

SB1214



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1214

Introduced 1/30/2013, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

605 ILCS 10/10

from Ch. 121, par. 100-10

Amends the Toll Highway Act. Allows the Illinois State Toll Highway Authority to publish the names of toll violators on their website along with the amount of fines and unpaid tolls owed by each violator.

LRB098 06895 MLW 36952 b

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 Toll Highway Act is amended by changing
5 Section 10 as follows:

6 (605 ILCS 10/10) (from Ch. 121, par. 100-10)

7 Sec. 10. The Authority shall have power:

8 (a) To pass resolutions, make by-laws, rules and
9 regulations for the management, regulation and control of its
10 affairs, and to fix tolls, and to make, enact and enforce all
11 needful rules and regulations in connection with the
12 construction, operation, management, care, regulation or
13 protection of its property or any toll highways, constructed or
14 reconstructed hereunder.

15 (a-5) To fix, assess, and collect civil fines for a
16 vehicle's operation on a toll highway without the required toll
17 having been paid. The Authority may establish by rule a system
18 of civil administrative adjudication to adjudicate only
19 alleged instances of a vehicle's operation on a toll highway
20 without the required toll having been paid, as detected by the
21 Authority's video or photo surveillance system. In cases in
22 which the operator of the vehicle is not the registered vehicle
23 owner, the establishment of ownership of the vehicle creates a

1 rebuttable presumption that the vehicle was being operated by
2 an agent of the registered vehicle owner. If the registered
3 vehicle owner liable for a violation under this Section was not
4 the operator of the vehicle at the time of the violation, the
5 owner may maintain an action for indemnification against the
6 operator in the circuit court. Rules establishing a system of
7 civil administrative adjudication must provide for written
8 notice, by first class mail or other means provided by law, to
9 the address of the registered owner of the cited vehicle as
10 recorded with the Secretary of State or to the lessee of the
11 cited vehicle at the last address known to the lessor of the
12 cited vehicle at the time of the lease, of the alleged
13 violation and an opportunity to be heard on the question of the
14 violation and must provide for the establishment of a toll-free
15 telephone number to receive inquiries concerning alleged
16 violations. The notice shall also inform the registered vehicle
17 owner that failure to contest in the manner and time provided
18 shall be deemed an admission of liability and that a final
19 order of liability may be entered on that admission. A duly
20 authorized agent of the Authority may perform or execute the
21 preparation, certification, affirmation, or mailing of the
22 notice. A notice of violation, sworn or affirmed to or
23 certified by a duly authorized agent of the Authority, or a
24 facsimile of the notice, based upon an inspection of
25 photographs, microphotographs, videotape, or other recorded
26 images produced by a video or photo surveillance system, shall

1 be admitted as prima facie evidence of the correctness of the
2 facts contained in the notice or facsimile. Only civil fines,
3 along with the corresponding outstanding toll, and costs may be
4 imposed by administrative adjudication. A fine may be imposed
5 under this paragraph only if a violation is established by a
6 preponderance of the evidence. Judicial review of all final
7 orders of the Authority under this paragraph shall be conducted
8 in the circuit court of the county in which the administrative
9 decision was rendered in accordance with the Administrative
10 Review Law.

11 The Authority may maintain a listing or searchable database
12 on its website of persons that have operated a vehicle on any
13 toll highway under jurisdiction of the Authority without having
14 paid the required toll. Each entry may include the person's
15 legal name, the number of alleged violations for which he or
16 she is responsible, and the total outstanding liability to the
17 Authority including but not limited to the unpaid tolls as well
18 as any unpaid late fees, fines, or administrative costs. The
19 Authority has discretion of which persons to publicly list and
20 may adopt rules for inclusion on this list.

21 Any outstanding toll, fine, additional late payment fine,
22 other sanction, or costs imposed, or part of any fine, other
23 sanction, or costs imposed, remaining unpaid after the
24 exhaustion of, or the failure to exhaust, judicial review
25 procedures under the Administrative Review Law are a debt due
26 and owing the Authority and may be collected in accordance with

1 applicable law. After expiration of the period in which
2 judicial review under the Administrative Review Law may be
3 sought, unless stayed by a court of competent jurisdiction, a
4 final order of the Authority under this subsection (a-5) may be
5 enforced in the same manner as a judgment entered by a court of
6 competent jurisdiction. Notwithstanding any other provision of
7 this Act, the Authority may, with the approval of the Attorney
8 General, retain a law firm or law firms with expertise in the
9 collection of government fines and debts for the purpose of
10 collecting fines, costs, and other moneys due under this
11 subsection (a-5).

