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1 AMENDMENT TO HOUSE BILL 642

2 AMENDMENT NO. _____. Amend House Bill 642 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Toll Highway Act is amended by changing
5 Section 10 as follows:

6 (605 ILCS 10/10) (from Ch. 121, par. 100-10)

7 Sec. 10. The Authority shall have power:

8 (a) To pass resolutions, make by-laws, rules and
9 regulations for the management, regulation and control of its
10 affairs, and to fix tolls, and to make, enact and enforce all
11 needful rules and regulations in connection with the
12 construction, operation, management, care, regulation or
13 protection of its property or any toll highways, constructed or
14 reconstructed hereunder.

15 (a-5) To fix, assess, and collect civil fines for a
16 vehicle's operation on a toll highway without the required toll

1 having been paid. The Authority may establish by rule a system
2 of civil administrative adjudication to adjudicate only
3 alleged instances of a vehicle's operation on a toll highway
4 without the required toll having been paid, as detected by the
5 Authority's video or photo surveillance system. In cases in
6 which the operator of the vehicle is not the registered vehicle
7 owner, the establishment of ownership of the vehicle creates a
8 rebuttable presumption that the vehicle was being operated by
9 an agent of the registered vehicle owner. If the registered
10 vehicle owner liable for a violation under this Section was not
11 the operator of the vehicle at the time of the violation, the
12 owner may maintain an action for indemnification against the
13 operator in the circuit court. Rules establishing a system of
14 civil administrative adjudication must provide for written
15 notice, by first class mail or other means provided by law, to
16 be sent no later than 30 days after the date of the alleged
17 violation that triggers the mailing of a violation notice or
18 notices by the Authority, to the address of the registered
19 owner of the cited vehicle as recorded with the Secretary of
20 State or to the lessee of the cited vehicle at the last address
21 known to the lessor of the cited vehicle at the time of the
22 lease, of the alleged violation and an opportunity to be heard
23 on the question of the violation and must provide for the
24 establishment of a toll-free telephone number to receive
25 inquiries concerning alleged violations. The notice shall also
26 inform the registered vehicle owner that failure to contest in

1 the manner and time provided shall be deemed an admission of
2 liability and that a final order of liability may be entered on
3 that admission.

4 The notice shall include a statement by the Authority of
5 how the owner may obtain a copy of any and all evidence,
6 material, or similar information relevant to an alleged
7 violation. If the owner requests any information relevant to an
8 alleged violation from the Authority, the Authority must stay
9 any action or hearing against the owner until the Authority has
10 provided the information requested. Under no circumstances
11 shall the owner be required to file a Freedom of Information
12 Act request to obtain evidence, material, or similar
13 information relevant to an alleged violation. The Authority may
14 comply with an owner's request for information by providing a
15 website address where the information requested is accessible
16 through the Internet. A website accessible through the Internet
17 used for the administration of toll violation notices shall be
18 completed within one year of the effective date of this
19 amendatory Act of the 96th General Assembly and shall include
20 the following minimum capabilities:

21 (1) The capability to display any and all evidence of a
22 toll violation or violations, which shall be accessible
23 only by the person receiving notice of the violation and
24 the Authority.

25 (2) The capability to dispute a toll violation or
26 violations through the Internet.

1 (3) In the case of an erroneous toll violation or
2 violations, an owner of a vehicle whose plate was
3 mistakenly identified shall be provided by the Authority
4 with the ability on the website to have the license plate
5 in question flagged. All subsequent alleged violations
6 related to the flagged license plate must be manually
7 reviewed for accuracy by a human being so designated by the
8 Authority before the Authority may issue said alleged toll
9 violation or violations to the owner. In addition to the
10 website, an owner of a vehicle whose plate was mistakenly
11 identified and was mailed a toll violation or violations by
12 the Authority may have their plate flagged manually by
13 calling or mailing the Authority a request for such, and
14 the Authority shall treat such a request in the same manner
15 as provided herein for requests transmitted via the
16 website.

17 (4) Nothing in this amendatory Act of the 96th General
18 Assembly shall be construed as to supplant, change, remove,
19 or otherwise limit existing rights in statute,
20 administrative rule, equity, or otherwise available to an
21 alleged violator on the effective date of this amendatory
22 Act of the 96th General Assembly. Rather, the changes
23 included in this amendatory Act of the 96th General
24 Assembly shall be construed to be in addition to any other
25 rights or remedies available to an alleged violator as of
26 the effective date of this amendatory Act of the 96th

1 General Assembly.

2 A duly authorized agent of the Authority may perform or
3 execute the preparation, certification, affirmation, or
4 mailing of the notice. A notice of violation, sworn or affirmed
5 to or certified by a duly authorized agent of the Authority, or
6 a facsimile of the notice, based upon an inspection of
7 photographs, microphotographs, videotape, or other recorded
8 images produced by a video or photo surveillance system, shall
9 be admitted as prima facie evidence of the correctness of the
10 facts contained in the notice or facsimile. Only civil fines,
11 along with the corresponding outstanding toll, and costs may be
12 imposed by administrative adjudication. A fine may be imposed
13 under this paragraph only if a violation is established by a
14 preponderance of the evidence. Judicial review of all final
15 orders of the Authority under this paragraph shall be conducted
16 in the circuit court of the county in which the administrative
17 decision was rendered in accordance with the Administrative
18 Review Law.

