



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5746

Introduced 2/9/2010, by Rep. Renée Kosel

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that, if the corporate authorities of a county or municipality have adopted an ordinance to impose fines or penalties for a violation of an automated traffic law enforcement ordinance to enforce red lights before the effective date of this amendatory Act, then the imposition of the fines or penalties by the corporate authorities of the county or municipality is subject to a back-door referendum. Sets forth the requirements for the back-door referendum. Provides that, if the corporate authorities of a county or municipality adopt an ordinance to impose fines or penalties for a violation of an automated traffic law enforcement ordinance to enforce red lights, then the imposition of the fines or penalties by the corporate authorities of the county or municipality is subject to a back-door referendum. Sets forth the requirements for the back-door referendum. Limits home rule powers.

LRB096 19218 RLJ 34609 b

FISCAL NOTE ACT  
MAY APPLY

HOME RULE NOTE  
ACT MAY APPLY

1 AN ACT concerning local government.

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

1 The notice shall include:

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

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

6 (3) the violation charged;

7 (4) the location where the violation occurred;

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

9 (6) a copy of the recorded images;

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

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

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

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

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

25 (B) challenging the charge in court, by mail, or by  
26 administrative hearing.

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

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

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

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

26 (1) that the motor vehicle or registration plates of

1 the motor vehicle were stolen before the violation occurred  
2 and not under the control of or in the possession of the  
3 owner at the time of the violation;

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

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

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

17 (j) Unless the driver of the motor vehicle received a  
18 Uniform Traffic Citation from a police officer at the time of  
19 the violation, the motor vehicle owner is subject to a civil  
20 penalty not exceeding \$100 or the completion of a traffic  
21 education program, or both, plus an additional penalty of not  
22 more than \$100 for failure to pay the original penalty or to  
23 complete a required traffic education program, or both, in a  
24 timely manner, if the motor vehicle is recorded by an automated  
25 traffic law enforcement system. A violation for which a civil  
26 penalty is imposed under this Section is not a violation of a

1 traffic regulation governing the movement of vehicles and may  
2 not be recorded on the driving record of the owner of the  
3 vehicle.

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

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

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

24 (l) The compensation paid for an automated traffic law  
25 enforcement system must be based on the value of the equipment  
26 or the services provided and may not be based on the number of

1 traffic citations issued or the revenue generated by the  
2 system.

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

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

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

15 (o) If, before the effective date of this amendatory Act of  
16 the 96th General Assembly, the corporate authorities of a  
17 county or municipality have adopted an ordinance imposing fines  
18 or penalties for an automated traffic violation to enforce red  
19 lights pursuant to this Section, Section 11-208, or any other  
20 authority, then the corporate authorities of the county or  
21 municipality must publish the ordinance in a newspaper of  
22 general circulation in the county or municipality, as  
23 applicable, once each week for 3 weeks. If there is no  
24 newspaper of general circulation in the county or municipality,  
25 the notice must be posted in at least 5 public places in the  
26 county or municipality or posted on the county's or

1 municipality's official Internet website. The publication or  
2 posting of the ordinance must be made no later than 60 days  
3 after the effective date of this amendatory Act of the 96th  
4 General Assembly. The posting or publication must include a  
5 notice of (i) the specific number of electors required to sign  
6 a petition requesting that the question of the adoption of the  
7 ordinance be submitted to the electors of the county or  
8 municipality, (ii) the time in which the petition must be  
9 filed, and (iii) the date of the prospective referendum.

10 The clerk of the county or municipality must provide a  
11 petition form to any individual requesting one.

12 If, within 30 days after the last required publication or  
13 posting of the ordinance, a petition is filed with the  
14 corporate authorities of the county or municipality, signed by  
15 electors of the county or municipality equal in number to 10%  
16 or more of the total number of registered voters in the county  
17 or municipality, as applicable, asking that the question of  
18 whether the corporate authorities of the county or municipality  
19 may continue to impose fees and penalties for violations of  
20 automated traffic law enforcement ordinances to enforce red  
21 lights be submitted to the electors of the county or  
22 municipality, the corporate authorities of the county or  
23 municipality must certify the question to the proper election  
24 authority, which must submit the question at an election in  
25 accordance with the Election Code.