12 A system of civil administrative adjudication may also
13 provide for a program of vehicle immobilization, tow, or
14 impoundment for the purpose of facilitating enforcement of any
15 final order or orders of the Authority under this subsection
16 (a-5) that result in a finding or liability for 5 or more
17 violations after expiration of the period in which judicial
18 review under the Administrative Review Law may be sought. The
19 registered vehicle owner of a vehicle immobilized, towed, or
20 impounded for nonpayment of a final order of the Authority
21 under this subsection (a-5) shall have the right to request a
22 hearing before the Authority's civil administrative
23 adjudicatory system to challenge the validity of the
24 immobilization, tow, or impoundment. This hearing, however,
25 shall not constitute a readjudication of the merits of
26 previously adjudicated notices. Judicial review of all final

1 orders of the Authority under this subsection (a-5) shall be
2 conducted in the circuit court of the county in which the
3 administrative decision was rendered in accordance with the
4 Administrative Review Law.

5 No commercial entity that is the lessor of a vehicle under
6 a written lease agreement shall be liable for an administrative
7 notice of violation for toll evasion issued under this
8 subsection (a-5) involving that vehicle during the period of
9 the lease if the lessor provides a copy of the leasing
10 agreement to the Authority within 21 days of the issue date on
11 the notice of violation. The leasing agreement also must
12 contain a provision or addendum informing the lessee that the
13 lessee is liable for payment of all tolls and any fines for
14 toll evasion. Each entity must also post a sign at the leasing
15 counter notifying the lessee of that liability. The copy of the
16 leasing agreement provided to the Authority must contain the
17 name, address, and driver's license number of the lessee, as
18 well as the check-out and return dates and times of the vehicle
19 and the vehicle license plate number and vehicle make and
20 model.

21 As used in this subsection (a-5), "lessor" includes
22 commercial leasing and rental entities but does not include
23 public passenger vehicle entities.

24 The Authority shall establish an amnesty program for
25 violations adjudicated under this subsection (a-5). Under the
26 program, any person who has an outstanding notice of violation

1 for toll evasion or a final order of a hearing officer for toll
2 evasion dated prior to the effective date of this amendatory
3 Act of the 94th General Assembly and who pays to the Authority
4 the full percentage amounts listed in this paragraph remaining
5 due on the notice of violation or final order of the hearing
6 officer and the full fees and costs paid by the Authority to
7 the Secretary of State relating to suspension proceedings, if
8 applicable, on or before 5:00 p.m., Central Standard Time, of
9 the 60th day after the effective date of this amendatory Act of
10 the 94th General Assembly shall not be required to pay more
11 than the listed percentage of the original fine amount and
12 outstanding toll as listed on the notice of violation or final
13 order of the hearing officer and the full fees and costs paid
14 by the Authority to the Secretary of State relating to
15 suspension proceedings, if applicable. The payment percentage
16 scale shall be as follows: a person with 25 or fewer violations
17 shall be eligible for amnesty upon payment of 50% of the
18 original fine amount and the outstanding tolls; a person with
19 more than 25 but fewer than 51 violations shall be eligible for
20 amnesty upon payment of 60% of the original fine amount and the
21 outstanding tolls; and a person with 51 or more violations
22 shall be eligible for amnesty upon payment of 75% of the
23 original fine amount and the outstanding tolls. In such a
24 situation, the Executive Director of the Authority or his or
25 her designee is authorized and directed to waive any late fine
26 amount above the applicable percentage of the original fine

1 amount. Partial payment of the amount due shall not be a basis
2 to extend the amnesty payment deadline nor shall it act to
3 relieve the person of liability for payment of the late fine
4 amount. In order to receive amnesty, the full amount of the
5 applicable percentage of the original fine amount and
6 outstanding toll remaining due on the notice of violation or
7 final order of the hearing officer and the full fees and costs
8 paid by the Authority to the Secretary of State relating to
9 suspension proceedings, if applicable, must be paid in full by
10 5:00 p.m., Central Standard Time, of the 60th day after the
11 effective date of this amendatory Act of the 94th General
12 Assembly. This amendatory Act of the 94th General Assembly has
13 no retroactive effect with regard to payments already tendered
14 to the Authority that were full payments or payments in an
15 amount greater than the applicable percentage, and this Act
16 shall not be the basis for either a refund or a credit. This
17 amendatory Act of the 94th General Assembly does not apply to
18 toll evasion citations issued by the Illinois State Police or
19 other authorized law enforcement agencies and for which payment
20 may be due to or through the clerk of the circuit court. The
21 Authority shall adopt rules as necessary to implement the
22 provisions of this amendatory Act of the 94th General Assembly.
23 The Authority, by a resolution of the Board of Directors, shall
24 have the discretion to implement similar amnesty programs in
25 the future. The Authority, at its discretion and in
26 consultation with the Attorney General, is further authorized

