



Executive Committee

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1 AMENDMENT TO SENATE BILL 933

2 AMENDMENT NO. _____. Amend Senate Bill 933 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Automated Speed Enforcement Act.

6 Section 5. Purpose. The purpose of this Act is to enhance
7 the safety of the traveling public.

8 Section 10. Definitions. As used in this Act:

9 (a) "Automated speed enforcement system" means a
10 photographic device, radar device, laser device, or other
11 electrical or mechanical device or devices designed to record a
12 violation of Section 11-601(b) of the Illinois Vehicle Code and
13 obtain a clear photograph or other recorded image of the
14 vehicle and the vehicle's registration plate.

15 (b) "Automated speed enforcement violation" or "violation"

1 means a violation of Section 11-601(b) of the Illinois Vehicle
2 Code that is recorded by an automated speed enforcement system.

3 (c) "Department" means the Department of Transportation.

4 (d) "Vehicle owner" means the person or entity to whom the
5 vehicle is registered with the Secretary of State.

6 (e) "System" means an automated speed enforcement system.

7 Section 15. Establishment of an automated speed
8 enforcement pilot program.

9 (a) The Department shall establish an automated speed
10 enforcement pilot program in St. Clair County.

11 (b) The Department shall install the automated speed
12 enforcement systems on the Martin Luther King Bridge and the
13 immediate approach thereto located in St. Clair County and in
14 no other location.

15 (c) The Department shall contract with a private entity to
16 provide for the installation, maintenance, and operation of the
17 systems and other services necessary to implement and
18 administer the pilot program.

19 Section 17. Automated speed enforcement violations.

20 (a) An automated speed enforcement violation is not a
21 violation of a traffic regulation governing the movement of
22 vehicles and may not be recorded on the driving record of the
23 vehicle owner.

24 (b) Unless the driver of a vehicle was cited by a law

1 enforcement officer at the time of an automated speed
2 enforcement violation and received a uniform traffic citation,
3 the vehicle owner is subject to a civil penalty, plus an
4 additional penalty for failure to pay the original penalty in a
5 timely manner.

6 (c) A law enforcement officer is not required to be present
7 or to witness the violation.

8 Section 18. System Requirements.

9 (a) The Department shall employ only those systems capable
10 of recording the speed, date, time, and location of a vehicle
11 committing a violation.

12 (b) The Department shall employ only those systems capable
13 of producing a photograph or other recorded image of a vehicle
14 committing a violation in which the vehicle and the vehicle's
15 registration plate are clearly visible.

16 (c) The photograph or other recorded image must display the
17 date, time, speed, and location of a vehicle committing a
18 violation.

19 Section 20. Deposits. All moneys paid as civil penalties
20 for automated speed enforcement violations shall be deposited
21 into the Automated Speed Enforcement Fund, which is hereby
22 created as a special fund in the State Treasury, for the
23 administration of the automated speed enforcement pilot
24 program. Of the remaining amounts, 90% shall be deposited into

1 the Road Fund, and 10% shall be paid to the City of East St.
2 Louis for the purposes of road construction, reconstruction,
3 improvement, rehabilitation, and resurfacing.

4 Section 25. Mandatory public information campaign. The
5 Department, with or without the assistance of a private entity,
6 must conduct a public information campaign to inform drivers
7 about the use of automated speed enforcement systems prior to
8 the establishment of the automated speed enforcement pilot
9 program.

10 Section 30. Signage. A location that is equipped with an
11 automated speed enforcement system must be posted with a sign
12 visible to approaching traffic one-half mile before the
13 location that the location is being monitored by an automated
14 speed enforcement system.

15 Section 35. Confidentiality. Any photograph or recorded
16 image made by an automated speed enforcement system is
17 confidential and shall be made available only to the vehicle
18 owner, governmental and law enforcement agencies, and the
19 private entity contracted by the Department pursuant to Section
20 15 of this Act for the purposes of adjudicating a violation,
21 for statistical purposes, or for other governmental purposes.
22 Any photograph or recorded image made by an automated speed
23 enforcement system evidencing a violation, however, may be

1 admissible in any proceeding to adjudicate the violation.

