



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/09/04, by Eileen Lyons

SYNOPSIS AS INTRODUCED:

625 ILCS 5/2-118 from Ch. 95 1/2, par. 2-118
625 ILCS 5/2-118.2 new
625 ILCS 5/2-118.3 new
625 ILCS 5/3-412.1 new
625 ILCS 5/3-412.2 new
625 ILCS 5/3-412.3 new
625 ILCS 5/3-412.4 new
625 ILCS 5/3-412.5 new
625 ILCS 5/3-412.6 new

Provides that a person arrested for certain violations involving driving on a revoked or suspended license must have a distinctive sticker attached to his or her license plate. Provides that a law enforcement officer may stop a vehicle with one of these stickers on its license plate simply to determine whether the vehicle is being driven by a person with a revoked or suspended license. Provides that a person with one of these stickers may have his or her vehicle registration cancelled under specified conditions. Provides for hearings and appeals with regard to these cancellations. Provides that removal of the special stickers is a petty offense. Provides that when stickers must be replaced, the vehicle owner must pay the cost. Provides that the Secretary shall adopt the necessary rules.

LRB093 17917 DRH 43600 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning vehicles.

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 2-118 and adding Sections 2-118.2, 2-118.3, 3-412.1,
6 3-412.2, 3-412.3, 3-412.4, 3-412.5, and 3-412.6 as follows:

7 (625 ILCS 5/2-118) (from Ch. 95 1/2, par. 2-118)
8 Sec. 2-118. Hearings.

9 (a) Except as provided in Section 2-118.2, upon ~~Upon~~ the
10 suspension, revocation or denial of the issuance of a license,
11 permit, registration or certificate of title under this Code of
12 any person the Secretary of State shall immediately notify such
13 person in writing and upon his written request shall, within 20
14 days after receipt thereof, set a date for a hearing to
15 commence within 90 calendar days from the date of the written
16 request for all requests related to a suspension, revocation,
17 or the denial of the issuance of a license, permit,
18 registration, or certificate of title occurring after July 1,
19 2002, in the County of Sangamon, the County of Jefferson, or
20 the County of Cook, as such person may specify, unless both
21 parties agree that such hearing may be held in some other
22 county. The Secretary may require the payment of a fee of not
23 more than \$50 for the filing of any petition, motion, or
24 request for hearing conducted pursuant to this Section. These
25 fees must be deposited into the Secretary of State DUI
26 Administration Fund, a special fund created in the State
27 treasury, and, subject to appropriation and as directed by the
28 Secretary of State, shall be used for operation of the
29 Department of Administrative Hearings of the Office of the
30 Secretary of State and for no other purpose. The Secretary
31 shall establish by rule the amount and the procedures, terms,
32 and conditions relating to these fees.

1 (b) At any time after the suspension, revocation or denial
2 of a license, permit, registration or certificate of title of
3 any person as hereinbefore referred to, the Secretary of State,
4 in his or her discretion and without the necessity of a request
5 by such person, may hold such a hearing, upon not less than 10
6 days' notice in writing, in the Counties of Sangamon,
7 Jefferson, or Cook or in any other county agreed to by the
8 parties.

9 (c) Upon any such hearing, the Secretary of State, or his
10 authorized agent may administer oaths and issue subpoenas for
11 the attendance of witnesses and the production of relevant
12 books and records and may require an examination of such
13 person. Upon any such hearing, the Secretary of State shall
14 either rescind or, good cause appearing therefor, continue,
15 change or extend the Order of Revocation or Suspension, or upon
16 petition therefore and subject to the provisions of this Code,
17 issue a restricted driving permit or reinstate the license or
18 permit of such person.

19 (d) All hearings and hearing procedures shall comply with
20 requirements of the Constitution, so that no person is deprived
21 of due process of law nor denied equal protection of the laws.
22 All hearings shall be held before the Secretary of State or
23 before such persons as may be designated by the Secretary of
24 State and appropriate records of such hearings shall be kept.
25 Where a transcript of the hearing is taken, the person
26 requesting the hearing shall have the opportunity to order a
27 copy thereof at his own expense. The Secretary of State shall
28 enter an order upon any hearing conducted under this Section,
29 related to a suspension, revocation, or the denial of the
30 issuance of a license, permit, registration, or certificate of
31 title occurring after July 1, 2002, within 90 days of its
32 conclusion and shall immediately notify the person in writing
33 of his or her action.

