



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0642

Introduced 2/6/2009, by Rep. Chapin Rose

SYNOPSIS AS INTRODUCED:

605 ILCS 10/10

from Ch. 121, par. 100-10

625 ILCS 5/11-208.6

Amends the Toll Highway Act and the Illinois Vehicle Code relating to toll violations detected by the Illinois State Toll Highway Authority's video or photo surveillance system and red light violations detected by an automated traffic law enforcement system in a municipality or county. Provides that violation notices must be sent no later than 30 days after the date of the alleged violation. Requires notices to be accompanied by copies of any and all evidence, material, or similar information relevant to the alleged violation. Provides that if the public entity with jurisdiction fails to comply with the violation notice requirements, the alleged violator has an affirmative defense to an alleged violation. Effective immediately.

LRB096 07363 AJT 17449 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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
17 having been paid. The Authority may establish by rule a system
18 of civil administrative adjudication to adjudicate only
19 alleged instances of a vehicle's operation on a toll highway
20 without the required toll having been paid, as detected by the
21 Authority's video or photo surveillance system. In cases in
22 which the operator of the vehicle is not the registered vehicle
23 owner, the establishment of ownership of the vehicle creates a

1 rebuttable presumption that the vehicle was being operated by
2 an agent of the registered vehicle owner. If the registered
3 vehicle owner liable for a violation under this Section was not
4 the operator of the vehicle at the time of the violation, the
5 owner may maintain an action for indemnification against the
6 operator in the circuit court. Rules establishing a system of
7 civil administrative adjudication must provide for written
8 notice, by first class mail or other means provided by law, to
9 be sent no later than 30 days after the date of the alleged
10 violation to the address of the registered owner of the cited
11 vehicle as recorded with the Secretary of State or to the
12 lessee of the cited vehicle at the last address known to the
13 lessor of the cited vehicle at the time of the lease, of the
14 alleged violation and an opportunity to be heard on the
15 question of the violation and must provide for the
16 establishment of a toll-free telephone number to receive
17 inquiries concerning alleged violations. The notice shall also
18 inform the registered vehicle owner that failure to contest in
19 the manner and time provided shall be deemed an admission of
20 liability and that a final order of liability may be entered on
21 that admission. The notice shall include a copy of any and all
22 evidence, material, or similar information relevant to the
23 alleged violation.

24 A duly authorized agent of the Authority may perform or
25 execute the preparation, certification, affirmation, or
26 mailing of the notice. A notice of violation, sworn or affirmed

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

15 Any outstanding toll, fine, additional late payment fine,
16 other sanction, or costs imposed, or part of any fine, other
17 sanction, or costs imposed, remaining unpaid after the
18 exhaustion of, or the failure to exhaust, judicial review
19 procedures under the Administrative Review Law are a debt due
20 and owing the Authority and may be collected in accordance with
21 applicable law. After expiration of the period in which
22 judicial review under the Administrative Review Law may be
23 sought, unless stayed by a court of competent jurisdiction, a
24 final order of the Authority under this subsection (a-5) may be
25 enforced in the same manner as a judgment entered by a court of
26 competent jurisdiction. Notwithstanding any other provision of

1 this Act, the Authority may, with the approval of the Attorney
2 General, retain a law firm or law firms with expertise in the
3 collection of government fines and debts for the purpose of
4 collecting fines, costs, and other moneys due under this
5 subsection (a-5).

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

25 No commercial entity that is the lessor of a vehicle under
26 a written lease agreement shall be liable for an administrative

1 notice of violation for toll evasion issued under this
2 subsection (a-5) involving that vehicle during the period of
3 the lease if the lessor provides a copy of the leasing
4 agreement to the Authority within 21 days of the issue date on
5 the notice of violation. The leasing agreement also must
6 contain a provision or addendum informing the lessee that the
7 lessee is liable for payment of all tolls and any fines for
8 toll evasion. Each entity must also post a sign at the leasing
9 counter notifying the lessee of that liability. The copy of the
10 leasing agreement provided to the Authority must contain the
11 name, address, and driver's license number of the lessee, as
12 well as the check-out and return dates and times of the vehicle
13 and the vehicle license plate number and vehicle make and
14 model.

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

18 The Authority shall establish an amnesty program for
19 violations adjudicated under this subsection (a-5). Under the
20 program, any person who has an outstanding notice of violation
21 for toll evasion or a final order of a hearing officer for toll
22 evasion dated prior to the effective date of this amendatory
23 Act of the 94th General Assembly and who pays to the Authority
24 the full percentage amounts listed in this paragraph remaining
25 due on the notice of violation or final order of the hearing
26 officer and the full fees and costs paid by the Authority to

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

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

1 respondent; (3) the cost of pursuing further enforcement or
2 collection action against the respondent; (4) the likelihood of
3 collecting the full amount owed; and (5) the burden on the
4 judiciary. The provisions in this Section may be extended to
5 other toll facilities in the State of Illinois through a duly
6 executed agreement between the Authority and the operator of
7 the toll facility.

