



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2516

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.2
625 ILCS 5/11-208.7

from Ch. 95 1/2, par. 11-208.2

Amends the Illinois Vehicle Code. Removes the limitation on home rule units adopting ordinances inconsistent with the Illinois Vehicle Code provision on administrative fees and procedures for impounding vehicles. Removes the time requirement for scheduling an administrative hearing on the impoundment of a vehicle. Limits the number of continuances allowed in administrative hearings on the impoundment of a vehicle. Provides that vehicles not recovered from the towing and storage facility within 5 working days after an administrative hearing officer has rendered a written decision on the impoundment of a vehicle shall be deemed abandoned and disposed of in accordance with Chapter 4 of Article II of this Code. Effective immediately.

LRB098 07395 MLW 37459 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 11-208.2 and 11-208.7 as follows:

6 (625 ILCS 5/11-208.2) (from Ch. 95 1/2, par. 11-208.2)

7 Sec. 11-208.2. Limitation on home rule units.

8 The provisions of this Chapter of this Act limit the
9 authority of home rule units to adopt local police regulations
10 inconsistent herewith except pursuant to Sections 11-208,
11 11-208.7, 11-209, 11-1005.1, 11-1412.1, and 11-1412.2 of this
12 Chapter of this Act.

13 (Source: P.A. 92-868, eff. 6-1-03.)

14 (625 ILCS 5/11-208.7)

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

17 (a) Any municipality may, consistent with this Section,
18 provide by ordinance procedures for the release of properly
19 impounded vehicles and for the imposition of a reasonable
20 administrative fee related to its administrative and
21 processing costs associated with the investigation, arrest,
22 and detention of an offender, or the removal, impoundment,

1 storage, and release of the vehicle. The administrative fee
2 imposed by the municipality may be in addition to any fees
3 charged for the towing and storage of an impounded vehicle. The
4 administrative fee shall be waived by the municipality upon
5 verifiable proof that the vehicle was stolen at the time the
6 vehicle was impounded.

7 (b) Any ordinance establishing procedures for the release
8 of properly impounded vehicles under this Section may impose
9 fees for the following violations:

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

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

18 (3) operation or use of a motor vehicle in the
19 commission of, or in the attempt to commit, a felony or in
20 violation of the Cannabis Control Act; or

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

24 (5) operation or use of a motor vehicle in the
25 commission of, or in the attempt to commit, an offense in
26 violation of Section 24-1, 24-1.5, or 24-3.1 of the

1 Criminal Code of 1961 or the Criminal Code of 2012; or

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

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

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

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

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

1 (11) operation or use of a motor vehicle in the
2 commission of, or in the attempt to commit, an offense in
3 violation of Article 16 or 16A of the Criminal Code of 1961
4 or the Criminal Code of 2012; or

5 (12) operation or use of a motor vehicle in the
6 commission of, or in the attempt to commit, any other
7 misdemeanor or felony offense in violation of the Criminal
8 Code of 1961 or the Criminal Code of 2012, when so provided
9 by local ordinance.

10 (c) The following shall apply to any fees imposed for
11 administrative and processing costs pursuant to subsection

12 (b):

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

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

20 (3) The fees shall be uniform for all similarly
21 situated vehicles.

22 (4) The fees shall be collected by and paid to the
23 municipality imposing the fees.

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

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

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

12 (1) Whenever a police officer has cause to believe that
13 a motor vehicle is subject to impoundment, the officer
14 shall provide for the towing of the vehicle to a facility
15 authorized by the municipality.

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

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

1 the vehicle or a lienholder posts with the municipality a
2 bond equal to the administrative fee as provided by
3 ordinance and pays for all towing and storage charges.

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

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

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

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

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

25 (1) administrative hearings shall be conducted by a
26 hearing officer who is an attorney licensed to practice law

1 in this State for a minimum of 3 years;

2 (1.5) no more than 2 continuances may be granted for
3 the administrative hearing;

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

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

11 (4) all final decisions of the administrative hearing
12 officer shall be subject to review under the provisions of
13 the Administrative Review Law; and

14 (5) unless the administrative hearing officer
15 overturns the basis for the vehicle impoundment, no vehicle
16 shall be released to the owner, lessee, or lienholder of
17 record until all administrative fees and towing and storage
18 charges are paid.

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

24 (i) Unless stayed by a court of competent jurisdiction, any
25 fine, penalty, or administrative fee imposed under this Section
26 which remains unpaid in whole or in part after the expiration

1 of the deadline for seeking judicial review under the
2 Administrative Review Law may be enforced in the same manner as
3 a judgment entered by a court of competent jurisdiction.

4 (Source: P.A. 97-109, eff. 1-1-12; 97-1150, eff. 1-25-13.)

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