



Sen. Kimberly A. Lightford

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LRB096 08329 AJT 40701 a

1 AMENDMENT TO HOUSE BILL 707

2 AMENDMENT NO. _____. Amend House Bill 707, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Vehicle Code is amended by
6 changing Section 11-208.3 as follows:

7 (625 ILCS 5/11-208.3) (from Ch. 95 1/2, par. 11-208.3)

8 Sec. 11-208.3. Administrative adjudication of violations
9 of traffic regulations concerning the standing, parking, or
10 condition of vehicles and automated traffic law violations.

11 (a) Any municipality may provide by ordinance for a system
12 of administrative adjudication of vehicular standing and
13 parking violations and vehicle compliance violations as
14 defined in this subsection and automated traffic law violations
15 as defined in Section 11-208.6 or 11-1201.1. The administrative
16 system shall have as its purpose the fair and efficient

1 enforcement of municipal regulations through the
2 administrative adjudication of automated traffic law
3 violations and violations of municipal ordinances regulating
4 the standing and parking of vehicles, the condition and use of
5 vehicle equipment, and the display of municipal wheel tax
6 licenses within the municipality's borders. The administrative
7 system shall only have authority to adjudicate civil offenses
8 carrying fines not in excess of \$500, except as provided in
9 subsection (c) of Section 11-1301.3 or subsection (a) of
10 Section 15-113 of this Code, or requiring the completion of a
11 traffic education program, or both, that occur after the
12 effective date of the ordinance adopting such a system under
13 this Section. For purposes of this Section, "compliance
14 violation" means a violation of a municipal regulation
15 governing the condition or use of equipment on a vehicle, ~~or~~
16 governing the display of a municipal wheel tax license, or
17 governing maximum wheel and axle loads and gross weights.

18 (b) Any ordinance establishing a system of administrative
19 adjudication under this Section shall provide for:

20 (1) A traffic compliance administrator authorized to
21 adopt, distribute and process parking, compliance, and
22 automated traffic law violation notices and other notices
23 required by this Section, collect money paid as fines and
24 penalties for violation of parking and compliance
25 ordinances and automated traffic law violations, and
26 operate an administrative adjudication system. The traffic

1 compliance administrator also may make a certified report
2 to the Secretary of State under Section 6-306.5.

3 (2) A parking, standing, compliance, or automated
4 traffic law violation notice that shall specify the date,
5 time, and place of violation of a parking, standing,
6 compliance, or automated traffic law regulation; the
7 particular regulation violated; any requirement to
8 complete a traffic education program; the fine and any
9 penalty that may be assessed for late payment or failure to
10 complete a required traffic education program, or both,
11 when so provided by ordinance; the vehicle make and state
12 registration number; and the identification number of the
13 person issuing the notice. With regard to automated traffic
14 law violations, vehicle make shall be specified on the
15 automated traffic law violation notice if the make is
16 available and readily discernible. With regard to
17 municipalities with a population of 1 million or more, it
18 shall be grounds for dismissal of a parking violation if
19 the state registration number or vehicle make specified is
20 incorrect. The violation notice shall state that the
21 completion of any required traffic education program, the
22 payment of any indicated fine, and the payment of any
23 applicable penalty for late payment or failure to complete
24 a required traffic education program, or both, shall
25 operate as a final disposition of the violation. The notice
26 also shall contain information as to the availability of a

1 hearing in which the violation may be contested on its
2 merits. The violation notice shall specify the time and
3 manner in which a hearing may be had.

4 (3) Service of the parking, standing, or compliance
5 violation notice by affixing the original or a facsimile of
6 the notice to an unlawfully parked vehicle or by handing
7 the notice to the operator of a vehicle if he or she is
8 present and service of an automated traffic law violation
9 notice by mail to the address of the registered owner of
10 the cited vehicle as recorded with the Secretary of State
11 within 30 days after the Secretary of State notifies the
12 municipality or county of the identity of the owner of the
13 vehicle, but in no event later than 90 days after the
14 violation. A person authorized by ordinance to issue and
15 serve parking, standing, and compliance violation notices
16 shall certify as to the correctness of the facts entered on
17 the violation notice by signing his or her name to the
18 notice at the time of service or in the case of a notice
19 produced by a computerized device, by signing a single
20 certificate to be kept by the traffic compliance
21 administrator attesting to the correctness of all notices
22 produced by the device while it was under his or her
23 control. In the case of an automated traffic law violation,
24 the ordinance shall require a determination by a technician
25 employed or contracted by the municipality or county that,
26 based on inspection of recorded images, the motor vehicle

