



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2041

Introduced 2/10/2017, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.7

Amends the Illinois Vehicle Code. Provides that if proper notice is given within the first 5 calendar days after a vehicle is towed, daily storage charges shall begin to accrue for the first 5 calendar days and shall continue thereafter. Provides that if proper notice is given after the first 5 calendar days after the vehicle is towed, daily storage charges shall not begin to accrue until 3 calendar days after the notice is sent. Provides for the daily storage charge amounts. Provides that at the time a vehicle is towed or no later than 5 calendar days thereafter, the county or municipality shall notify by certified mail the lienholder of record, lessor, and the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense, of the fact of the seizure, and of the vehicle owner's or lessee's right to an administrative hearing. Provides that within 3 calendar days after the vehicle is towed, a county or municipality shall access the vehicle's title record to determine the lienholder of record, lessor, and the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle. Provides that except if an administrative hearing officer overturns a vehicle impoundment, a county or municipality may assess a \$5 fee for each vehicle towed to defray additional administrative costs. Provides that a lienholder or lessor shall be entitled to take possession of an impounded vehicle, and defer payment of any applicable administrative fees, upon submission of certain documents and fees to the municipality or its designated agent. Provides that upon a request to obtain possession of an impounded vehicle, a municipality or its agent shall provide a lienholder or lessor an opportunity to view the vehicle and provide a statement in writing setting forth the amount of the applicable administrative, towing, and storage fees. Makes conforming changes.

LRB100 06288 AXK 16325 b

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 11-208.7 as follows:

6 (625 ILCS 5/11-208.7)

7 Sec. 11-208.7. Administrative fees and procedures for
8 impounding vehicles for specified violations.

9 (a) Any county or municipality may, consistent with this
10 Section, provide by ordinance procedures for the release of
11 properly impounded vehicles and for the imposition of a
12 reasonable administrative fee related to its administrative
13 and processing costs associated with the investigation,
14 arrest, and detention of an offender, or the removal,
15 impoundment, storage, and release of the vehicle. The
16 administrative fee imposed by the county or municipality may be
17 in addition to any fees charged for the towing and storage of
18 an impounded vehicle. The administrative fee shall be waived by
19 the county or municipality upon verifiable proof that the
20 vehicle was stolen at the time the vehicle was impounded.

21 (b) An ordinance establishing procedures for the release of
22 properly impounded vehicles under this Section may impose fees
23 only for the following violations:

1 (1) operation or use of a motor vehicle in the
2 commission of, or in the attempt to commit, an offense for
3 which a motor vehicle may be seized and forfeited pursuant
4 to Section 36-1 of the Criminal Code of 2012; or

5 (2) driving under the influence of alcohol, another
6 drug or drugs, an intoxicating compound or compounds, or
7 any combination thereof, in violation of Section 11-501 of
8 this Code; or

9 (3) operation or use of a motor vehicle in the
10 commission of, or in the attempt to commit, a felony or in
11 violation of the Cannabis Control Act; or

12 (4) operation or use of a motor vehicle in the
13 commission of, or in the attempt to commit, an offense in
14 violation of the Illinois Controlled Substances Act; or

15 (5) operation or use of a motor vehicle in the
16 commission of, or in the attempt to commit, an offense in
17 violation of Section 24-1, 24-1.5, or 24-3.1 of the
18 Criminal Code of 1961 or the Criminal Code of 2012; or

19 (6) driving while a driver's license, permit, or
20 privilege to operate a motor vehicle is suspended or
21 revoked pursuant to Section 6-303 of this Code; except that
22 vehicles shall not be subjected to seizure or impoundment
23 if the suspension is for an unpaid citation (parking or
24 moving) or due to failure to comply with emission testing;
25 or

26 (7) operation or use of a motor vehicle while

1 soliciting, possessing, or attempting to solicit or
2 possess cannabis or a controlled substance, as defined by
3 the Cannabis Control Act or the Illinois Controlled
4 Substances Act; or

