



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1519

Introduced 2/15/2019, by Sen. Emil Jones, III

SYNOPSIS AS INTRODUCED:

625 ILCS 5/4-216
625 ILCS 5/11-208.7

Amends the Illinois Vehicle Code. Provides for the release of an impounded vehicle to a lessor of record in the same manner as a lienholder of record. Provides that vehicles not retrieved from the towing facility or storage facility within 10 (instead of 35) days after an administrative hearing officer issues a written decision shall be deemed abandoned and disposed of. Provides that, except in a municipality with a population of 1,000,000 or more, a lienholder of record or lessor of record may take possession of a vehicle impounded under any ordinance and defer payment of any applicable administrative fees upon submission of specified documentation to the municipality or its designated agent. Provides that no vehicle shall be released to the lienholder of record or lessor of record until payment of the associated towing, storage, and other applicable fees charged by the person, firm, or entity that tows and stores the impounded vehicle to the extent the lienholder of record or lessor of record was given notice. Provides that, upon the request of a lienholder of record or lessor of record to obtain possession of an impounded vehicle, the county or municipality, or its designated agent, shall: (1) provide the lienholder of record or lessor of record an opportunity to view the vehicle within 2 business days of the request; (2) provide a statement in writing setting forth the amount of the applicable administrative fees; and (3) provide a statement in writing setting forth the amount of the applicable towing, storage, and other fees. Effective 90 days after becoming law.

LRB101 06089 TAE 51110 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 Sections 4-216 and 11-208.7 as follows:

6 (625 ILCS 5/4-216)

7 Sec. 4-216. Storage fees; notice to lienholder of record or
8 lessor of record.

9 (a) Any commercial vehicle relocater or any other private
10 towing service providing removal or towing services pursuant to
11 this Code and seeking to impose fees in connection with the
12 furnishing of storage for a vehicle in the possession of the
13 commercial vehicle relocater or other private towing service
14 must provide written notice within 2 business days after the
15 vehicle is removed or towed, by certified mail, return receipt
16 requested, to the lienholder of record or lessor of record,
17 regardless of whether the commercial vehicle relocater or other
18 private towing service enforces a lien under the Labor and
19 Storage Lien Act or the Labor and Storage Lien (Small Amount)
20 Act. The notice shall be effective upon mailing and include the
21 rate at which fees will be incurred, and shall provide the
22 lienholder of record or lessor of record with an opportunity to
23 inspect the vehicle on the premises where the vehicle is stored

1 within 2 business days of the lienholder of record's or lessor
2 of record's ~~lienholder's~~ request. The date on which the
3 assessment and accrual of storage fees may commence is the date
4 of the impoundment of the vehicle, subject to any applicable
5 limitations set forth by a municipality authorizing the vehicle
6 removal. Payment of the storage fees by the lienholder of
7 record or lessor of record may be made in cash or by cashier's
8 check, certified check, debit card, credit card, or wire
9 transfer, at the option of the lienholder of record or lessor
10 of record taking possession of the vehicle. The commercial
11 vehicle relocater or other private towing service shall furnish
12 a copy of the certified mail receipt to the lienholder of
13 record or lessor of record upon request.

14 (b) The notification requirements in subsection (a) of this
15 Section apply in addition to any lienholder of record or lessor
16 of record notice requirements under this Code relating to the
17 removal or towing of an abandoned, lost, stolen, or unclaimed
18 vehicle. If the commercial vehicle relocater or other private
19 towing service fails to comply with the notification
20 requirements set forth in subsection (a) of this Section,
21 storage fees shall not be assessed and collected and the
22 lienholder of record or lessor of record shall be entitled to
23 injunctive relief for possession of the vehicle without the
24 payment of any storage fees.

25 (c) If the notification required under subsection (a) was
26 not sent and a lienholder of record or lessor of record

1 discovers its collateral is in the possession of a commercial
2 vehicle relocater or other private towing service by means
3 other than the notification required in subsection (a) of this
4 Section, the lienholder of record or lessor of record is
5 entitled to recover any storage fees paid to the commercial
6 vehicle relocater or other private towing service to reclaim
7 possession of its collateral.

