

# HB3805



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB3805**

Introduced 10/5/2011, by Rep. Jim Durkin

#### SYNOPSIS AS INTRODUCED:

605 ILCS 10/10

from Ch. 121, par. 100-10

Amends the Toll Highway Act. Makes a technical change in a Section concerning powers of the Toll Highway Authority.

LRB097 13221 HEP 57729 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 Toll Highway Act is amended by changing  
5 Section 10 as follows:

6 (605 ILCS 10/10) (from Ch. 121, par. 100-10)

7 Sec. 10. The Authority shall have power:

8 (a) To pass resolutions, make ~~make~~ by-laws, rules and  
9 regulations for the management, regulation and control of its  
10 affairs, and to fix tolls, and to make, enact and enforce all  
11 needful rules and regulations in connection with the  
12 construction, operation, management, care, regulation or  
13 protection of its property or any toll highways, constructed or  
14 reconstructed hereunder.

15 (a-5) To fix, assess, and collect civil fines for a  
16 vehicle's operation on a toll highway without the required toll  
17 having been paid. The Authority may establish by rule a system  
18 of civil administrative adjudication to adjudicate only  
19 alleged instances of a vehicle's operation on a toll highway  
20 without the required toll having been paid, as detected by the  
21 Authority's video or photo surveillance system. In cases in  
22 which the operator of the vehicle is not the registered vehicle  
23 owner, the establishment of ownership of the vehicle creates a

1 rebuttable presumption that the vehicle was being operated by  
2 an agent of the registered vehicle owner. If the registered  
3 vehicle owner liable for a violation under this Section was not  
4 the operator of the vehicle at the time of the violation, the  
5 owner may maintain an action for indemnification against the  
6 operator in the circuit court. Rules establishing a system of  
7 civil administrative adjudication must provide for written  
8 notice, by first class mail or other means provided by law, to  
9 the address of the registered owner of the cited vehicle as  
10 recorded with the Secretary of State or to the lessee of the  
11 cited vehicle at the last address known to the lessor of the  
12 cited vehicle at the time of the lease, of the alleged  
13 violation and an opportunity to be heard on the question of the  
14 violation and must provide for the establishment of a toll-free  
15 telephone number to receive inquiries concerning alleged  
16 violations. The notice shall also inform the registered vehicle  
17 owner that failure to contest in the manner and time provided  
18 shall be deemed an admission of liability and that a final  
19 order of liability may be entered on that admission. A duly  
20 authorized agent of the Authority may perform or execute the  
21 preparation, certification, affirmation, or mailing of the  
22 notice. A notice of violation, sworn or affirmed to or  
23 certified by a duly authorized agent of the Authority, or a  
24 facsimile of the notice, based upon an inspection of  
25 photographs, microphotographs, videotape, or other recorded  
26 images produced by a video or photo surveillance system, shall

1 be admitted as prima facie evidence of the correctness of the  
2 facts contained in the notice or facsimile. Only civil fines,  
3 along with the corresponding outstanding toll, and costs may be  
4 imposed by administrative adjudication. A fine may be imposed  
5 under this paragraph only if a violation is established by a  
6 preponderance of the evidence. Judicial review of all final  
7 orders of the Authority under this paragraph shall be conducted  
8 in the circuit court of the county in which the administrative  
9 decision was rendered in accordance with the Administrative  
10 Review Law.

11 Any outstanding toll, fine, additional late payment fine,  
12 other sanction, or costs imposed, or part of any fine, other  
13 sanction, or costs imposed, remaining unpaid after the  
14 exhaustion of, or the failure to exhaust, judicial review  
15 procedures under the Administrative Review Law are a debt due  
16 and owing the Authority and may be collected in accordance with  
17 applicable law. After expiration of the period in which  
18 judicial review under the Administrative Review Law may be  
19 sought, unless stayed by a court of competent jurisdiction, a  
20 final order of the Authority under this subsection (a-5) may be  
21 enforced in the same manner as a judgment entered by a court of  
22 competent jurisdiction. Notwithstanding any other provision of  
23 this Act, the Authority may, with the approval of the Attorney  
24 General, retain a law firm or law firms with expertise in the  
25 collection of government fines and debts for the purpose of  
26 collecting fines, costs, and other moneys due under this

1 subsection (a-5).

