

SB0191



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0191

Introduced 2/3/2009, by

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.3

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

Amends the Illinois Vehicle Code. Makes a technical change in a Section concerning administrative adjudication of parking violations.

LRB096 06619 AJT 16703 b

A BILL FOR

1 AN ACT concerning transportation.

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

4 Section 5. The Illinois Vehicle Code is amended by 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 and automated traffic law violations.

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

1 such a system under this Section. For purposes of this Section,
2 "compliance violation" means a violation of a municipal
3 regulation governing the condition or use of equipment on a
4 vehicle or governing the display of a municipal wheel tax
5 license.

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

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

17 (2) A parking, standing, compliance, or automated
18 traffic law violation notice that shall specify the date,
19 time, and place of violation of a parking, standing,
20 compliance, or automated traffic law regulation; the
21 particular regulation violated; the fine and any penalty
22 that may be assessed for late payment, when so provided by
23 ordinance; the vehicle make and state registration number;
24 and the identification number of the person issuing the
25 notice. With regard to automated traffic law violations,
26 vehicle make shall be specified on the automated traffic

1 law violation notice if the make is available and readily
2 discernible. With regard to municipalities with a
3 population of 1 million or more, it shall be grounds for
4 dismissal of a parking violation if the state registration
5 number or vehicle make specified is incorrect. The
6 violation notice shall state that the payment of the
7 indicated fine, and of any applicable penalty for late
8 payment, shall operate as a final disposition of the
9 violation. The notice also shall contain information as to
10 the availability of a hearing in which the violation may be
11 contested on its merits. The violation notice shall specify
12 the time and manner in which a hearing may be had.

13 (3) Service of the parking, standing, or compliance
14 violation notice by affixing the original or a facsimile of
15 the notice to an unlawfully parked vehicle or by handing
16 the notice to the operator of a vehicle if he or she is
17 present and service of an automated traffic law violation
18 notice by mail to the address of the registered owner of
19 the cited vehicle as recorded with the Secretary of State
20 within 30 days after the Secretary of State notifies the
21 municipality or county of the identity of the owner of the
22 vehicle, but in no event later than 90 days after the
23 violation. A person authorized by ordinance to issue and
24 serve parking, standing, and compliance violation notices
25 shall certify as to the correctness of the facts entered on
26 the violation notice by signing his or her name to the

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

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

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

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

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

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

1 indicated, and that, upon the occurrence of a final
2 determination of violation liability for the failure,
3 and the exhaustion of, or failure to exhaust, available
4 administrative or judicial procedures for review, any
5 unpaid fine or penalty will constitute a debt due and
6 owing the municipality.

7 (ii) A notice of final determination of parking,
8 standing, compliance, or automated traffic law
9 violation liability. This notice shall be sent
10 following a final determination of parking, standing,
11 compliance, or automated traffic law violation
12 liability and the conclusion of judicial review
13 procedures taken under this Section. The notice shall
14 state that the unpaid fine or penalty is a debt due and
15 owing the municipality. The notice shall contain
16 warnings that failure to pay any fine or penalty due
17 and owing the municipality within the time specified
18 may result in the municipality's filing of a petition
19 in the Circuit Court to have the unpaid fine or penalty
20 rendered a judgment as provided by this Section, or may
21 result in suspension of the person's drivers license
22 for failure to pay fines or penalties for 10 or more
23 parking violations under Section 6-306.5 or 5 or more
24 automated traffic law violations under Section
25 11-208.6.

26 (6) A Notice of impending drivers license suspension.

1 This notice shall be sent to the person liable for any fine
2 or penalty that remains due and owing on 10 or more parking
3 violations or 5 or more unpaid automated traffic law
4 violations. The notice shall state that failure to pay the
5 fine or penalty owing within 45 days of the notice's date
6 will result in the municipality notifying the Secretary of
7 State that the person is eligible for initiation of
8 suspension proceedings under Section 6-306.5 of this Code.
9 The notice shall also state that the person may obtain a
10 photostatic copy of an original ticket imposing a fine or
11 penalty by sending a self addressed, stamped envelope to
12 the municipality along with a request for the photostatic
13 copy. The notice of impending drivers license suspension
14 shall be sent by first class United States mail, postage
15 prepaid, to the address recorded with the Secretary of
16 State or, if any notice to that address is returned as
17 undeliverable, to the last known address recorded in a
18 United States Post Office approved database.

