



Rep. Lou Lang

Filed: 4/29/2014

09800SB3096ham001

LRB098 20067 MLW 58813 a

1 AMENDMENT TO SENATE BILL 3096

2 AMENDMENT NO. _____. Amend Senate Bill 3096 as follows:

3 on page 1, line 5, by replacing "Section 7-307" with "Sections
4 7-307 and 11-208.3"; and

5 on page 1, below line 20, by inserting the following:

6 "(625 ILCS 5/11-208.3) (from Ch. 95 1/2, par. 11-208.3)

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

11 (a) Any municipality or county may provide by ordinance for
12 a system of administrative adjudication of vehicular standing
13 and parking violations and vehicle compliance violations as
14 described in this subsection, automated traffic law violations
15 as defined in Section 11-208.6, 11-208.9, or 11-1201.1, and

1 automated speed enforcement system violations as defined in
2 Section 11-208.8. The administrative system shall have as its
3 purpose the fair and efficient enforcement of municipal or
4 county regulations through the administrative adjudication of
5 automated speed enforcement system or automated traffic law
6 violations and violations of municipal or county ordinances
7 regulating the standing and parking of vehicles, the condition
8 and use of vehicle equipment, and the display of municipal or
9 county wheel tax licenses within the municipality's or county's
10 borders. The administrative system shall only have authority to
11 adjudicate civil offenses carrying fines not in excess of \$500
12 or requiring the completion of a traffic education program, or
13 both, that occur after the effective date of the ordinance
14 adopting such a system under this Section. For purposes of this
15 Section, "compliance violation" means a violation of a
16 municipal or county regulation governing the condition or use
17 of equipment on a vehicle or governing the display of a
18 municipal or county wheel tax license.

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

21 (1) A traffic compliance administrator authorized to
22 adopt, distribute and process parking, compliance, and
23 automated speed enforcement system or automated traffic
24 law violation notices and other notices required by this
25 Section, collect money paid as fines and penalties for
26 violation of parking and compliance ordinances and

1 automated speed enforcement system or automated traffic
2 law violations, and operate an administrative adjudication
3 system. The traffic compliance administrator also may make
4 a certified report to the Secretary of State under Section
5 6-306.5.

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

1 that the completion of any required traffic education
2 program, the payment of any indicated fine, and the payment
3 of any applicable penalty for late payment or failure to
4 complete a required traffic education program, or both,
5 shall operate as a final disposition of the violation. The
6 notice also shall contain information as to the
7 availability of a hearing in which the violation may be
8 contested on its merits. The violation notice shall specify
9 the time and manner in which a hearing may be had.

10 (3) Service of the parking, standing, or compliance
11 violation notice by affixing the original or a facsimile of
12 the notice to an unlawfully parked vehicle or by handing
13 the notice to the operator of a vehicle if he or she is
14 present and service of an automated speed enforcement
15 system or automated traffic law violation notice by mail to
16 the address of the registered owner or lessee of the cited
17 vehicle as recorded with the Secretary of State or the
18 lessor of the motor vehicle within 30 days after the
19 Secretary of State or the lessor of the motor vehicle
20 notifies the municipality or county of the identity of the
21 owner or lessee of the vehicle, but not later than 90 days
22 after the violation, except that in the case of a lessee of
23 a motor vehicle, service of an automated traffic law
24 violation notice may occur no later than 210 days after the
25 violation. A person authorized by ordinance to issue and
26 serve parking, standing, and compliance violation notices

