



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3432

by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-29010 new
65 ILCS 5/1-2-12.1a new
625 ILCS 5/11-208.6

Amends the Counties Code and the Municipal Code. Provides that residents of specified counties and municipalities may petition for binding backdoor referenda questions on whether to prohibit ordinances authorizing the use of automated traffic law enforcement systems. Amends the Illinois Vehicle Code. Provides that the use of automated traffic law enforcement systems under the Code is subject to specified provisions of the Counties Code and the Illinois Municipal Code.

LRB099 09463 MGM 29670 b

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 Counties Code is amended by adding Section
5 5-29010 as follows:

6 (55 ILCS 5/5-29010 new)

7 Sec. 5-29010. Automated traffic law enforcement referenda.

8 (a) Residents of counties described in subsection (m) of
9 Section 11-208.6 of the Vehicle Code shall be permitted to
10 place binding backdoor referenda questions on whether to
11 prohibit ordinances authorizing the use of automated traffic
12 law enforcement systems on the next general election ballot
13 after the effective date of this amendatory Act of the 99th
14 General Assembly. In order to submit a backdoor referendum
15 under this Section, 5% of the number of people who voted in the
16 county in the previous general election must sign the petition.
17 The county shall provide a petition form to anyone requesting
18 one.

19 (b) The election authority shall submit the question to
20 voters residing in the municipality at the next general
21 election in substantially the following form:

22 "Shall the use of automated traffic law enforcement
23 systems be prohibited in [the county]?"

1 (c) The election authority shall record the votes as "Yes"
2 or "No". If a majority of the votes cast on the question at
3 such election are in favor of prohibiting the use of automated
4 traffic law enforcement systems, the county shall cease any use
5 of such systems.

6 Section 10. The Illinois Municipal Code is amended by
7 adding Section 1-2-12.1a as follows:

8 (65 ILCS 5/1-2-12.1a new)

9 Sec. 1-2-12.1a. Automated traffic law enforcement
10 referenda.

11 (a) Residents of municipalities described in subsection
12 (m) of Section 11-208.6 of the Vehicle Code shall be permitted
13 to place binding backdoor referenda questions on whether to
14 prohibit ordinances authorizing the use of automated traffic
15 law enforcement systems on the next consolidated municipal
16 election ballot after the effective date of this amendatory Act
17 of the 99th General Assembly. In order to submit a backdoor
18 referendum under this Section, 5% of the number of people who
19 voted in the previous consolidated municipal election must sign
20 the petition. The municipality shall provide a petition form to
21 anyone requesting one.

22 (b) The election authority shall submit the question to
23 voters residing in the municipality at the next consolidated
24 municipal election in substantially the following form:

1 "Shall the use of automated traffic law enforcement
2 systems be prohibited in [the municipality]?"

3 (c) The election authority shall record the votes as "Yes"
4 or "No". If a majority of the votes cast on the question at
5 such election are in favor of prohibiting the use of automated
6 traffic law enforcement systems, the municipality shall cease
7 any use of such systems.

8 Section 15. The Illinois Vehicle Code is amended by
9 changing Section 11-208.6 as follows:

10 (625 ILCS 5/11-208.6)

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

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

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

1 display the time, date, and location of the violation.

2 (b) As used in this Section, "recorded images" means images
3 recorded by an automated traffic law enforcement system on:

4 (1) 2 or more photographs;

5 (2) 2 or more microphotographs;

6 (3) 2 or more electronic images; or

7 (4) a video recording showing the motor vehicle and, on
8 at least one image or portion of the recording, clearly
9 identifying the registration plate number of the motor
10 vehicle.

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

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

1 of the Illinois Constitution.

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

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

23 (d) For each violation of a provision of this Code or a
24 local ordinance recorded by an automatic traffic law
25 enforcement system, the county or municipality having
26 jurisdiction shall issue a written notice of the violation to

1 the registered owner of the vehicle as the alleged violator.
2 The notice shall be delivered to the registered owner of the
3 vehicle, by mail, within 30 days after the Secretary of State
4 notifies the municipality or county of the identity of the
5 owner of the vehicle, but in no event later than 90 days after
6 the violation.

7 The notice shall include:

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

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

12 (3) the violation charged;

13 (4) the location where the violation occurred;

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

15 (6) a copy of the recorded images;

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

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

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

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

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

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

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

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

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

26 (g) Recorded images made by an automatic traffic law

1 enforcement system are confidential and shall be made available
2 only to the alleged violator and governmental and law
3 enforcement agencies for purposes of adjudicating a violation
4 of this Section, for statistical purposes, or for other
5 governmental purposes. Any recorded image evidencing a
6 violation of this Section, however, may be admissible in any
7 proceeding resulting from the issuance of the citation.

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

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

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

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

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

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

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

17 (j-5) For purposes of the required traffic education
18 program only, a registered owner may submit an affidavit to the
19 court or hearing officer swearing that at the time of the
20 alleged violation, the vehicle was in the custody and control
21 of another person. The affidavit must identify the person in
22 custody and control of the vehicle, including the person's name
23 and current address. The person in custody and control of the
24 vehicle at the time of the violation is required to complete
25 the required traffic education program. If the person in
26 custody and control of the vehicle at the time of the violation

1 completes the required traffic education program, the
2 registered owner of the vehicle is not required to complete a
3 traffic education program.

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

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

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

18 (k-7) A municipality or county operating an automated
19 traffic law enforcement system shall conduct a statistical
20 analysis to assess the safety impact of each automated traffic
21 law enforcement system at an intersection following
22 installation of the system. The statistical analysis shall be
23 based upon the best available crash, traffic, and other data,
24 and shall cover a period of time before and after installation
25 of the system sufficient to provide a statistically valid
26 comparison of safety impact. The statistical analysis shall be

1 consistent with professional judgment and acceptable industry
2 practice. The statistical analysis also shall be consistent
3 with the data required for valid comparisons of before and
4 after conditions and shall be conducted within a reasonable
5 period following the installation of the automated traffic law
6 enforcement system. The statistical analysis required by this
7 subsection (k-7) shall be made available to the public and
8 shall be published on the website of the municipality or
9 county. If the statistical analysis for the 36 month period
10 following installation of the system indicates that there has
11 been an increase in the rate of accidents at the approach to
12 the intersection monitored by the system, the municipality or
13 county shall undertake additional studies to determine the
14 cause and severity of the accidents, and may take any action
15 that it determines is necessary or appropriate to reduce the
16 number or severity of the accidents at that intersection.

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

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

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

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

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

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

24 Upon the provision of information by the lessor pursuant to
25 this subsection, the county or municipality may issue the
26 violation to the lessee of the vehicle in the same manner as it

1 would issue a violation to a registered owner of a vehicle
2 pursuant to this Section, and the lessee may be held liable for
3 the violation.

4 (q) The use of automated traffic law enforcement systems
5 under this Section is subject to the provisions of Section
6 5-29010 of the Counties Code and Section 1-2-12.1a of the
7 Illinois Municipal Code.

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