



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB2370

Introduced 2/16/2005, by Rep. Robert S. Molaro

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.3

from Ch. 95 1/2, par. 11-208.3

Amends the Illinois Vehicle Code. Provides that for determinations by an administrative review board for parking, standing, or compliance violations, where a person failed to appear at the administrative review, the person shall have one year from the date of the determination to file a petition to set aside the determination.

LRB094 10397 LCB 40667 b

1 AN ACT concerning vehicles.

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 Section 11-208.3 as follows:

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.

10 (a) Any municipality may provide by ordinance for a system
11 of administrative adjudication of vehicular standing and
12 parking violations and vehicle compliance violations as
13 defined in this subsection. The administrative system shall
14 have as its purpose the fair and efficient enforcement of
15 municipal regulations through the administrative adjudication
16 of violations of municipal ordinances regulating the standing
17 and parking of vehicles, the condition and use of vehicle
18 equipment, and the display of municipal wheel tax licenses
19 within the municipality's borders. The administrative system
20 shall only have authority to adjudicate civil offenses carrying
21 fines not in excess of \$250 that occur after the effective date
22 of the ordinance adopting such a system under this Section. For
23 purposes of this Section, "compliance violation" means a
24 violation of a municipal regulation governing the condition or
25 use of equipment on a vehicle or governing the display of a
26 municipal wheel tax license.

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

29 (1) A traffic compliance administrator authorized to
30 adopt, distribute and process parking and compliance
31 violation notices and other notices required by this
32 Section, collect money paid as fines and penalties for

1 violation of parking and compliance ordinances, and
2 operate an administrative adjudication system. The traffic
3 compliance administrator also may make a certified report
4 to the Secretary of State under Section 6-306.5.

5 (2) A parking, standing, or compliance violation
6 notice that shall specify the date, time, and place of
7 violation of a parking, standing, or compliance
8 regulation; the particular regulation violated; the fine
9 and any penalty that may be assessed for late payment, when
10 so provided by ordinance; the vehicle make and state
11 registration number; and the identification number of the
12 person issuing the notice. With regard to municipalities
13 with a population of 1 million or more, it shall be grounds
14 for dismissal of a parking violation if the State
15 registration number or vehicle make specified is
16 incorrect. The violation notice shall state that the
17 payment of the indicated fine, and of any applicable
18 penalty for late payment, shall operate as a final
19 disposition of the violation. The notice also shall contain
20 information as to the availability of a hearing in which
21 the violation may be contested on its merits. The violation
22 notice shall specify the time and manner in which a hearing
23 may be had.

24 (3) Service of the parking, standing, or compliance
25 violation notice by affixing the original or a facsimile of
26 the notice to an unlawfully parked vehicle or by handing
27 the notice to the operator of a vehicle if he or she is
28 present. A person authorized by ordinance to issue and
29 serve parking, standing, and compliance violation notices
30 shall certify as to the correctness of the facts entered on
31 the violation notice by signing his or her name to the
32 notice at the time of service or in the case of a notice
33 produced by a computerized device, by signing a single
34 certificate to be kept by the traffic compliance
35 administrator attesting to the correctness of all notices
36 produced by the device while it was under his or her

1 control. The original or a facsimile of the violation
2 notice or, in the case of a notice produced by a
3 computerized device, a printed record generated by the
4 device showing the facts entered on the notice, shall be
5 retained by the traffic compliance administrator, and
6 shall be a record kept in the ordinary course of business.
7 A parking, standing, or compliance violation notice
8 issued, signed and served in accordance with this Section,
9 a copy of the notice, or the computer generated record
10 shall be prima facie correct and shall be prima facie
11 evidence of the correctness of the facts shown on the
12 notice. The notice, copy, or computer generated record
13 shall be admissible in any subsequent administrative or
14 legal proceedings.

15 (4) An opportunity for a hearing for the registered
16 owner of the vehicle cited in the parking, standing, or
17 compliance violation notice in which the owner may contest
18 the merits of the alleged violation, and during which
19 formal or technical rules of evidence shall not apply;
20 provided, however, that under Section 11-1306 of this Code
21 the lessee of a vehicle cited in the violation notice
22 likewise shall be provided an opportunity for a hearing of
23 the same kind afforded the registered owner. The hearings
24 shall be recorded, and the person conducting the hearing on
25 behalf of the traffic compliance administrator shall be
26 empowered to administer oaths and to secure by subpoena
27 both the attendance and testimony of witnesses and the
28 production of relevant books and papers. Persons appearing
29 at a hearing under this Section may be represented by
30 counsel at their expense. The ordinance may also provide
31 for internal administrative review following the decision
32 of the hearing officer.