2 Section 40. Administrative adjudication of violations.

3 (a) The Department shall provide for a system of
4 administrative adjudication of automated speed enforcement
5 system violations. The system of administrative adjudication
6 shall have at its purpose the fair and efficient enforcement of
7 automated speed enforcement systems. The system of
8 administrative adjudication shall only have the authority to
9 adjudicate a violation carrying a civil penalty not in excess
10 of \$250.

11 (b) The system of administrative adjudication shall
12 provide for:

13 (1) Determinations made by technicians employed or
14 contracted by the Department that, based on inspections of
15 photographs or recorded images and other information
16 recorded by the systems, a violation occurred.

17 (2) A schedule of civil penalties for automated speed
18 enforcement violations including a schedule of additional
19 penalties for failure to pay the original penalties in a
20 timely manner; provided, however, that the total amount of
21 the civil penalties for a single violation shall not exceed
22 \$250, unless the driver of a vehicle was cited by a law
23 enforcement officer at the time of the violation and
24 received a uniform traffic citation.

25 (3) Procedures for payment of and contesting liability

1 for civil penalties for violations.

2 (4) Collection of moneys paid as civil penalties.

3 (5) Retention of records, including but not limited to
4 violation notices. The Department shall retain a copy of
5 all violation notices, electronically or otherwise.

6 (6) A list of allowable defenses.

7 (7) Regular and timely access to vehicle
8 identification records maintained by the Secretary of
9 State insofar as it is necessary to carry out this Act.

10 (8) Procedures for non residents. The Department shall
11 adopt procedures by which persons who are not residents of
12 the State may contest the merits of the alleged violation
13 without attending a hearing in person.

14 (9) The processing and delivery of notices required by
15 this Act and Section 3-704.3 of the Illinois Vehicle Code.
16 The notices shall be sent by first class United States
17 mail, postage prepaid, to the address recorded with the
18 Secretary of State or, if any notice to that address is
19 returned undeliverable, to the last known address recorded
20 in a United States Post Office approved database. The
21 notices shall include, but not be limited to, the
22 information specified herein:

23 (A) A first notice of violation. The notice shall
24 be delivered to the vehicle owner within 30 days after
25 the Secretary of State provides the Department with
26 information necessary to identify the vehicle owner

1 and in no event, later than 90 days after the
2 violation. This notice must include:

3 (i) the name and address of the vehicle owner;

4 (ii) the registration number of the vehicle;

5 (iii) the violation charged;

6 (iv) the speed of the vehicle;

7 (v) the time, date, and location of the
8 violation;

9 (vi) a statement providing that the basis of
10 the violation is a photograph or recorded image
11 made by an automated speed enforcement system;

12 (vii) a copy of the photograph or recorded
13 image made by the system;

14 (viii) the amount of the civil penalty imposed
15 and the date by which the penalty must be paid or
16 contested;

17 (ix) the amount of the civil penalty that may
18 be imposed for failure to pay the original penalty
19 in a timely manner;

20 (x) a statement that recorded images are
21 evidence of a violation;

22 (xi) information regarding the manner in which
23 and the time and place that the violation may be
24 contested; and

25 (xii) a written statement that lists the
26 vehicle owner's rights, obligations, and allowable

1 defenses and explains how the vehicle owner can
2 elect to proceed by either paying the civil penalty
3 or contesting liability for the civil penalty.

4 (B) A second notice of violation. The second notice
5 shall include the date of delivery of the first notice
6 of violation and state that the person may obtain a
7 copy of the first notice by sending a self addressed,
8 stamped envelope to the Department along with a request
9 for the copy. It shall also state that failure either
10 to pay the indicated penalty or to appear at a hearing
11 on the merits in the time and manner specified will
12 result in a final determination of automated speed
13 enforcement violation liability in the amount of the
14 penalty indicated, and that, upon the occurrence of a
15 final determination of violation liability for the
16 failure, and the exhaustion of, or failure to exhaust,
17 any available procedures for review, any unpaid
18 penalty will constitute a debt due and owing the
19 Department.