8 (d) An action under this Section may be brought by the
9 lienholder of record or lessor of record against the commercial
10 vehicle locator or other private towing service in the circuit
11 court.

12 (e) Notwithstanding any provision to the contrary in this
13 Code, a commercial vehicle relocater or other private towing
14 service seeking to impose storage fees for a vehicle in its
15 possession may not foreclose or otherwise enforce its claim for
16 payment of storage services or any lien relating to the claim
17 pursuant to this Code or other applicable law unless it first
18 complies with the lienholder of record or lessor of record
19 notification requirements set forth in subsection (a) of this
20 Section.

21 (f) If the vehicle that is removed or towed is registered
22 in a state other than Illinois, the assessment and accrual of
23 storage fees may commence on the date that the request for
24 lienholder of record or lessor of record information is filed
25 by the commercial vehicle relocater or other private towing
26 service with the applicable administrative agency or office in

1 that state if: (i) the commercial vehicle relocater or other
2 private towing service furnishes the lienholder of record or
3 lessor of record with a copy or proof of filing of the request
4 for lienholder of record or lessor of record information; (ii)
5 the commercial vehicle relocater or other private towing
6 service provides to the lienholder of record or lessor of
7 record the notification required by this Section within one
8 business day after receiving the requested lienholder of record
9 or lessor of record information; and (iii) the assessment of
10 storage fees complies with any applicable limitations set forth
11 by a municipality authorizing the vehicle removal.

12 (Source: P.A. 100-311, eff. 11-23-17; 100-863, eff. 8-14-18.)

13 (625 ILCS 5/11-208.7)

14 Sec. 11-208.7. Administrative fees and procedures for
15 impounding vehicles for specified violations.

16 (a) Any county or municipality may, consistent with this
17 Section, provide by ordinance procedures for the release of
18 properly impounded vehicles and for the imposition of a
19 reasonable administrative fee related to its administrative
20 and processing costs associated with the investigation,
21 arrest, and detention of an offender, or the removal,
22 impoundment, storage, and release of the vehicle. The
23 administrative fee imposed by the county or municipality may be
24 in addition to any fees charged for the towing and storage of
25 an impounded vehicle. The administrative fee shall be waived by

1 the county or municipality upon verifiable proof that the
2 vehicle was stolen at the time the vehicle was impounded.

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

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

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

14 (3) operation or use of a motor vehicle in the
15 commission of, or in the attempt to commit, a felony or in
16 violation of the Cannabis Control Act; or

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

20 (5) operation or use of a motor vehicle in the
21 commission of, or in the attempt to commit, an offense in
22 violation of Section 24-1, 24-1.5, or 24-3.1 of the
23 Criminal Code of 1961 or the Criminal Code of 2012; or

24 (6) driving while a driver's license, permit, or
25 privilege to operate a motor vehicle is suspended or
26 revoked pursuant to Section 6-303 of this Code; except that

1 vehicles shall not be subjected to seizure or impoundment
2 if the suspension is for an unpaid citation (parking or
3 moving) or due to failure to comply with emission testing;
4 or

5 (7) operation or use of a motor vehicle while
6 soliciting, possessing, or attempting to solicit or
7 possess cannabis or a controlled substance, as defined by
8 the Cannabis Control Act or the Illinois Controlled
9 Substances Act; or

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

14 (9) operation or use of a motor vehicle without ever
15 having been issued a driver's license or permit, in
16 violation of Section 6-101 of this Code, or operating a
17 motor vehicle without ever having been issued a driver's
18 license or permit due to a person's age; or

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

23 (11) operation or use of a motor vehicle in the
24 commission of, or in the attempt to commit, an offense in
25 violation of Article 16 or 16A of the Criminal Code of 1961
26 or the Criminal Code of 2012; or

1 (12) operation or use of a motor vehicle in the
2 commission of, or in the attempt to commit, any other
3 misdemeanor or felony offense in violation of the Criminal
4 Code of 1961 or the Criminal Code of 2012, when so provided
5 by local ordinance; or

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

8 (A) while the vehicle is part of a funeral
9 procession; or

10 (B) in a manner that interferes with a funeral
11 procession.

