



Rep. Michael J. Zalewski

**Filed: 5/27/2016**

09900SB2261ham003

LRB099 16684 AXK 49304 a

1                                   AMENDMENT TO SENATE BILL 2261

2           AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2261 by replacing  
3 everything after the enacting clause with the following:

4           "Section 1. Short Title. This Act may be cited as the  
5 Statewide Relocation Towing Licensure Commission Act.

6           Section 5. The Statewide Relocation Towing Licensure  
7 Commission.

8           (a) There is hereby created the Statewide Relocation Towing  
9 Licensure Commission.

10           (b) Within 60 days after the effective date of this Act,  
11 the members of the Commission shall be appointed with the  
12 following members:

13                   (1) one member of the General Assembly, appointed by  
14 the President of the Senate;

15                   (2) one member of the General Assembly, appointed by  
16 the Minority Leader of the Senate;

1           (3) one member of the General Assembly, appointed by  
2 the Speaker of the House of Representatives;

3           (4) one member of the General Assembly, appointed by  
4 the Minority Leader of the House of Representatives;

5           (5) the Mayor of the City of Chicago, or his or her  
6 designee;

7           (6) the Secretary of Transportation, or his or her  
8 designee;

9           (7) the Director of State Police, or his or her  
10 designee;

11           (8) two members of the public who represent the towing  
12 industry, appointed by the President of the Professional  
13 Towing and Recovery Operators of Illinois;

14           (9) two members of the public who represent the  
15 property casualty insurance industry, appointed by the  
16 Executive Director of the Illinois Insurance Association;

17           (10) the President of the Illinois Municipal League, or  
18 his or her designee;

19           (11) the President of the Illinois Sheriffs'  
20 Association, or his or her designee;

21           (12) the Cook County State's Attorney, or his or her  
22 designee;

23           (13) the Chairman of the Illinois Commerce Commission,  
24 or his or her designee; and

25           (14) the President of the Northwest Municipal  
26 Conference, or his or her designee.

1 (c) The members of the Commission shall receive no  
2 compensation for serving as members of the Commission.

3 (d) The Illinois Commerce Commission shall provide  
4 administrative and other support to the Commission.

5 Section 10. Meetings.

6 (a) Each member of the Commission shall have voting rights  
7 and all actions and recommendations shall be approved by a  
8 simple majority vote of the members.

9 (b) The Commission shall meet no less than 3 times before  
10 the end of the calendar year in which this Act of the 99th  
11 General Assembly becomes effective.

12 (c) At the initial meeting, the Commission shall elect one  
13 member as a Chairperson, through a simple majority vote, who  
14 shall thereafter call any subsequent meetings.

15 Section 15. Reporting.

16 (a) No later than July 1, 2017, the Commission shall submit  
17 a report to the Governor and to the General Assembly, which  
18 shall include, but is not limited to:

19 (1) an evaluation of the current towing laws in this  
20 State;

21 (2) a recommendation for an appropriate towing program  
22 for this State;

23 (3) a review of all potential litigation costs for an  
24 owner of an impounded vehicle, a towing company, and a

1 county or municipality; and

2 (3) any other matters the Commission deems necessary.

3 Section 20. Repealer. This Act is repealed on January 1,  
4 2018.

5 Section 105. The Illinois Vehicle Code is amended by  
6 changing Sections 11-208.7 and 11-1431 as follows:

7 (625 ILCS 5/11-208.7)

8 Sec. 11-208.7. Administrative fees and procedures for  
9 impounding vehicles for specified violations.

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

22 (b) An ~~Any~~ ordinance establishing procedures for the  
23 release of properly impounded vehicles under this Section may

1 impose fees only for the following violations:

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

6 (2) driving under the influence of alcohol, another  
7 drug or drugs, an intoxicating compound or compounds, or  
8 any combination thereof, in violation of Section 11-501 of  
9 this Code; or

10 (3) operation or use of a motor vehicle in the  
11 commission of, or in the attempt to commit, a felony or in  
12 violation of the Cannabis Control Act; or

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

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

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

1           (7) operation or use of a motor vehicle while  
2           soliciting, possessing, or attempting to solicit or  
3           possess cannabis or a controlled substance, as defined by  
4           the Cannabis Control Act or the Illinois Controlled  
5           Substances Act; or

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

10          (9) operation or use of a motor vehicle without ever  
11          having been issued a driver's license or permit, in  
12          violation of Section 6-101 of this Code, or operating a  
13          motor vehicle without ever having been issued a driver's  
14          license or permit due to a person's age; or

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

19          (11) operation or use of a motor vehicle in the  
20          commission of, or in the attempt to commit, an offense in  
21          violation of Article 16 or 16A of the Criminal Code of 1961  
22          or the Criminal Code of 2012; or

23          (12) operation or use of a motor vehicle in the  
24          commission of, or in the attempt to commit, any other  
25          misdemeanor or felony offense in violation of the Criminal  
26          Code of 1961 or the Criminal Code of 2012, when so provided

1 by local ordinance; or

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

4 (A) while the vehicle is part of a funeral  
5 procession; or

6 (B) in a manner that interferes with a funeral  
7 procession.

