shall cooperate with the Secretary in
21 the administration of this Section and shall provide the
22 Secretary with any information the Secretary may deem necessary
23 for these purposes.

24 (i) The Secretary shall cooperate with the Department in
25 the administration of this Section and shall provide the
26 Department with any information the Department may deem

1 necessary for the purposes of this Section, including regular
2 and timely access to vehicle registration records. Section
3 2-123 of this Code shall not apply to the provision of this
4 information, but the Secretary shall be reimbursed for the cost
5 of providing this information.

6 (j) For purposes of this Section, the term "Department"
7 means the Department of Transportation and "Secretary" means
8 the Secretary of State.

9 (625 ILCS 5/11-612)

10 Sec. 11-612. Certain systems to record vehicle speeds
11 prohibited. Except as authorized in the Automated Traffic
12 Control Systems in Highway Construction or Maintenance Zones
13 Act and the Automated Speed Enforcement Act, no photographic,
14 video, or other imaging system may be used in this State to
15 record vehicle speeds for the purpose of enforcing any law or
16 ordinance regarding a maximum or minimum speed limit unless a
17 law enforcement officer is present at the scene and witnesses
18 the event. No State or local governmental entity, including a
19 home rule county or municipality, may use such a system in a
20 way that is prohibited by this Section. The regulation of the
21 use of such systems is an exclusive power and function of the
22 State. This Section is a denial and limitation of home rule
23 powers and functions under subsection (h) of Section 6 of
24 Article VII of the Illinois Constitution.

25 (Source: P.A. 94-771, eff. 1-1-07; 94-795, eff. 5-22-06;

1 94-814, eff. 1-1-07.)

2 (625 ILCS 5/11-1302) (from Ch. 95 1/2, par. 11-1302)

3 Sec. 11-1302. Officers authorized to remove vehicles. (a)
4 Whenever any police officer finds a vehicle in violation of any
5 of the provisions of Section 11-1301 such officer is hereby
6 authorized to move such vehicle, or require the driver or other
7 person in charge of the vehicle to move the same, to a position
8 off the roadway.

9 (b) Any police officer is hereby authorized to remove or
10 cause to be removed to a place of safety any unattended vehicle
11 illegally left standing upon any highway, bridge, causeway, or
12 in a tunnel, in such a position or under such circumstances as
13 to obstruct the normal movement of traffic.

14 Whenever the Department finds an abandoned or disabled
15 vehicle standing upon the paved or main-traveled part of a
16 highway, which vehicle is or may be expected to interrupt the
17 free flow of traffic on the highway or interfere with the
18 maintenance of the highway, the Department is authorized to
19 move the vehicle to a position off the paved or improved or
20 main-traveled part of the highway.

21 (c) Any police officer is hereby authorized to remove or
22 cause to be removed to the nearest garage or other place of
23 safety any vehicle found upon a highway when:

24 1. Report has been made that such vehicle has been stolen
25 or taken without the consent of its owner, or

1 2. The person or persons in charge of such vehicle are
2 unable to provide for its custody or removal, or

3 3. When the person driving or in control of such vehicle is
4 arrested for an alleged offense for which the officer is
5 required by law to take the person arrested before a proper
6 magistrate without unnecessary delay, ~~or~~

7 4. When the registration plate or plates on the vehicle has
8 been suspended, cancelled, or revoked.

9 (Source: P.A. 79-1069.)

10 Section 999. Effective date. This Act takes effect upon
11 becoming law."