101ST GENERAL ASSEMBLY
State of Illinois
2019 and 2020

HB1619

by Rep. Allen Skillicorn

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that after deducting all non-personnel and personnel costs associated with the operation and maintenance of an automated traffic law enforcement system, the net proceeds that a municipality or county receives from the civil penalties imposed under the system shall only be expended for transportation purposes. Provides that the provision does not apply to any home rule unit of government. Effective immediately.

FISCAL NOTE ACT
MAY APPLY
AN ACT concerning transportation.

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

Section 5. The Illinois Vehicle Code is amended by changing Section 11-208.6 as follows:

(625 ILCS 5/11-208.6)

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

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

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

(b) As used in this Section, "recorded images" means images recorded by an automated traffic law enforcement system on:
(1) 2 or more photographs;
(2) 2 or more microphotographs;
(3) 2 or more electronic images; or
(4) a video recording showing the motor vehicle and, on at least one image or portion of the recording, clearly identifying the registration plate number of the motor vehicle.

(b-5) A municipality or county that produces a recorded image of a motor vehicle's violation of a provision of this Code or a local ordinance must make the recorded images of a violation accessible to the alleged violator by providing the alleged violator with a website address, accessible through the Internet.

(c) Except as provided under Section 11-208.8 of this Code, a county or municipality, including a home rule county or municipality, may not use an automated traffic law enforcement system to provide recorded images of a motor vehicle for the purpose of recording its speed. Except as provided under Section 11-208.8 of this Code, the regulation of the use of automated traffic law enforcement systems to record vehicle speeds is an exclusive power and function of the State. This subsection (c) is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(c-5) A county or municipality, including a home rule county or municipality, may not use an automated traffic law
enforcement system to issue violations in instances where the
motor vehicle comes to a complete stop and does not enter the
intersection, as defined by Section 1-132 of this Code, during
the cycle of the red signal indication unless one or more
pedestrians or bicyclists are present, even if the motor
vehicle stops at a point past a stop line or crosswalk where a
driver is required to stop, as specified in subsection (c) of
Section 11-306 of this Code or a similar provision of a local
ordinance.

(c-6) A county, or a municipality with less than 2,000,000
inhabitants, including a home rule county or municipality, may
not use an automated traffic law enforcement system to issue
violations in instances where a motorcyclist enters an
intersection against a red signal indication when the red
signal fails to change to a green signal within a reasonable
period of time not less than 120 seconds because of a signal
malfunction or because the signal has failed to detect the
arrival of the motorcycle due to the motorcycle's size or
weight.

(d) For each violation of a provision of this Code or a
local ordinance recorded by an automatic traffic law
enforcement system, the county or municipality having
jurisdiction shall issue a written notice of the violation to
the registered owner of the vehicle as the alleged violator.
The notice shall be delivered to the registered owner of the
vehicle, by mail, within 30 days after the Secretary of State
notifies the municipality or county of the identity of the
owner of the vehicle, but in no event later than 90 days after
the violation.

The notice shall include:

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

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

(3) the violation charged;

(4) the location where the violation occurred;

(5) the date and time of the violation;

(6) a copy of the recorded images;

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

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

(9) a warning that failure to pay the civil penalty, to
complete a required traffic education program, or to
contest liability in a timely manner is an admission of
liability and may result in a suspension of the driving
privileges of the registered owner of the vehicle;

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

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

(B) challenging the charge in court, by mail, or by administrative hearing; and

(11) a website address, accessible through the Internet, where the person may view the recorded images of the violation.

(e) If a person charged with a traffic violation, as a result of an automated traffic law enforcement system, does not pay the fine or complete a required traffic education program, or both, or successfully contest the civil penalty resulting from that violation, the Secretary of State shall suspend the driving privileges of the registered owner of the vehicle under Section 6-306.5 of this Code for failing to complete a required traffic education program or to pay any fine or penalty due and owing, or both, as a result of a combination of 5 violations of the automated traffic law enforcement system or the automated speed enforcement system under Section 11-208.8 of this Code.