1 shall certify as to the correctness of the facts entered on
2 the violation notice by signing his or her name to the
3 notice at the time of service or in the case of a notice
4 produced by a computerized device, by signing a single
5 certificate to be kept by the traffic compliance
6 administrator attesting to the correctness of all notices
7 produced by the device while it was under his or her
8 control. In the case of an automated traffic law violation,
9 the ordinance shall require a determination by a technician
10 employed or contracted by the municipality or county that,
11 based on inspection of recorded images, the motor vehicle
12 was being operated in violation of Section 11-208.6,
13 11-208.9, or 11-1201.1 or a local ordinance. If the
14 technician determines that the vehicle entered the
15 intersection as part of a funeral procession or in order to
16 yield the right-of-way to an emergency vehicle, a citation
17 shall not be issued. In municipalities with a population of
18 less than 1,000,000 inhabitants and counties with a
19 population of less than 3,000,000 inhabitants, the
20 automated traffic law ordinance shall require that all
21 determinations by a technician that a motor vehicle was
22 being operated in violation of Section 11-208.6, 11-208.9,
23 or 11-1201.1 or a local ordinance must be reviewed and
24 approved by a law enforcement officer or retired law
25 enforcement officer of the municipality or county issuing
26 the violation. In municipalities with a population of

1 1,000,000 or more inhabitants and counties with a
2 population of 3,000,000 or more inhabitants, the automated
3 traffic law ordinance shall require that all
4 determinations by a technician that a motor vehicle was
5 being operated in violation of Section 11-208.6, 11-208.9,
6 or 11-1201.1 or a local ordinance must be reviewed and
7 approved by a law enforcement officer or retired law
8 enforcement officer of the municipality or county issuing
9 the violation or by an additional fully-trained reviewing
10 technician who is not employed by the contractor who
11 employs the technician who made the initial determination.
12 In the case of an automated speed enforcement system
13 violation, the ordinance shall require a determination by a
14 technician employed by the municipality, based upon an
15 inspection of recorded images, video or other
16 documentation, including documentation of the speed limit
17 and automated speed enforcement signage, and documentation
18 of the inspection, calibration, and certification of the
19 speed equipment, that the vehicle was being operated in
20 violation of Article VI of Chapter 11 of this Code or a
21 similar local ordinance. If the technician determines that
22 the vehicle speed was not determined by a calibrated,
23 certified speed equipment device based upon the speed
24 equipment documentation, or if the vehicle was an emergency
25 vehicle, a citation may not be issued. The automated speed
26 enforcement ordinance shall require that all

1 determinations by a technician that a violation occurred be
2 reviewed and approved by a law enforcement officer or
3 retired law enforcement officer of the municipality
4 issuing the violation or by an additional fully trained
5 reviewing technician who is not employed by the contractor
6 who employs the technician who made the initial
7 determination. Routine and independent calibration of the
8 speeds produced by automated speed enforcement systems and
9 equipment shall be conducted annually by a qualified
10 technician. Speeds produced by an automated speed
11 enforcement system shall be compared with speeds produced
12 by lidar or other independent equipment. Radar ~~Qualified~~
13 ~~technicians shall test radar~~ or lidar equipment shall
14 undergo an internal validation test no less frequently than
15 once each week. Qualified technicians, ~~and~~ shall test loop
16 based equipment no less frequently than once a year. Radar
17 equipment shall be checked for accuracy by a qualified
18 technician when the unit is serviced, when unusual or
19 suspect readings persist, or when deemed necessary by a
20 reviewing technician. Radar equipment shall be checked
21 with the internal frequency generator and certified tuning
22 ~~forks,~~ the internal circuit test, ~~and diode display test~~
23 whenever the radar is turned on. Technicians must be alert
24 for any unusual or suspect readings, and if unusual or
25 suspect readings of a radar unit persist, that unit shall
26 immediately be removed from service and not returned to

1 service until it has been checked by a qualified technician
2 and determined to be functioning properly. Documentation
3 of the annual calibration results, including the equipment
4 tested, test date, technician performing the test, and test
5 results, shall be maintained and available for use in the
6 determination of an automated speed enforcement system
7 violation and issuance of a citation. The technician
8 performing the calibration and testing of the automated
9 speed enforcement equipment shall be trained and certified
10 in the use of equipment for speed enforcement purposes.
11 Training on the speed enforcement equipment may be
12 conducted by law enforcement, civilian, or manufacturer's
13 personnel and if applicable may ~~shall~~ be equivalent to the
14 equipment use and operations training included in the Speed
15 Measuring Device Operator Program developed by the
16 National Highway Traffic Safety Administration (NHTSA).
17 The vendor or technician who performs the work shall keep
18 accurate records on each piece of equipment the technician
19 calibrates and tests. As used in this paragraph,
20 "fully-trained reviewing technician" means a person who
21 has received at least 40 hours of supervised training in
22 subjects which shall include image inspection and
23 interpretation, the elements necessary to prove a
24 violation, license plate identification, and traffic
25 safety and management. In all municipalities and counties,
26 the automated speed enforcement system or automated

