

SB2261



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2261

Introduced 1/27/2016, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.7

Amends the Illinois Vehicle Code. Provides that no vehicle may be impounded under this Section for illegal parking that has not exceeded 48 hours and the owner or lessee of the vehicle was unable to move the car due to an emergency circumstance. Defines emergency circumstance. Provides that if an administrative hearing officer finds that a vehicle has been wrongfully impounded, the county or municipality shall be liable to the owner or lessee of the vehicle for loss of use of the vehicle and any attorney's fees.

LRB099 16684 AXK 41022 b

FISCAL NOTE ACT
MAY APPLY

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 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, but shall not exceed the actual cost of
19 services provided. The administrative fee shall be waived by
20 the county or municipality upon verifiable proof that: ~~the~~
21 ~~vehicle was stolen at the time the vehicle was impounded.~~

22 (1) the vehicle was stolen at the time the vehicle was
23 impounded; or

1 (2) the vehicle was impounded for illegal parking not
2 exceeding 48 hours, and the registered owner or lessee of
3 the vehicle was unable to move the vehicle due to an
4 emergency circumstance.

5 (a-5) Any ordinance establishing procedures for the
6 impoundment and release of vehicles under this Section shall
7 provide that vehicles may not be impounded for illegal parking
8 not exceeding 48 hours, due to an emergency circumstance.

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

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

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

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

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

26 (5) operation or use of a motor vehicle in the

1 commission of, or in the attempt to commit, an offense in
2 violation of Section 24-1, 24-1.5, or 24-3.1 of the
3 Criminal Code of 1961 or the Criminal Code of 2012; or

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

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

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

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

25 (10) operation or use of a motor vehicle by a person
26 against whom a warrant has been issued by a circuit clerk

1 in Illinois for failing to answer charges that the driver
2 violated Section 6-101, 6-303, or 11-501 of this Code; or

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

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

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

14 (A) while the vehicle is part of a funeral
15 procession; or

16 (B) in a manner that interferes with a funeral
17 procession.

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

20 (b):

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

24 (2) The fees shall be in addition to (i) any other
25 penalties that may be assessed by a court of law for the
26 underlying violations; and (ii) any towing or storage fees,

1 or both, charged by the towing company.

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

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

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

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

16 (e) Any ordinance establishing procedures for the
17 impoundment and release of vehicles under this Section shall
18 include the following provisions concerning notice of
19 impoundment:

20 (1) Whenever a police officer has cause to believe that
21 a motor vehicle is subject to impoundment, the officer
22 shall provide for the towing of the vehicle to a facility
23 authorized by the county or municipality.

24 (2) At the time the vehicle is towed, the county or
25 municipality shall notify or make a reasonable attempt to
26 notify the owner, lessee, or person identifying himself or

1 herself as the owner or lessee of the vehicle, or any
2 person who is found to be in control of the vehicle at the
3 time of the alleged offense, of the fact of the seizure,
4 and of the vehicle owner's or lessee's right to an
5 administrative hearing.

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

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

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

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

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

1 of the mailing of the notice of hearing.

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

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

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

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

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

24 (5) unless the administrative hearing officer
25 overturns the basis for the vehicle impoundment, no vehicle
26 shall be released to the owner, lessee, or lienholder of

1 record until all administrative fees and towing and storage
2 charges are paid.

3 (6) if the basis for vehicle impoundment is not
4 sustained by the administrative hearing officer, the
5 county or municipality shall be liable to the registered
6 owner or lessee of the vehicle for loss of use and
7 attorney's fees.

8 (h) Vehicles not retrieved from the towing facility or
9 storage facility within 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) For purposes of this Section, "emergency circumstance"
20 includes an act of God, hospitalization, or other
21 immobilization of the registered owner or lessee.

22 (Source: P.A. 97-109, eff. 1-1-12; 97-1150, eff. 1-25-13;
23 98-518, eff. 8-22-13; 98-734, eff. 1-1-15; 98-756, eff.
24 7-16-14.)