



Rep. Kelly Burke

Filed: 4/20/2015

09900HB1053ham001

LRB099 04883 RJF 34489 a

1 AMENDMENT TO HOUSE BILL 1053

2 AMENDMENT NO. _____. Amend House Bill 1053 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing 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, automated traffic law violations, and
10 automated speed enforcement system violations.

11 (a) Any municipality or county may provide by ordinance for
12 a system of administrative adjudication of vehicular standing
13 and parking violations and vehicle compliance violations as
14 described in this subsection, automated traffic law violations
15 as defined in Section 11-208.6, 11-208.9, or 11-1201.1, and
16 automated speed enforcement system violations as defined in

1 Section 11-208.8. The administrative system shall have as its
2 purpose the fair and efficient enforcement of municipal or
3 county regulations through the administrative adjudication of
4 automated speed enforcement system or automated traffic law
5 violations and violations of municipal or county ordinances
6 regulating the standing and parking of vehicles, the condition
7 and use of vehicle equipment, and the display of municipal or
8 county wheel tax licenses within the municipality's or county's
9 borders. The administrative system shall only have authority to
10 adjudicate civil offenses carrying fines not in excess of \$500
11 or requiring the completion of a traffic education program, or
12 both, that occur after the effective date of the ordinance
13 adopting such a system under this Section. For purposes of this
14 Section, "compliance violation" means a violation of a
15 municipal or county regulation governing the condition or use
16 of equipment on a vehicle or governing the display of a
17 municipal or county wheel tax license.

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

20 (1) A traffic compliance administrator authorized to
21 adopt, distribute and process parking, compliance, and
22 automated speed enforcement system or automated traffic
23 law violation notices and other notices required by this
24 Section, collect money paid as fines and penalties for
25 violation of parking and compliance ordinances and
26 automated speed enforcement system or automated traffic

1 law violations, and operate an administrative adjudication
2 system. The traffic compliance administrator also may make
3 a certified report to the Secretary of State under Section
4 6-306.5.

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

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

9 (3) Service of the parking, standing, or compliance
10 violation notice by affixing the original or a facsimile of
11 the notice to an unlawfully parked vehicle or by handing
12 the notice to the operator of a vehicle if he or she is
13 present, or ~~and~~ service of an automated speed enforcement
14 system, ~~or~~ automated traffic law, or compliance violation
15 notice by mail to the address of the registered owner or
16 lessee of the cited vehicle as recorded with the Secretary
17 of State or the lessor of the motor vehicle within 30 days
18 after the Secretary of State or the lessor of the motor
19 vehicle notifies the municipality or county of the identity
20 of the owner or lessee of the vehicle, but not later than
21 90 days after the violation, except that in the case of a
22 lessee of a motor vehicle, service of an automated traffic
23 law violation notice may occur no later than 210 days after
24 the violation. A person authorized by ordinance to issue
25 and serve parking, standing, and compliance violation
26 notices shall certify as to the correctness of the facts

1 entered on the violation notice by signing his or her name
2 to the notice at the time of service or in the case of a
3 notice produced by a computerized device, by signing a
4 single certificate to be kept by the traffic compliance
5 administrator attesting to the correctness of all notices
6 produced by the device while it was under his or her
7 control. In the case of an automated traffic law violation,
8 the ordinance shall require a determination by a technician
9 employed or contracted by the municipality or county that,
10 based on inspection of recorded images, the motor vehicle
11 was being operated in violation of Section 11-208.6,
12 11-208.9, or 11-1201.1 or a local ordinance. If the
13 technician determines that the vehicle entered the
14 intersection as part of a funeral procession or in order to
15 yield the right-of-way to an emergency vehicle, a citation
16 shall not be issued. In municipalities with a population of
17 less than 1,000,000 inhabitants and counties with a
18 population of less than 3,000,000 inhabitants, the
19 automated traffic law ordinance shall require that all
20 determinations by a technician that a motor vehicle was
21 being operated in violation of Section 11-208.6, 11-208.9,
22 or 11-1201.1 or a local ordinance must be reviewed and
23 approved by a law enforcement officer or retired law
24 enforcement officer of the municipality or county issuing
25 the violation. In municipalities with a population of
26 1,000,000 or more inhabitants and counties with a

