



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1852

Introduced 2/20/2009, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6
625 ILCS 5/11-612

Amends the Illinois Vehicle Code. Expands the definition of "automated traffic law enforcement system" from a device with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of motor vehicles entering an intersection against a red signal indication in violation of the Illinois Vehicle Code or similar local ordinance to also include a device used in a location that has a high occurrence of motor vehicle accidents and where insufficient police manpower exists or on-site enforcement is inherently difficult that produces a recorded image of a motor vehicle and the vehicle's registration plate while the driver is operating a motor vehicle in violation of the Illinois Vehicle Code or similar local ordinance. Provides the same provisions as before the expansion of the definition for civil penalties, administrative adjudication, driver notice automated traffic law enforcement locations, and limited application only the in counties of Cook, DuPage, Kane, Lake, Madison, McHenry, St. Clair, and Will and to municipalities located within those counties, among other provisions. Reduces the application of a home rule preemption and eliminates a similar preemption that disallows the use of recorded images to capture the speed of a motor vehicle for the purposes of enforcing any law or local ordinance regarding a minimum or maximum speed limit unless a law enforcement officer is present to witness the event. Effective January 1, 2010.

LRB096 04330 AJT 14376 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 Illinois Vehicle Code is amended by changing
5 Sections 11-208.6, and 11-612 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 (1) 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 , and (2) a device used in a location that has a high
15 occurrence of motor vehicle accidents and where insufficient
16 police manpower exists or on-site enforcement is inherently
17 difficult that produces a recorded image of a motor vehicle and
18 the vehicle's registration plate while the driver is operating
19 a motor vehicle in violation of Section 11-601(b) of the
20 Illinois Vehicle Code, or similar provision of a local
21 ordinance.

22 An automated traffic law enforcement system is a system, in
23 a municipality or county operated by a governmental agency,

1 that produces a recorded image of a motor vehicle's violation
2 of a provision of this Code or a local ordinance and is
3 designed to obtain a clear recorded image of the vehicle and
4 the vehicle's license plate. The recorded image must also
5 display the time, date, and location of the violation.

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

8 (1) 2 or more photographs;

9 (2) 2 or more microphotographs;

10 (3) 2 or more electronic images; or

11 (4) a video recording showing the motor vehicle and, on
12 at least one image or portion of the recording, clearly
13 identifying the registration plate number of the motor
14 vehicle.

15 (c) (Blank). ~~A county or municipality, including a home~~
16 ~~rule county or municipality, may not use an automated traffic~~
17 ~~law enforcement system to provide recorded images of a motor~~
18 ~~vehicle for the purpose of recording its speed. The regulation~~
19 ~~of the use of automated traffic law enforcement systems to~~
20 ~~record vehicle speeds is an exclusive power and function of the~~
21 ~~State. This subsection (c) is a denial and limitation of home~~
22 ~~rule powers and functions under subsection (h) of Section 6 of~~
23 ~~Article VII of the Illinois Constitution.~~

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

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

8 The notice shall include:

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

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

13 (3) the violation charged;

14 (4) the location where the violation occurred;

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

16 (6) a copy of the recorded images;

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

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

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

25 (10) a statement that the person may elect to proceed
26 by:

1 (A) paying the fine; or

2 (B) challenging the charge in court, by mail, or by
3 administrative hearing.

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

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

17 (g) Recorded images made by an automatic traffic law
18 enforcement system are confidential and shall be made available
19 only to the alleged violator and governmental and law
20 enforcement agencies for purposes of adjudicating a violation
21 of this Section, for statistical purposes, or for other
22 governmental purposes. Any recorded image evidencing a
23 violation of this Section, however, may be admissible in any
24 proceeding resulting from the issuance of the citation.

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

1 (1) that the motor vehicle or registration plates of
2 the motor vehicle were stolen before the violation occurred
3 and not under the control of or in the possession of the
4 owner at the time of the violation;

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

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

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

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

1 not be recorded on the driving record of the owner of the
2 vehicle.

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

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

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

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

17 (625 ILCS 5/11-612)

18 Sec. 11-612. Certain systems to record vehicle speeds
19 prohibited. Except as authorized in the Automated Traffic
20 Control Systems in Highway Construction or Maintenance Zones
21 Act and Section 11-208.6 of this Code, no photographic, video,
22 or other imaging system may be used in this State to record
23 vehicle speeds for the purpose of enforcing any law or
24 ordinance regarding a maximum or minimum speed limit unless a
25 law enforcement officer is present at the scene and witnesses

1 the event. No State or local governmental entity, including a
2 home rule county or municipality, may use such a system in a
3 way that is prohibited by this Section. The regulation of the
4 use of such systems is an exclusive power and function of the
5 State. This Section is a denial and limitation of home rule
6 powers and functions under subsection (h) of Section 6 of
7 Article VII of the Illinois Constitution.

8 (Source: P.A. 94-771, eff. 1-1-07; 94-795, eff. 5-22-06;
9 94-814, eff. 1-1-07.)

10 Section 99. Effective date. This Act takes effect January
11 1, 2010.