

SB2195



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2195

Introduced 2/15/2013, by Sen. Antonio Muñoz

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.7

Amends the Illinois Vehicle Code. Adds fleeing or eluding a police officer to the list of offenses for which municipalities may impound a vehicle. Effective immediately.

LRB098 08442 MLW 38549 b

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 municipality may, consistent with this Section,
10 provide by ordinance procedures for the release of properly
11 impounded vehicles and for the imposition of a reasonable
12 administrative fee related to its administrative and
13 processing costs associated with the investigation, arrest,
14 and detention of an offender, or the removal, impoundment,
15 storage, and release of the vehicle. The administrative fee
16 imposed by the municipality may be in addition to any fees
17 charged for the towing and storage of an impounded vehicle. The
18 administrative fee shall be waived by the municipality upon
19 verifiable proof that the vehicle was stolen at the time the
20 vehicle was impounded.

21 (b) Any ordinance establishing procedures for the release
22 of properly impounded vehicles under this Section may impose
23 fees 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 the
2 commission of, or in the attempt to commit, an offense in
3 violation of Section 11-204 or Section 11-204.1 of this
4 Code.

5 (c) The following shall apply to any fees imposed for
6 administrative and processing costs pursuant to subsection
7 (b):

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

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

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

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

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

22 (d) Any ordinance establishing procedures for the release
23 of properly impounded vehicles under this Section shall provide
24 for an opportunity for a hearing, as provided in subdivision
25 (b) (4) of Section 11-208.3 of this Code, and for the release of
26 the vehicle to the owner of record, lessee, or a lienholder of

1 record upon payment of all administrative fees and towing and
2 storage fees.

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

7 (1) Whenever a police officer has cause to believe that
8 a motor vehicle is subject to impoundment, the officer
9 shall provide for the towing of the vehicle to a facility
10 authorized by the municipality.

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

19 (3) The municipality shall also provide notice that the
20 motor vehicle will remain impounded pending the completion
21 of an administrative hearing, unless the owner or lessee of
22 the vehicle or a lienholder posts with the municipality a
23 bond equal to the administrative fee as provided by
24 ordinance and pays for all towing and storage charges.

25 (f) Any ordinance establishing procedures for the
26 impoundment and release of vehicles under this Section shall

1 include a provision providing that the registered owner or
2 lessee of the vehicle and any lienholder of record shall be
3 provided with a notice of hearing. The notice shall:

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

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

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

14 (g) In addition to the requirements contained in
15 subdivision (b) (4) of Section 11-208.3 of this Code relating to
16 administrative hearings, any ordinance providing for the
17 impoundment and release of vehicles under this Section shall
18 include the following requirements concerning administrative
19 hearings:

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

23 (2) at the conclusion of the administrative hearing,
24 the hearing officer shall issue a written decision either
25 sustaining or overruling the vehicle impoundment;

26 (3) if the basis for the vehicle impoundment is

1 sustained by the administrative hearing officer, any
2 administrative fee posted to secure the release of the
3 vehicle shall be forfeited to the municipality;

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

7 (5) unless the administrative hearing officer
8 overturns the basis for the vehicle impoundment, no vehicle
9 shall be released to the owner, lessee, or lienholder of
10 record until all administrative fees and towing and storage
11 charges are paid.

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

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

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

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.