



Sen. Kimberly A. Lightford

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LRB096 07045 AJT 38826 a

1 AMENDMENT TO SENATE BILL 936

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 936 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by  
5 changing 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 or 11-1201.1. The administrative  
15 system shall have as its purpose the fair and efficient  
16 enforcement of municipal regulations through the

1 administrative adjudication of automated traffic law  
2 violations and violations of municipal ordinances regulating  
3 the standing and parking of vehicles, the condition and use of  
4 vehicle equipment, and the display of municipal wheel tax  
5 licenses within the municipality's borders. The administrative  
6 system shall only have authority to adjudicate civil offenses  
7 carrying fines not in excess of \$500, except as provided in  
8 subsection (c) of Section 11-1301.3 or subsection (a) of  
9 Section 15-113 of this Code, or requiring the completion of a  
10 traffic education program, or both, that occur after the  
11 effective date of the ordinance adopting such a system under  
12 this Section. For purposes of this Section, "compliance  
13 violation" means a violation of a municipal regulation  
14 governing the condition or use of equipment on a vehicle, ~~or~~  
15 governing the display of a municipal wheel tax license, or  
16 governing maximum wheel and axle loads and gross weights.

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

19 (1) A traffic compliance administrator authorized to  
20 adopt, distribute and process parking, compliance, and  
21 automated traffic law violation notices and other notices  
22 required by this Section, collect money paid as fines and  
23 penalties for violation of parking and compliance  
24 ordinances and automated traffic law violations, and  
25 operate an administrative adjudication system. The traffic  
26 compliance administrator also may make a certified report

1 to the Secretary of State under Section 6-306.5.

2 (2) A parking, standing, compliance, or automated  
3 traffic law violation notice that shall specify the date,  
4 time, and place of violation of a parking, standing,  
5 compliance, or automated traffic law regulation; the  
6 particular regulation violated; any requirement to  
7 complete a traffic education program; the fine and any  
8 penalty that may be assessed for late payment or failure to  
9 complete a required traffic education program, or both,  
10 when 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 automated traffic  
13 law violations, vehicle make shall be specified on the  
14 automated traffic law violation notice if the make is  
15 available and readily discernible. With regard to  
16 municipalities with a population of 1 million or more, it  
17 shall be grounds for dismissal of a parking violation if  
18 the state registration number or vehicle make specified is  
19 incorrect. The violation notice shall state that the  
20 completion of any required traffic education program, the  
21 payment of any indicated fine, and the payment of any  
22 applicable penalty for late payment or failure to complete  
23 a required traffic education program, or both, shall  
24 operate as a final disposition of the violation. The notice  
25 also shall contain information as to the availability of a  
26 hearing in which the violation may be contested on its

1 merits. The violation notice shall specify the time and  
2 manner in which a hearing may be had.

3 (3) Service of the parking, standing, or compliance  
4 violation notice by affixing the original or a facsimile of  
5 the notice to an unlawfully parked vehicle or by handing  
6 the notice to the operator of a vehicle if he or she is  
7 present and service of an automated traffic law violation  
8 notice by mail to the address of the registered owner of  
9 the cited vehicle as recorded with the Secretary of State  
10 within 30 days after the Secretary of State notifies the  
11 municipality or county of the identity of the owner of the  
12 vehicle, but in no event later than 90 days after the  
13 violation. A person authorized by ordinance to issue and  
14 serve parking, standing, and compliance violation notices  
15 shall certify as to the correctness of the facts entered on  
16 the violation notice by signing his or her name to the  
17 notice at the time of service or in the case of a notice  
18 produced by a computerized device, by signing a single  
19 certificate to be kept by the traffic compliance  
20 administrator attesting to the correctness of all notices  
21 produced by the device while it was under his or her  
22 control. In the case of an automated traffic law violation,  
23 the ordinance shall require a determination by a technician  
24 employed or contracted by the municipality or county that,  
25 based on inspection of recorded images, the motor vehicle  
26 was being operated in violation of Section 11-208.6 or