1 population of 3,000,000 or more inhabitants, the automated
2 traffic law ordinance shall require that all
3 determinations by a technician that a motor vehicle was
4 being operated in violation of Section 11-208.6, 11-208.9,
5 or 11-1201.1 or a local ordinance must be reviewed and
6 approved by a law enforcement officer or retired law
7 enforcement officer of the municipality or county issuing
8 the violation or by an additional fully-trained reviewing
9 technician who is not employed by the contractor who
10 employs the technician who made the initial determination.
11 In the case of an automated speed enforcement system
12 violation, the ordinance shall require a determination by a
13 technician employed by the municipality, based upon an
14 inspection of recorded images, video or other
15 documentation, including documentation of the speed limit
16 and automated speed enforcement signage, and documentation
17 of the inspection, calibration, and certification of the
18 speed equipment, that the vehicle was being operated in
19 violation of Article VI of Chapter 11 of this Code or a
20 similar local ordinance. If the technician determines that
21 the vehicle speed was not determined by a calibrated,
22 certified speed equipment device based upon the speed
23 equipment documentation, or if the vehicle was an emergency
24 vehicle, a citation may not be issued. The automated speed
25 enforcement ordinance shall require that all
26 determinations by a technician that a violation occurred be

1 reviewed and approved by a law enforcement officer or
2 retired law enforcement officer of the municipality
3 issuing the violation or by an additional fully trained
4 reviewing technician who is not employed by the contractor
5 who employs the technician who made the initial
6 determination. Routine and independent calibration of the
7 speeds produced by automated speed enforcement systems and
8 equipment shall be conducted annually by a qualified
9 technician. Speeds produced by an automated speed
10 enforcement system shall be compared with speeds produced
11 by lidar or other independent equipment. Radar or lidar
12 equipment shall undergo an internal validation test no less
13 frequently than once each week. Qualified technicians
14 shall test loop based equipment no less frequently than
15 once a year. Radar equipment shall be checked for accuracy
16 by a qualified technician when the unit is serviced, when
17 unusual or suspect readings persist, or when deemed
18 necessary by a reviewing technician. Radar equipment shall
19 be checked with the internal frequency generator and the
20 internal circuit test whenever the radar is turned on.
21 Technicians must be alert for any unusual or suspect
22 readings, and if unusual or suspect readings of a radar
23 unit persist, that unit shall immediately be removed from
24 service and not returned to service until it has been
25 checked by a qualified technician and determined to be
26 functioning properly. Documentation of the annual

1 calibration results, including the equipment tested, test
2 date, technician performing the test, and test results,
3 shall be maintained and available for use in the
4 determination of an automated speed enforcement system
5 violation and issuance of a citation. The technician
6 performing the calibration and testing of the automated
7 speed enforcement equipment shall be trained and certified
8 in the use of equipment for speed enforcement purposes.
9 Training on the speed enforcement equipment may be
10 conducted by law enforcement, civilian, or manufacturer's
11 personnel and if applicable may be equivalent to the
12 equipment use and operations training included in the Speed
13 Measuring Device Operator Program developed by the
14 National Highway Traffic Safety Administration (NHTSA).
15 The vendor or technician who performs the work shall keep
16 accurate records on each piece of equipment the technician
17 calibrates and tests. As used in this paragraph,
18 "fully-trained reviewing technician" means a person who
19 has received at least 40 hours of supervised training in
20 subjects which shall include image inspection and
21 interpretation, the elements necessary to prove a
22 violation, license plate identification, and traffic
23 safety and management. In all municipalities and counties,
24 the automated speed enforcement system or automated
25 traffic law ordinance shall require that no additional fee
26 shall be charged to the alleged violator for exercising his