12 (c) The following shall apply to any fees imposed for
13 administrative and processing costs pursuant to subsection
14 (b):

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

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

22 (3) The fees shall be uniform for all similarly
23 situated vehicles.

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

26 (5) The towing or storage fees, or both, shall be

1 collected by and paid to the person, firm, or entity that
2 tows and stores the impounded vehicle.

3 (d) Except as provided in subsection (k), any ~~Any~~ ordinance
4 establishing procedures for the release of properly impounded
5 vehicles under this Section shall provide for an opportunity
6 for a hearing, as provided in subdivision (b)(4) of Section
7 11-208.3 of this Code, and for the release of the vehicle to
8 the owner of record, lessee, or a lienholder of record,
9 including a lessor of record, upon payment of all
10 administrative fees and towing and storage fees.

11 (e) Any ordinance establishing procedures for the
12 impoundment and release of vehicles under this Section shall
13 include the following provisions concerning notice of
14 impoundment:

15 (1) Whenever a police officer has cause to believe that
16 a motor vehicle is subject to impoundment, the officer
17 shall provide for the towing of the vehicle to a facility
18 authorized by the county or municipality.

19 (2) At the time the vehicle is towed, the county or
20 municipality shall notify, as soon as practicable, or make
21 a reasonable attempt to notify the owner, lessee, or person
22 identifying himself or herself as the owner or lessee of
23 the vehicle, or any person who is found to be in control of
24 the vehicle at the time of the alleged offense, of the fact
25 of the seizure, and of the vehicle owner's or lessee's
26 right to an administrative hearing. Notice shall be given

1 by the towing company to the lienholder of record or the
2 lessor of record pursuant to Section 4-216 of this Code.

3 (3) Except as provided in subsection (k), the ~~The~~
4 county or municipality shall also provide notice that the
5 motor vehicle will remain impounded pending the completion
6 of an administrative hearing, unless the owner or lessee of
7 the vehicle or a lienholder posts with the county or
8 municipality a bond equal to the administrative fee as
9 provided by ordinance and pays for all towing and storage
10 charges.

11 (f) Any ordinance establishing procedures for the
12 impoundment and release of vehicles under this Section shall
13 include a provision providing that the registered owner or
14 lessee of the vehicle and any lienholder of record shall be
15 provided with a notice of hearing. The notice shall:

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

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

22 (3) contain the date, time, and location of the
23 administrative hearing. An initial hearing shall be
24 scheduled and convened no later than 45 days after the date
25 of the mailing of the notice of hearing.

26 (g) In addition to the requirements contained in

1 subdivision (b) (4) of Section 11-208.3 of this Code relating to
2 administrative hearings, any ordinance providing for the
3 impoundment and release of vehicles under this Section shall
4 include the following requirements concerning administrative
5 hearings:

6 (1) administrative hearings shall be conducted by a
7 hearing officer who is an attorney licensed to practice law
8 in this State for a minimum of 3 years;

9 (2) at the conclusion of the administrative hearing,
10 the hearing officer shall issue a written decision either
11 sustaining or overruling the vehicle impoundment;

12 (3) if the basis for the vehicle impoundment is
13 sustained by the administrative hearing officer, any
14 administrative fee posted to secure the release of the
15 vehicle shall be forfeited to the county or municipality;

16 (4) all final decisions of the administrative hearing
17 officer shall be subject to review under the provisions of
18 the Administrative Review Law, unless the county or
19 municipality allows in the enabling ordinance for direct
20 appeal to the circuit court having jurisdiction over the
21 county or municipality;

22 (5) except as provided in subsection (k), unless the
23 administrative hearing officer overturns the basis for the
24 vehicle impoundment, no vehicle shall be released to the
25 owner, lessee, or lienholder of record until all
26 administrative fees and towing and storage charges are

1 paid; and

2 (6) if the administrative hearing officer finds that a
3 county or municipality that impounds a vehicle exceeded its
4 authority under this Code, the county or municipality shall
5 be liable to the registered owner or lessee of the vehicle
6 for the cost of storage fees and reasonable attorney's
7 fees.