1 traffic law ordinance shall require that no additional fee
2 shall be charged to the alleged violator for exercising his
3 or her right to an administrative hearing, and persons
4 shall be given at least 25 days following an administrative
5 hearing to pay any civil penalty imposed by a finding that
6 Section 11-208.6, 11-208.8, 11-208.9, or 11-1201.1 or a
7 similar local ordinance has been violated. The original or
8 a facsimile of the violation notice or, in the case of a
9 notice produced by a computerized device, a printed record
10 generated by the device showing the facts entered on the
11 notice, shall be retained by the traffic compliance
12 administrator, and shall be a record kept in the ordinary
13 course of business. A parking, standing, compliance,
14 automated speed enforcement system, or automated traffic
15 law violation notice issued, signed and served in
16 accordance with this Section, a copy of the notice, or the
17 computer generated record shall be prima facie correct and
18 shall be prima facie evidence of the correctness of the
19 facts shown on the notice. The notice, copy, or computer
20 generated record shall be admissible in any subsequent
21 administrative or legal proceedings.

22 (4) An opportunity for a hearing for the registered
23 owner of the vehicle cited in the parking, standing,
24 compliance, automated speed enforcement system, or
25 automated traffic law violation notice in which the owner
26 may contest the merits of the alleged violation, and during

1 which formal or technical rules of evidence shall not
2 apply; provided, however, that under Section 11-1306 of
3 this Code the lessee of a vehicle cited in the violation
4 notice likewise shall be provided an opportunity for a
5 hearing of the same kind afforded the registered owner. The
6 hearings shall be recorded, and the person conducting the
7 hearing on behalf of the traffic compliance administrator
8 shall be empowered to administer oaths and to secure by
9 subpoena both the attendance and testimony of witnesses and
10 the production of relevant books and papers. Persons
11 appearing at a hearing under this Section may be
12 represented by counsel at their expense. The ordinance may
13 also provide for internal administrative review following
14 the decision of the hearing officer.

15 (5) Service of additional notices, sent by first class
16 United States mail, postage prepaid, to the address of the
17 registered owner of the cited vehicle as recorded with the
18 Secretary of State or, if any notice to that address is
19 returned as undeliverable, to the last known address
20 recorded in a United States Post Office approved database,
21 or, under Section 11-1306 or subsection (p) of Section
22 11-208.6 or 11-208.9, or subsection (p) of Section 11-208.8
23 of this Code, to the lessee of the cited vehicle at the
24 last address known to the lessor of the cited vehicle at
25 the time of lease or, if any notice to that address is
26 returned as undeliverable, to the last known address

1 recorded in a United States Post Office approved database.
2 The service shall be deemed complete as of the date of
3 deposit in the United States mail. The notices shall be in
4 the following sequence and shall include but not be limited
5 to the information specified herein:

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

1 failure to exhaust, available administrative or
2 judicial procedures for review, any incomplete traffic
3 education program or any unpaid fine or penalty, or
4 both, will constitute a debt due and owing the
5 municipality or county.

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

1 traffic education program or to pay fines or penalties,
2 or both, for 10 or more parking violations under
3 Section 6-306.5, or a combination of 5 or more
4 automated traffic law violations under Section
5 11-208.6 or 11-208.9 or automated speed enforcement
6 system violations under Section 11-208.8.