34 (e) The action of the Secretary of State in suspending,
35 revoking or denying any license, permit, registration, or
36 certificate of title shall be subject to judicial review in the

1 Circuit Court of Sangamon County, in the Circuit Court of
2 Jefferson County, or in the Circuit Court of Cook County, and
3 the provisions of the Administrative Review Law, and all
4 amendments and modifications thereto, and the rules adopted
5 pursuant thereto, are hereby adopted and shall apply to and
6 govern every action for the judicial review of final acts or
7 decisions of the Secretary of State hereunder.

8 (Source: P.A. 91-823, eff. 1-1-01; 92-418, eff. 8-17-01.)

9 (625 ILCS 5/2-118.2 new)

10 Sec. 2-118.2. Opportunity for hearing; statutory summary
11 cancellation.

12 (a) A hearing on cancellation of registration shall be
13 before a representative of the Secretary of State.

14 (b) Unless there is an agreement between the person and the
15 Secretary that the hearing be conducted elsewhere, the hearing
16 shall be held either in the county where the alleged offense
17 occurred or at any place within 100 miles of the place where
18 the offense is alleged to have occurred, as established by the
19 Secretary by rule.

20 (c) The Secretary may contract with any person or agency to
21 hold the hearing on behalf of the Secretary and to report
22 findings from the hearing to the Secretary. Any person or
23 agency may in individual cases issue final orders on behalf of
24 the Secretary.

25 (d) A person who requests a hearing under this Section and
26 who fails, without just cause, to appear in person or through
27 an attorney waives the right to a hearing. If a person waives a
28 right to a hearing under this subsection, the Secretary is not
29 required to make any showing at the hearing.

30 (e) Except as provided in subsection (i), the Secretary
31 shall hold the hearing and issue a final order within 60 days
32 of the date of the arrest or citation under Section 3-412.1.
33 The person who requested the hearing shall be notified of the
34 time and place of the hearing at least 20 days prior to the
35 scheduled date.

1 (f) In connection with the hearing, the Secretary or his or
2 her authorized representative may administer oaths and shall
3 issue subpoenas for (i) the attendance of witnesses at the
4 hearing requested by the person or the Secretary and (ii) the
5 production of relevant documents.

6 (g) The hearing shall be recorded by whatever means may be
7 determined by the Secretary and shall include testimony and
8 exhibits, if any. The record of the proceedings shall not be
9 transcribed unless requested by a party to the proceeding.

10 (h) The scope of a hearing under this Section shall be
11 limited to whether the cancellation is valid as described in
12 this subsection (h). A cancellation is valid if all of the
13 following requirements have been met:

14 (1) at the time the registration plates were marked,
15 (i) the driving privileges of the driver of the vehicle
16 were suspended or revoked for one of the reasons specified
17 in Section 3-412.1, or (ii) the driver was operating the
18 vehicle without driving privileges at the time of the
19 marking and has not produced a license, permit, or other
20 evidence of driving privileges as authorized by subsection
21 (f) of Section 3-412.2;

22 (2) the driver of the vehicle was a registered owner of
23 the vehicle at the time the registration plates were marked
24 and is a registered owner of the vehicle at the time of the
25 hearing; and

26 (3) the driver of the vehicle was provided notice that
27 met the requirements of Section 3-412.3.

28 (i) If the Secretary is unable to provide a hearing within
29 the time required by subsection (e), the Secretary may postpone
30 the hearing for up to 60 additional days. The Secretary shall
31 determine by rule what constitutes inability to provide a
32 hearing within the time required. If a hearing is postponed
33 under this subsection (i), the Secretary shall extend the
34 temporary registration issued under Section 3-412.1 for an
35 additional 60 days.

36 (j) The Secretary shall not require the police officer who

1 took action under Section 3-412.1 to be present at any hearing
2 held under this Section. Nothing in this subsection (j)
3 prohibits the Secretary from issuing a subpoena to the police
4 officer on behalf of the person who requested the hearing.

5 (k) The Secretary shall adopt rules for implementing this
6 Section and Section 2-118.3.

7 (625 ILCS 5/2-118.3 new)

8 Sec. 2-118.3. Right of appeal; statutory summary
9 cancellation.

10 (a) The petition to the circuit court appealing an order of
11 the Secretary of State after a hearing under Section 2-118.2
12 shall state the nature of the petitioner's interest and the
13 ground or grounds upon which the petitioner contends the order
14 should be reversed or remanded.

15 (b) The court shall conduct the review without a jury.
16 Review shall be limited to the record of the Secretary's
17 hearing.

18 (c) Any party to the proceedings before the circuit court
19 may appeal from the judgment of the court to the Appellate
20 Court.

