



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB1703

Introduced 2/22/2007, 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. In provisions authorizing a municipality to provide by ordinance for a program of vehicle immobilization to facilitate enforcement of parking, standing, compliance, and automated traffic law regulations, provides that a vehicle may be immobilized only if, at the time the vehicle is actually immobilized, the minimum number of final determinations of parking, standing, compliance, or automated traffic law violation liability as determined by ordinance remain unpaid. Effective immediately.

LRB095 09708 DRH 29912 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 11-208.3 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 and automated traffic law violations.

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 and automated traffic law violations  
14 as defined in Section 11-208.6. The administrative system shall  
15 have as its purpose the fair and efficient enforcement of  
16 municipal regulations through the administrative adjudication  
17 of automated traffic law violations and violations of municipal  
18 ordinances regulating the standing and parking of vehicles, the  
19 condition and use of vehicle equipment, and the display of  
20 municipal wheel tax licenses within the municipality's  
21 borders. The administrative system shall only have authority to  
22 adjudicate civil offenses carrying fines not in excess of \$250  
23 that occur after the effective date of the ordinance adopting

1 such a system under this Section. For purposes of this Section,  
2 "compliance violation" means a violation of a municipal  
3 regulation governing the condition or use of equipment on a  
4 vehicle or governing the display of a municipal wheel tax  
5 license.

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

8 (1) A traffic compliance administrator authorized to  
9 adopt, distribute and process parking, compliance, and  
10 automated traffic law violation notices and other notices  
11 required by this Section, collect money paid as fines and  
12 penalties for violation of parking and compliance  
13 ordinances and automated traffic law violations, and  
14 operate an administrative adjudication system. The traffic  
15 compliance administrator also may make a certified report  
16 to the Secretary of State under Section 6-306.5.

17 (2) A parking, standing, compliance, or automated  
18 traffic law violation notice that shall specify the date,  
19 time, and place of violation of a parking, standing, ~~or~~  
20 compliance, or automated traffic law regulation; the  
21 particular regulation violated; the fine and any penalty  
22 that may be assessed for late payment, when so provided by  
23 ordinance; the vehicle make and state registration number;  
24 and the identification number of the person issuing the  
25 notice. With regard to automated traffic law violations,  
26 vehicle make shall be specified on the automated traffic

1 law violation notice if the make is available and readily  
2 discernible. With regard to municipalities with a  
3 population of 1 million or more, it shall be grounds for  
4 dismissal of a parking violation if the state registration  
5 number or vehicle make specified is incorrect. The  
6 violation notice shall state that the payment of the  
7 indicated fine, and of any applicable penalty for late  
8 payment, shall operate as a final disposition of the  
9 violation. The notice also shall contain information as to  
10 the availability of a hearing in which the violation may be  
11 contested on its merits. The violation notice shall specify  
12 the time and manner in which a hearing may be had.

13 (3) Service of the parking, standing, or compliance  
14 violation notice by affixing the original or a facsimile of  
15 the notice to an unlawfully parked vehicle or by handing  
16 the notice to the operator of a vehicle if he or she is  
17 present and service of an automated traffic law violation  
18 notice by mail to the address of the registered owner of  
19 the cited vehicle as recorded with the Secretary of State  
20 within 30 days after the Secretary of State notifies the  
21 municipality or county of the identity of the owner of the  
22 vehicle, but in no event later than 90 days after the  
23 violation. A person authorized by ordinance to issue and  
24 serve parking, standing, and compliance violation notices  
25 shall certify as to the correctness of the facts entered on  
26 the violation notice by signing his or her name to the

1 notice at the time of service or in the case of a notice  
2 produced by a computerized device, by signing a single  
3 certificate to be kept by the traffic compliance  
4 administrator attesting to the correctness of all notices  
5 produced by the device while it was under his or her  
6 control. In the case of an automated traffic law violation,  
7 the ordinance shall require a determination by a technician  
8 employed or contracted by the municipality or county that,  
9 based on inspection of recorded images, the motor vehicle  
10 was being operated in violation of Section 11-208.6 or a  
11 local ordinance. If the technician determines that the  
12 vehicle entered the intersection as part of a funeral  
13 procession or in order to yield the right-of-way to an  
14 emergency vehicle, a citation shall not be issued. The  
15 original or a facsimile of the violation notice or, in the  
16 case of a notice produced by a computerized device, a  
17 printed record generated by the device showing the facts  
18 entered on the notice, shall be retained by the traffic  
19 compliance administrator, and shall be a record kept in the  
20 ordinary course of business. A parking, standing,  
21 compliance, or automated traffic law violation notice  
22 issued, signed and served in accordance with this Section,  
23 a copy of the notice, or the computer generated record  
24 shall be prima facie correct and shall be prima facie  
25 evidence of the correctness of the facts shown on the  
26 notice. The notice, copy, or computer generated record

1 shall be admissible in any subsequent administrative or  
2 legal proceedings.