7 (6) A notice of impending drivers license suspension.
8 This notice shall be sent to the person liable for failure
9 to complete a required traffic education program or to pay
10 any fine or penalty that remains due and owing, or both, on
11 10 or more parking violations or combination of 5 or more
12 unpaid automated speed enforcement system or automated
13 traffic law violations. The notice shall state that failure
14 to complete a required traffic education program or to pay
15 the fine or penalty owing, or both, within 45 days of the
16 notice's date will result in the municipality or county
17 notifying the Secretary of State that the person is
18 eligible for initiation of suspension proceedings under
19 Section 6-306.5 of this Code. The notice shall also state
20 that the person may obtain a photostatic copy of an
21 original ticket imposing a fine or penalty by sending a
22 self addressed, stamped envelope to the municipality or
23 county along with a request for the photostatic copy. The
24 notice of impending drivers license suspension shall be
25 sent by first class United States mail, postage prepaid, to
26 the address recorded with the Secretary of State or, if any

1 notice to that address is returned as undeliverable, to the
2 last known address recorded in a United States Post Office
3 approved database.

4 (7) Final determinations of violation liability. A
5 final determination of violation liability shall occur
6 following failure to complete the required traffic
7 education program or to pay the fine or penalty, or both,
8 after a hearing officer's determination of violation
9 liability and the exhaustion of or failure to exhaust any
10 administrative review procedures provided by ordinance.
11 Where a person fails to appear at a hearing to contest the
12 alleged violation in the time and manner specified in a
13 prior mailed notice, the hearing officer's determination
14 of violation liability shall become final: (A) upon denial
15 of a timely petition to set aside that determination, or
16 (B) upon expiration of the period for filing the petition
17 without a filing having been made.

18 (8) A petition to set aside a determination of parking,
19 standing, compliance, automated speed enforcement system,
20 or automated traffic law violation liability that may be
21 filed by a person owing an unpaid fine or penalty. A
22 petition to set aside a determination of liability may also
23 be filed by a person required to complete a traffic
24 education program. The petition shall be filed with and
25 ruled upon by the traffic compliance administrator in the
26 manner and within the time specified by ordinance. The

1 grounds for the petition may be limited to: (A) the person
2 not having been the owner or lessee of the cited vehicle on
3 the date the violation notice was issued, (B) the person
4 having already completed the required traffic education
5 program or paid the fine or penalty, or both, for the
6 violation in question, and (C) excusable failure to appear
7 at or request a new date for a hearing. With regard to
8 municipalities or counties with a population of 1 million
9 or more, it shall be grounds for dismissal of a parking
10 violation if the state registration number, or vehicle make
11 if specified, is incorrect. After the determination of
12 parking, standing, compliance, automated speed enforcement
13 system, or automated traffic law violation liability has
14 been set aside upon a showing of just cause, the registered
15 owner shall be provided with a hearing on the merits for
16 that violation.

17 (9) Procedures for non-residents. Procedures by which
18 persons who are not residents of the municipality or county
19 may contest the merits of the alleged violation without
20 attending a hearing.

21 (10) A schedule of civil fines for violations of
22 vehicular standing, parking, compliance, automated speed
23 enforcement system, or automated traffic law regulations
24 enacted by ordinance pursuant to this Section, and a
25 schedule of penalties for late payment of the fines or
26 failure to complete required traffic education programs,

1 provided, however, that the total amount of the fine and
2 penalty for any one violation shall not exceed \$250, except
3 as provided in subsection (c) of Section 11-1301.3 of this
4 Code.

5 (11) Other provisions as are necessary and proper to
6 carry into effect the powers granted and purposes stated in
7 this Section.

8 (c) Any municipality or county establishing vehicular
9 standing, parking, compliance, automated speed enforcement
10 system, or automated traffic law regulations under this Section
11 may also provide by ordinance for a program of vehicle
12 immobilization for the purpose of facilitating enforcement of
13 those regulations. The program of vehicle immobilization shall
14 provide for immobilizing any eligible vehicle upon the public
15 way by presence of a restraint in a manner to prevent operation
16 of the vehicle. Any ordinance establishing a program of vehicle
17 immobilization under this Section shall provide:

18 (1) Criteria for the designation of vehicles eligible
19 for immobilization. A vehicle shall be eligible for
20 immobilization when the registered owner of the vehicle has
21 accumulated the number of incomplete traffic education
22 programs or unpaid final determinations of parking,
23 standing, compliance, automated speed enforcement system,
24 or automated traffic law violation liability, or both, as
25 determined by ordinance.

