

SB2863



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2863

Introduced 1/24/2012, by Sen. Dan Duffy

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that a county or municipality may not use an automated traffic law enforcement system to provide recorded images of a motor vehicle for the purpose of issuing violations to persons driving a motor vehicle who enter an intersection to turn right against a red signal indication. Effective immediately.

LRB097 16510 HEP 61679 b

FISCAL NOTE ACT
MAY APPLY

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

23 (c-5) A county or municipality, including a home rule
24 county or municipality, may not use an automated traffic law
25 enforcement system to issue violations in instances where the
26 motor vehicle comes to a complete stop and does not enter the

1 intersection, as defined by Section 1-132 of this Code, during
2 the cycle of the red signal indication unless one or more
3 pedestrians or bicyclists are present, even if the motor
4 vehicle stops at a point past a stop line or crosswalk where a
5 driver is required to stop, as specified in subsection (c) of
6 Section 11-306 of this Code or a similar provision of a local
7 ordinance.

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

17 (c-10) A county or municipality, including a home rule
18 county or municipality, may not use an automated traffic law
19 enforcement system to provide recorded images of a motor
20 vehicle for the purpose of issuing violations to persons
21 driving a motor vehicle who enter an intersection to turn right
22 against a red signal indication as described in paragraph 3 of
23 subsection (c) of Section 11-306 of this Code or a similar
24 provision of a local ordinance.

25 (d) For each violation of a provision of this Code or a
26 local ordinance recorded by an automatic traffic law

1 enforcement system, the county or municipality having
2 jurisdiction shall issue a written notice of the violation to
3 the registered owner of the vehicle as the alleged violator.
4 The notice shall be delivered to the registered owner of the
5 vehicle, by mail, within 30 days after the Secretary of State
6 notifies the municipality or county of the identity of the
7 owner of the vehicle, but in no event later than 90 days after
8 the violation.

9 The notice shall include:

10 (1) the name and address of the registered owner of the
11 vehicle;

12 (2) the registration number of the motor vehicle
13 involved in the violation;

14 (3) the violation charged;

15 (4) the location where the violation occurred;

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

17 (6) a copy of the recorded images;

18 (7) the amount of the civil penalty imposed and the
19 requirements of any traffic education program imposed and
20 the date by which the civil penalty should be paid and the
21 traffic education program should be completed;

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

24 (9) a warning that failure to pay the civil penalty, to
25 complete a required traffic education program, or to
26 contest liability in a timely manner is an admission of

1 liability and may result in a suspension of the driving
2 privileges of the registered owner of the vehicle;

3 (10) a statement that the person may elect to proceed
4 by:

5 (A) paying the fine, completing a required traffic
6 education program, or both; or

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

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

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

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

1 (g) Recorded images made by an automatic traffic law
2 enforcement system are confidential and shall be made available
3 only to the alleged violator and governmental and law
4 enforcement agencies for purposes of adjudicating a violation
5 of this Section, for statistical purposes, or for other
6 governmental purposes. Any recorded image evidencing a
7 violation of this Section, however, may be admissible in any
8 proceeding resulting from the issuance of the citation.

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

11 (1) that the motor vehicle or registration plates of
12 the motor vehicle were stolen before the violation occurred
13 and not under the control of or in the possession of the
14 owner at the time of the violation;

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

19 (3) any other evidence or issues provided by municipal
20 or county ordinance.

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

1 manner.

2 (j) Unless the driver of the motor vehicle received a
3 Uniform Traffic Citation from a police officer at the time of
4 the violation, the motor vehicle owner is subject to a civil
5 penalty not exceeding \$100 or the completion of a traffic
6 education program, or both, plus an additional penalty of not
7 more than \$100 for failure to pay the original penalty or to
8 complete a required traffic education program, or both, in a
9 timely manner, if the motor vehicle is recorded by an automated
10 traffic law enforcement system. A violation for which a civil
11 penalty is imposed under this Section is not a violation of a
12 traffic regulation governing the movement of vehicles and may
13 not be recorded on the driving record of the owner of the
14 vehicle.

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

18 (j-5) For purposes of the required traffic education
19 program only, a registered owner may submit an affidavit to the
20 court or hearing officer swearing that at the time of the
21 alleged violation, the vehicle was in the custody and control
22 of another person. The affidavit must identify the person in
23 custody and control of the vehicle, including the person's name
24 and current address. The person in custody and control of the
25 vehicle at the time of the violation is required to complete
26 the required traffic education program. If the person in

1 custody and control of the vehicle at the time of the violation
2 completes the required traffic education program, the
3 registered owner of the vehicle is not required to complete a
4 traffic education program.

5 (k) An intersection equipped with an automated traffic law
6 enforcement system must be posted with a sign visible to
7 approaching traffic indicating that the intersection is being
8 monitored by an automated traffic law enforcement system.

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

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

19 (k-7) A municipality or county operating an automated
20 traffic law enforcement system shall conduct a statistical
21 analysis to assess the safety impact of each automated traffic
22 law enforcement system at an intersection following
23 installation of the system. The statistical analysis shall be
24 based upon the best available crash, traffic, and other data,
25 and shall cover a period of time before and after installation
26 of the system sufficient to provide a statistically valid

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

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

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

26 (n) The fee for participating in a traffic education

1 program under this Section shall not exceed \$25.

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

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

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

24 Upon the provision of information by the lessor pursuant to
25 this subsection, the county or municipality may issue the
26 violation to the lessee of the vehicle in the same manner as it

1 would issue a violation to a registered owner of a vehicle
2 pursuant to this Section, and the lessee may be held liable for
3 the violation.

4 (Source: P.A. 96-288, eff. 8-11-09; 96-1016, eff. 1-1-11;
5 97-29, eff. 1-1-12; 97-627, eff. 1-1-12; revised 1-19-12.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.