33 (5) Service of additional notices, sent by first class
34 United States mail, postage prepaid, to the address of the
35 registered owner of the cited vehicle as recorded with the
36 Secretary of State or, under Section 11-1306 of this Code,

1 to the lessee of the cited vehicle at the last address
2 known to the lessor of the cited vehicle at the time of
3 lease. The service shall be deemed complete as of the date
4 of deposit in the United States mail. The notices shall be
5 in the following sequence and shall include but not be
6 limited to the information specified herein:

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

28 (ii) A notice of final determination of parking,
29 standing, or compliance violation liability. This
30 notice shall be sent following a final determination of
31 parking, standing, or compliance violation liability
32 and the conclusion of judicial review procedures taken
33 under this Section. The notice shall state that the
34 unpaid fine or penalty is a debt due and owing the
35 municipality. The notice shall contain warnings that
36 failure to pay any fine or penalty due and owing the

1 municipality within the time specified may result in
2 the municipality's filing of a petition in the Circuit
3 Court to have the unpaid fine or penalty rendered a
4 judgment as provided by this Section, or may result in
5 suspension of the person's drivers license for failure
6 to pay fines or penalties for 10 or more parking
7 violations under Section 6-306.5.

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

24 (7) Final determinations of violation liability. A
25 final determination of violation liability shall occur
26 following failure to pay the fine or penalty after a
27 hearing officer's determination of violation liability and
28 the exhaustion of or failure to exhaust any administrative
29 review procedures provided by ordinance. Where a person
30 fails to appear at a hearing to contest the alleged
31 violation in the time and manner specified in a prior
32 mailed notice, the hearing officer's determination of
33 violation liability shall become final: (A) upon denial of
34 a timely petition to set aside that determination, or (B)
35 upon expiration of the period for filing the petition
36 without a filing having been made.

1 (8) A petition to set aside a determination of parking,
2 standing, or compliance violation liability that may be
3 filed by a person owing an unpaid fine or penalty. The
4 petition shall be filed with and ruled upon by the traffic
5 compliance administrator in the manner and within the time
6 specified by ordinance. For determinations that were made
7 where a person failed to appear in the administrative
8 review, the person shall have one year from the date of the
9 determination to a file a petition to set aside the
10 determination. The grounds for the petition may be limited
11 to: (A) the person not having been the owner or lessee of
12 the cited vehicle on the date the violation notice was
13 issued, (B) the person having already paid the fine or
14 penalty for the violation in question, and (C) excusable
15 failure to appear at or request a new date for a hearing.
16 With regard to municipalities with a population of 1
17 million or more, it shall be grounds for dismissal of a
18 parking violation if the State registration number or
19 vehicle make specified is incorrect. After the
20 determination of parking, standing, or compliance
21 violation liability has been set aside upon a showing of
22 just cause, the registered owner shall be provided with a
23 hearing on the merits for that violation.

24 (9) Procedures for non-residents. Procedures by which
25 persons who are not residents of the municipality may
26 contest the merits of the alleged violation without
27 attending a hearing.

28 (10) A schedule of civil fines for violations of
29 vehicular standing, parking, and compliance regulations
30 enacted by ordinance pursuant to this Section, and a
31 schedule of penalties for late payment of the fines,
32 provided, however, that the total amount of the fine and
33 penalty for any one violation shall not exceed \$250.

34 (11) Other provisions as are necessary and proper to
35 carry into effect the powers granted and purposes stated in
36 this Section.

1 (c) Any municipality establishing vehicular standing,
2 parking, and compliance regulations under this Section may also
3 provide by ordinance for a program of vehicle immobilization
4 for the purpose of facilitating enforcement of those
5 regulations. The program of vehicle immobilization shall
6 provide for immobilizing any eligible vehicle upon the public
7 way by presence of a restraint in a manner to prevent operation
8 of the vehicle. Any ordinance establishing a program of vehicle
9 immobilization under this Section shall provide:

10 (1) Criteria for the designation of vehicles eligible
11 for immobilization. A vehicle shall be eligible for
12 immobilization when the registered owner of the vehicle has
13 accumulated the number of unpaid final determinations of
14 parking, standing, or compliance violation liability as
15 determined by ordinance.

16 (2) A notice of impending vehicle immobilization and a
17 right to a hearing to challenge the validity of the notice
18 by disproving liability for the unpaid final
19 determinations of parking, standing, or compliance
20 violation liability listed on the notice.

21 (3) The right to a prompt hearing after a vehicle has
22 been immobilized or subsequently towed without payment of
23 the outstanding fines and penalties on parking, standing,
24 or compliance violations for which final determinations
25 have been issued. An order issued after the hearing is a
26 final administrative decision within the meaning of
27 Section 3-101 of the Code of Civil Procedure.

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

31 (d) Judicial review of final determinations of parking,
32 standing, and compliance violations and final administrative
33 decisions issued after hearings regarding vehicle
34 immobilization and impoundment made under this Section shall be
35 subject to the provisions of the Administrative Review Law.

36 (e) Any fine, penalty, or part of any fine or any penalty

1 remaining unpaid after the exhaustion of, or the failure to
2 exhaust, administrative remedies created under this Section
3 and the conclusion of any judicial review procedures shall be a
4 debt due and owing the municipality and, as such, may be
5 collected in accordance with applicable law. Payment in full of
6 any fine or penalty resulting from a standing, parking, or
7 compliance violation shall constitute a final disposition of
8 that violation.

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

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

4 (Source: P.A. 92-695, eff. 1-1-03.)