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

11 (b) To prescribe rules and regulations applicable to
12 traffic on highways under the jurisdiction of the Authority,
13 concerning:

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

16 (2) Designation of the lanes of traffic to be used by
17 the different types of vehicles permitted upon said
18 highways;

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

20 (4) Control of traffic by means of police officers or
21 traffic control signals;

22 (5) Control or prohibition of processions, convoys,
23 and assemblages of vehicles and persons;

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

26 (7) Control of the access, entrance, and exit of

1 vehicles and persons to and from said highways; and

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

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

26 (d) To accept from any municipality or political

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

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

1 Section 10. The Illinois Vehicle Code is amended by
2 changing Section 11-208.6 as follows:

3 (625 ILCS 5/11-208.6)

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

5 (a) As used in this Section, "automated traffic law
6 enforcement system" means a device with one or more motor
7 vehicle sensors working in conjunction with a red light signal
8 to produce recorded images of motor vehicles entering an
9 intersection against a red signal indication in violation of
10 Section 11-306 of this Code or a similar provision of a local
11 ordinance.

12 An automated traffic law enforcement system is a system, in
13 a municipality or county operated by a governmental agency,
14 that produces a recorded image of a motor vehicle's violation
15 of a provision of this Code or a local ordinance and is
16 designed to obtain a clear recorded image of the vehicle and
17 the vehicle's license plate. The recorded image must also
18 display the time, date, and location of the violation.

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

21 (1) 2 or more photographs;

22 (2) 2 or more microphotographs;

23 (3) 2 or more electronic images; or

24 (4) a video recording showing the motor vehicle and, on
25 at least one image or portion of the recording, clearly

1 identifying the registration plate number of the motor
2 vehicle.

3 (c) A county or municipality, including a home rule county
4 or municipality, may not use an automated traffic law
5 enforcement system to provide recorded images of a motor
6 vehicle for the purpose of recording its speed. The regulation
7 of the use of automated traffic law enforcement systems to
8 record vehicle speeds is an exclusive power and function of the
9 State. This subsection (c) is a denial and limitation of home
10 rule powers and functions under subsection (h) of Section 6 of
11 Article VII of the Illinois Constitution.

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

22 The notice shall include:

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

25 (2) the registration number of the motor vehicle
26 involved in the violation;

- 1 (3) the violation charged;
- 2 (4) the location where the violation occurred;
- 3 (5) the date and time of the violation;
- 4 (6) a copy of any and all evidence, material, or
5 similar information relevant to the alleged violation ~~the~~
6 ~~recorded images~~;
- 7 (7) the amount of the civil penalty imposed and the
8 date by which the civil penalty should be paid;
- 9 (8) a statement that recorded images are evidence of a
10 violation of a red light signal;
- 11 (9) a warning that failure to pay the civil penalty or
12 to contest liability in a timely manner is an admission of
13 liability and may result in a suspension of the driving
14 privileges of the registered owner of the vehicle; and
- 15 (10) a statement that the person may elect to proceed
16 by:
- 17 (A) paying the fine; or
- 18 (B) challenging the charge in court, by mail, or by
19 administrative hearing.

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

23 (e) If a person charged with a traffic violation, as a
24 result of an automated traffic law enforcement system, does not
25 pay or successfully contest the civil penalty resulting from
26 that violation, the Secretary of State shall suspend the

1 driving privileges of the registered owner of the vehicle under
2 Section 6-306.5 of this Code for failing to pay any fine or
3 penalty due and owing as a result of 5 violations of the
4 automated traffic law enforcement system.

5 (f) Based on inspection of recorded images produced by an
6 automated traffic law enforcement system, a notice alleging
7 that the violation occurred shall be evidence of the facts
8 contained in the notice and admissible in any proceeding
9 alleging a violation under this Section.

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

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

20 (1) that the motor vehicle or registration plates of
21 the motor vehicle were stolen before the violation occurred
22 and not under the control of or in the possession of the
23 owner at the time of the violation;

24 (2) that the driver of the vehicle passed through the
25 intersection when the light was red either (i) in order to
26 yield the right-of-way to an emergency vehicle or (ii) as

1 part of a funeral procession; and

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

4 (i) To demonstrate that the motor vehicle or the
5 registration plates were stolen before the violation occurred
6 and were not under the control or possession of the owner at
7 the time of the violation, the owner must submit proof that a
8 report concerning the stolen motor vehicle or registration
9 plates was filed with a law enforcement agency in a timely
10 manner.

11 (j) Unless the driver of the motor vehicle received a
12 Uniform Traffic Citation from a police officer at the time of
13 the violation, the motor vehicle owner is subject to a civil
14 penalty not exceeding \$100, plus an additional penalty of not
15 more than \$100 for failure to pay the original penalty in a
16 timely manner, if the motor vehicle is recorded by an automated
17 traffic law enforcement system. A violation for which a civil
18 penalty is imposed under this Section is not a violation of a
19 traffic regulation governing the movement of vehicles and may
20 not be recorded on the driving record of the owner of the
21 vehicle.

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

26 (l) The compensation paid for an automated traffic law

1 enforcement system must be based on the value of the equipment
2 or the services provided and may not be based on the number of
3 traffic citations issued or the revenue generated by the
4 system.

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

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

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.