1 or her right to an administrative hearing, and persons
2 shall be given at least 25 days following an administrative
3 hearing to pay any civil penalty imposed by a finding that
4 Section 11-208.6, 11-208.8, 11-208.9, or 11-1201.1 or a
5 similar local ordinance has been violated. The original or
6 a facsimile of the violation notice or, in the case of a
7 notice produced by a computerized device, a printed record
8 generated by the device showing the facts entered on the
9 notice, shall be retained by the traffic compliance
10 administrator, and shall be a record kept in the ordinary
11 course of business. A parking, standing, compliance,
12 automated speed enforcement system, or automated traffic
13 law violation notice issued, signed and served in
14 accordance with this Section, a copy of the notice, or the
15 computer generated record shall be prima facie correct and
16 shall be prima facie evidence of the correctness of the
17 facts shown on the notice. The notice, copy, or computer
18 generated record shall be admissible in any subsequent
19 administrative or legal proceedings.

20 (4) An opportunity for a hearing for the registered
21 owner of the vehicle cited in the parking, standing,
22 compliance, automated speed enforcement system, or
23 automated traffic law violation notice in which the owner
24 may contest the merits of the alleged violation, and during
25 which formal or technical rules of evidence shall not
26 apply; provided, however, that under Section 11-1306 of

1 this Code the lessee of a vehicle cited in the violation
2 notice likewise shall be provided an opportunity for a
3 hearing of the same kind afforded the registered owner. The
4 hearings shall be recorded, and the person conducting the
5 hearing on behalf of the traffic compliance administrator
6 shall be empowered to administer oaths and to secure by
7 subpoena both the attendance and testimony of witnesses and
8 the production of relevant books and papers. Persons
9 appearing at a hearing under this Section may be
10 represented by counsel at their expense. The ordinance may
11 also provide for internal administrative review following
12 the decision of the hearing officer.

13 (5) Service of additional notices, sent by first class
14 United States mail, postage prepaid, to the address of the
15 registered owner of the cited vehicle as recorded with the
16 Secretary of State or, if any notice to that address is
17 returned as undeliverable, to the last known address
18 recorded in a United States Post Office approved database,
19 or, under Section 11-1306 or subsection (p) of Section
20 11-208.6 or 11-208.9, or subsection (p) of Section 11-208.8
21 of this Code, to the lessee of the cited vehicle at the
22 last address known to the lessor of the cited vehicle at
23 the time of lease or, if any notice to that address is
24 returned as undeliverable, to the last known address
25 recorded in a United States Post Office approved database.
26 The service shall be deemed complete as of the date of

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

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

1 education program or any unpaid fine or penalty, or
2 both, will constitute a debt due and owing the
3 municipality or county.

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

1 Section 6-306.5, or a combination of 5 or more
2 automated traffic law violations under Section
3 11-208.6 or 11-208.9 or automated speed enforcement
4 system violations under Section 11-208.8.

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

1 approved database.

2 (7) Final determinations of violation liability. A
3 final determination of violation liability shall occur
4 following failure to complete the required traffic
5 education program or to pay the fine or penalty, or both,
6 after a hearing officer's determination of violation
7 liability and the exhaustion of or failure to exhaust any
8 administrative review procedures provided by ordinance.
9 Where a person fails to appear at a hearing to contest the
10 alleged violation in the time and manner specified in a
11 prior mailed notice, the hearing officer's determination
12 of violation liability shall become final: (A) upon denial
13 of a timely petition to set aside that determination, or
14 (B) upon expiration of the period for filing the petition
15 without a filing having been made.

16 (8) A petition to set aside a determination of parking,
17 standing, compliance, automated speed enforcement system,
18 or automated traffic law violation liability that may be
19 filed by a person owing an unpaid fine or penalty. A
20 petition to set aside a determination of liability may also
21 be filed by a person required to complete a traffic
22 education program. The petition shall be filed with and
23 ruled upon by the traffic compliance administrator in the
24 manner and within the time specified by ordinance. The
25 grounds for the petition may be limited to: (A) the person
26 not having been the owner or lessee of the cited vehicle on

1 the date the violation notice was issued, (B) the person
2 having already completed the required traffic education
3 program or paid the fine or penalty, or both, for the
4 violation in question, and (C) excusable failure to appear
5 at or request a new date for a hearing. With regard to
6 municipalities or counties with a population of 1 million
7 or more, it shall be grounds for dismissal of a parking
8 violation if the state registration number, or vehicle make
9 if specified, is incorrect. After the determination of
10 parking, standing, compliance, automated speed enforcement
11 system, or automated traffic law violation liability has
12 been set aside upon a showing of just cause, the registered
13 owner shall be provided with a hearing on the merits for
14 that violation.