8 (c) The following shall apply to any fees imposed for  
9 administrative and processing costs pursuant to subsection  
10 (b):

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

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

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

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

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

25 (d) Any ordinance establishing procedures for the release  
26 of properly impounded vehicles under this Section shall provide

1 for an opportunity for a hearing, as provided in subdivision  
2 (b) (4) of Section 11-208.3 of this Code, and for the release of  
3 the vehicle to the owner of record, lessee, or a lienholder of  
4 record upon payment of all administrative fees and towing and  
5 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 or make a reasonable attempt to  
16 notify the owner, lessee, or person identifying himself or  
17 herself as the owner or lessee of the vehicle, or any  
18 person who is found to be in control of the vehicle at the  
19 time of the alleged offense, of the fact of the seizure,  
20 and of the vehicle owner's or lessee's right to an  
21 administrative hearing.

22 (3) The county or municipality shall also provide  
23 notice that the motor vehicle will remain impounded pending  
24 the completion of an administrative hearing, unless the  
25 owner or lessee of the vehicle or a lienholder posts with  
26 the county or municipality a bond equal to the

1 administrative fee as provided by ordinance and pays for  
2 all towing and storage charges.

3 (f) Any ordinance establishing procedures for the  
4 impoundment and release of vehicles under this Section shall  
5 include a provision providing that the registered owner or  
6 lessee of the vehicle and any lienholder of record shall be  
7 provided with a notice of hearing. The notice shall:

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

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

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

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

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

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

4 (3) if the basis for the vehicle impoundment is  
5 sustained by the administrative hearing officer, any  
6 administrative fee posted to secure the release of the  
7 vehicle shall be forfeited to the county or municipality;

8 (4) all final decisions of the administrative hearing  
9 officer shall be subject to review under the provisions of  
10 the Administrative Review Law, unless the county or  
11 municipality allows in the enabling ordinance for direct  
12 appeal to the circuit court having jurisdiction over the  
13 county or municipality; ~~and~~

14 (5) unless the administrative hearing officer  
15 overturns the basis for the vehicle impoundment, no vehicle  
16 shall be released to the owner, lessee, or lienholder of  
17 record until all administrative fees and towing and storage  
18 charges are paid; and ~~and~~

19 (6) if the administrative hearing officer finds that a  
20 county or municipality that impounds a vehicle exceeded its  
21 authority under this Code, the county or municipality shall  
22 be liable to the registered owner or lessee of the vehicle  
23 for the cost of storage fees and reasonable attorney's  
24 fees.

25 (h) Vehicles not retrieved from the towing facility or  
26 storage facility within 35 days after the administrative

1 hearing officer issues a written decision shall be deemed  
2 abandoned and disposed of in accordance with the provisions of  
3 Article II of Chapter 4 of this Code.

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

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

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

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

21 (Source: P.A. 97-109, eff. 1-1-12; 97-1150, eff. 1-25-13;  
22 98-518, eff. 8-22-13; 98-734, eff. 1-1-15; 98-756, eff.  
23 7-16-14.)

24 (625 ILCS 5/11-1431)

25 Sec. 11-1431. Solicitations at accident or disablement

1 scene prohibited.

2 (a) A tower, as defined by Section 1-205.2 of this Code, or  
3 an employee or agent of a tower may not: (i) stop at the scene  
4 of a motor vehicle accident or at or near a damaged or disabled  
5 vehicle for the purpose of soliciting the owner or operator of  
6 the damaged or disabled vehicle to enter into a towing service  
7 transaction; or (ii) stop at the scene of an accident or at or  
8 near a damaged or disabled vehicle unless called to the  
9 location by a law enforcement officer, the Illinois Department  
10 of Transportation, the Illinois State Toll Highway Authority, a  
11 local agency having jurisdiction over the highway, ~~or~~ the owner  
12 or operator of the damaged or disabled vehicle, or the owner or  
13 operator's authorized agent, including his or her insurer or  
14 motor club of which the owner or operator is a member. This  
15 Section shall not apply to employees of the Department, the  
16 Illinois State Toll Highway Authority, or local agencies when  
17 engaged in their official duties. Nothing in this Section shall  
18 prevent a tower from stopping at the scene of a motor vehicle  
19 accident or at or near a damaged or disabled vehicle if the  
20 owner or operator signals the tower for assistance from the  
21 location of the motor vehicle accident or damaged or disabled  
22 vehicle.

23 (b) A person or company who violates this Section is guilty  
24 of a Class 4 felony ~~business offense and shall be required to~~  
25 ~~pay a fine of more than \$500, but not more than \$1,000.~~ A  
26 person convicted of violating this Section shall also have his

1 or her driver's license, permit, or privileges suspended for 3  
2 months. After the expiration of the 3 month suspension, the  
3 person's driver's license, permit, or privileges shall not be  
4 reinstated until he or she has paid a reinstatement fee of  
5 \$100. If a person violates this Section while his or her  
6 driver's license, permit, or privileges are suspended under  
7 this subsection (b), his or her driver's license, permit, or  
8 privileges shall be suspended for an additional 6 months, and  
9 shall not be reinstated after the expiration of the 6 month  
10 suspension until he or she pays a reinstatement fee of \$100. A  
11 vehicle owner, or his or her authorized agent or automobile  
12 insurer, may bring a claim against a company or person who  
13 willfully and materially violates this Section. A court may  
14 award the prevailing party reasonable attorney's fees, costs,  
15 and expenses relating to that action.

16 (Source: P.A. 99-438, eff. 1-1-16.)

17 Section 999. Effective date. This Act takes effect upon  
18 becoming law."