2 A system of civil administrative adjudication may also  
3 provide for a program of vehicle immobilization, tow, or  
4 impoundment for the purpose of facilitating enforcement of any  
5 final order or orders of the Authority under this subsection  
6 (a-5) that result in a finding or liability for 5 or more  
7 violations after expiration of the period in which judicial  
8 review under the Administrative Review Law may be sought. The  
9 registered vehicle owner of a vehicle immobilized, towed, or  
10 impounded for nonpayment of a final order of the Authority  
11 under this subsection (a-5) shall have the right to request a  
12 hearing before the Authority's civil administrative  
13 adjudicatory system to challenge the validity of the  
14 immobilization, tow, or impoundment. This hearing, however,  
15 shall not constitute a readjudication of the merits of  
16 previously adjudicated notices. Judicial review of all final  
17 orders of the Authority under this subsection (a-5) shall be  
18 conducted in the circuit court of the county in which the  
19 administrative decision was rendered in accordance with the  
20 Administrative Review Law.

21 No commercial entity that is the lessor of a vehicle under  
22 a written lease agreement shall be liable for an administrative  
23 notice of violation for toll evasion issued under this  
24 subsection (a-5) involving that vehicle during the period of  
25 the lease if the lessor provides a copy of the leasing  
26 agreement to the Authority within 21 days of the issue date on

1 the notice of violation. The leasing agreement also must  
2 contain a provision or addendum informing the lessee that the  
3 lessee is liable for payment of all tolls and any fines for  
4 toll evasion. Each entity must also post a sign at the leasing  
5 counter notifying the lessee of that liability. The copy of the  
6 leasing agreement provided to the Authority must contain the  
7 name, address, and driver's license number of the lessee, as  
8 well as the check-out and return dates and times of the vehicle  
9 and the vehicle license plate number and vehicle make and  
10 model.

11 As used in this subsection (a-5), "lessor" includes  
12 commercial leasing and rental entities but does not include  
13 public passenger vehicle entities.

14 The Authority shall establish an amnesty program for  
15 violations adjudicated under this subsection (a-5). Under the  
16 program, any person who has an outstanding notice of violation  
17 for toll evasion or a final order of a hearing officer for toll  
18 evasion dated prior to the effective date of this amendatory  
19 Act of the 94th General Assembly and who pays to the Authority  
20 the full percentage amounts listed in this paragraph remaining  
21 due on the notice of violation or final order of the hearing  
22 officer and the full fees and costs paid by the Authority to  
23 the Secretary of State relating to suspension proceedings, if  
24 applicable, on or before 5:00 p.m., Central Standard Time, of  
25 the 60th day after the effective date of this amendatory Act of  
26 the 94th General Assembly shall not be required to pay more

1 than the listed percentage of the original fine amount and  
2 outstanding toll as listed on the notice of violation or final  
3 order of the hearing officer and the full fees and costs paid  
4 by the Authority to the Secretary of State relating to  
5 suspension proceedings, if applicable. The payment percentage  
6 scale shall be as follows: a person with 25 or fewer violations  
7 shall be eligible for amnesty upon payment of 50% of the  
8 original fine amount and the outstanding tolls; a person with  
9 more than 25 but fewer than 51 violations shall be eligible for  
10 amnesty upon payment of 60% of the original fine amount and the  
11 outstanding tolls; and a person with 51 or more violations  
12 shall be eligible for amnesty upon payment of 75% of the  
13 original fine amount and the outstanding tolls. In such a  
14 situation, the Executive Director of the Authority or his or  
15 her designee is authorized and directed to waive any late fine  
16 amount above the applicable percentage of the original fine  
17 amount. Partial payment of the amount due shall not be a basis  
18 to extend the amnesty payment deadline nor shall it act to  
19 relieve the person of liability for payment of the late fine  
20 amount. In order to receive amnesty, the full amount of the  
21 applicable percentage of the original fine amount and  
22 outstanding toll remaining due on the notice of violation or  
23 final order of the hearing officer and the full fees and costs  
24 paid by the Authority to the Secretary of State relating to  
25 suspension proceedings, if applicable, must be paid in full by  
26 5:00 p.m., Central Standard Time, of the 60th day after the