19 (7) Final determinations of violation liability. A
20 final determination of violation liability shall occur
21 following failure to pay the fine or penalty after a
22 hearing officer's determination of violation liability and
23 the exhaustion of or failure to exhaust any administrative
24 review procedures provided by ordinance. Where a person
25 fails to appear at a hearing to contest the alleged
26 violation in the time and manner specified in a prior

1 mailed notice, the hearing officer's determination of
2 violation liability shall become final: (A) upon denial of
3 a timely petition to set aside that determination, or (B)
4 upon expiration of the period for filing the petition
5 without a filing having been made.

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

26 (9) Procedures for non-residents. Procedures by which

1 persons who are not residents of the municipality may
2 contest the merits of the alleged violation without
3 attending a hearing.

4 (10) A schedule of civil fines for violations of
5 vehicular standing, parking, compliance, or automated
6 traffic law regulations enacted by ordinance pursuant to
7 this Section, and a schedule of penalties for late payment
8 of the fines, provided, however, that the total amount of
9 the fine and penalty for any one violation shall not exceed
10 \$250, except as provided in subsection (c) of Section
11 11-1301.3 of this Code.

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

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

25 (1) Criteria for the designation of vehicles eligible
26 for immobilization. A vehicle shall be eligible for

1 immobilization when the registered owner of the vehicle has
2 accumulated the number of unpaid final determinations of
3 parking, standing, compliance, or automated traffic law
4 violation liability as determined by ordinance.

5 (2) A notice of impending vehicle immobilization and a
6 right to a hearing to challenge the validity of the notice
7 by disproving liability for the unpaid final
8 determinations of parking, standing, compliance, or
9 automated traffic law violation liability listed on the
10 notice.

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

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

22 (d) Judicial review of final determinations of parking,
23 standing, compliance, or automated traffic law violations and
24 final administrative decisions issued after hearings regarding
25 vehicle immobilization and impoundment made under this Section
26 shall be subject to the provisions of the Administrative Review

1 Law.

2 (e) Any fine, penalty, or part of any fine or any penalty
3 remaining unpaid after the exhaustion of, or the failure to
4 exhaust, administrative remedies created under this Section
5 and the conclusion of any judicial review procedures shall be a
6 debt due and owing the municipality and, as such, may be
7 collected in accordance with applicable law. Payment in full of
8 any fine or penalty resulting from a standing, parking,
9 compliance, or automated traffic law violation shall
10 constitute a final disposition of that violation.

11 (f) After the expiration of the period within which
12 judicial review may be sought for a final determination of
13 parking, standing, compliance, or automated traffic law
14 violation, the municipality may commence a proceeding in the
15 Circuit Court for purposes of obtaining a judgment on the final
16 determination of violation. Nothing in this Section shall
17 prevent a municipality from consolidating multiple final
18 determinations of parking, standing, compliance, or automated
19 traffic law violations against a person in a proceeding. Upon
20 commencement of the action, the municipality shall file a
21 certified copy or record of the final determination of parking,
22 standing, compliance, or automated traffic law violation,
23 which shall be accompanied by a certification that recites
24 facts sufficient to show that the final determination of
25 violation was issued in accordance with this Section and the
26 applicable municipal ordinance. Service of the summons and a

1 copy of the petition may be by any method provided by Section
2 2-203 of the Code of Civil Procedure or by certified mail,
3 return receipt requested, provided that the total amount of
4 fines and penalties for final determinations of parking,
5 standing, compliance, or automated traffic law violations does
6 not exceed \$2500. If the court is satisfied that the final
7 determination of parking, standing, compliance, or automated
8 traffic law violation was entered in accordance with the
9 requirements of this Section and the applicable municipal
10 ordinance, and that the registered owner or the lessee, as the
11 case may be, had an opportunity for an administrative hearing
12 and for judicial review as provided in this Section, the court
13 shall render judgment in favor of the municipality and against
14 the registered owner or the lessee for the amount indicated in
15 the final determination of parking, standing, compliance, or
16 automated traffic law violation, plus costs. The judgment shall
17 have the same effect and may be enforced in the same manner as
18 other judgments for the recovery of money.

19 (Source: P.A. 94-294, eff. 1-1-06; 94-795, eff. 5-22-06;
20 94-930, eff. 6-26-06; 95-331, eff. 8-21-07.)