

HB3028



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3028

by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.7

Amends the Illinois Vehicle Code. Provides that counties in addition to municipalities may adopt administrative procedures for the release of impounded vehicles. Provides that counties and municipalities that do not wish to set up an administrative review of the hearing officer's decisions shall direct appeals to the circuit court having jurisdiction over the county or municipality.

LRB098 10934 MLW 41499 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 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) 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.

1 (c) The following shall apply to any fees imposed for
2 administrative and processing costs pursuant to subsection
3 (b):

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

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

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

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

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

18 (d) Any ordinance establishing procedures for the release
19 of properly impounded vehicles under this Section shall provide
20 for an opportunity for a hearing, as provided in subdivision
21 (b) (4) of Section 11-208.3 of this Code, and for the release of
22 the vehicle to the owner of record, lessee, or a lienholder of
23 record upon payment of all administrative fees and towing and
24 storage fees.

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

1 include the following provisions concerning notice of
2 impoundment:

3 (1) Whenever a police officer has cause to believe that
4 a motor vehicle is subject to impoundment, the officer
5 shall provide for the towing of the vehicle to a facility
6 authorized by the county or municipality.

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

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

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

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

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

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

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

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

20 (2) at the conclusion of the administrative hearing,
21 the hearing officer shall issue a written decision either
22 sustaining or overruling the vehicle impoundment;

23 (3) if the basis for the vehicle impoundment is
24 sustained by the administrative hearing officer, any
25 administrative fee posted to secure the release of the
26 vehicle shall be forfeited to the county or municipality;

1 (4) all final decisions of the administrative hearing
2 officer shall be subject to review under the provisions of
3 the Administrative Review Law, unless the county or
4 municipality allows in the enabling ordinance for direct
5 appeal to the circuit court having jurisdiction over the
6 county or municipality; 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.)