

# HB3965



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB3965

by Rep. Joe Sosnowski

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that the amount of the civil penalty imposed for a violation recorded by an automatic traffic law enforcement system shall not exceed \$25 (rather than \$100). Provides that the additional penalty for failure to pay the original civil penalty shall not exceed \$25 (rather than \$100).

LRB099 10762 RJF 31063 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 Section 11-208.6 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 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.

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

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

- 1 (1) 2 or more photographs;
- 2 (2) 2 or more microphotographs;
- 3 (3) 2 or more electronic images; or
- 4 (4) a video recording showing the motor vehicle and, on  
5 at least one image or portion of the recording, clearly  
6 identifying the registration plate number of the motor  
7 vehicle.

8 (b-5) A municipality or county that produces a recorded  
9 image of a motor vehicle's violation of a provision of this  
10 Code or a local ordinance must make the recorded images of a  
11 violation accessible to the alleged violator by providing the  
12 alleged violator with a website address, accessible through the  
13 Internet.

14 (c) Except as provided under Section 11-208.8 of this Code,  
15 a county or municipality, including a home rule county or  
16 municipality, may not use an automated traffic law enforcement  
17 system to provide recorded images of a motor vehicle for the  
18 purpose of recording its speed. Except as provided under  
19 Section 11-208.8 of this Code, the regulation of the use of  
20 automated traffic law enforcement systems to record vehicle  
21 speeds is an exclusive power and function of the State. This  
22 subsection (c) is a denial and limitation of home rule powers  
23 and functions under subsection (h) of Section 6 of Article VII  
24 of the Illinois Constitution.

25 (c-5) A county or municipality, including a home rule  
26 county or municipality, may not use an automated traffic law

1 enforcement system to issue violations in instances where the  
2 motor vehicle comes to a complete stop and does not enter the  
3 intersection, as defined by Section 1-132 of this Code, during  
4 the cycle of the red signal indication unless one or more  
5 pedestrians or bicyclists are present, even if the motor  
6 vehicle stops at a point past a stop line or crosswalk where a  
7 driver is required to stop, as specified in subsection (c) of  
8 Section 11-306 of this Code or a similar provision of a local  
9 ordinance.

10 (c-6) A county, or a municipality with less than 2,000,000  
11 inhabitants, including a home rule county or municipality, may  
12 not use an automated traffic law enforcement system to issue  
13 violations in instances where a motorcyclist enters an  
14 intersection against a red signal indication when the red  
15 signal fails to change to a green signal within a reasonable  
16 period of time not less than 120 seconds because of a signal  
17 malfunction or because the signal has failed to detect the  
18 arrival of the motorcycle due to the motorcycle's size or  
19 weight.

20 (d) For each violation of a provision of this Code or a  
21 local ordinance recorded by an automatic traffic law  
22 enforcement system, the county or municipality having  
23 jurisdiction shall issue a written notice of the violation to  
24 the registered owner of the vehicle as the alleged violator.  
25 The notice shall be delivered to the registered owner of the  
26 vehicle, by mail, within 30 days after the Secretary of State

1 notifies the municipality or county of the identity of the  
2 owner of the vehicle, but in no event later than 90 days after  
3 the violation.

4 The notice shall include:

5 (1) the name and address of the registered owner of the  
6 vehicle;

7 (2) the registration number of the motor vehicle  
8 involved in the violation;

9 (3) the violation charged;

10 (4) the location where the violation occurred;

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

12 (6) a copy of the recorded images;

13 (7) the amount of the civil penalty imposed and the  
14 requirements of any traffic education program imposed and  
15 the date by which the civil penalty should be paid and the  
16 traffic education program should be completed;

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

19 (9) a warning that failure to pay the civil penalty, to  
20 complete a required traffic education program, or to  
21 contest liability in a timely manner is an admission of  
22 liability and may result in a suspension of the driving  
23 privileges of the registered owner of the vehicle;

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

26 (A) paying the fine, completing a required traffic

1 education program, or both; or

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

4 (11) a website address, accessible through the  
5 Internet, where the person may view the recorded images of  
6 the violation.

7 (e) If a person charged with a traffic violation, as a  
8 result of an automated traffic law enforcement system, does not  
9 pay the fine or complete a required traffic education program,  
10 or both, or successfully contest the civil penalty resulting  
11 from that violation, the Secretary of State shall suspend the  
12 driving privileges of the registered owner of the vehicle under  
13 Section 6-306.5 of this Code for failing to complete a required  
14 traffic education program or to pay any fine or penalty due and  
15 owing, or both, as a result of a combination of 5 violations of  
16 the automated traffic law enforcement system or the automated  
17 speed enforcement system under Section 11-208.8 of this Code.

18 (f) Based on inspection of recorded images produced by an  
19 automated traffic law enforcement system, a notice alleging  
20 that the violation occurred shall be evidence of the facts  
21 contained in the notice and admissible in any proceeding  
22 alleging a violation under this Section.

23 (g) Recorded images made by an automatic traffic law  
24 enforcement system are confidential and shall be made available  
25 only to the alleged violator and governmental and law  
26 enforcement agencies for purposes of adjudicating a violation

1 of this Section, for statistical purposes, or for other  
2 governmental purposes. Any recorded image evidencing a  
3 violation of this Section, however, may be admissible in any  
4 proceeding resulting from the issuance of the citation.