20 (C) A notice of final determination of automated
21 speed enforcement violation liability. The notice
22 shall be sent following a final determination of
23 automated speed enforcement violation liability and
24 the exhaustion of or failure to exhaust any procedures
25 for review. The notice shall state that the person may
26 obtain a copy of the first notice of violation or

1 second notice of violation by sending a self addressed,
2 stamped envelope to the Department along with a request
3 for the copy. The notice shall state that the unpaid
4 civil penalty is a debt due and owing the Department.
5 The notice shall contain warnings that failure to pay
6 any civil penalty due and owing the Department within
7 the time specified may result in the Department filing
8 of a petition in the circuit court to have the unpaid
9 civil penalty rendered a judgment or may result in
10 suspension of vehicle registration under Section
11 3-704.3 of the Illinois Vehicle Code for failure to pay
12 3 or more automated speed enforcement violations.

13 (D) A notice of impending registration suspension.
14 The notice shall be sent to the person liable for any
15 civil penalty that remains due and owing on 3 or more
16 automated speed enforcement violations. The notice
17 shall state that failure to pay the civil penalty owing
18 within 45 days of the notice's date will result in the
19 Department notifying the Secretary of State that the
20 person is eligible for initiation of suspension
21 proceedings under Section 3-704.3 of the Illinois
22 Vehicle Code. The notice shall also state that the
23 person may obtain a copy of any violation notice
24 described in this Act by sending a self addressed,
25 stamped envelope to the Department along with a request
26 for the copy.

1 (10) An opportunity for a hearing for the vehicle owner
2 cited in the violation notice in which the vehicle owner
3 may contest the merits of the alleged violation, and during
4 which formal or technical rules of evidence shall not
5 apply; provided, however, that the lessee of a vehicle
6 cited in the violation notice likewise shall be provided an
7 opportunity for a hearing of the same kind afforded to the
8 vehicle owner. The hearings shall be recorded, and the
9 hearing officer shall be empowered to administer oaths and
10 to secure by subpoena both the attendance and testimony of
11 witnesses and the production of relevant books and papers.
12 Persons appearing at the hearing under this Section may be
13 represented by counsel at their expense. The system of
14 administrative adjudication may also provide for internal
15 administrative review following the decision of the
16 hearing officer.

17 (11) Final determinations of automated speed
18 enforcement violation liability. A final determination of
19 automated speed enforcement violation liability shall
20 occur following failure to pay the civil penalty after a
21 hearing officer's determination of violation liability and
22 the exhaustion of or failure to exhaust any available
23 administrative procedures for review. Where a person fails
24 to appear at a hearing to contest the alleged violation in
25 the time and manner specified in a prior mailed notice, the
26 hearing officer's determination of violation liability

1 shall become final:

2 (A) upon denial of a timely petition to set aside
3 that determination; or

4 (B) upon expiration of the period for filing the
5 petition to set aside that determination without a
6 filing having been made.

7 (12) A petition to set aside a determination of an
8 automated speed enforcement violation liability that may
9 be filed by a person owing an unpaid civil penalty. The
10 petition shall be filed with and ruled upon by the
11 Department in the manner and within the time specified by
12 rule. After the determination of an automated speed
13 enforcement violation liability has been set aside upon a
14 showing of just cause, the vehicle owner shall be provided
15 with a hearing on the merits for that violation. The
16 grounds for the petition may be limited to:

17 (A) the person not having been the vehicle owner or
18 lessee of the cited vehicle on the date the violation
19 notice was issued;

20 (B) the person having already paid the civil
21 penalty for the violation in question; and

22 (C) excusable failure to appear at or request a new
23 date for a hearing.

24 (c) Judicial review of final determinations of automated
25 speed enforcement violation liability shall be subject to the
26 provisions of the Administrative Review Law.