1 effective date of this amendatory Act of the 94th General  
2 Assembly. This amendatory Act of the 94th General Assembly has  
3 no retroactive effect with regard to payments already tendered  
4 to the Authority that were full payments or payments in an  
5 amount greater than the applicable percentage, and this Act  
6 shall not be the basis for either a refund or a credit. This  
7 amendatory Act of the 94th General Assembly does not apply to  
8 toll evasion citations issued by the Illinois State Police or  
9 other authorized law enforcement agencies and for which payment  
10 may be due to or through the clerk of the circuit court. The  
11 Authority shall adopt rules as necessary to implement the  
12 provisions of this amendatory Act of the 94th General Assembly.  
13 The Authority, by a resolution of the Board of Directors, shall  
14 have the discretion to implement similar amnesty programs in  
15 the future. The Authority, at its discretion and in  
16 consultation with the Attorney General, is further authorized  
17 to settle an administrative fine or penalty if it determines  
18 that settling for less than the full amount is in the best  
19 interests of the Authority after taking into account the  
20 following factors: (1) the merits of the Authority's claim  
21 against the respondent; (2) the amount that can be collected  
22 relative to the administrative fine or penalty owed by the  
23 respondent; (3) the cost of pursuing further enforcement or  
24 collection action against the respondent; (4) the likelihood of  
25 collecting the full amount owed; and (5) the burden on the  
26 judiciary. The provisions in this Section may be extended to



1 other toll facilities in the State of Illinois through a duly  
2 executed agreement between the Authority and the operator of  
3 the toll facility.

4 (b) To prescribe rules and regulations applicable to  
5 traffic on highways under the jurisdiction of the Authority,  
6 concerning:

7 (1) Types of vehicles permitted to use such highways or  
8 parts thereof, and classification of such vehicles;

9 (2) Designation of the lanes of traffic to be used by  
10 the different types of vehicles permitted upon said  
11 highways;

12 (3) Stopping, standing, and parking of vehicles;

13 (4) Control of traffic by means of police officers or  
14 traffic control signals;

15 (5) Control or prohibition of processions, convoys,  
16 and assemblages of vehicles and persons;

17 (6) Movement of traffic in one direction only on  
18 designated portions of said highways;

19 (7) Control of the access, entrance, and exit of  
20 vehicles and persons to and from said highways; and

21 (8) Preparation, location and installation of all  
22 traffic signs; and to prescribe further rules and  
23 regulations applicable to such traffic, concerning matters  
24 not provided for either in the foregoing enumeration or in  
25 the Illinois Vehicle Code. Notice of such rules and  
26 regulations shall be posted conspicuously and displayed at

1 appropriate points and at reasonable intervals along said  
2 highways, by clearly legible markers or signs, to provide  
3 notice of the existence of such rules and regulations to  
4 persons traveling on said highways. At each toll station,  
5 the Authority shall make available, free of charge,  
6 pamphlets containing all of such rules and regulations.

7 (c) The Authority, in fixing the rate for tolls for the  
8 privilege of using the said toll highways, is authorized and  
9 directed, in fixing such rates, to base the same upon annual  
10 estimates to be made, recorded and filed with the Authority.  
11 Said estimates shall include the following: The estimated total  
12 amount of the use of the toll highways; the estimated amount of  
13 the revenue to be derived therefrom, which said revenue, when  
14 added to all other receipts and income, will be sufficient to  
15 pay the expense of maintaining and operating said toll  
16 highways, including the administrative expenses of the  
17 Authority, and to discharge all obligations of the Authority as  
18 they become due and payable.

19 (d) To accept from any municipality or political  
20 subdivision any lands, easements or rights in land needed for  
21 the operation, construction, relocation or maintenance of any  
22 toll highways, with or without payment therefor, and in its  
23 discretion to reimburse any such municipality or political  
24 subdivision out of its funds for any cost or expense incurred  
25 in the acquisition of land, easements or rights in land, in  
26 connection with the construction and relocation of the said

1 toll highways, widening, extending roads, streets or avenues in  
2 connection therewith, or for the construction of any roads or  
3 streets forming extension to and connections with or between  
4 any toll highways, or for the cost or expense of widening,  
5 grading, surfacing or improving any existing streets or roads  
6 or the construction of any streets and roads forming extensions  
7 of or connections with any toll highways constructed,  
8 relocated, operated, maintained or regulated hereunder by the  
9 Authority. Where property owned by a municipality or political  
10 subdivision is necessary to the construction of an approved  
11 toll highway, if the Authority cannot reach an agreement with  
12 such municipality or political subdivision and if the use to  
13 which the property is being put in the hands of the  
14 municipality or political subdivision is not essential to the  
15 existence or the administration of such municipality or  
16 political subdivision, the Authority may acquire the property  
17 by condemnation.

18 (Source: P.A. 94-636, eff. 8-22-05.)