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

7 (1) that the motor vehicle or registration plates of  
8 the motor vehicle were stolen before the violation occurred  
9 and not under the control of or in the possession of the  
10 owner at the time of the violation;

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

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

17 (i) To demonstrate that the motor vehicle or the  
18 registration plates were stolen before the violation occurred  
19 and were not under the control or possession of the owner at  
20 the time of the violation, the owner must submit proof that a  
21 report concerning the stolen motor vehicle or registration  
22 plates was filed with a law enforcement agency in a timely  
23 manner.

24 (j) Unless the driver of the motor vehicle received a  
25 Uniform Traffic Citation from a police officer at the time of  
26 the violation, the motor vehicle owner is subject to a civil

1 penalty not exceeding \$25 ~~\$100~~ or the completion of a traffic  
2 education program, or both, plus an additional penalty of not  
3 more than \$25 ~~\$100~~ for failure to pay the original penalty or  
4 to complete a required traffic education program, or both, in a  
5 timely manner, if the motor vehicle is recorded by an automated  
6 traffic law enforcement system. A violation for which a civil  
7 penalty is imposed under this Section is not a violation of a  
8 traffic regulation governing the movement of vehicles and may  
9 not be recorded on the driving record of the owner of the  
10 vehicle.

11 (j-3) A registered owner who is a holder of a valid  
12 commercial driver's license is not required to complete a  
13 traffic education program.

14 (j-5) For purposes of the required traffic education  
15 program only, a registered owner may submit an affidavit to the  
16 court or hearing officer swearing that at the time of the  
17 alleged violation, the vehicle was in the custody and control  
18 of another person. The affidavit must identify the person in  
19 custody and control of the vehicle, including the person's name  
20 and current address. The person in custody and control of the  
21 vehicle at the time of the violation is required to complete  
22 the required traffic education program. If the person in  
23 custody and control of the vehicle at the time of the violation  
24 completes the required traffic education program, the  
25 registered owner of the vehicle is not required to complete a  
26 traffic education program.



1 (k) An intersection equipped with an automated traffic law  
2 enforcement system must be posted with a sign visible to  
3 approaching traffic indicating that the intersection is being  
4 monitored by an automated traffic law enforcement system.

5 (k-3) A municipality or county that has one or more  
6 intersections equipped with an automated traffic law  
7 enforcement system must provide notice to drivers by posting  
8 the locations of automated traffic law systems on the  
9 municipality or county website.

10 (k-5) An intersection equipped with an automated traffic  
11 law enforcement system must have a yellow change interval that  
12 conforms with the Illinois Manual on Uniform Traffic Control  
13 Devices (IMUTCD) published by the Illinois Department of  
14 Transportation.

15 (k-7) A municipality or county operating an automated  
16 traffic law enforcement system shall conduct a statistical  
17 analysis to assess the safety impact of each automated traffic  
18 law enforcement system at an intersection following  
19 installation of the system. The statistical analysis shall be  
20 based upon the best available crash, traffic, and other data,  
21 and shall cover a period of time before and after installation  
22 of the system sufficient to provide a statistically valid  
23 comparison of safety impact. The statistical analysis shall be  
24 consistent with professional judgment and acceptable industry  
25 practice. The statistical analysis also shall be consistent  
26 with the data required for valid comparisons of before and

1 after conditions and shall be conducted within a reasonable  
2 period following the installation of the automated traffic law  
3 enforcement system. The statistical analysis required by this  
4 subsection (k-7) shall be made available to the public and  
5 shall be published on the website of the municipality or  
6 county. If the statistical analysis for the 36 month period  
7 following installation of the system indicates that there has  
8 been an increase in the rate of accidents at the approach to  
9 the intersection monitored by the system, the municipality or  
10 county shall undertake additional studies to determine the  
11 cause and severity of the accidents, and may take any action  
12 that it determines is necessary or appropriate to reduce the  
13 number or severity of the accidents at that intersection.

14 (l) The compensation paid for an automated traffic law  
15 enforcement system must be based on the value of the equipment  
16 or the services provided and may not be based on the number of  
17 traffic citations issued or the revenue generated by the  
18 system.

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

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

24 A low-income individual required to complete a traffic  
25 education program under this Section who provides proof of  
26 eligibility for the federal earned income tax credit under

1 Section 32 of the Internal Revenue Code or the Illinois earned  
2 income tax credit under Section 212 of the Illinois Income Tax  
3 Act shall not be required to pay any fee for participating in a  
4 required traffic education program.

5 (o) A municipality or county shall make a certified report  
6 to the Secretary of State pursuant to Section 6-306.5 of this  
7 Code whenever a registered owner of a vehicle has failed to pay  
8 any fine or penalty due and owing as a result of a combination  
9 of 5 offenses for automated traffic law or speed enforcement  
10 system violations.

11 (p) No person who is the lessor of a motor vehicle pursuant  
12 to a written lease agreement shall be liable for an automated  
13 speed or traffic law enforcement system violation involving  
14 such motor vehicle during the period of the lease; provided  
15 that upon the request of the appropriate authority received  
16 within 120 days after the violation occurred, the lessor  
17 provides within 60 days after such receipt the name and address  
18 of the lessee. The drivers license number of a lessee may be  
19 subsequently individually requested by the appropriate  
20 authority if needed for enforcement of this Section.

21 Upon the provision of information by the lessor pursuant to  
22 this subsection, the county or municipality may issue the  
23 violation to the lessee of the vehicle in the same manner as it  
24 would issue a violation to a registered owner of a vehicle  
25 pursuant to this Section, and the lessee may be held liable for  
26 the violation.

1 (Source: P.A. 97-29, eff. 1-1-12; 97-627, eff. 1-1-12; 97-672,  
2 eff. 7-1-12; 97-762, eff. 7-6-12; 98-463, eff. 8-16-13.)