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

(g) Recorded images made by an automatic traffic law enforcement system are confidential and shall be made available only to the alleged violator and governmental and law enforcement agencies for purposes of adjudicating a violation
of this Section, for statistical purposes, or for other governmental purposes. Any recorded image evidencing a violation of this Section, however, may be admissible in any proceeding resulting from the issuance of the citation.

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

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

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

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

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

(j) Unless the driver of the motor vehicle received a Uniform Traffic Citation from a police officer at the time of the violation, the motor vehicle owner is subject to a civil
penalty not exceeding $100 or the completion of a traffic education program, or both, plus an additional penalty of not more than $100 for failure to pay the original penalty or to complete a required traffic education program, or both, in a timely manner, if the motor vehicle is recorded by an automated traffic law enforcement system. A violation for which a civil penalty is imposed under this Section is not a violation of a traffic regulation governing the movement of vehicles and may not be recorded on the driving record of the owner of the vehicle.

(j-2) After deducting all non-personnel and personnel costs associated with the operation and maintenance of an automated traffic law enforcement system, the net proceeds that a municipality or county receives from civil penalties imposed under subsection (j) of this Section shall only be expended for transportation purposes. This subsection (j-2) shall not apply to any home rule unit of government.

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

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

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

(k-3) A municipality or county that has one or more intersections equipped with an automated traffic law enforcement system must provide notice to drivers by posting the locations of automated traffic law systems on the municipality or county website.

(k-5) An intersection equipped with an automated traffic law enforcement system must have a yellow change interval that conforms with the Illinois Manual on Uniform Traffic Control Devices (IMUTCD) published by the Illinois Department of Transportation.

(k-7) A municipality or county operating an automated traffic law enforcement system shall conduct a statistical analysis to assess the safety impact of each automated traffic law enforcement system at an intersection following installation of the system. The statistical analysis shall be
based upon the best available crash, traffic, and other data, and shall cover a period of time before and after installation of the system sufficient to provide a statistically valid comparison of safety impact. The statistical analysis shall be consistent with professional judgment and acceptable industry practice. The statistical analysis also shall be consistent with the data required for valid comparisons of before and after conditions and shall be conducted within a reasonable period following the installation of the automated traffic law enforcement system. The statistical analysis required by this subsection (k-7) shall be made available to the public and shall be published on the website of the municipality or county. If the statistical analysis for the 36 month period following installation of the system indicates that there has been an increase in the rate of accidents at the approach to the intersection monitored by the system, the municipality or county shall undertake additional studies to determine the cause and severity of the accidents, and may take any action that it determines is necessary or appropriate to reduce the number or severity of the accidents at that intersection.

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

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

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

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

(o) A municipality or county shall make a certified report to the Secretary of State pursuant to Section 6-306.5 of this Code whenever a registered owner of a vehicle has failed to pay any fine or penalty due and owing as a result of a combination of 5 offenses for automated traffic law or speed enforcement system violations.

(p) No person who is the lessor of a motor vehicle pursuant to a written lease agreement shall be liable for an automated speed or traffic law enforcement system violation involving such motor vehicle during the period of the lease; provided that upon the request of the appropriate authority received within 120 days after the violation occurred, the lessor provides within 60 days after such receipt the name and address of the lessee. The drivers license number of a lessee may be subsequently individually requested by the appropriate
authority if needed for enforcement of this Section.

Upon the provision of information by the lessor pursuant to this subsection, the county or municipality may issue the violation to the lessee of the vehicle in the same manner as it would issue a violation to a registered owner of a vehicle pursuant to this Section, and the lessee may be held liable for the violation.

(Source: P.A. 97-29, eff. 1-1-12; 97-627, eff. 1-1-12; 97-672, eff. 7-1-12; 97-762, eff. 7-6-12; 98-463, eff. 8-16-13.)

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