21 (d) Upon review in the circuit court and the Appellate
22 Court, the court may affirm, reverse, or remand the order as
23 follows:

24 (1) if the court finds that the Secretary has
25 erroneously interpreted a provision of law and that a
26 correct interpretation compels a particular action, the
27 court shall:

28 (A) set aside or modify the order; or

29 (B) remand the case to the Secretary for further
30 action under a correct interpretation of the law;

31 (2) the court shall remand the order to the Secretary
32 if it finds the Secretary's exercise of discretion to be
33 any of the following:

34 (A) outside the range of discretion delegated to
35 the Secretary by law;

1 (B) inconsistent with one or more of the
2 Secretary's rules; or

3 (C) otherwise in violation of a constitutional or
4 statutory provision; and

5 (3) the court shall set aside or remand the order if it
6 finds that the order is not supported by substantial
7 evidence in the record.

8 (e) Upon review, the court shall affirm the Secretary's
9 order unless the court finds a ground for setting aside,
10 modifying, or remanding to the Secretary under this Section.

11 (625 ILCS 5/3-412.1 new)

12 Sec. 3-412.1. Persons who drive on revoked or suspended
13 licenses.

14 (a) Except as provided in subsection (b), a police officer
15 who arrests, or issues a Uniform Traffic Citation to, a person
16 charged with (i) a felony violation of Section 6-303, (ii)
17 driving on a license that was suspended under Section 3-707, or
18 (iii) driving without a license or permit in violation of
19 Section 6-101, shall confiscate any vehicle registration card
20 that is found in the vehicle and shall mark each registration
21 plate of the vehicle with a sticker in accordance with
22 procedures prescribed by the Secretary.

23 (b) This Section does not apply to a vehicle driven by a
24 person issued a citation for operating a vehicle with an
25 expired license, if the person's license expired not more than
26 one year before the date of the citation.

27 (c) Registration plates marked under this Section shall be
28 clearly distinguishable from other plates issued by the
29 Secretary.

30 (d) Upon confiscation of a registration card or the marking
31 of plates under this Section, the officer shall issue the
32 driver a temporary registration that expires 60 days after the
33 date of arrest or citation. The Secretary shall provide law
34 enforcement agencies with temporary registrations for issuance
35 as required under this Section.

1 (e) The officer shall provide the driver with written
2 notice of the circumstances under which the Secretary may
3 cancel the vehicle's registration. Notice shall be on a form
4 prepared and provided by the Secretary and shall contain the
5 information required by Section 3-412.3.

6 (f) Within a period of time to be determined by the
7 Secretary, the officer shall report action taken under this
8 Section to the Secretary and shall deliver to the Secretary (i)
9 any confiscated registration card and (ii) a copy of the notice
10 of intent to cancel registration.

11 (g) Any police officer who sees a vehicle with registration
12 plates marked as provided subsection (b) being operated on a
13 highway or on premises open to the public may stop the vehicle
14 for the sole purpose of ascertaining whether the driver is
15 operating the vehicle in violation of Section 6-303.

16 (h) Nothing in this Section prevents the arrest or citation
17 of a person for an offense if the officer has probable cause to
18 believe the person has committed the offense.

19 (i) The Secretary shall adopt rules for implementing this
20 Section and the following Sections that precede Section 3-413.

21 (625 ILCS 5/3-412.2 new)

22 Sec. 3-412.2. Summary cancellation of registration;
23 persons who have driven with revoked or suspended licenses.

24 (a) Upon receipt of a report from a police officer of
25 action taken under Section 3-412.1, the Secretary of State
26 shall:

27 (1) determine from his or her records that the driving
28 privileges of the driver were suspended or revoked for one
29 of the reasons described in Section 3-412.1; and

30 (2) determine whether the driver was an owner of the
31 vehicle that the driver was driving at the time of the
32 arrest or citation under Section 3-412.1.

33 (b) If both conditions of subsection (a) of this Section
34 are met, the Secretary shall cancel the registration of the
35 vehicle. Cancellation shall take effect 60 days after the

1 arrest or citation under Section 3-412.1. Cancellation shall
2 remain in effect until (i) the driving privileges of the driver
3 have been restored and the driver submits a valid application
4 and all required fees for registration of the vehicle,
5 including the restoration fee under Section 3-412.6, or (ii)
6 another person who is qualified to do so registers the vehicle.

7 (c) Cancellation of registration under this Section does
8 not affect the right of any person to transfer or acquire title
9 to or any interest in the vehicle, or the right of any person
10 other than the driver to become the registered owner of the
11 vehicle.