1 (d) Any civil penalty or part of any civil penalty
2 remaining unpaid after the exhaustion of, or the failure to
3 exhaust, procedures for administrative or judicial review
4 shall be a debt due and owing to the Department and, as such,
5 may be collected in accordance with applicable law. Payment in
6 full of any civil penalty resulting from an automated speed
7 enforcement violation shall constitute a final disposition of
8 the violation.

9 (e) After the expiration of the period within which
10 judicial review of a final determination of automated speed
11 enforcement liability may be sought, the Department may
12 commence a proceeding in the circuit court for purposes of
13 obtaining a judgment on the final determination. Nothing in
14 this Section shall prevent the Department from consolidating
15 multiple final determinations against a person in a proceeding.
16 Upon commencement of the action, the Department shall file a
17 certified copy or record of the final determination, which
18 shall be accompanied by a certification that recites facts
19 sufficient to show that the final determination was issued in
20 accordance with this Act. Service of the summons and a copy of
21 the petition may be by any method provided by Section 2-203 of
22 the Code of Civil Procedure or by certified mail, return
23 receipt requested. If the court is satisfied that the final
24 determination was entered in accordance with the requirements
25 of this Act, and that the vehicle owner or the lessee, as the
26 case may be, had an opportunity for administrative and judicial

1 review, the court shall render judgment in favor of the
2 Department and against the vehicle owner or the lessee for the
3 amount indicated in the final determination, plus costs. The
4 judgment shall have the same effect and may be enforced in the
5 same manner as other judgments for the recovery of money.

6 Section 45. Identification of a renter or lessee.

7 (a) A notice of violation issued under this Act to a motor
8 vehicle rental or leasing company shall be dismissed with
9 respect to the motor vehicle rental or leasing company if:

10 (1) the company responds to the notice of violation by
11 submitting, within 30 days of the mailing of the citation,
12 an affidavit of non-liability stating that, at the time of
13 the alleged violation, the vehicle was in the custody and
14 control of a renter or lessee under the terms of a rental
15 agreement or lease; and

16 (2) the company provides the driver's license number,
17 name, and address of the renter or lessee.

18 (b) A notice of violation dismissed with respect to a motor
19 vehicle rental or leasing company in accordance with subsection
20 (a) may then be issued and delivered by mail or other means to
21 the renter or lessee identified in the affidavit of non
22 liability.

23 Section 50. Semi-annual reporting requirement.

24 (a) The Department shall report to the General Assembly on

1 the automated speed enforcement pilot program by January 1,
2 2011 and every 6 months thereafter. The report shall, at a
3 minimum, include:

4 (1) a specific description of the exact location of the
5 systems;

6 (2) in the event any systems were removed or relocated,
7 a specific description of the exact location in which the
8 systems were formerly located;

9 (3) the criterion adopted by the Department to
10 determine where to install the systems;

11 (4) in the event any systems were removed or relocated,
12 the specific reason or reasons why the Department decided
13 to remove or relocate the systems;

14 (5) fatality and crash data for each location equipped
15 with a system;

16 (6) the name, address, company history, and finances of
17 the private entity contracted by the Department pursuant to
18 Section 15 of this Act;

19 (7) the total cost of administering the pilot program,
20 including all moneys paid to the private entity contracted
21 by the Department;

22 (8) the total amount of moneys, to date, deposited into
23 the Automated Speed Enforcement Fund described in Section
24 20 of this Act;

25 (9) the total amount of moneys, to date, transferred
26 into the Road Fund pursuant to Section 20 of this Act;

1 (10) the qualifications of the technicians employed or
2 contracted by the Department or a private entity having a
3 contract with the Department that inspect photographs,
4 images, and other information recorded by the system
5 pursuant to this Act;

6 (11) the average number of violations recorded by the
7 system per hour, per day, and per month; and

8 (12) a survey of automated speed enforcement laws and
9 programs enacted or implemented in other states.