26 The election authority must submit the question in

1 substantially the following form:

2 Shall the corporate authorities of the (insert name of  
3 the county or municipality) be authorized to continue to  
4 impose fees and penalties for violations of automated  
5 traffic law enforcement ordinances to enforce red lights?

6 The election authority must record the votes as "Yes" or "No".

7 If a majority of the electors voting on the question vote  
8 in the affirmative or if no sufficient petition is filed with  
9 the corporate authorities within 30 days after the last  
10 required publication or posting of the ordinance, the corporate  
11 authorities may thereafter continue to impose fines and  
12 penalties for violations of automated traffic law enforcement  
13 ordinances to enforce red lights. If a majority of the electors  
14 voting on the question do not vote in the affirmative, then the  
15 corporate authorities of the county or municipality may no  
16 longer impose such fines and penalties.

17 A county or municipality may not provide for the imposition  
18 of fines and penalties for violations of automated traffic law  
19 enforcement ordinances to enforce red lights in a manner  
20 inconsistent with the provisions of this subsection (o). This  
21 subsection (o) is a limitation under subsection (i) of Section  
22 6 of Article VII of the Illinois Constitution on the concurrent  
23 exercise by home rule units of powers and functions exercised  
24 by the State.

1       (p) If the corporate authorities of a county or  
2 municipality adopt an ordinance imposing fines or penalties for  
3 an automated traffic violation to enforce red lights pursuant  
4 to this Section, Section 11-208, or any other authority, then  
5 the corporate authorities of the county or municipality must  
6 publish the ordinance in a newspaper of general circulation in  
7 the county or municipality, as applicable, once each week for 3  
8 weeks. If there is no newspaper of general circulation in the  
9 county or municipality, the notice must be posted in at least 5  
10 public places in the county or municipality or posted on the  
11 county's or municipality's official Internet website. The  
12 publication or posting of the ordinance must be made no later  
13 than 60 days after the effective date of this amendatory Act of  
14 the 96th General Assembly. The posting or publication must  
15 include a notice of (i) the specific number of electors  
16 required to sign a petition requesting that the question of the  
17 adoption of the ordinance be submitted to the electors of the  
18 county or municipality, (ii) the time in which the petition  
19 must be filed, and (iii) the date of the prospective  
20 referendum.

21       The clerk of the county or municipality must provide a  
22 petition form to any individual requesting one.

23       If, within 30 days after the last required publication or  
24 posting of the ordinance, a petition is filed with the  
25 corporate authorities of the county or municipality, signed by  
26 electors of the county or municipality equal in number to 10%

1 or more of the total number of registered voters in the county  
2 or municipality, as applicable, asking that the question of  
3 whether the corporate authorities of the county or municipality  
4 may impose fees and penalties for violations of automated  
5 traffic law enforcement ordinances to enforce red lights be  
6 submitted to the electors of the county or municipality, the  
7 corporate authorities of the county or municipality must  
8 certify the question to the proper election authority, which  
9 must submit the question at an election in accordance with the  
10 Election Code.

11 The election authority must submit the question in  
12 substantially the following form:

13 Shall the corporate authorities of the (insert name of  
14 the county or municipality) be authorized to impose fees  
15 and penalties for violations of automated traffic law  
16 enforcement ordinances to enforce red lights?

17 The election authority must record the votes as "Yes" or "No".

18 If a majority of the electors voting on the question vote  
19 in the affirmative or if no sufficient petition is filed with  
20 the corporate authorities within 30 days after the last  
21 required publication or posting of the ordinance, the corporate  
22 authorities may thereafter impose fines and penalties for  
23 violations of automated traffic law enforcement ordinances to  
24 enforce red lights. If a majority of the electors voting on the

1 question do not vote in the affirmative, then the corporate  
2 authorities of the county or municipality may not impose such  
3 finances and penalties.

4 A county or municipality may not provide for the imposition  
5 of fines and penalties for violations of automated traffic law  
6 enforcement ordinances to enforce red lights in a manner  
7 inconsistent with the provisions of this subsection (p). This  
8 subsection (p) is a limitation under subsection (i) of Section  
9 6 of Article VII of the Illinois Constitution on the concurrent  
10 exercise by home rule units of powers and functions exercised  
11 by the State.

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