12 (d) If the records of the Secretary show that the driving
13 privileges of the driver were suspended or revoked for one of
14 the reasons described in Section 3-412.1, but the driver was
15 not an owner of the vehicle at the time the registration plates
16 were marked, the Secretary shall promptly notify the registered
17 owner, by first class mail to the address shown on the
18 Secretary's records, of the action taken under Section 3-412.1.
19 The Secretary shall not cancel the registration of a vehicle if
20 the driver who was arrested or issued a citation under Section
21 3-412.1 was not an owner of the vehicle at the time of the
22 arrest or citation. Upon payment by the registered owner of the
23 replacement sticker fee, and the restoration fee under Section
24 3-412.6 if applicable, the Secretary shall issue replacement
25 stickers and shall either (i) return any confiscated
26 registration card to a registered owner notified under this
27 subsection (d) or (ii) issue a new card without cost to the
28 owner. The replacement stickers may be used by the registered
29 owner to replace the stickers placed on the registration plate
30 under Section 3-412.1.

31 (e) If the Secretary's records show that the driving
32 privileges of the driver were not suspended or revoked for one
33 of the reasons specified in Section 3-412.1 at the time of the
34 action taken under Section 3-412.1, the Secretary shall (i)
35 notify the driver or the registered owner, if other than the
36 driver, that registration will not be canceled and (ii) issue

1 replacement stickers at no cost to the driver or registered
2 owner. The stickers and any confiscated registration card, or a
3 new card at the Secretary's discretion, shall be given to the
4 registered owner as soon as possible after the determination
5 required under this subsection (e) has been made.

6 (f) If the driver of a vehicle that had plates marked under
7 Section 3-412.1 produces a driver's license, driver permit, or
8 other evidence of a grant of driving privileges that is valid
9 at the time it is produced, the Secretary shall not cancel the
10 registration of the vehicle and, upon payment by the registered
11 owner of the replacement sticker fee and the restoration fee
12 under Section 3-412.5, shall issue replacement stickers for the
13 vehicle and shall either return any confiscated registration
14 card or issue a new one at no cost to the owner of the vehicle.

15 (g) Nothing in this Section requires the Secretary to issue
16 a registration card or stickers for a vehicle if registration
17 for that vehicle has expired.

18 (625 ILCS 5/3-412.3 new)

19 Sec. 3-412.3. Notice.

20 (a) The notice given by a police officer under Section
21 3-412.1 shall:

22 (1) specify the grounds for cancellation of the
23 registration;

24 (2) inform the person (i) that registration will not be
25 canceled if the person has or gets a valid driver license
26 or permit and (ii) of the procedure for obtaining
27 replacement stickers and card under those circumstances;
28 and

29 (3) inform the person that the person is entitled to a
30 hearing under Section 2-118.2 of this Code.

31 (b) If no written request for a hearing is received by the
32 Secretary within 15 days of notification under this Section,
33 any cancellation of the registration by the Secretary
34 authorized by Section 3-412.2 shall become effective as
35 provided in that Section. If a request for a hearing is

1 received within 15 days, the Secretary shall provide a hearing
2 under Section 2-118.2.

3 (625 ILCS 5/3-412.4 new)

4 Sec. 3-412.4. Summary cancellation of registration
5 effective pending appeal.

6 (a) A cancellation order issued under Section 2-118.2 shall
7 remain in effect pending any appeal or remand of the order and
8 there shall be no stay of the cancellation pending appeal or
9 remand.

10 (b) Unless a person fails, without just cause, to appear in
11 person or through an attorney at a hearing under Section
12 2-118.2 after having requested the hearing, a person shall have
13 the right to appeal any final order by the Secretary after the
14 hearing by filing a petition in the circuit court for the
15 county where the person resides or, if the person does not
16 reside in this State, in the circuit court of the county in
17 which the arrest or citation took place, within 30 days after
18 issuance of the final order of the Secretary. Appeal shall be
19 as provided in Section 2-118.3.

20 (625 ILCS 5/3-412.5 new)

21 Sec. 3-412.5. Removal of special stickers.

22 (a) A person commits the offense of removal of special
23 stickers if the person removes stickers put on the registration
24 plates of a vehicle under Section 3-412.1 before the Secretary
25 has issued replacement stickers for the vehicle.

26 (b) A violation of this Section is a petty offense.

27 (625 ILCS 5/3-412.6 new)

28 Sec. 3-412.6. Replacement plates or stickers.

29 (a) Whenever the registered owner of a vehicle is required
30 to pay for replacement plates or stickers under Section
31 3-412.2, or when a driver re-registers a vehicle under Section
32 3-412.2, the Secretary shall charge a restoration fee in
33 addition to any other fees charged for the transaction.

1 (b) The fee charged under this Section shall be an amount
2 of not more than \$5, to be determined by the Secretary,
3 designed to recover the Secretary's costs.