10 (b) The private entity contracted by the Department
11 pursuant to Section 15 of this Act is mandated to cooperate
12 with the Department in the preparation of this report.

13 Section 55. The Department may promulgate rules to carry
14 out its duties under this Act.

15 Section 60. Repeal. This Act is repealed on January 1,
16 2013.

17 Section 905. The State Finance Act is amended by adding
18 Section 5.719 as follows:

19 (30 ILCS 105/5.719 new)

20 Sec. 5.719. The Automated Speed Enforcement Fund.

21 Section 910. The Illinois Vehicle Code is amended by adding

1 Section 3-704.3 and by changing Sections 11-612 and 11-1302 as
2 follows:

3 (625 ILCS 5/3-704.3 new)

4 Sec. 3-704.3. Failure to satisfy civil penalties for
5 automated speed enforcement violations.

6 (a) Upon receipt of a certified report, as described in
7 this Section, from the Department stating that the owner of a
8 registered vehicle failed to pay any civil penalty due and
9 owing as a result of 3 offenses for automated speed enforcement
10 system violations pursuant to the Automated Speed Enforcement
11 Act, the Secretary may suspend the vehicle registration of the
12 person in accordance with the procedures set forth in this
13 Section.

14 (b) Following receipt of the certified report, as described
15 in this Section, the Secretary shall notify the person whose
16 name appears on the certified report that the vehicle owner's
17 registration will be suspended at the end of a specified period
18 unless the Secretary is presented with a notice from the
19 Department certifying that the civil penalties owing the
20 Department have been satisfied or that inclusion of that
21 person's name on the certified report was in error. The
22 Secretary's notice shall state in substance the information
23 contained in the Department's certified report to the
24 Secretary, and shall be effective as specified by subsection
25 (c) of Section 6-211 of this Code. The notice must be given in

1 writing by certified mail, return receipt requested, and is
2 effective on the date listed in the notice of suspension,
3 except that the notice is not effective until 4 days after the
4 date on which the notice was deposited into the United States
5 mail. The notice becomes effective 4 days after its deposit
6 into the United States mail regardless of whether the Secretary
7 receives the return receipt and regardless of whether the
8 written notification is returned for any reason to the
9 Secretary as undeliverable.

10 (c) The Department's report notifying the Secretary of
11 unsatisfied civil penalties shall be certified and shall
12 contain the following:

13 (1) The name, last known address, and the registration
14 number of the vehicle of the person who failed to satisfy
15 the civil penalties.

16 (2) A statement that, pursuant to Section 40 of the
17 Automated Speed Enforcement Act, the Department sent a
18 notice of an impending vehicle registration suspension to
19 the person named in the report at the address recorded with
20 the Secretary; the date on which the notice was sent; and
21 the address to which the notice was sent.

22 (d) The Department, after making a certified report as
23 described in this Section, shall notify the Secretary, on a
24 form prescribed by the Secretary, whenever a person named in
25 the certified report has paid the previously reported civil
26 penalties or whenever the Department determines that the

1 original report was in error. A certified copy of the
2 notification shall also be given upon request and at no
3 additional charge to the person named therein. Upon receipt of
4 the Department's notification or presentation of a certified
5 copy of the notification, the Secretary shall terminate the
6 suspension.

7 (e) The Department shall, by rule, establish procedures for
8 persons to challenge the accuracy of the certified report
9 described in this Section. The Department shall also, by rule,
10 establish allowable grounds for a challenge, which may be
11 limited to:

12 (1) the person not having been the owner or lessee of
13 the vehicle or vehicles receiving 3 or more automated speed
14 enforcement violations on the date or dates the notices
15 were issued; or

16 (2) the person having already paid the civil penalties
17 for the 3 or more automated speed enforcement violations
18 indicated on the certified report.