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

21 (5) Service of additional notices, sent by first class  
22 United States mail, postage prepaid, to the address of the  
23 registered owner of the cited vehicle as recorded with the  
24 Secretary of State or, if any notice to that address is  
25 returned as undeliverable, to the last known address  
26 recorded in a United States Post Office approved database,

1 or, under Section 11-1306 of this Code, to the lessee of  
2 the cited vehicle at the last address known to the lessor  
3 of the cited vehicle at the time of lease or, if any notice  
4 to that address is returned as undeliverable, to the last  
5 known address recorded in a United States Post Office  
6 approved database. The service shall be deemed complete as  
7 of the date of deposit in the United States mail. The  
8 notices shall be in the following sequence and shall  
9 include but not be limited to the information specified  
10 herein:

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

1 indicated, and that, upon the occurrence of a final  
2 determination of violation liability for the failure,  
3 and the exhaustion of, or failure to exhaust, available  
4 administrative or judicial procedures for review, any  
5 unpaid fine or penalty will constitute a debt due and  
6 owing the municipality.

7 (ii) A notice of final determination of parking,  
8 standing, compliance, or automated traffic law  
9 violation liability. This notice shall be sent  
10 following a final determination of parking, standing,  
11 compliance, or automated traffic law violation  
12 liability and the conclusion of judicial review  
13 procedures taken under this Section. The notice shall  
14 state that the unpaid fine or penalty is a debt due and  
15 owing the municipality. The notice shall contain  
16 warnings that failure to pay any fine or penalty due  
17 and owing the municipality within the time specified  
18 may result in the municipality's filing of a petition  
19 in the Circuit Court to have the unpaid fine or penalty  
20 rendered a judgment as provided by this Section, or may  
21 result in suspension of the person's drivers license  
22 for failure to pay fines or penalties for 10 or more  
23 parking violations under Section 6-306.5 or 5 or more  
24 automated traffic law violations under Section  
25 11-208.6.

26 (6) A Notice of impending drivers license suspension.



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

19 (7) Final determinations of violation liability. A  
20 final determination of violation liability shall occur  
21 following failure to pay the fine or penalty after a  
22 hearing officer's determination of violation liability and  
23 the exhaustion of or failure to exhaust any administrative  
24 review procedures provided by ordinance. Where a person  
25 fails to appear at a hearing to contest the alleged  
26 violation in the time and manner specified in a prior

1 mailed notice, the hearing officer's determination of  
2 violation liability shall become final: (A) upon denial of  
3 a timely petition to set aside that determination, or (B)  
4 upon expiration of the period for filing the petition  
5 without a filing having been made.

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

26 (9) Procedures for non-residents. Procedures by which

1 persons who are not residents of the municipality may  
2 contest the merits of the alleged violation without  
3 attending a hearing.

4 (10) A schedule of civil fines for violations of  
5 vehicular standing, parking, compliance, or automated  
6 traffic law regulations enacted by ordinance pursuant to  
7 this Section, and a schedule of penalties for late payment  
8 of the fines, provided, however, that the total amount of  
9 the fine and penalty for any one violation shall not exceed  
10 \$250, except as provided in subsection (c) of Section  
11 11-1301.3 of this Code.

12 (11) Other provisions as are necessary and proper to  
13 carry into effect the powers granted and purposes stated in  
14 this Section.

15 (c) Any municipality establishing vehicular standing,  
16 parking, compliance, or automated traffic law regulations  
17 under this Section may also provide by ordinance for a program  
18 of vehicle immobilization for the purpose of facilitating  
19 enforcement of those regulations. The program of vehicle  
20 immobilization shall provide for immobilizing any eligible  
21 vehicle upon the public way by presence of a restraint in a  
22 manner to prevent operation of the vehicle. Any ordinance  
23 establishing a program of vehicle immobilization under this  
24 Section shall provide:

25 (1) Criteria for the designation of vehicles eligible  
26 for immobilization. A vehicle shall be eligible for

1 immobilization when the registered owner of the vehicle has  
2 accumulated the number of unpaid final determinations of  
3 parking, standing, compliance, or automated traffic law  
4 violation liability as determined by ordinance.

5 (2) A notice of impending vehicle immobilization and a  
6 right to a hearing to challenge the validity of the notice  
7 by disproving liability for the unpaid final  
8 determinations of parking, standing, compliance, or  
9 automated traffic law violation liability listed on the  
10 notice.

11 (2.5) A vehicle may be immobilized only if, at the time  
12 the vehicle is actually immobilized, the minimum number of  
13 final determinations of parking, standing, compliance, or  
14 automated traffic law violation liability as determined by  
15 ordinance in accordance with paragraph (1) remain unpaid.

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

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

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

7           (e) Any fine, penalty, or part of any fine or any penalty  
8 remaining unpaid after the exhaustion of, or the failure to  
9 exhaust, administrative remedies created under this Section  
10 and the conclusion of any judicial review procedures shall be a  
11 debt due and owing the municipality and, as such, may be  
12 collected in accordance with applicable law. Payment in full of  
13 any fine or penalty resulting from a standing, parking,  
14 compliance, or automated traffic law violation shall  
15 constitute a final disposition of that violation.

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

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

24 (Source: P.A. 94-294, eff. 1-1-06; 94-795, eff. 5-22-06;  
25 94-930, eff. 6-26-06; revised 8-3-06.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.