5 (8) operation or use of a motor vehicle with an expired
6 driver's license, in violation of Section 6-101 of this
7 Code, if the period of expiration is greater than one year;
8 or

9 (9) operation or use of a motor vehicle without ever
10 having been issued a driver's license or permit, in
11 violation of Section 6-101 of this Code, or operating a
12 motor vehicle without ever having been issued a driver's
13 license or permit due to a person's age; or

14 (10) operation or use of a motor vehicle by a person
15 against whom a warrant has been issued by a circuit clerk
16 in Illinois for failing to answer charges that the driver
17 violated Section 6-101, 6-303, or 11-501 of this Code; or

18 (11) operation or use of a motor vehicle in the
19 commission of, or in the attempt to commit, an offense in
20 violation of Article 16 or 16A of the Criminal Code of 1961
21 or the Criminal Code of 2012; or

22 (12) operation or use of a motor vehicle in the
23 commission of, or in the attempt to commit, any other
24 misdemeanor or felony offense in violation of the Criminal
25 Code of 1961 or the Criminal Code of 2012, when so provided
26 by local ordinance; or

1 (13) operation or use of a motor vehicle in violation
2 of Section 11-503 of this Code:

3 (A) while the vehicle is part of a funeral
4 procession; or

5 (B) in a manner that interferes with a funeral
6 procession.

7 (c) The following shall apply to any fees imposed for
8 administrative and processing costs pursuant to subsection
9 (b):

10 (1) All administrative fees and towing and storage
11 charges shall be imposed on the registered owner of the
12 motor vehicle or the agents of that owner.

13 (2) The fees shall be in addition to (i) any other
14 penalties that may be assessed by a court of law for the
15 underlying violations; and (ii) any towing or storage fees,
16 or both, charged by the towing company.

17 (3) The fees shall be uniform for all similarly
18 situated vehicles.

19 (4) The fees shall be collected by and paid to the
20 county or municipality imposing the fees.

21 (5) The towing or storage fees, or both, shall be
22 collected by and paid to the person, firm, or entity that
23 tows and stores the impounded vehicle.

24 (6) If notice under paragraph (2) of subsection (e) of
25 this Section is sent within the first 5 calendar days after
26 the vehicle is towed, daily storage charges shall begin to

1 accrue for the first 5 calendar days and shall continue
2 thereafter. If notice is sent after the first 5 calendar
3 days after the vehicle is towed, daily storage charges
4 shall not accrue until 3 calendar days after the notice is
5 sent. The daily storage charges shall not exceed the
6 following rates: (i) \$20.00 per calendar day for the first
7 5 calendar days and \$35.00 per calendar day thereafter; or
8 (ii) if the vehicle weighs 8,000 pounds or more, \$60.00 per
9 calendar day for the first 5 calendar days and \$100.00 per
10 calendar day thereafter. No tow or storage fees shall be
11 assessed if an administrative hearing officer overturns a
12 vehicle impoundment. This paragraph (6) shall not apply to
13 municipalities with more than 1,000,000 inhabitants.

14 (d) Any ordinance establishing procedures for the release
15 of properly impounded vehicles under this Section shall provide
16 for an opportunity for a hearing, as provided in subdivision
17 (b) (4) of Section 11-208.3 of this Code, and for the release of
18 the vehicle to the owner of record, lessee, or a lienholder of
19 record, including a lessor of record, upon payment of all
20 administrative fees and towing and storage fees, subject to the
21 provisions of subsection (k).

22 (e) Any ordinance establishing procedures for the
23 impoundment and release of vehicles under this Section shall
24 include the following provisions concerning notice of
25 impoundment:

26 (1) Whenever a police officer has cause to believe that

1 a motor vehicle is subject to impoundment, the officer
2 shall provide for the towing of the vehicle to a facility
3 authorized by the county or municipality.

