



Rep. Michael J. Zalewski

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10000HB4750ham001

LRB100 18202 LNS 38153 a

1 AMENDMENT TO HOUSE BILL 4750

2 AMENDMENT NO. _____. Amend House Bill 4750 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing 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,

1 regardless of whether the commercial vehicle relocater or other
2 private towing service enforces a lien under the Labor and
3 Storage Lien Act or the Labor and Storage Lien (Small Amount)
4 Act. The notice shall be effective upon mailing and include the
5 rate at which fees will be incurred, and shall provide the
6 lienholder of record or lessor of record with an opportunity to
7 inspect the vehicle on the premises where the vehicle is stored
8 within 2 business days of the lienholder of record's or lessor
9 of record's ~~lienholder's~~ request. The date on which the
10 assessment and accrual of storage fees may commence is the date
11 of the impoundment of the vehicle, subject to any applicable
12 limitations set forth by a municipality authorizing the vehicle
13 removal. Payment of the storage fees by the lienholder of
14 record or lessor of record may be made in cash or by cashier's
15 check, certified check, debit card, credit card, or wire
16 transfer, at the option of the lienholder of record or lessor
17 of record taking possession of the vehicle. The commercial
18 vehicle relocater or other private towing service shall furnish
19 a copy of the certified mail receipt to the lienholder of
20 record or lessor of record upon request.

21 (b) The notification requirements in subsection (a) of this
22 Section apply in addition to any lienholder of record or lessor
23 of record notice requirements under this Code relating to the
24 removal or towing of an abandoned, lost, stolen, or unclaimed
25 vehicle. If the commercial vehicle relocater or other private
26 towing service fails to comply with the notification

1 requirements set forth in subsection (a) of this Section,
2 storage fees shall not be assessed and collected and the
3 lienholder of record or lessor of record shall be entitled to
4 injunctive relief for possession of the vehicle without the
5 payment of any storage fees.

6 (c) If the notification required under subsection (a) was
7 not sent and a lienholder of record or lessor of record
8 discovers its collateral is in the possession of a commercial
9 vehicle relocater or other private towing service by means
10 other than the notification required in subsection (a) of this
11 Section, the lienholder of record or lessor of record is
12 entitled to recover any storage fees paid to the commercial
13 vehicle relocater or other private towing service to reclaim
14 possession of its collateral.

15 (d) An action under this Section may be brought by the
16 lienholder of record or lessor of record against the commercial
17 vehicle locator or other private towing service in the circuit
18 court.

19 (e) Notwithstanding any provision to the contrary in this
20 ~~Code Act or the Illinois Vehicle Code~~, a commercial vehicle
21 relocater or other private towing service seeking to impose
22 storage fees for a vehicle in its possession may not foreclose
23 or otherwise enforce its claim for payment of storage services
24 or any lien relating to the claim pursuant to this Code or
25 other applicable law unless it first complies with the
26 lienholder of record or lessor of record notification

1 requirements set forth in subsection (a) of this Section.

2 (f) If the vehicle that is removed or towed is registered
3 in a state other than Illinois, the assessment and accrual of
4 storage fees may commence on the date that the request for
5 lienholder of record or lessor of record information is filed
6 by the commercial vehicle relocater or other private towing
7 service with the applicable administrative agency or office in
8 that state if: (i) the commercial vehicle relocater or other
9 private towing service furnishes the lienholder of record or
10 lessor of record with a copy or proof of filing of the request
11 for lienholder of record or lessor of record information; (ii)
12 the commercial vehicle relocater or other private towing
13 service provides to the lienholder of record or lessor of
14 record the notification required by this Section within one
15 business day after receiving the requested lienholder of record
16 or lessor of record information; and (iii) the assessment of
17 storage fees complies with any applicable limitations set forth
18 by a municipality authorizing the vehicle removal.

19 (Source: P.A. 100-311, eff. 11-23-17; revised 10-10-17.)

20 (625 ILCS 5/11-208.7)

21 Sec. 11-208.7. Administrative fees and procedures for
22 impounding vehicles for specified violations.

23 (a) Any county or municipality may, consistent with this
24 Section, provide by ordinance procedures for the release of
25 properly impounded vehicles and for the imposition of a

1 reasonable administrative fee related to its administrative
2 and processing costs associated with the investigation,
3 arrest, and detention of an offender, or the removal,
4 impoundment, storage, and release of the vehicle. The
5 administrative fee imposed by the county or municipality may be
6 in addition to any fees charged for the towing and storage of
7 an impounded vehicle. The administrative fee shall be waived by
8 the county or municipality upon verifiable proof that the
9 vehicle was stolen at the time the vehicle was impounded.