1 was being operated in violation of Section 11-208.6 or
2 11-1201.1 or a local ordinance. If the technician
3 determines that the vehicle entered the intersection as
4 part of a funeral procession or in order to yield the
5 right-of-way to an emergency vehicle, a citation shall not
6 be issued. The original or a facsimile of the violation
7 notice or, in the case of a notice produced by a
8 computerized device, a printed record generated by the
9 device showing the facts entered on the notice, shall be
10 retained by the traffic compliance administrator, and
11 shall be a record kept in the ordinary course of business.
12 A parking, standing, compliance, or automated traffic law
13 violation notice issued, signed and served in accordance
14 with this Section, a copy of the notice, or the computer
15 generated record shall be prima facie correct and shall be
16 prima facie evidence of the correctness of the facts shown
17 on the notice. The notice, copy, or computer generated
18 record shall be admissible in any subsequent
19 administrative or legal proceedings.

20 (4) An opportunity for a hearing for the registered
21 owner of the vehicle cited in the parking, standing,
22 compliance, or automated traffic law violation notice in
23 which the owner may contest the merits of the alleged
24 violation, and during which formal or technical rules of
25 evidence shall not apply; provided, however, that under
26 Section 11-1306 of this Code the lessee of a vehicle cited

1 in the violation notice likewise shall be provided an
2 opportunity for a hearing of the same kind afforded the
3 registered owner. The hearings shall be recorded, and the
4 person conducting the hearing on behalf of the traffic
5 compliance administrator shall be empowered to administer
6 oaths and to secure by subpoena both the attendance and
7 testimony of witnesses and the production of relevant books
8 and papers. Persons appearing at a hearing under this
9 Section may be represented by counsel at their expense. The
10 ordinance may also provide for internal administrative
11 review following the decision of the hearing officer.

12 (5) Service of additional notices, sent by first class
13 United States mail, postage prepaid, to the address of the
14 registered owner of the cited vehicle as recorded with the
15 Secretary of State or, if any notice to that address is
16 returned as undeliverable, to the last known address
17 recorded in a United States Post Office approved database,
18 or, under Section 11-1306 of this Code, to the lessee of
19 the cited vehicle at the last address known to the lessor
20 of the cited vehicle at the time of lease or, if any notice
21 to that address is returned as undeliverable, to the last
22 known address recorded in a United States Post Office
23 approved database. The service shall be deemed complete as
24 of the date of deposit in the United States mail. The
25 notices shall be in the following sequence and shall
26 include but not be limited to the information specified

1 herein:

2 (i) A second notice of parking, standing, or
3 compliance violation. This notice shall specify the
4 date and location of the violation cited in the
5 parking, standing, or compliance violation notice, the
6 particular regulation violated, the vehicle make and
7 state registration number, any requirement to complete
8 a traffic education program, the fine and any penalty
9 that may be assessed for late payment or failure to
10 complete a traffic education program, or both, when so
11 provided by ordinance, the availability of a hearing in
12 which the violation may be contested on its merits, and
13 the time and manner in which the hearing may be had.
14 The notice of violation shall also state that failure
15 to complete a required traffic education program, to
16 pay the indicated fine and any applicable penalty, or
17 to appear at a hearing on the merits in the time and
18 manner specified, will result in a final determination
19 of violation liability for the cited violation in the
20 amount of the fine or penalty indicated, and that, upon
21 the occurrence of a final determination of violation
22 liability for the failure, and the exhaustion of, or
23 failure to exhaust, available administrative or
24 judicial procedures for review, any incomplete traffic
25 education program or any unpaid fine or penalty, or
26 both, will constitute a debt due and owing the

1 municipality.

2 (ii) A notice of final determination of parking,
3 standing, compliance, or automated traffic law
4 violation liability. This notice shall be sent
5 following a final determination of parking, standing,
6 compliance, or automated traffic law violation
7 liability and the conclusion of judicial review
8 procedures taken under this Section. The notice shall
9 state that the incomplete traffic education program or
10 the unpaid fine or penalty, or both, is a debt due and
11 owing the municipality. The notice shall contain
12 warnings that failure to complete any required traffic
13 education program or to pay any fine or penalty due and
14 owing the municipality, or both, within the time
15 specified may result in the municipality's filing of a
16 petition in the Circuit Court to have the incomplete
17 traffic education program or unpaid fine or penalty, or
18 both, rendered a judgment as provided by this Section,
19 or may result in suspension of the person's drivers
20 license for failure to complete a traffic education
21 program or to pay fines or penalties, or both, for 10
22 or more parking violations under Section 6-306.5 or 5
23 or more automated traffic law violations under Section
24 11-208.6.