15 (9) Procedures for non-residents. Procedures by which
16 persons who are not residents of the municipality or county
17 may contest the merits of the alleged violation without
18 attending a hearing.

19 (10) A schedule of civil fines for violations of
20 vehicular standing, parking, compliance, automated speed
21 enforcement system, or automated traffic law regulations
22 enacted by ordinance pursuant to this Section, and a
23 schedule of penalties for late payment of the fines or
24 failure to complete required traffic education programs,
25 provided, however, that the total amount of the fine and
26 penalty for any one violation shall not exceed \$250, except

1 as provided in subsection (c) of Section 11-1301.3 of this
2 Code.

3 (11) Other provisions as are necessary and proper to
4 carry into effect the powers granted and purposes stated in
5 this Section.

6 (c) Any municipality or county establishing vehicular
7 standing, parking, compliance, automated speed enforcement
8 system, or automated traffic law regulations under this Section
9 may also provide by ordinance for a program of vehicle
10 immobilization by the presence of a restraint in a manner to
11 prevent operation of the vehicle for the purpose of
12 facilitating enforcement of those regulations. The program of
13 vehicle immobilization shall provide for: (i) immobilizing and
14 subsequent towing of any eligible vehicle upon the public way;
15 or (ii) immobilizing or immediate towing of any eligible
16 vehicle in any garage or lot licensed by any local authority
17 for parking by the public ~~by presence of a restraint in a~~
18 ~~manner to prevent operation of the vehicle.~~ Any ordinance
19 establishing a program of vehicle immobilization under this
20 Section shall provide:

21 (1) Criteria for the designation of vehicles eligible
22 for immobilization. A vehicle shall be eligible for
23 immobilization when the registered owner of the vehicle has
24 accumulated the number of incomplete traffic education
25 programs or unpaid final determinations of parking,
26 standing, compliance, automated speed enforcement system,

1 or automated traffic law violation liability, or both, as
2 determined by ordinance.

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

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

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

23 (d) Judicial review of final determinations of parking,
24 standing, compliance, automated speed enforcement system, or
25 automated traffic law violations and final administrative
26 decisions issued after hearings regarding vehicle

1 immobilization and impoundment made under this Section shall be
2 subject to the provisions of the Administrative Review Law.

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

15 (f) After the expiration of the period within which
16 judicial review may be sought for a final determination of
17 parking, standing, compliance, automated speed enforcement
18 system, or automated traffic law violation, the municipality or
19 county may commence a proceeding in the Circuit Court for
20 purposes of obtaining a judgment on the final determination of
21 violation. Nothing in this Section shall prevent a municipality
22 or county from consolidating multiple final determinations of
23 parking, standing, compliance, automated speed enforcement
24 system, or automated traffic law violations against a person in
25 a proceeding. Upon commencement of the action, the municipality
26 or county shall file a certified copy or record of the final

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

1 the recovery of money.

2 (g) The fee for participating in a traffic education
3 program under this Section shall not exceed \$25.

4 A low-income individual required to complete a traffic
5 education program under this Section who provides proof of
6 eligibility for the federal earned income tax credit under
7 Section 32 of the Internal Revenue Code or the Illinois earned
8 income tax credit under Section 212 of the Illinois Income Tax
9 Act shall not be required to pay any fee for participating in a
10 required traffic education program.

11 (Source: P.A. 97-29, eff. 1-1-12; 97-333, eff. 8-12-11; 97-672,
12 eff. 7-1-12; 98-556, eff. 1-1-14; 98-1028, eff. 8-22-14.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law."