

Uninsured Motorists

Uninsured Motorists: Driving without insurance is an offense under the Illinois Vehicle Code but not under the Municipal Code of Chicago.

Background

The State of Illinois has a mandatory insurance law. All drivers must carry their insurance card in their vehicle and show it upon request by any law enforcement officer. (625 ILCS 5/7-602) Violation of this requirement carries a fine of \$500 to \$1,000 for the first offense. (625 ILCS 5/3-707) In addition, driving without insurance is a 'reportable offense,' meaning that a conviction is to be reported to the Illinois Secretary of State who then suspends the vehicle's registration. (625 ILCS 5/7-606) In 2014, Chicago police officers wrote 41,565 tickets for driving without insurance.

The Illinois Vehicle Code grants local authorities limited ability to regulate the standing or parking of vehicles, traffic controls, the speed of vehicles, and certain other areas. (625 ILCS 5/11-208) In addition, the Vehicle Code limits the types of violations a municipality can adjudicate *administratively* to those involving the standing, parking or condition of vehicles, automated red light enforcement and automated speed enforcement. (625 ILCS 5/11-208.3) The Illinois Municipal Code restricts a municipality from *administratively* adjudicating traffic regulations governing the movement of vehicles and offenses that are reportable to the Secretary of State. (65 ILCS 5/1-2.1-2) As noted above, uninsured motorist violations are reportable offenses.

Revenue Impact

Because driving without insurance is a reportable offense, it cannot be adjudicated administratively through the City's Department of Administrative Hearings. Traffic regulations that cannot be adjudicated administratively are handled in Circuit Court.

When a citation is adjudicated at the City's Department of Administrative Hearings, all revenue from the resulting fine flows to the City. However, when a violation is adjudicated in the Circuit Courts, any resulting fees and fines are paid by the convicted offender to the Circuit Court Clerk, and the City receives only a portion of those payments. The portion that the City ultimately receives is impacted by a number of factors. At the outset, cases may be dismissed at the prosecuting attorney's or judge's discretion. The judge also has discretion with respect to the fines imposed, and offenders may not pay the entire fine imposed. Any amount paid is then reduced pursuant to certain state statutory requirements. State statute requires that mandatory fees and costs be imposed in addition to any fine, and in certain cases these fees and costs are given priority and must be satisfied first before any payments are applied to satisfy the City's fine. In addition, the amount paid by the Circuit Court Clerk to the City is set by law at 44.5% of payments received by the Clerk, after satisfaction of mandatory fees and costs as applicable. This distribution of payments applies to all violations heard in Circuit Court, regardless of whether state statute or Municipal Code was cited in the initial citation.

If the City passed an uninsured motorist ordinance with fines set at the same level as State fines, there would be no expected impact on revenue to the City. These cases would still be adjudicated in Circuit Court and the percentage remitted to the City would remain the same.

Legal Authority

As discussed above, the State has already regulated uninsured motorists. While the City may have home rule authority to pass a parallel ordinance to the state law, it is possible that state legislation may be necessary to enable the City to enact such an ordinance. State law on this issue is inconsistent and unclear. A plausible argument can be made that the City is empowered to enact a parallel ordinance to the state law; however, it is difficult to envision how such an ordinance could successfully integrate into the mandatory State structure for reporting certain offenses to the Secretary of State.