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

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

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

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

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

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

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

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

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

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

26 (10) operation or use of a motor vehicle by a person

1 against whom a warrant has been issued by a circuit clerk
2 in Illinois for failing to answer charges that the driver
3 violated Section 6-101, 6-303, or 11-501 of this Code; or

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

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

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

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

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

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

21 (b):

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

25 (2) The fees shall be in addition to (i) any other
26 penalties that may be assessed by a court of law for the

1 underlying violations; and (ii) any towing or storage fees,
2 or both, charged by the towing company.

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

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

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

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

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

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

26 (2) At the time the vehicle is towed, the county or

1 municipality shall notify, as soon as practicable, or make
2 a reasonable attempt to notify the owner, lessee, or person
3 identifying himself or herself as the owner or lessee of
4 the vehicle, or any person who is found to be in control of
5 the vehicle at the time of the alleged offense, of the fact
6 of the seizure, and of the vehicle owner's or lessee's
7 right to an administrative hearing. Notice shall be given
8 by the towing company to the lienholder of record or the
9 lessor of record pursuant to Section 4-216 of this Code.

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

18 (f) Any ordinance establishing procedures for the
19 impoundment and release of vehicles under this Section shall
20 include a provision providing that the registered owner or
21 lessee of the vehicle and any lienholder of record shall be
22 provided with a notice of hearing. The notice shall:

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

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

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

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

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

16 (2) at the conclusion of the administrative hearing,
17 the hearing officer shall issue a written decision either
18 sustaining or overruling the vehicle impoundment;

19 (3) if the basis for the vehicle impoundment is
20 sustained by the administrative hearing officer, any
21 administrative fee posted to secure the release of the
22 vehicle shall be forfeited to the county or municipality;

23 (4) all final decisions of the administrative hearing
24 officer shall be subject to review under the provisions of
25 the Administrative Review Law, unless the county or
26 municipality allows in the enabling ordinance for direct

1 appeal to the circuit court having jurisdiction over the
2 county or municipality;

3 (5) except as provided in subsection (k), unless the
4 administrative hearing officer overturns the basis for the
5 vehicle impoundment, no vehicle shall be released to the
6 owner, lessee, or lienholder of record until all
7 administrative fees and towing and storage charges are
8 paid; and

9 (6) if the administrative hearing officer finds that a
10 county or municipality that impounds a vehicle exceeded its
11 authority under this Code, the county or municipality shall
12 be liable to the registered owner or lessee of the vehicle
13 for the cost of storage fees and reasonable attorney's
14 fees.

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

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

26 (j) The fee limits in subsection (b), the exceptions in

1 paragraph (6) of subsection (b), and all of paragraph (6) of
2 subsection (g) of this Section shall not apply to a home rule
3 unit that tows a vehicle on a public way if a circumstance
4 requires the towing of the vehicle or if the vehicle is towed
5 due to a violation of a statute or local ordinance, and the
6 home rule unit:

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

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

11 (k) Notwithstanding any other provision of this Section to
12 the contrary, a lienholder of record or lessor of record may
13 take possession of a vehicle impounded under any ordinance
14 authorized by this Section, and defer payment of any applicable
15 administrative fees, upon submission by the lienholder of
16 record's or lessor of record's duly executed affidavit stating
17 that the lienholder of record or lessor of record is the owner
18 of or has the right to possession of the vehicle.

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

25 (l) Upon the request of a lienholder of record or lessor of
26 record to obtain possession of a vehicle impounded under any

1 ordinance authorized by this Section, the county or
2 municipality, or its designated agent, shall:

3 (1) provide the lienholder of record or lessor of
4 record an opportunity to view the vehicle within 2 business
5 days of the request;

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

11 (3) provide a statement in writing setting forth the
12 amount of the applicable towing, storage, and other fees
13 authorized by this Section as of the date of the statement
14 and all current fee rates imposed on a daily, weekly, or
15 monthly basis.

16 (m) The changes made to this Section by this amendatory Act
17 of the 100th General Assembly do not apply to a municipality
18 with a population of 1,000,000 or more inhabitants.

19 (Source: P.A. 98-518, eff. 8-22-13; 98-734, eff. 1-1-15;
20 98-756, eff. 7-16-14; 99-848, eff. 8-19-16.)

21 Section 99. Effective date. This Act takes effect 90 days
22 after becoming law."