



## 99TH GENERAL ASSEMBLY

### State of Illinois

### 2015 and 2016

### HB2656

by Rep. Robert W. Pritchard

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/11-208.2  
625 ILCS 5/11-208.7

from Ch. 95 1/2, par. 11-208.2

Amends the Illinois Vehicle Code. Removes the limitation on home rule units adopting ordinances inconsistent with the Illinois Vehicle Code provision on administrative fees and procedures for impounding vehicles. Removes the time requirement for scheduling a hearing and limits the number of hearing continuances on the impoundment of vehicles. Provides that vehicles not recovered from the towing or storage facility within 18 (rather than 35 days) working days after an administrative hearing officer has rendered a written decision on the impoundment of a vehicle shall be deemed abandoned and disposed of in accordance with Chapter 4 of Article II of this Code. Provides that if the owner of the vehicle notifies the hearing officer or the tow facility within that 18-day period that he or she cannot retrieve the vehicle due to inability to pay the retrieval fee, the tow facility shall not dispose of the vehicle until 35 days after the administrative hearing officer issued the written decision. Allows a municipality, by ordinance, to provide that vehicles not retrieved from the towing facility or storage facility within 35 days after the administrative hearing officer issues a written decision shall be deemed abandoned and disposed of under the provisions of Article II of Chapter 4 of this Code. Effective immediately.

LRB099 05168 RJF 25198 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 Sections 11-208.2 and 11-208.7 as follows:

6 (625 ILCS 5/11-208.2) (from Ch. 95 1/2, par. 11-208.2)

7 Sec. 11-208.2. Limitation on home rule units.

8 The provisions of this Chapter of this Act limit the  
9 authority of home rule units to adopt local police regulations  
10 inconsistent herewith except pursuant to Sections 11-208,  
11 11-208.7, 11-209, 11-1005.1, 11-1412.1, and 11-1412.2 of this  
12 Chapter of this Act.

13 (Source: P.A. 92-868, eff. 6-1-03.)

14 (625 ILCS 5/11-208.7)

15 Sec. 11-208.7. Administrative fees and procedures for  
16 impounding vehicles for specified violations.

17 (a) Any county or municipality may, consistent with this  
18 Section, provide by ordinance procedures for the release of  
19 properly impounded vehicles and for the imposition of a  
20 reasonable administrative fee related to its administrative  
21 and processing costs associated with the investigation,  
22 arrest, and detention of an offender, or the removal,

1 impoundment, storage, and release of the vehicle. The  
2 administrative fee imposed by the county or municipality may be  
3 in addition to any fees charged for the towing and storage of  
4 an impounded vehicle. The administrative fee shall be waived by  
5 the county or municipality upon verifiable proof that the  
6 vehicle was stolen at the time the vehicle was impounded.

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

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

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

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

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

24 (5) operation or use of a motor vehicle in the  
25 commission of, or in the attempt to commit, an offense in  
26 violation of Section 24-1, 24-1.5, or 24-3.1 of the

1 Criminal Code of 1961 or the Criminal Code of 2012; or

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

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

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

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

23 (10) operation or use of a motor vehicle by a person  
24 against whom a warrant has been issued by a circuit clerk  
25 in Illinois for failing to answer charges that the driver  
26 violated Section 6-101, 6-303, or 11-501 of this Code; or

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

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

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

12                 (A) while the vehicle is part of a funeral  
13                 procession; or

14                 (B) in a manner that interferes with a funeral  
15                 procession.

16          (c) The following shall apply to any fees imposed for  
17          administrative and processing costs pursuant to subsection  
18          (b):

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

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

26                 (3) The fees shall be uniform for all similarly

1           situated vehicles.

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

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

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

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

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

22           (2) At the time the vehicle is towed, the county or  
23 municipality shall notify or make a reasonable attempt to  
24 notify the owner, lessee, or person identifying himself or  
25 herself as the owner or lessee of the vehicle, or any  
26 person who is found to be in control of the vehicle at the

1 time of the alleged offense, of the fact of the seizure,  
2 and of the vehicle owner's or lessee's right to an  
3 administrative hearing.

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

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

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

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

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

26 (g) In addition to the requirements contained in

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

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

9 (1.5) no more than 2 continuances may be granted for  
10 the administrative hearing;

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 (h) Vehicles not retrieved from the towing facility or  
4 storage facility within 18 working ~~35~~ days after the  
5 administrative hearing officer issues a written decision shall  
6 be deemed abandoned and disposed of in accordance with the  
7 provisions of Article II of Chapter 4 of this Code. If the  
8 owner of the vehicle notifies the hearing officer or the tow  
9 facility within that 18-day period that he or she cannot  
10 retrieve the vehicle due to inability to pay the retrieval fee,  
11 the tow facility shall not dispose of the vehicle until 35 days  
12 after the administrative hearing officer issued the written  
13 decision. However, a municipality may, by ordinance, provide  
14 that vehicles not retrieved from the towing facility or storage  
15 facility within 35 days after the administrative hearing  
16 officer issues a written decision shall be deemed abandoned and  
17 disposed of under the provisions of Article II of Chapter 4 of  
18 this Code.

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

25 (Source: P.A. 97-109, eff. 1-1-12; 97-1150, eff. 1-25-13;  
26 98-518, eff. 8-22-13; 98-734, eff. 1-1-15; 98-756, eff.

1 7-16-14.)

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