4 (2) At the time the vehicle is towed or no later than 5
5 calendar days thereafter, the county or municipality shall
6 notify by certified mail, with return receipt requested,
7 the lienholder of record, lessor, and ~~or make a reasonable~~
8 ~~attempt to notify~~ the owner, lessee, or person identifying
9 himself or herself as the owner or lessee of the vehicle,
10 or any person who is found to be in control of the vehicle
11 at the time of the alleged offense, of the fact of the
12 seizure, and of the vehicle owner's or lessee's right to an
13 administrative hearing. Within 3 calendar days after a
14 vehicle is towed, a county or municipality shall access the
15 vehicle's title record through the Secretary of State's
16 website or by other means to determine the lienholder of
17 record, lessor, and the owner, lessee, or person
18 identifying himself or herself as the owner or lessee of
19 the vehicle. Except if an administrative hearing officer
20 overturns a vehicle impoundment, a county or municipality
21 may assess a \$5 fee for each vehicle towed to defray
22 additional administrative costs.

23 (3) The county or municipality shall also provide
24 notice that the motor vehicle will remain impounded pending
25 the completion of an administrative hearing, unless the
26 owner or lessee of the vehicle or a lienholder posts with

1 the county or municipality a bond equal to the
2 administrative fee as provided by ordinance and pays for
3 all towing and storage charges, subject to the provisions
4 of subsection (k).

5 (f) Any ordinance establishing procedures for the
6 impoundment and release of vehicles under this Section shall
7 include a provision providing that the registered owner or
8 lessee of the vehicle and any lienholder of record shall be
9 provided with a notice of hearing. The notice shall:

10 (1) be served upon the owner, lessee, and any
11 lienholder of record either by personal service or by first
12 class mail to the interested party's address as registered
13 with the Secretary of State;

14 (2) be served upon interested parties within 10 days
15 after a vehicle is impounded by the municipality; and

16 (3) contain the date, time, and location of the
17 administrative hearing. An initial hearing shall be
18 scheduled and convened no later than 45 days after the date
19 of the mailing of the notice of hearing.

20 (g) In addition to the requirements contained in
21 subdivision (b) (4) of Section 11-208.3 of this Code relating to
22 administrative hearings, any ordinance providing for the
23 impoundment and release of vehicles under this Section shall
24 include the following requirements concerning administrative
25 hearings:

26 (1) administrative hearings shall be conducted by a

1 hearing officer who is an attorney licensed to practice law
2 in this State for a minimum of 3 years;

3 (2) at the conclusion of the administrative hearing,
4 the hearing officer shall issue a written decision either
5 sustaining or overruling the vehicle impoundment;

6 (3) if the basis for the vehicle impoundment is
7 sustained by the administrative hearing officer, any
8 administrative fee posted to secure the release of the
9 vehicle shall be forfeited to the county or municipality;

10 (4) all final decisions of the administrative hearing
11 officer shall be subject to review under the provisions of
12 the Administrative Review Law, unless the county or
13 municipality allows in the enabling ordinance for direct
14 appeal to the circuit court having jurisdiction over the
15 county or municipality;

16 (5) unless the administrative hearing officer
17 overturns the basis for the vehicle impoundment, no vehicle
18 shall be released to the owner, lessee, or lienholder of
19 record until all administrative fees and towing and storage
20 charges are paid, subject to the provisions of subsection
21 (k); and

22 (6) if the administrative hearing officer finds that a
23 county or municipality that impounds a vehicle exceeded its
24 authority under this Code, the county or municipality shall
25 be liable to the registered owner or lessee of the vehicle
26 for the cost of storage fees and reasonable attorney's

1 fees.

2 (h) Vehicles not retrieved from the towing facility or
3 storage facility within 35 days after the administrative
4 hearing officer issues a written decision shall be deemed
5 abandoned and disposed of in accordance with the provisions of
6 Article II of Chapter 4 of this Code.

