

SB3536



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3536

Introduced 2/8/2012, by Sen. Ron Sandack

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. Provides that nothing in the Section concerning administrative fees and procedures for impounding vehicles for specified violations limits home rule powers or preempts the authority of a home rule unit to adopt regulations concerning administrative fees and procedures for impounding vehicles.

LRB097 18584 HEP 63816 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 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 municipality that is not a home rule unit may,
18 consistent with this Section, provide by ordinance procedures
19 for the release of properly impounded vehicles and for the
20 imposition of a reasonable administrative fee related to its
21 administrative and processing costs associated with the
22 investigation, arrest, and detention of an offender, or the

1 removal, impoundment, storage, and release of the vehicle. The
2 administrative fee imposed by the municipality may be in
3 addition to any fees charged for the towing and storage of an
4 impounded vehicle. The administrative fee shall be waived by
5 the municipality upon verifiable proof that the vehicle was
6 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 1961; 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

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
4 1961; 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, when so provided by local ordinance.

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

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

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

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

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

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

26 (d) Any ordinance establishing procedures for the release

1 of properly impounded vehicles under this Section shall provide
2 for an opportunity for a hearing, as provided in subdivision
3 (b) (4) of Section 11-208.3 of this Code, and for the release of
4 the vehicle to the owner of record, lessee, or a lienholder of
5 record upon payment of all administrative fees and towing and
6 storage fees.

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

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

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

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

1 bond equal to the administrative fee as provided by
2 ordinance and pays for 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 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; and

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

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

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

1 (j) Nothing in this Section is a limitation of home rule
2 powers. Nothing in this Section preempts the authority of a
3 home rule unit to adopt regulations concerning administrative
4 fees and procedures for impounding vehicles.

5 (Source: P.A. 97-109, eff. 1-1-12.)