19 Any outstanding toll, fine, additional late payment fine,
20 other sanction, or costs imposed, or part of any fine, other
21 sanction, or costs imposed, remaining unpaid after the
22 exhaustion of, or the failure to exhaust, judicial review
23 procedures under the Administrative Review Law are a debt due
24 and owing the Authority and may be collected in accordance with
25 applicable law. After expiration of the period in which
26 judicial review under the Administrative Review Law may be

1 sought, unless stayed by a court of competent jurisdiction, a
2 final order of the Authority under this subsection (a-5) may be
3 enforced in the same manner as a judgment entered by a court of
4 competent jurisdiction. Notwithstanding any other provision of
5 this Act, the Authority may, with the approval of the Attorney
6 General, retain a law firm or law firms with expertise in the
7 collection of government fines and debts for the purpose of
8 collecting fines, costs, and other moneys due under this
9 subsection (a-5).

10 A system of civil administrative adjudication may also
11 provide for a program of vehicle immobilization, tow, or
12 impoundment for the purpose of facilitating enforcement of any
13 final order or orders of the Authority under this subsection
14 (a-5) that result in a finding or liability for 5 or more
15 violations after expiration of the period in which judicial
16 review under the Administrative Review Law may be sought. The
17 registered vehicle owner of a vehicle immobilized, towed, or
18 impounded for nonpayment of a final order of the Authority
19 under this subsection (a-5) shall have the right to request a
20 hearing before the Authority's civil administrative
21 adjudicatory system to challenge the validity of the
22 immobilization, tow, or impoundment. This hearing, however,
23 shall not constitute a readjudication of the merits of
24 previously adjudicated notices. Judicial review of all final
25 orders of the Authority under this subsection (a-5) shall be
26 conducted in the circuit court of the county in which the

1 administrative decision was rendered in accordance with the
2 Administrative Review Law.

3 No commercial entity that is the lessor of a vehicle under
4 a written lease agreement shall be liable for an administrative
5 notice of violation for toll evasion issued under this
6 subsection (a-5) involving that vehicle during the period of
7 the lease if the lessor provides a copy of the leasing
8 agreement to the Authority within 21 days of the issue date on
9 the notice of violation. The leasing agreement also must
10 contain a provision or addendum informing the lessee that the
11 lessee is liable for payment of all tolls and any fines for
12 toll evasion. Each entity must also post a sign at the leasing
13 counter notifying the lessee of that liability. The copy of the
14 leasing agreement provided to the Authority must contain the
15 name, address, and driver's license number of the lessee, as
16 well as the check-out and return dates and times of the vehicle
17 and the vehicle license plate number and vehicle make and
18 model.

19 As used in this subsection (a-5), "lessor" includes
20 commercial leasing and rental entities but does not include
21 public passenger vehicle entities.

22 The Authority shall establish an amnesty program for
23 violations adjudicated under this subsection (a-5). Under the
24 program, any person who has an outstanding notice of violation
25 for toll evasion or a final order of a hearing officer for toll
26 evasion dated prior to the effective date of this amendatory

1 Act of the 94th General Assembly and who pays to the Authority
2 the full percentage amounts listed in this paragraph remaining
3 due on the notice of violation or final order of the hearing
4 officer and the full fees and costs paid by the Authority to
5 the Secretary of State relating to suspension proceedings, if
6 applicable, on or before 5:00 p.m., Central Standard Time, of
7 the 60th day after the effective date of this amendatory Act of
8 the 94th General Assembly shall not be required to pay more
9 than the listed percentage of the original fine amount and
10 outstanding toll as listed on the notice of violation or final
11 order of the hearing officer and the full fees and costs paid
12 by the Authority to the Secretary of State relating to
13 suspension proceedings, if applicable. The payment percentage
14 scale shall be as follows: a person with 25 or fewer violations
15 shall be eligible for amnesty upon payment of 50% of the
16 original fine amount and the outstanding tolls; a person with
17 more than 25 but fewer than 51 violations shall be eligible for
18 amnesty upon payment of 60% of the original fine amount and the
19 outstanding tolls; and a person with 51 or more violations
20 shall be eligible for amnesty upon payment of 75% of the
21 original fine amount and the outstanding tolls. In such a
22 situation, the Executive Director of the Authority or his or
23 her designee is authorized and directed to waive any late fine
24 amount above the applicable percentage of the original fine
25 amount. Partial payment of the amount due shall not be a basis
26 to extend the amnesty payment deadline nor shall it act to