26 (2) A notice of impending vehicle immobilization and a

1 right to a hearing to challenge the validity of the notice
2 by disproving liability for the incomplete traffic
3 education programs or unpaid final determinations of
4 parking, standing, compliance, automated speed enforcement
5 system, or automated traffic law violation liability, or
6 both, listed on the notice.

7 (3) The right to a prompt hearing after a vehicle has
8 been immobilized or subsequently towed without the
9 completion of the required traffic education program or
10 payment of the outstanding fines and penalties on parking,
11 standing, compliance, automated speed enforcement system,
12 or automated traffic law violations, or both, for which
13 final determinations have been issued. An order issued
14 after the hearing is a final administrative decision within
15 the meaning of Section 3-101 of the Code of Civil
16 Procedure.

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

20 (d) Judicial review of final determinations of parking,
21 standing, compliance, automated speed enforcement system, or
22 automated traffic law violations and final administrative
23 decisions issued after hearings regarding vehicle
24 immobilization and impoundment made under this Section shall be
25 subject to the provisions of the Administrative Review Law.

26 (e) Any fine, penalty, incomplete traffic education

1 program, or part of any fine or any penalty remaining unpaid
2 after the exhaustion of, or the failure to exhaust,
3 administrative remedies created under this Section and the
4 conclusion of any judicial review procedures shall be a debt
5 due and owing the municipality or county and, as such, may be
6 collected in accordance with applicable law. Completion of any
7 required traffic education program and payment in full of any
8 fine or penalty resulting from a standing, parking, compliance,
9 automated speed enforcement system, or automated traffic law
10 violation shall constitute a final disposition of that
11 violation.

12 (f) After the expiration of the period within which
13 judicial review may be sought for a final determination of
14 parking, standing, compliance, automated speed enforcement
15 system, or automated traffic law violation, the municipality or
16 county may commence a proceeding in the Circuit Court for
17 purposes of obtaining a judgment on the final determination of
18 violation. Nothing in this Section shall prevent a municipality
19 or county from consolidating multiple final determinations of
20 parking, standing, compliance, automated speed enforcement
21 system, or automated traffic law violations against a person in
22 a proceeding. Upon commencement of the action, the municipality
23 or county shall file a certified copy or record of the final
24 determination of parking, standing, compliance, automated
25 speed enforcement system, or automated traffic law violation,
26 which shall be accompanied by a certification that recites

1 facts sufficient to show that the final determination of
2 violation was issued in accordance with this Section and the
3 applicable municipal or county ordinance. Service of the
4 summons and a copy of the petition may be by any method
5 provided by Section 2-203 of the Code of Civil Procedure or by
6 certified mail, return receipt requested, provided that the
7 total amount of fines and penalties for final determinations of
8 parking, standing, compliance, automated speed enforcement
9 system, or automated traffic law violations does not exceed
10 \$2500. If the court is satisfied that the final determination
11 of parking, standing, compliance, automated speed enforcement
12 system, or automated traffic law violation was entered in
13 accordance with the requirements of this Section and the
14 applicable municipal or county ordinance, and that the
15 registered owner or the lessee, as the case may be, had an
16 opportunity for an administrative hearing and for judicial
17 review as provided in this Section, the court shall render
18 judgment in favor of the municipality or county and against the
19 registered owner or the lessee for the amount indicated in the
20 final determination of parking, standing, compliance,
21 automated speed enforcement system, or automated traffic law
22 violation, plus costs. The judgment shall have the same effect
23 and may be enforced in the same manner as other judgments for
24 the recovery of money.

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

1 A low-income individual required to complete a traffic
2 education program under this Section who provides proof of
3 eligibility for the federal earned income tax credit under
4 Section 32 of the Internal Revenue Code or the Illinois earned
5 income tax credit under Section 212 of the Illinois Income Tax
6 Act shall not be required to pay any fee for participating in a
7 required traffic education program.

8 (Source: P.A. 97-29, eff. 1-1-12; 97-333, eff. 8-12-11; 97-672,
9 eff. 7-1-12; 98-556, eff. 1-1-14.)".