



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4750

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.7

Amends the Illinois Vehicle Code. Provides that an impounded vehicle can be released to a lessor of record. Provides that notice shall be given by the towing company to the lienholder of record, or, if the lessor's information is reasonably available, the lessor of the vehicle. Provides that a lienholder or lessor shall be entitled to take possession of a vehicle impounded and defer payment of any applicable administrative fees upon submission by the lienholder or lessor to the municipality or its designated agent proof of ownership of the vehicle or proof of the right to possession of the vehicle. Provides that, except for municipalities with 1,000,000 or more inhabitants with a local ordinance, no vehicle shall be released to the lienholder or lessor until payment of the authorized towing and storage fees charged by the person, firm, or entity that tows and stores the impounded vehicle and the cost of certified mail sent as required. Provides that upon the request of a lienholder or lessor to obtain possession of a vehicle impounded under any ordinance, the municipality or its agent shall provide to the lienholder or lessor an opportunity to view the vehicle within 2 business days of the request and provide a statement in writing setting forth the amount of the applicable administrative, towing, and storage fees. Effective immediately.

LRB100 18202 LNS 33403 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 (d) Except as provided in subsection (k), any ordinance
25 establishing procedures for the release of properly impounded
26 vehicles under this Section shall provide for an opportunity

1 for a hearing, as provided in subdivision (b)(4) of Section
2 11-208.3 of this Code, and for the release of the vehicle to
3 the owner of record, lessee, or a lienholder of record,
4 including a lessor of record, upon payment of all
5 administrative fees and towing and storage fees.

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

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

14 (2) At the time the vehicle is towed, the county or
15 municipality shall notify, as soon as practicable, or make
16 a reasonable attempt to notify the owner, lessee, or person
17 identifying himself or herself as the owner or lessee of
18 the vehicle, or any person who is found to be in control of
19 the vehicle at the time of the alleged offense, of the fact
20 of the seizure, and of the vehicle owner's or lessee's
21 right to an administrative hearing. Notice shall be given
22 by the towing company to the lienholder of record or, if
23 the lessor's information is reasonably available, the
24 lessor of the vehicle pursuant to Section 4-216 of this
25 Code.

26 (3) Except as provided in subsection (k), the ~~The~~

1 county or municipality shall also provide notice that the
2 motor vehicle will remain impounded pending the completion
3 of an administrative hearing, unless the owner or lessee of
4 the vehicle or a lienholder posts with the county or
5 municipality a bond equal to the administrative fee as
6 provided by ordinance and pays for all towing and storage
7 charges.

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

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

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

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

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

1 include the following requirements concerning administrative
2 hearings:

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

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

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

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

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

25 (6) if the administrative hearing officer finds that a
26 county or municipality that impounds a vehicle exceeded its

1 authority under this Code, the county or municipality shall
2 be liable to the registered owner or lessee of the vehicle
3 for the cost of storage fees and reasonable attorney's
4 fees.

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

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

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

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

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

1 (k) Notwithstanding any other provision of this Section to
2 the contrary, a lienholder or lessor may take possession of a
3 vehicle impounded under any ordinance authorized by this
4 Section, and defer payment of any applicable administrative
5 fees, upon submission by the lienholder or lessor to the
6 municipality or its designated agent proof of ownership of the
7 vehicle or proof of the right to possession of the vehicle.

8 No vehicle shall be released to the lienholder or lessor
9 until payment of the authorized towing and storage fees charged
10 by the person, firm, or entity that tows and stores the
11 impounded vehicle and the cost of certified mail sent as
12 required under this Section, to the extent the lienholder or
13 lessor was given notice as provided by this Section.

14 This subsection (k) does not apply to vehicles impounded
15 pursuant to a local ordinance adopted by a municipality with
16 1,000,000 or more inhabitants.

17 (l) Upon the request of a lienholder or lessor to obtain
18 possession of a vehicle impounded under any ordinance
19 authorized by this Section, the municipality or its agent shall
20 provide to the lienholder or lessor an opportunity to view the
21 vehicle within 2 business days of the request and provide a
22 statement in writing setting forth the amount of the applicable
23 administrative, towing, and storage fees as authorized by this
24 Section.

25 (Source: P.A. 98-518, eff. 8-22-13; 98-734, eff. 1-1-15;
26 98-756, eff. 7-16-14; 99-848, eff. 8-19-16.)

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.