25 (6) A notice of impending drivers license suspension.
26 This notice shall be sent to the person liable for failure

1 to complete a required traffic education program or to pay
2 any fine or penalty that remains due and owing, or both, on
3 10 or more parking violations or 5 or more unpaid automated
4 traffic law violations. The notice shall state that failure
5 to complete a required traffic education program or to pay
6 the fine or penalty owing, or both, within 45 days of the
7 notice's date will result in the municipality notifying the
8 Secretary of State that the person is eligible for
9 initiation of suspension proceedings under Section 6-306.5
10 of this Code. The notice shall also state that the person
11 may obtain a photostatic copy of an original ticket
12 imposing a fine or penalty by sending a self addressed,
13 stamped envelope to the municipality along with a request
14 for the photostatic copy. The notice of impending drivers
15 license suspension shall be sent by first class United
16 States mail, postage prepaid, to the address recorded with
17 the Secretary of State or, if any notice to that address is
18 returned as undeliverable, to the last known address
19 recorded in a United States Post Office approved database.

20 (7) Final determinations of violation liability. A
21 final determination of violation liability shall occur
22 following failure to complete the required traffic
23 education program or to pay the fine or penalty, or both,
24 after a hearing officer's determination of violation
25 liability and the exhaustion of or failure to exhaust any
26 administrative review procedures provided by ordinance.

1 Where a person fails to appear at a hearing to contest the
2 alleged violation in the time and manner specified in a
3 prior mailed notice, the hearing officer's determination
4 of violation liability shall become final: (A) upon denial
5 of a timely petition to set aside that determination, or
6 (B) upon expiration of the period for filing the petition
7 without a filing having been made.

8 (8) A petition to set aside a determination of parking,
9 standing, compliance, or automated traffic law violation
10 liability that may be filed by a person owing an unpaid
11 fine or penalty. A petition to set aside a determination of
12 liability may also be filed by a person required to
13 complete a traffic education program. The petition shall be
14 filed with and ruled upon by the traffic compliance
15 administrator in the manner and within the time specified
16 by ordinance. The grounds for the petition may be limited
17 to: (A) the person not having been the owner or lessee of
18 the cited vehicle on the date the violation notice was
19 issued, (B) the person having already completed the
20 required traffic education program or paid the fine or
21 penalty, or both, for the violation in question, and (C)
22 excusable failure to appear at or request a new date for a
23 hearing. With regard to municipalities with a population of
24 1 million or more, it shall be grounds for dismissal of a
25 parking violation if the state registration number, or
26 vehicle make if specified, is incorrect. After the

1 determination of parking, standing, compliance, or
2 automated traffic law violation liability has been set
3 aside upon a showing of just cause, the registered owner
4 shall be provided with a hearing on the merits for that
5 violation.

6 (9) Procedures for non-residents. Procedures by which
7 persons who are not residents of the municipality may
8 contest the merits of the alleged violation without
9 attending a hearing.

10 (10) A schedule of civil fines for violations of
11 vehicular standing, parking, compliance, or automated
12 traffic law regulations enacted by ordinance pursuant to
13 this Section, and a schedule of penalties for late payment
14 of the fines or failure to complete required traffic
15 education programs, provided, however, that the total
16 amount of the fine and penalty for any one violation shall
17 not exceed \$500 ~~\$250~~, except as provided in subsection (c)
18 of Section 11-1301.3 or subsection (a) of Section 15-113 of
19 this Code.

20 (11) Other provisions as are necessary and proper to
21 carry into effect the powers granted and purposes stated in
22 this Section.

23 (c) Any municipality establishing vehicular standing,
24 parking, compliance, or automated traffic law regulations
25 under this Section may also provide by ordinance for a program
26 of vehicle immobilization for the purpose of facilitating

1 enforcement of those regulations. The program of vehicle
2 immobilization shall provide for immobilizing any eligible
3 vehicle upon the public way by presence of a restraint in a
4 manner to prevent operation of the vehicle. Any ordinance
5 establishing a program of vehicle immobilization under this
6 Section shall provide:

7 (1) Criteria for the designation of vehicles eligible
8 for immobilization. A vehicle shall be eligible for
9 immobilization when the registered owner of the vehicle has
10 accumulated the number of incomplete traffic education
11 programs or unpaid final determinations of parking,
12 standing, compliance, or automated traffic law violation
13 liability, or both, as determined by ordinance.