1 relieve the person of liability for payment of the late fine
2 amount. In order to receive amnesty, the full amount of the
3 applicable percentage of the original fine amount and
4 outstanding toll remaining due on the notice of violation or
5 final order of the hearing officer and the full fees and costs
6 paid by the Authority to the Secretary of State relating to
7 suspension proceedings, if applicable, must be paid in full by
8 5:00 p.m., Central Standard Time, of the 60th day after the
9 effective date of this amendatory Act of the 94th General
10 Assembly. This amendatory Act of the 94th General Assembly has
11 no retroactive effect with regard to payments already tendered
12 to the Authority that were full payments or payments in an
13 amount greater than the applicable percentage, and this Act
14 shall not be the basis for either a refund or a credit. This
15 amendatory Act of the 94th General Assembly does not apply to
16 toll evasion citations issued by the Illinois State Police or
17 other authorized law enforcement agencies and for which payment
18 may be due to or through the clerk of the circuit court. The
19 Authority shall adopt rules as necessary to implement the
20 provisions of this amendatory Act of the 94th General Assembly.
21 The Authority, by a resolution of the Board of Directors, shall
22 have the discretion to implement similar amnesty programs in
23 the future. The Authority, at its discretion and in
24 consultation with the Attorney General, is further authorized
25 to settle an administrative fine or penalty if it determines
26 that settling for less than the full amount is in the best

1 interests of the Authority after taking into account the
2 following factors: (1) the merits of the Authority's claim
3 against the respondent; (2) the amount that can be collected
4 relative to the administrative fine or penalty owed by the
5 respondent; (3) the cost of pursuing further enforcement or
6 collection action against the respondent; (4) the likelihood of
7 collecting the full amount owed; and (5) the burden on the
8 judiciary. The provisions in this Section may be extended to
9 other toll facilities in the State of Illinois through a duly
10 executed agreement between the Authority and the operator of
11 the toll facility.

12 (a-10) It shall be an affirmative defense to any alleged
13 violation if the Authority fails to comply with the
14 requirements of subsection (a-5).

15 (b) To prescribe rules and regulations applicable to
16 traffic on highways under the jurisdiction of the Authority,
17 concerning:

18 (1) Types of vehicles permitted to use such highways or
19 parts thereof, and classification of such vehicles;

20 (2) Designation of the lanes of traffic to be used by
21 the different types of vehicles permitted upon said
22 highways;

23 (3) Stopping, standing, and parking of vehicles;

24 (4) Control of traffic by means of police officers or
25 traffic control signals;

26 (5) Control or prohibition of processions, convoys,

1 and assemblages of vehicles and persons;

2 (6) Movement of traffic in one direction only on
3 designated portions of said highways;

4 (7) Control of the access, entrance, and exit of
5 vehicles and persons to and from said highways; and

6 (8) Preparation, location and installation of all
7 traffic signs; and to prescribe further rules and
8 regulations applicable to such traffic, concerning matters
9 not provided for either in the foregoing enumeration or in
10 the Illinois Vehicle Code. Notice of such rules and
11 regulations shall be posted conspicuously and displayed at
12 appropriate points and at reasonable intervals along said
13 highways, by clearly legible markers or signs, to provide
14 notice of the existence of such rules and regulations to
15 persons traveling on said highways. At each toll station,
16 the Authority shall make available, free of charge,
17 pamphlets containing all of such rules and regulations.

18 (c) The Authority, in fixing the rate for tolls for the
19 privilege of using the said toll highways, is authorized and
20 directed, in fixing such rates, to base the same upon annual
21 estimates to be made, recorded and filed with the Authority.
22 Said estimates shall include the following: The estimated total
23 amount of the use of the toll highways; the estimated amount of
24 the revenue to be derived therefrom, which said revenue, when
25 added to all other receipts and income, will be sufficient to
26 pay the expense of maintaining and operating said toll

1 highways, including the administrative expenses of the
2 Authority, and to discharge all obligations of the Authority as
3 they become due and payable.