1 11-1201.1 or a local ordinance. If the technician  
2 determines that the vehicle entered the intersection as  
3 part of a funeral procession or in order to yield the  
4 right-of-way to an emergency vehicle, a citation shall not  
5 be issued. The original or a facsimile of the violation  
6 notice or, in the case of a notice produced by a  
7 computerized device, a printed record generated by the  
8 device showing the facts entered on the notice, shall be  
9 retained by the traffic compliance administrator, and  
10 shall be a record kept in the ordinary course of business.  
11 A parking, standing, compliance, or automated traffic law  
12 violation notice issued, signed and served in accordance  
13 with this Section, a copy of the notice, or the computer  
14 generated record shall be prima facie correct and shall be  
15 prima facie evidence of the correctness of the facts shown  
16 on the notice. The notice, copy, or computer generated  
17 record shall be admissible in any subsequent  
18 administrative or legal proceedings.

19 (4) An opportunity for a hearing for the registered  
20 owner of the vehicle cited in the parking, standing,  
21 compliance, or automated traffic law violation notice in  
22 which the owner may contest the merits of the alleged  
23 violation, and during which formal or technical rules of  
24 evidence shall not apply; provided, however, that under  
25 Section 11-1306 of this Code the lessee of a vehicle cited  
26 in the violation notice likewise shall be provided an

1 opportunity for a hearing of the same kind afforded the  
2 registered owner. The hearings shall be recorded, and the  
3 person conducting the hearing on behalf of the traffic  
4 compliance administrator shall be empowered to administer  
5 oaths and to secure by subpoena both the attendance and  
6 testimony of witnesses and the production of relevant books  
7 and papers. Persons appearing at a hearing under this  
8 Section may be represented by counsel at their expense. The  
9 ordinance may also provide for internal administrative  
10 review following the decision of the hearing officer.

11 (5) Service of additional notices, sent by first class  
12 United States mail, postage prepaid, to the address of the  
13 registered owner of the cited vehicle as recorded with the  
14 Secretary of State or, if any notice to that address is  
15 returned as undeliverable, to the last known address  
16 recorded in a United States Post Office approved database,  
17 or, under Section 11-1306 of this Code, to the lessee of  
18 the cited vehicle at the last address known to the lessor  
19 of the cited vehicle at the time of lease or, if any notice  
20 to that address is returned as undeliverable, to the last  
21 known address recorded in a United States Post Office  
22 approved database. The service shall be deemed complete as  
23 of the date of deposit in the United States mail. The  
24 notices shall be in the following sequence and shall  
25 include but not be limited to the information specified  
26 herein:

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

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

24          (6) A notice of impending drivers license suspension.  
25          This notice shall be sent to the person liable for failure  
26          to complete a required traffic education program or to pay



1 any fine or penalty that remains due and owing, or both, on  
2 10 or more parking violations or 5 or more unpaid automated  
3 traffic law violations. The notice shall state that failure  
4 to complete a required traffic education program or to pay  
5 the fine or penalty owing, or both, within 45 days of the  
6 notice's date will result in the municipality notifying the  
7 Secretary of State that the person is eligible for  
8 initiation of suspension proceedings under Section 6-306.5  
9 of this Code. The notice shall also state that the person  
10 may obtain a photostatic copy of an original ticket  
11 imposing a fine or penalty by sending a self addressed,  
12 stamped envelope to the municipality along with a request  
13 for the photostatic copy. The notice of impending drivers  
14 license suspension shall be sent by first class United  
15 States mail, postage prepaid, to the address recorded with  
16 the Secretary of State or, if any notice to that address is  
17 returned as undeliverable, to the last known address  
18 recorded in a 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 complete the required traffic  
22 education program or to pay the fine or penalty, or both,  
23 after a hearing officer's determination of violation  
24 liability and the exhaustion of or failure to exhaust any  
25 administrative review procedures provided by ordinance.  
26 Where a person fails to appear at a hearing to contest the

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

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

1 automated traffic law violation liability has been set  
2 aside upon a showing of just cause, the registered owner  
3 shall be provided with a hearing on the merits for that  
4 violation.

5 (9) Procedures for non-residents. Procedures by which  
6 persons who are not residents of the municipality may  
7 contest the merits of the alleged violation without  
8 attending a hearing.

