

SB2477



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2477

Introduced 10/14/2009, by Sen. Rickey R. Hendon

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that an automated traffic law system may not be used to issue violations to persons driving a motor vehicle who come to a stop one foot or less past the point where a driver is required to stop as specified by the Code or a similar provision of a local ordinance.

LRB096 14783 AJT 29641 b

FISCAL NOTE ACT
MAY APPLY

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 11-208.6 as follows:

6 (625 ILCS 5/11-208.6)

7 Sec. 11-208.6. Automated traffic law enforcement system.

8 (a) As used in this Section, "automated traffic law
9 enforcement system" means a device with one or more motor
10 vehicle sensors working in conjunction with a red light signal
11 to produce recorded images of motor vehicles entering an
12 intersection against a red signal indication in violation of
13 Section 11-306 of this Code or a similar provision of a local
14 ordinance.

15 An automated traffic law enforcement system is a system, in
16 a municipality or county operated by a governmental agency,
17 that produces a recorded image of a motor vehicle's violation
18 of a provision of this Code or a local ordinance and is
19 designed to obtain a clear recorded image of the vehicle and
20 the vehicle's license plate. The recorded image must also
21 display the time, date, and location of the violation.

22 (b) As used in this Section, "recorded images" means images
23 recorded by an automated traffic law enforcement system on:

- 1 (1) 2 or more photographs;
- 2 (2) 2 or more microphotographs;
- 3 (3) 2 or more electronic images; or
- 4 (4) a video recording showing the motor vehicle and, on
- 5 at least one image or portion of the recording, clearly
- 6 identifying the registration plate number of the motor
- 7 vehicle.

8 (c) A county or municipality, including a home rule county

9 or municipality, may not use an automated traffic law

10 enforcement system to provide recorded images of a motor

11 vehicle for the purpose of recording its speed. The regulation

12 of the use of automated traffic law enforcement systems to

13 record vehicle speeds is an exclusive power and function of the

14 State. This subsection (c) is a denial and limitation of home

15 rule powers and functions under subsection (h) of Section 6 of

16 Article VII of the Illinois Constitution.

17 (c-5) A county or municipality, including a home rule

18 county or municipality, may not use an automated traffic law

19 enforcement system to provide recorded images of a motor

20 vehicle for the purpose of issuing violations to persons

21 driving a motor vehicle who come to a stop one foot or less

22 past the point where a driver is required to stop as specified

23 in subsection (c) of Section 11-306 of this Code or a similar

24 provision of a local ordinance.

25 (d) For each violation of a provision of this Code or a

26 local ordinance recorded by an automatic traffic law

1 enforcement system, the county or municipality having
2 jurisdiction shall issue a written notice of the violation to
3 the registered owner of the vehicle as the alleged violator.
4 The notice shall be delivered to the registered owner of the
5 vehicle, by mail, within 30 days after the Secretary of State
6 notifies the municipality or county of the identity of the
7 owner of the vehicle, but in no event later than 90 days after
8 the violation.

9 The notice shall include:

10 (1) the name and address of the registered owner of the
11 vehicle;

12 (2) the registration number of the motor vehicle
13 involved in the violation;

14 (3) the violation charged;

15 (4) the location where the violation occurred;

16 (5) the date and time of the violation;

17 (6) a copy of the recorded images;

18 (7) the amount of the civil penalty imposed and the
19 requirements of any traffic education program imposed and
20 the date by which the civil penalty should be paid and the
21 traffic education program should be completed;

22 (8) a statement that recorded images are evidence of a
23 violation of a red light signal;

24 (9) a warning that failure to pay the civil penalty, to
25 complete a required traffic education program, or to
26 contest liability in a timely manner is an admission of

1 liability and may result in a suspension of the driving
2 privileges of the registered owner of the vehicle; and

3 (10) a statement that the person may elect to proceed
4 by:

5 (A) paying the fine, completing a required traffic
6 education program, or both; or

7 (B) challenging the charge in court, by mail, or by
8 administrative hearing.