1 to settle an administrative fine or penalty if it determines
2 that settling for less than the full amount is in the best
3 interests of the Authority after taking into account the
4 following factors: (1) the merits of the Authority's claim
5 against the respondent; (2) the amount that can be collected
6 relative to the administrative fine or penalty owed by the
7 respondent; (3) the cost of pursuing further enforcement or
8 collection action against the respondent; (4) the likelihood of
9 collecting the full amount owed; and (5) the burden on the
10 judiciary. The provisions in this Section may be extended to
11 other toll facilities in the State of Illinois through a duly
12 executed agreement between the Authority and the operator of
13 the toll facility.

14 (b) To prescribe rules and regulations applicable to
15 traffic on highways under the jurisdiction of the Authority,
16 concerning:

17 (1) Types of vehicles permitted to use such highways or
18 parts thereof, and classification of such vehicles;

19 (2) Designation of the lanes of traffic to be used by
20 the different types of vehicles permitted upon said
21 highways;

22 (3) Stopping, standing, and parking of vehicles;

23 (4) Control of traffic by means of police officers or
24 traffic control signals;

25 (5) Control or prohibition of processions, convoys,
26 and assemblages of vehicles and persons;

1 (6) Movement of traffic in one direction only on
2 designated portions of said highways;

3 (7) Control of the access, entrance, and exit of
4 vehicles and persons to and from said highways; and

5 (8) Preparation, location and installation of all
6 traffic signs; and to prescribe further rules and
7 regulations applicable to such traffic, concerning matters
8 not provided for either in the foregoing enumeration or in
9 the Illinois Vehicle Code. Notice of such rules and
10 regulations shall be posted conspicuously and displayed at
11 appropriate points and at reasonable intervals along said
12 highways, by clearly legible markers or signs, to provide
13 notice of the existence of such rules and regulations to
14 persons traveling on said highways. At each toll station,
15 the Authority shall make available, free of charge,
16 pamphlets containing all of such rules and regulations.

17 (c) The Authority, in fixing the rate for tolls for the
18 privilege of using the said toll highways, is authorized and
19 directed, in fixing such rates, to base the same upon annual
20 estimates to be made, recorded and filed with the Authority.
21 Said estimates shall include the following: The estimated total
22 amount of the use of the toll highways; the estimated amount of
23 the revenue to be derived therefrom, which said revenue, when
24 added to all other receipts and income, will be sufficient to
25 pay the expense of maintaining and operating said toll
26 highways, including the administrative expenses of the

1 Authority, and to discharge all obligations of the Authority as
2 they become due and payable.

3 (d) To accept from any municipality or political
4 subdivision any lands, easements or rights in land needed for
5 the operation, construction, relocation or maintenance of any
6 toll highways, with or without payment therefor, and in its
7 discretion to reimburse any such municipality or political
8 subdivision out of its funds for any cost or expense incurred
9 in the acquisition of land, easements or rights in land, in
10 connection with the construction and relocation of the said
11 toll highways, widening, extending roads, streets or avenues in
12 connection therewith, or for the construction of any roads or
13 streets forming extension to and connections with or between
14 any toll highways, or for the cost or expense of widening,
15 grading, surfacing or improving any existing streets or roads
16 or the construction of any streets and roads forming extensions
17 of or connections with any toll highways constructed,
18 relocated, operated, maintained or regulated hereunder by the
19 Authority. Where property owned by a municipality or political
20 subdivision is necessary to the construction of an approved
21 toll highway, if the Authority cannot reach an agreement with
22 such municipality or political subdivision and if the use to
23 which the property is being put in the hands of the
24 municipality or political subdivision is not essential to the
25 existence or the administration of such municipality or
26 political subdivision, the Authority may acquire the property

1 by condemnation.

2 (Source: P.A. 94-636, eff. 8-22-05.)