9 (10) A schedule of civil fines for violations of  
10 vehicular standing, parking, compliance, or automated  
11 traffic law regulations enacted by ordinance pursuant to  
12 this Section, and a schedule of penalties for late payment  
13 of the fines or failure to complete required traffic  
14 education programs, provided, however, that the total  
15 amount of the fine and penalty for any one violation shall  
16 not exceed \$500 ~~\$250~~, except as provided in subsection (c)  
17 of Section 11-1301.3 or subsection (a) of Section 15-113 of  
18 this Code.

19 (11) Other provisions as are necessary and proper to  
20 carry into effect the powers granted and purposes stated in  
21 this Section.

22 (c) Any municipality establishing vehicular standing,  
23 parking, compliance, or automated traffic law regulations  
24 under this Section may also provide by ordinance for a program  
25 of vehicle immobilization for the purpose of facilitating  
26 enforcement of those regulations. The program of vehicle

1 immobilization shall provide for immobilizing any eligible  
2 vehicle upon the public way by presence of a restraint in a  
3 manner to prevent operation of the vehicle. Any ordinance  
4 establishing a program of vehicle immobilization under this  
5 Section shall provide:

6 (1) Criteria for the designation of vehicles eligible  
7 for immobilization. A vehicle shall be eligible for  
8 immobilization when the registered owner of the vehicle has  
9 accumulated the number of incomplete traffic education  
10 programs or unpaid final determinations of parking,  
11 standing, compliance, or automated traffic law violation  
12 liability, or both, as determined by ordinance.

13 (2) A notice of impending vehicle immobilization and a  
14 right to a hearing to challenge the validity of the notice  
15 by disproving liability for the incomplete traffic  
16 education programs or unpaid final determinations of  
17 parking, standing, compliance, or automated traffic law  
18 violation liability, or both, listed on the notice.

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

1 Civil Procedure.

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

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

11 (e) Any fine, penalty, incomplete traffic education  
12 program, or part of any fine or any penalty remaining unpaid  
13 after the exhaustion of, or the failure to exhaust,  
14 administrative remedies created under this Section and the  
15 conclusion of any judicial review procedures shall be a debt  
16 due and owing the municipality and, as such, may be collected  
17 in accordance with applicable law. Completion of any required  
18 traffic education program and payment in full of any fine or  
19 penalty resulting from a standing, parking, compliance, or  
20 automated traffic law violation shall constitute a final  
21 disposition of that violation.

22 (f) After the expiration of the period within which  
23 judicial review may be sought for a final determination of  
24 parking, standing, compliance, or automated traffic law  
25 violation, the municipality may commence a proceeding in the  
26 Circuit Court for purposes of obtaining a judgment on the final

1 determination of violation. Nothing in this Section shall  
2 prevent a municipality from consolidating multiple final  
3 determinations of parking, standing, compliance, or automated  
4 traffic law violations against a person in a proceeding. Upon  
5 commencement of the action, the municipality shall file a  
6 certified copy or record of the final determination of parking,  
7 standing, compliance, or automated traffic law violation,  
8 which shall be accompanied by a certification that recites  
9 facts sufficient to show that the final determination of  
10 violation was issued in accordance with this Section and the  
11 applicable municipal ordinance. Service of the summons and a  
12 copy of the petition may be by any method provided by Section  
13 2-203 of the Code of Civil Procedure or by certified mail,  
14 return receipt requested, provided that the total amount of  
15 fines and penalties for final determinations of parking,  
16 standing, compliance, or automated traffic law violations does  
17 not exceed \$2500. If the court is satisfied that the final  
18 determination of parking, standing, compliance, or automated  
19 traffic law violation was entered in accordance with the  
20 requirements of this Section and the applicable municipal  
21 ordinance, and that the registered owner or the lessee, as the  
22 case may be, had an opportunity for an administrative hearing  
23 and for judicial review as provided in this Section, the court  
24 shall render judgment in favor of the municipality and against  
25 the registered owner or the lessee for the amount indicated in  
26 the final determination of parking, standing, compliance, or

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

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

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

13 (Source: P.A. 95-331, eff. 8-21-07; 96-288, eff. 8-11-09;  
14 96-478, eff. 1-1-10; revised 9-4-09.)".