4 (d) To accept from any municipality or political
5 subdivision any lands, easements or rights in land needed for
6 the operation, construction, relocation or maintenance of any
7 toll highways, with or without payment therefor, and in its
8 discretion to reimburse any such municipality or political
9 subdivision out of its funds for any cost or expense incurred
10 in the acquisition of land, easements or rights in land, in
11 connection with the construction and relocation of the said
12 toll highways, widening, extending roads, streets or avenues in
13 connection therewith, or for the construction of any roads or
14 streets forming extension to and connections with or between
15 any toll highways, or for the cost or expense of widening,
16 grading, surfacing or improving any existing streets or roads
17 or the construction of any streets and roads forming extensions
18 of or connections with any toll highways constructed,
19 relocated, operated, maintained or regulated hereunder by the
20 Authority. Where property owned by a municipality or political
21 subdivision is necessary to the construction of an approved
22 toll highway, if the Authority cannot reach an agreement with
23 such municipality or political subdivision and if the use to
24 which the property is being put in the hands of the
25 municipality or political subdivision is not essential to the
26 existence or the administration of such municipality or

1 political subdivision, the Authority may acquire the property
2 by condemnation.

3 (Source: P.A. 94-636, eff. 8-22-05.)

4 Section 10. The Illinois Vehicle Code is amended by
5 changing 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:

24 (1) 2 or more photographs;

- 1 (2) 2 or more microphotographs;
- 2 (3) 2 or more electronic images; or
- 3 (4) a video recording showing the motor vehicle and, on
- 4 at least one image or portion of the recording, clearly
- 5 identifying the registration plate number of the motor
- 6 vehicle.

7 (c) A county or municipality, including a home rule county

8 or municipality, may not use an automated traffic law

9 enforcement system to provide recorded images of a motor

10 vehicle for the purpose of recording its speed. The regulation

11 of the use of automated traffic law enforcement systems to

12 record vehicle speeds is an exclusive power and function of the

13 State. This subsection (c) is a denial and limitation of home

14 rule powers and functions under subsection (h) of Section 6 of

15 Article VII of the Illinois Constitution.

16 (d) For each violation of a provision of this Code or a

17 local ordinance recorded by an automatic traffic law

18 enforcement system, the county or municipality having

19 jurisdiction shall issue a written notice of the violation to

20 the registered owner of the vehicle as the alleged violator.

21 The notice shall be delivered to the registered owner of the

22 vehicle, by mail, ~~within 30 days after the Secretary of State~~

23 ~~notifies the municipality or county of the identity of the~~

24 ~~owner of the vehicle, but~~ in no event later than 30 ~~90~~ days

25 after the violation.

26 The notice shall include:

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

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

5 (3) the violation charged;

6 (4) the location where the violation occurred;

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

8 (6) a copy of any and all evidence, material, or
9 similar information relevant to the alleged violation ~~the~~
10 ~~recorded images~~;

11 (7) the amount of the civil penalty imposed and the
12 date by which the civil penalty should be paid;

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

15 (9) a warning that failure to pay the civil penalty or
16 to contest liability in a timely manner is an admission of
17 liability and may result in a suspension of the driving
18 privileges of the registered owner of the vehicle; and

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

21 (A) paying the fine; or

22 (B) challenging the charge in court, by mail, or by
23 administrative hearing.

24 (d-1) Under no circumstances shall the registered owner be
25 required to file a Freedom of Information Act request to obtain
26 evidence, material, or similar information relevant to an

1 alleged violation.

2 (d-3) A municipality may comply with item (6) of subsection
3 (d) of this Section by providing a website address where the
4 required information is accessible through the Internet.

5 (d-5) It shall be an affirmative defense to any alleged
6 violation if the county or municipality having jurisdiction
7 fails to comply with the requirements of subsection (d).

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

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

21 (g) Recorded images made by an automatic traffic law
22 enforcement system are confidential and shall be made available
23 only to the alleged violator and governmental and law
24 enforcement agencies for purposes of adjudicating a violation
25 of this Section, for statistical purposes, or for other
26 governmental purposes. Any recorded image evidencing a

1 violation of this Section, however, may be admissible in any
2 proceeding resulting from the issuance of the citation.

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

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

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

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

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

22 (j) Unless the driver of the motor vehicle received a
23 Uniform Traffic Citation from a police officer at the time of
24 the violation, the motor vehicle owner is subject to a civil
25 penalty not exceeding \$100, plus an additional penalty of not
26 more than \$100 for failure to pay the original penalty in a

1 timely manner, if the motor vehicle is recorded by an automated
2 traffic law enforcement system. A violation for which a civil
3 penalty is imposed under this Section is not a violation of a
4 traffic regulation governing the movement of vehicles and may
5 not be recorded on the driving record of the owner of the
6 vehicle.

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

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

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

19 (Source: P.A. 94-795, eff. 5-22-06.)

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