7 (i) Unless stayed by a court of competent jurisdiction, any
8 fine, penalty, or administrative fee imposed under this Section
9 which remains unpaid in whole or in part after the expiration
10 of the deadline for seeking judicial review under the
11 Administrative Review Law may be enforced in the same manner as
12 a judgment entered by a court of competent jurisdiction.

13 (j) The fee limits in subsection (b), the exceptions in
14 paragraph (6) of subsection (b), and all of paragraph (6) of
15 subsection (g) of this Section shall not apply to a home rule
16 unit that tows a vehicle on a public way if a circumstance
17 requires the towing of the vehicle or if the vehicle is towed
18 due to a violation of a statute or local ordinance, and the
19 home rule unit:

20 (1) owns and operates a towing facility within its
21 boundaries for the storage of towed vehicles; and

22 (2) owns and operates tow trucks or enters into a
23 contract with a third party vendor to operate tow trucks.

24 (k) Notwithstanding any other provision of this Section to
25 the contrary, a lienholder or lessor shall be entitled to take
26 possession of a vehicle impounded under any ordinance

1 authorized by this Section, and defer payment of any applicable
2 administrative fees, upon submission of the following to the
3 municipality or its designated agent:

4 (1) a copy of the certificate of title or other
5 competent evidence to demonstrate the filing of the lien or
6 lessor's ownership of the vehicle with the Secretary of
7 State or other applicable governmental entity, which shall
8 be certified as a true and correct copy of the document
9 under notary seal;

10 (2) a copy of the installment sales, loan, or lease
11 agreement related to the vehicle which shall be certified
12 as a true and correct copy of the document under notary
13 seal;

14 (3) a sworn statement that the owner, purchaser, or
15 lessee of the vehicle is in default, and that the
16 lienholder or lessor has a right under the agreement to
17 repossess or otherwise foreclose on its lien and that it is
18 repossessing and foreclosing on its lien or intends to do
19 so;

20 (4) a notarized agreement to indemnify and hold
21 harmless the municipality and its agents for the release of
22 the vehicle to the lienholder or lessor;

23 (5) a written agreement of the lienholder that it shall
24 conditionally pay to the municipality a portion or all of
25 the applicable administrative fees, under this Section, to
26 the extent of any surplus funds received by the lienholder

1 from the repossession sale of the vehicle under the Uniform
2 Commercial Code or the Motor Vehicle Leasing Act. The
3 amount of the surplus shall be as defined under Section
4 9-615 of the Uniform Commercial Code. The agreement shall
5 provide that if the repossession sale does not yield enough
6 surplus to pay the full amount owed to the municipality,
7 the lienholder shall pay the municipality as much as is
8 available from the surplus, if any, and the lienholder
9 shall not have any further liability to the municipality
10 for the amount owed. The agreement shall further provide
11 that if the lienholder or lessor allows the owner,
12 purchaser, or lessee to redeem or reinstate the vehicle or
13 agreement and retake possession of the vehicle, and the
14 vehicle is again towed and impounded, the provisions of
15 this subsection (k) shall not apply; and

16 (6) payment of the authorized towing and storage fees
17 charged by the person, firm, or entity that tows and stores
18 the impounded vehicle, and the cost of certified mail sent
19 as required under this Section, to the extent the
20 lienholder or lessor was given notice, as provided by this
21 Section.

22 This subsection (k) shall not apply to municipalities with
23 1,000,000 or more inhabitants.

24 (l) Upon the request of a lienholder or lessor to obtain
25 possession of a vehicle impounded under any ordinance
26 authorized by this Section, the municipality or its agent shall

1 provide to the lienholder or lessor an opportunity to view the
2 vehicle and provide a statement in writing setting forth the
3 amount of the applicable administrative, towing, and storage
4 fees as authorized by this Section.

5 (Source: P.A. 98-518, eff. 8-22-13; 98-734, eff. 1-1-15;
6 98-756, eff. 7-16-14; 99-848, eff. 8-19-16.)