19 (f) A person may request an administrative hearing to
20 contest an impending suspension or a suspension made pursuant
21 to this Section upon filing a written request with the
22 Secretary. The filing fee for this hearing is \$20, to be paid
23 at the time of the request. The Department shall reimburse the
24 Secretary for all reasonable costs incurred by the Secretary as
25 a result of the filing of a certified report described in this
26 Section, including, but not limited to, the costs of providing

1 notice required pursuant to subsection (b) and the costs
2 incurred by the Secretary in any hearing conducted with respect
3 to the certified report described in this Section and any
4 appeal from that hearing.

5 (g) The Secretary and the Department may promulgate rules
6 to enable them to carry out their duties under this Section.

7 (h) The Department shall cooperate with the Secretary in
8 the administration of this Section and shall provide the
9 Secretary with any information the Secretary may deem necessary
10 for these purposes.

11 (i) The Secretary shall cooperate with the Department in
12 the administration of this Section and shall provide the
13 Department with any information the Department may deem
14 necessary for the purposes of this Section, including regular
15 and timely access to vehicle registration records. Section
16 2-123 of this Code shall not apply to the provision of this
17 information, but the Secretary shall be reimbursed for the cost
18 of providing this information.

19 (j) For purposes of this Section, the term "Department"
20 means the Department of Transportation and "Secretary" means
21 the Secretary of State.

22 (625 ILCS 5/11-612)

23 Sec. 11-612. Certain systems to record vehicle speeds
24 prohibited. Except as authorized in the Automated Traffic
25 Control Systems in Highway Construction or Maintenance Zones

1 Act and the Automated Speed Enforcement Act, no photographic,
2 video, or other imaging system may be used in this State to
3 record vehicle speeds for the purpose of enforcing any law or
4 ordinance regarding a maximum or minimum speed limit unless a
5 law enforcement officer is present at the scene and witnesses
6 the event. No State or local governmental entity, including a
7 home rule county or municipality, may use such a system in a
8 way that is prohibited by this Section. The regulation of the
9 use of such systems is an exclusive power and function of the
10 State. This Section is a denial and limitation of home rule
11 powers and functions under subsection (h) of Section 6 of
12 Article VII of the Illinois Constitution.

13 (Source: P.A. 94-771, eff. 1-1-07; 94-795, eff. 5-22-06;
14 94-814, eff. 1-1-07.)

15 (625 ILCS 5/11-1302) (from Ch. 95 1/2, par. 11-1302)

16 Sec. 11-1302. Officers authorized to remove vehicles. (a)
17 Whenever any police officer finds a vehicle in violation of any
18 of the provisions of Section 11-1301 such officer is hereby
19 authorized to move such vehicle, or require the driver or other
20 person in charge of the vehicle to move the same, to a position
21 off the roadway.

22 (b) Any police officer is hereby authorized to remove or
23 cause to be removed to a place of safety any unattended vehicle
24 illegally left standing upon any highway, bridge, causeway, or
25 in a tunnel, in such a position or under such circumstances as

1 to obstruct the normal movement of traffic.

2 Whenever the Department finds an abandoned or disabled
3 vehicle standing upon the paved or main-traveled part of a
4 highway, which vehicle is or may be expected to interrupt the
5 free flow of traffic on the highway or interfere with the
6 maintenance of the highway, the Department is authorized to
7 move the vehicle to a position off the paved or improved or
8 main-traveled part of the highway.

9 (c) Any police officer is hereby authorized to remove or
10 cause to be removed to the nearest garage or other place of
11 safety any vehicle found upon a highway when:

12 1. Report has been made that such vehicle has been stolen
13 or taken without the consent of its owner, or

14 2. The person or persons in charge of such vehicle are
15 unable to provide for its custody or removal, or

16 3. When the person driving or in control of such vehicle is
17 arrested for an alleged offense for which the officer is
18 required by law to take the person arrested before a proper
19 magistrate without unnecessary delay, ~~or~~.

20 4. When the registration plate or plates on the vehicle has
21 been suspended, cancelled, or revoked.

22 (Source: P.A. 79-1069.)

23 Section 999. Effective date. This Act takes effect upon
24 becoming law."