9 (e) If a person charged with a traffic violation, as a
10 result of an automated traffic law enforcement system, does not
11 pay the fine or complete a required traffic education program,
12 or both, or successfully contest the civil penalty resulting
13 from that violation, the Secretary of State shall suspend the
14 driving privileges of the registered owner of the vehicle under
15 Section 6-306.5 of this Code for failing to complete a required
16 traffic education program or to pay any fine or penalty due and
17 owing, or both, as a result of 5 violations of the automated
18 traffic law enforcement system.

19 (f) Based on inspection of recorded images produced by an
20 automated traffic law enforcement system, a notice alleging
21 that the violation occurred shall be evidence of the facts
22 contained in the notice and admissible in any proceeding
23 alleging a violation under this Section.

24 (g) Recorded images made by an automatic traffic law
25 enforcement system are confidential and shall be made available
26 only to the alleged violator and governmental and law

1 enforcement agencies for purposes of adjudicating a violation
2 of this Section, for statistical purposes, or for other
3 governmental purposes. Any recorded image evidencing a
4 violation of this Section, however, may be admissible in any
5 proceeding resulting from the issuance of the citation.

6 (h) The court or hearing officer may consider in defense of
7 a violation:

8 (1) that the motor vehicle or registration plates of
9 the motor vehicle were stolen before the violation occurred
10 and not under the control of or in the possession of the
11 owner at the time of the violation;

12 (2) that the driver of the vehicle passed through the
13 intersection when the light was red either (i) in order to
14 yield the right-of-way to an emergency vehicle or (ii) as
15 part of a funeral procession; and

16 (3) any other evidence or issues provided by municipal
17 or county ordinance.

18 (i) To demonstrate that the motor vehicle or the
19 registration plates were stolen before the violation occurred
20 and were not under the control or possession of the owner at
21 the time of the violation, the owner must submit proof that a
22 report concerning the stolen motor vehicle or registration
23 plates was filed with a law enforcement agency in a timely
24 manner.

25 (j) Unless the driver of the motor vehicle received a
26 Uniform Traffic Citation from a police officer at the time of

1 the violation, the motor vehicle owner is subject to a civil
2 penalty not exceeding \$100 or the completion of a traffic
3 education program, or both, plus an additional penalty of not
4 more than \$100 for failure to pay the original penalty or to
5 complete a required traffic education program, or both, in a
6 timely manner, if the motor vehicle is recorded by an automated
7 traffic law enforcement system. A violation for which a civil
8 penalty is imposed under this Section is not a violation of a
9 traffic regulation governing the movement of vehicles and may
10 not be recorded on the driving record of the owner of the
11 vehicle.

12 (j-3) A registered owner who is a holder of a valid
13 commercial driver's license is not required to complete a
14 traffic education program.

15 (j-5) For purposes of the required traffic education
16 program only, a registered owner may submit an affidavit to the
17 court or hearing officer swearing that at the time of the
18 alleged violation, the vehicle was in the custody and control
19 of another person. The affidavit must identify the person in
20 custody and control of the vehicle, including the person's name
21 and current address. The person in custody and control of the
22 vehicle at the time of the violation is required to complete
23 the required traffic education program. If the person in
24 custody and control of the vehicle at the time of the violation
25 completes the required traffic education program, the
26 registered owner of the vehicle is not required to complete a

1 traffic education program.

2 (k) An intersection equipped with an automated traffic law
3 enforcement system must be posted with a sign visible to
4 approaching traffic indicating that the intersection is being
5 monitored by an automated traffic law enforcement system.

6 (l) The compensation paid for an automated traffic law
7 enforcement system must be based on the value of the equipment
8 or the services provided and may not be based on the number of
9 traffic citations issued or the revenue generated by the
10 system.

11 (m) This Section applies only to the counties of Cook,
12 DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and
13 to municipalities located within those counties.

14 (n) The fee for participating in a traffic education
15 program under this Section shall not exceed \$25.

16 A low-income individual required to complete a traffic
17 education program under this Section who provides proof of
18 eligibility for the federal earned income tax credit under
19 Section 32 of the Internal Revenue Code or the Illinois earned
20 income tax credit under Section 212 of the Illinois Income Tax
21 Act shall not be required to pay any fee for participating in a
22 required traffic education program.

23 (Source: P.A. 96-288, eff. 8-11-09.)