14 (2) A notice of impending vehicle immobilization and a
15 right to a hearing to challenge the validity of the notice
16 by disproving liability for the incomplete traffic
17 education programs or unpaid final determinations of
18 parking, standing, compliance, or automated traffic law
19 violation liability, or both, listed on the notice.

20 (3) The right to a prompt hearing after a vehicle has
21 been immobilized or subsequently towed without the
22 completion of the required traffic education program or
23 payment of the outstanding fines and penalties on parking,
24 standing, compliance, or automated traffic law violations,
25 or both, for which final determinations have been issued.
26 An order issued after the hearing is a final administrative

1 decision within the meaning of Section 3-101 of the Code of
2 Civil Procedure.

3 (4) A post immobilization and post-towing notice
4 advising the registered owner of the vehicle of the right
5 to a hearing to challenge the validity of the impoundment.

6 (d) Judicial review of final determinations of parking,
7 standing, compliance, or automated traffic law violations and
8 final administrative decisions issued after hearings regarding
9 vehicle immobilization and impoundment made under this Section
10 shall be subject to the provisions of the Administrative Review
11 Law.

12 (e) Any fine, penalty, incomplete traffic education
13 program, or part of any fine or any penalty remaining unpaid
14 after the exhaustion of, or the failure to exhaust,
15 administrative remedies created under this Section and the
16 conclusion of any judicial review procedures shall be a debt
17 due and owing the municipality and, as such, may be collected
18 in accordance with applicable law. Completion of any required
19 traffic education program and payment in full of any fine or
20 penalty resulting from a standing, parking, compliance, or
21 automated traffic law violation shall constitute a final
22 disposition of that violation.

23 (f) After the expiration of the period within which
24 judicial review may be sought for a final determination of
25 parking, standing, compliance, or automated traffic law
26 violation, the municipality may commence a proceeding in the

1 Circuit Court for purposes of obtaining a judgment on the final
2 determination of violation. Nothing in this Section shall
3 prevent a municipality from consolidating multiple final
4 determinations of parking, standing, compliance, or automated
5 traffic law violations against a person in a proceeding. Upon
6 commencement of the action, the municipality shall file a
7 certified copy or record of the final determination of parking,
8 standing, compliance, or automated traffic law violation,
9 which shall be accompanied by a certification that recites
10 facts sufficient to show that the final determination of
11 violation was issued in accordance with this Section and the
12 applicable municipal ordinance. Service of the summons and a
13 copy of the petition may be by any method provided by Section
14 2-203 of the Code of Civil Procedure or by certified mail,
15 return receipt requested, provided that the total amount of
16 fines and penalties for final determinations of parking,
17 standing, compliance, or automated traffic law violations does
18 not exceed \$2500. If the court is satisfied that the final
19 determination of parking, standing, compliance, or automated
20 traffic law violation was entered in accordance with the
21 requirements of this Section and the applicable municipal
22 ordinance, and that the registered owner or the lessee, as the
23 case may be, had an opportunity for an administrative hearing
24 and for judicial review as provided in this Section, the court
25 shall render judgment in favor of the municipality and against
26 the registered owner or the lessee for the amount indicated in

1 the final determination of parking, standing, compliance, or
2 automated traffic law violation, plus costs. The judgment shall
3 have the same effect and may be enforced in the same manner as
4 other judgments for the recovery of money.

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

7 A low-income individual required to complete a traffic
8 education program under this Section who provides proof of
9 eligibility for the federal earned income tax credit under
10 Section 32 of the Internal Revenue Code or the Illinois earned
11 income tax credit under Section 212 of the Illinois Income Tax
12 Act shall not be required to pay any fee for participating in a
13 required traffic education program.

14 (h) Judicial review of final determinations of maximum
15 wheel and axle load and gross weight violations shall be
16 subject to the provisions of the Administrative Review Law.

17 (Source: P.A. 95-331, eff. 8-21-07; 96-288, eff. 8-11-09;
18 96-478, eff. 1-1-10; revised 9-4-09.)".