8 (h) Vehicles not retrieved from the towing facility or
9 storage facility within 10 ~~35~~ days after the administrative
10 hearing officer issues a written decision shall be deemed
11 abandoned and disposed of in accordance with the provisions of
12 Article II of Chapter 4 of this Code.

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

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

26 (1) owns and operates a towing facility within its

1 boundaries for the storage of towed vehicles; and

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

4 (k) Notwithstanding any other provision of this Section to
5 the contrary, a lienholder of record or lessor of record may
6 take possession of a vehicle impounded under any ordinance
7 authorized by this Section and defer payment of any applicable
8 administrative fees upon submission of the following to the
9 municipality or its designated agent:

10 (1) the lienholder of record's or lessor of record's
11 duly executed affidavit stating that the lienholder of
12 record or lessor of record is the owner of or has the right
13 to possession of the vehicle;

14 (2) a notarized agreement to indemnify and hold
15 harmless the municipality and its agents for the release of
16 the vehicle to the lienholder of record or lessor of
17 record; and

18 (3) a written agreement of the lienholder of record or
19 lessor of record that he or she shall conditionally pay to
20 the municipality a portion or all of the applicable
21 administrative fees under this Section, to the extent of
22 any surplus funds received by the lienholder of record or
23 lessor of record from the repossession sale of the vehicle
24 under the Uniform Commercial Code or the Motor Vehicle
25 Leasing Act. The amount of the surplus shall be as defined
26 under Section 9-615 of the Uniform Commercial Code. The

1 agreement shall provide that if the repossession sale does
2 not yield enough surplus to pay the full amount owed to the
3 municipality, the lienholder of record or lessor of record
4 shall pay the municipality as much as is available from the
5 surplus, if any, and the lienholder of record or lessor of
6 record shall not have any further liability to the
7 municipality for the amount owed. The agreement shall
8 further provide that if the lienholder of record or lessor
9 of record allows the owner, purchaser, or lessee to redeem
10 or reinstate the vehicle or agreement and retake possession
11 of the vehicle, and the vehicle is again towed and
12 impounded, the provisions of this subsection (k) do not
13 apply.

14 No vehicle shall be released to the lienholder of record or
15 lessor of record until payment of the associated towing,
16 storage, and other applicable fees charged by the person, firm,
17 or entity that tows and stores the impounded vehicle to the
18 extent the lienholder of record or lessor of record was given
19 notice as provided by this Section.

20 (1) Upon the request of a lienholder of record or lessor of
21 record to obtain possession of a vehicle impounded under any
22 ordinance authorized by this Section, the county or
23 municipality, or its designated agent, shall:

24 (1) provide the lienholder of record or lessor of
25 record an opportunity to view the vehicle within 2 business
26 days of the request;

1 (2) provide a statement in writing setting forth the
2 amount of the applicable administrative fees authorized by
3 this Section as of the date of the statement and all
4 current fee rates imposed on a daily, weekly, or monthly
5 basis; and

6 (3) provide a statement in writing setting forth the
7 amount of the applicable towing, storage, and other fees
8 authorized by this Section as of the date of the statement
9 and all current fee rates imposed on a daily, weekly, or
10 monthly basis.

11 (m) The changes made to this Section by this amendatory Act
12 of the 101st General Assembly do not apply to a municipality
13 with a population of 1,000,000 or more inhabitants.

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

16 Section 99. Effective date. This Act takes effect 90 days
17 after becoming law.